

CHAPTER 25**VARIANCES***(Amended 09/11/18)*

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Section 25.010. General.

Where the Hearing Examiner finds that an unreasonable hardship may result from strict compliance with the provisions of this Code, the Hearing Examiner may approve variances to the requirements of this Code so that substantial justice may be done and the public interest secured, provided that the variance shall not have the effect of nullifying the intent and purpose of this Code.

Section 25.020. Standards.

The Hearing Examiner shall not approve a variance unless it shall make findings based upon the evidence presented in each specific case and with a finding that all of the following provisions apply:

- A. Literal enforcement of the zoning district provisions of this Code would cause an unreasonable hardship for the applicant not necessary to carry out the general purpose of the zoning district or this Code. The Hearing Examiner shall not render a finding of unreasonable hardship unless the applicant has demonstrated that the hardship is located on or associated with the property for which the variance is sought, and is peculiar to the property rather than conditions general to the neighborhood. No finding of unreasonable hardship shall be made if the alleged hardship is self-imposed or solely economic.
- B. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district. No finding of special circumstances shall be made unless they relate to the hardship complained of and deprive the property of privileges available to other properties in the same zoning district.
- C. The variance is essential to the enjoyment of a substantial property right possessed by other property in the district.

D. The granting of the variance will not substantially affect the goals, objectives, policies or standards of the General Plan and will not be contrary to the public interest.

E. The spirit of the requirements and provisions of this Code will be observed and substantial justice done.

Section 25.030. Conditions.

In approving any variance the Hearing Examiner may require such conditions as will, in its judgment, mitigate any negative effects of granting the variance and secure substantially the purposes of this Code.

Section 25.040. Effect of Granting a Variance.

The granting of a variance shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure, but is a prerequisite to the preparation, filing, review and determination of any approval, permit or license that may be required by this Code.

Section 25.050. Time Limitation

Unless an extension of time is granted by the Zoning Administrator pursuant to this Code, no variance shall be valid for a period of longer than six (6) months unless a building permit is issued within that period and construction diligently pursued.

Section 25.060. Use Variance.

The Hearing Examiner and any other body may not grant use variances.

Section 25.070. Procedures.

A petition for a variance may be submitted in writing, on the approved application as provided by the City, by the property-owner at any time. The application shall state fully the grounds for the variance requested and all of the facts relied upon by the owner.

Section 25.080. Routine and Uncontested Matters*(Amended 2/25/03)*

Pursuant to the Municipal Land Use Management and Development Act, Utah Code, this Section is provided to enable Routine and Uncontested Matters, as designated by the Hearing Examiner, to be determined administratively by the Zoning Administrator following the provisions of this Section.

- A. Designation of Routine and Uncontested Matters. The Hearing Examiner hereby designates the

following as Routine and Uncontested Matters:

1. variances to front or rear yard setbacks when the amount of the variance from the required setback is twenty-four (24) inches or less.
2. variances to side yard setbacks when the amount of the variance from the required setback is eighteen (18) inches or less.

B. Guidelines and Procedures for Review and Determination.

The Hearing Examiner has established the following guidelines and procedures which the Zoning Administrator shall follow in making a determination on Routine and Uncontested Matters:

1. an application for a Routine and Uncontested Matter shall be filed in the office of the Zoning Administrator.
2. the application must include the signatures of approval of all abutting property owners in a form provided by the Zoning Administrator.
3. if the signatures of all abutting property owners cannot be obtained by the applicant the Zoning Administrator shall refer the item to the Hearing Examiner for determination.
4. if the required signatures are provided the Zoning Administrator may approve, approve with conditions, deny, or refer the item to the Hearing Examiner for a determination regardless of neighborhood approval.
5. within ten (10) working days the Zoning Administrator will notify the applicant, in writing of the decision rendered.
6. all decisions of the Zoning Administrator will be maintained on file in the office of the recording secretary.

C. Appeals. Any person aggrieved by a decision of the Zoning Administrator in a determination of a Routine and Uncontested Matter may appeal the decision to the Hearing Examiner pursuant to Section 03-040 and Section 32-010 of this Code.