

Chapter 12.2

Administration and Procedures

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12.2.1 Preparation and Adoption

This ordinance has been prepared and adopted in accordance with § 10-9-402 of the Utah Code Annotated 1953, as amended. This ordinance was prepared under the direction of the Planning Commission and, following a recommendation from the Planning Commission, adopted by the City Council following a public hearing.

12.2.2 Zoning Map

The Planning Commission has prepared and recommended, and the City Council, following a public hearing, has adopted the official Zoning Map that identifies the zoning districts within the City.

Where uncertainty exists with respect to the boundaries of various zones, an interpretation of the zoning district boundary shall be determined using the following criteria:

1. Where indicated boundaries on the Zoning Map are approximately street center lines, the street center line shall be construed to be the zone boundary.
2. Where the indicated boundaries are approximately lot lines, the lot lines shall be construed to be the zone boundary.
3. Where land has not been subdivided into lots and blocks, the zone boundaries shall be determined by use of the scale of measurement shown on the map.
4. Where the indicated boundaries are approximately canals, water courses or bodies, or other clearly defined natural boundaries, the centerlines of the canal or water course, or the edge of other clearly defined natural boundaries shall be construed to be the zone boundary.
5. Where other uncertainty exists, the Planning Commission shall provide interpretation of the map. The interpretation of the Planning Commission may be appealed in writing to the City Council for a zone boundary interpretation.

The official Zoning Map can be found in the office of the City Recorder. If the Zoning Map is amended in accordance with the requirements found in Section 12.2.8 herein, all previous Zoning Maps are no longer in effect for the purpose of identifying zone district boundaries.

12.2.3 Role of City Council

The City Council shall adopt the Zoning Ordinance in accordance with § 10-9-401, et seq., of the Utah Code Annotated 1953, as amended. Unless otherwise delegated herein, all final decisions regarding this ordinance shall be by a majority vote of the City Council. As it relates to this ordinance, the City Council shall have the following powers and duties:

1. Adoption the Zoning Ordinance.
2. Initiation of amendments to the text or Zoning Map.
3. To render, or appoint a hearing officer to render, a determination if an applicant asserts a deprivation of, or has been subject to, a taking of property without just compensation or asserts some other invalidity by the passage

of this ordinance.

4. To establish a fee schedule by resolution for applications for development approval, zone district amendments and all other approvals, permits and licenses required by this ordinance.
5. To approve, approve with conditions, remand back to the Planning Commission for further review, or deny development applications.

12.2.4 Establishment of Planning Commission
(amended 4/12/2005 Ord. 2005-11)

1. The Bluffdale City Planning Commission shall consist of five (5) voting members plus one (1) alternate who shall serve as a voting member when one of the voting members is absent.
2. Planning Commission members are appointed by the Mayor with a majority vote of the Bluffdale City Council.
3. Upon the effective date of this ordinance, all previous appointments to the Bluffdale Planning Commission are vacated. Former Bluffdale Planning Commission member who positions are vacated, are allowed to apply for a position on the reorganized five (5) member and one (1) alternate Bluffdale Planning Commission.
4. Except as otherwise provided for in section five, the Bluffdale City Planning Commission members shall have a four (4) year term of appointment.
5. The initial term of the newly reorganized Planning Commission shall be two (2) years for two (2) of the Planning Commission members and for the alternate. The initial term for the other three (3) members of the newly reorganized Planning Commission shall be for four (4) years.
6. Planning Commission members serve at the pleasure of the Bluffdale City Council and may be removed from office by expiration of their current term or by the Mayor with a majority vote of the Bluffdale City Council.
7. Planning Commission members shall receive \$25.00 as per diem compensation for necessary and reasonable expenses. This payment shall be based on meetings actually attended.
8. The Planning Commission shall have the following powers:
 - a. Prepare and recommend a general plan and amendments to the general plan to the Bluffdale City Council.
 - b. Recommend zoning ordinances and maps, and amendments to zoning ordinances and map, to the Bluffdale City Council.
 - c. Administer provisions of the zoning ordinance, where specifically provided for in the zoning ordinance adopted by the Bluffdale City Council.
 - d. Recommend subdivision regulations and amendments to those regulations to the Bluffdale City Council.
 - e. Recommend approval or denial of subdivision applications.
 - f. Prepare and recommend an annexation policy plan if requested by the Bluffdale City Council.
 - g. Advise the Bluffdale City Council on matters as the City Council directs.
 - h. Hear and decide any matter Bluffdale City Council designates including the approval or denial of, or recommendations to approve or deny, conditional use permits.
 - i. Exercise any other powers necessary to enable it to perform its statutory functions and lawfully delegated to it by the Bluffdale City Council.
9. Once appointed, the Planning Commission may adopt policies and procedures which do not conflict with this

ordinance and which are subsequently approved by the Bluffdale City Council.

10. Planning Commission meetings shall conform to the following regulations:

- a. The Bluffdale Planning Commission shall meet at least twice per month.
- b. All meetings will have an agenda that is posted or published — as required by law.
- c. All issues and items vote on during the meeting will be on the agenda.
- d. All meetings will be held before the public.
- e. Pursuant to Utah Code Ann. § 52-4-5, a closed meeting is possible and should be held with the advice of the Bluffdale City Attorney and should only be held in adherence to the exceptions noted in Utah Code Ann. § 52-4-5.
- f. A quorum of three (3) or more members is necessary to conduct any Planning Commission business or take any action.
- g. An affirmative vote of at least three (3) members is required to take any action.
- h. The Bluffdale Planning Commission shall elect a chairperson.

12.2.5 Board of Adjustment (*amended 5/13/04 Ord. 2004-10*)

- 12.2.5.1 Board of Adjustment Created**
- 12.2.5.2 Removal from Office**
- 12.2.5.3 Vacancies to be Filled**
- 12.2.5.4 Organization of Board of Adjustment**
- 12.2.5.5 Rules Governing Alternate Members of the Board**
- 12.2.5.6 Duties and Powers of the Board of Adjustment**
- 12.2.5.7 Variances - Procedures**
- 12.2.5.8 Appeals to Board of Adjustment**
- 12.2.5.9 Appeals from Board of Adjustment**

12.2.5.1 Board of Adjustment Created (*amended 7/12/2005 Ord. No. 2005-15*)

Pursuant to Utah Code Annotated § 10-9-701, *et seq.*, there is hereby created a Board of Adjustment and designated as the appeal authority for this Title. The Board shall consist of five (5) members and one (1) alternate member, each to be appointed by the Mayor with the advice and consent of the City Council for a term of five (5) years, provided that the terms of the members of the first board so appointed shall be such that the term of one member shall expire each year.

12.2.5.2 Removal from Office

Members of the Board of Adjustment may be removed for cause by the Mayor upon written charges filed against the member with the Mayor and after public hearing if a public hearing is requested by the member being removed.

12.2.5.3 Vacancies to be Filled

Any vacancy on the Board of Adjustment occurring by reason of death, resignation, removal or expiration of term shall be filled by appointment from the Mayor with the advice and consent of the City Council. Vacancies shall be filled within forty-five (45) days after the date of the vacancy.

12.2.5.4 Organization of Board of Adjustment

The Board of Adjustment shall organize and annually elect a Chairman and Vice-Chairman and adopt rules in accordance with the provisions of this Title. Meetings of the Board shall be held as necessary to hear applications for variances, appeals or special exceptions or at the call of the Chairman at such other times as may be necessary. The Vice-Chairman may, in the absence of the Chairman, fulfill the duties of the Chairman at any meeting. All meetings of the Board shall comply with Utah Code Ann. § 52-4-1, *et seq.* The Board shall keep minutes of its proceedings showing the vote of each member on each issue or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record.

12.2.5.5 Rules Governing Alternate Members of the Board

An alternate member of the Board of Adjustment shall serve in the absence of members of the board. When the absence of a member or members of the board for any meeting is known in advance, alternate members shall be called upon to fill such vacancies for that meeting. When filling such vacancies, an alternate member shall have full voting powers to decide matters before the board on that specific meeting's agenda.

12.2.5.6 Duties and Powers of the Board of Adjustment

The Board of Adjustment shall have the following powers:

- a. To hear and decide special exceptions to the terms of this Title upon which such Board is required to pass under provisions of this Title.
- b. To authorize, upon appeal, such variance from the terms of this Title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Title will result in unnecessary hardship, provided that the spirit of the Title shall be observed and substantial justice done. Before any variance may be authorized, however, it shall be shown that:
 1. literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;
 2. the variance will not substantially affect the general plan and will not be contrary to the public interest;
 3. the spirit of the zoning ordinance is observed and substantial justice is done;
 4. there are special circumstances attached or related to the property or development of the property that do not generally apply to other property or development of other property in the same district; and
 5. granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.
 6. an unreasonable hardship has not be self-imposed or is economic.
- c. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Title or of any ordinance adopted pursuant thereto.

12.2.5.7 Variances - Procedures

The Board of Adjustment may authorize, upon application, such variances from the terms of this Title as will not be contrary to the public interest where, owing to special conditions, the literal enforcement of the provisions of this Title will result in unnecessary hardship, provided that the spirit of the Title shall be observed and substantial justice done. In determining whether or not a variance should be granted, the Board of Adjustment shall strictly adhere to

the provisions of Utah Code Ann. § 10-9-707, as amended.

Applications for variance shall be filed with the Planning Department. Said application shall contain the following information:

- a. A description for the requested variance together with a description of that ordinance provision for which relief is being requested and why such provision causes undue hardship or need for a variance.
- b. An accurate plot plan, where appropriate, indicating the manner in which the variance will be applied and its effect on adjacent properties.
- c. A filing fee as set by the City Council.

Upon receipt of the application by the Planning Department, a copy with all accompanying materials shall be forwarded to the Board of Adjustment for its action. The Board of Adjustment shall hold a hearing to review the request and other concerns and take appropriate action upon the request. Notices for variance hearings shall follow the procedure set forth in Section 12.2.7 of this Title.

The Board of Adjustment, after hearing necessary testimony, information and citizen input, shall then make a finding conforming to Section 12.2.5.8 of this Title. In granting a variance, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

12.2.5.8 Appeals to the Board of Adjustment

12.2.5.8.1 Appeal Procedure

Any person or entity desiring a waiver or modification of the requirements of the Zoning Ordinance as applied to a parcel of property that he or she owns, leases or in which he or she holds some other beneficial interest, may appeal to the Board of Adjustment an order, requirement, decision or determination made by a city official in the enforcement, administration or interpretation of this Title. The Board of Adjustment shall hear appeals and make decisions consistent with this Section.

The appellant, or agent, shall make an appeal on a form provided by the city and shall include all appropriate information. In all matters before the Board of Adjustment, the burden of proof to overturn a decision administering or interpreting the Zoning Ordinance shall rest with the appellant.

The Board of Adjustment shall set a hearing on the appeal at their next available Board meeting. In exercising its powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the city official in question as ought to be made, and to that end shall have all of the powers of the enforcement of this Title. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination or to decide in favor of the appellant on any matter upon which it is required to pass under such ordinance.

The decision of the Board becomes effective at the meeting in which the decision is made, unless a different time is designated in the Board's rules at the time the decision is made.

12.2.5.8.2 Time Limitation (*amended 7/12/2005 Ord. No. 2005-15*)

An appeal of a decision administering or interpreting the Land Use Ordinance shall be submitted to the City within ten (10) days from the date of the final decision.

12.2.5.9 Appeals from the Board of Adjustment (*amended 7/12/2005 Ord. No. 2005-15*)

Bluffdale City or any person adversely aggrieved by a decision of the Board of Adjustment, may have and maintain a plenary action for relief therefrom in any court of competent jurisdiction provided petition for each relief is presented to the court within ten (10) days after the date of such decision.

12.2.6 City Staff

Members of the City staff shall provide necessary information to the City Council, Planning Commission and Board of Adjustment in regards to the Land Use Ordinance. The City Council may hire additional staff or consultants to provide necessary information. The City Recorder shall prepare agendas and take minutes of meetings.

12.2.7 Notice Requirements and Public Hearings (*amended 7/12/2005 Ord. No. 2005-15*)

All notice requirements and public hearing notice requirements shall satisfy State law and City ordinances or resolutions. The public notice shall contain ample information to allow the general public to determine what action is being proposed, a short description of the proposal, the time, date and location of the public hearing, and where additional information, if any, may be obtained. Actions which require a public hearing are and shall be noticed in the following manner:

1. Notice to the applicant. An applicant for any action before the Planning Commission requiring a public hearing shall be notified of the date, time and place of the public hearing and public meetings where their application shall be heard.
2. Adoption or amendment of the general plan. Each notice of a public hearing to adopt or amend the general plan shall provide the date, time and place of the public hearing and be noticed as follows at least ten (10) calendar days before the hearing:
 - a. Published in a newspaper of general circulation in Bluffdale City. The publication date, not the date of the submission to the newspaper, must satisfy the ten (10) day notice requirement.
 - b. Mailed to each public entity or utility which is affected by the proposed general plan or amendment.
 - c. Posted in at least three (3) public locations within the city or on the city's website.

Each public meeting to consider on the adoption or amendment of the general plan shall be noticed by submitting a notice of the date, time and place of the meeting to a newspaper of general circulation in Bluffdale City and posted in at least three (3) public locations within the city or on the city's website at least twenty-four (24) hours before the meeting.

3. Adoption or amendment to the Land Use Ordinance. Each notice of public hearing to adopt or amend the Land Use Ordinance shall provide the date, time and place of the public hearing and be noticed as follows at least ten (10) calendar days before the hearing:
 - a. Mailed to each public entity or utility affected by the adoption or amendment of the Land Use Ordinance.
 - b. Posted in at least three (3) public locations within the city or on the city's website.
 - c. Mailed at least three (3) days before the date of the hearing to each property owner whose land is directly affected by the adoption or amendment of the Land Use Ordinance and each adjacent property owner within one thousand (1,000) feet of the proposal.
 - d. Mail notice to the Utah Automated Geographic Reference Center, the state planning coordinator, and the Wasatch Front Regional Council

Each notice of a public meeting to consider adoption or amendment of the Land Use Ordinance shall posted in at least three (3) public locations within the city or on the city's website at least twenty-four (24) hours before the meeting.

Any costs associated with the provisions of the notice requirements herein shall be the responsibility of the proponent of the action. If notice given under authority of this Section is not challenged as provided by State law

within thirty (30) days from the date of the meeting for which notice was given, the notice is considered adequate and proper.

12.2.8 Amendments to Land Use Ordinance and Map (amended 7/12/2005 Ord. No. 2005-15)

The City Council, using its legislative discretion, may amend the number, shape, boundary, or area of any zoning district. The Council may also amend any regulation or other provisions of a zoning district. The amendments may only occur in accordance with the following procedure.

Any person, including staff, the Planning Commission or City Council, seeking an amendment to the Land Use Ordinance or Zoning Map shall submit to the Planning Commission, on forms provided by the City, the following:

1. A description of the specific amendment to the Land Use Ordinance or Zoning Map.
2. The reason and justification for the proposed amendment and how the proposed amendment would further the purpose and intent of the Land Use Ordinance, and how the proposed amendment is consistent with the General Plan. If the proposed amendment is inconsistent with the General Plan, the applicant shall submit, concurrently with the amendment application, an application for amendment to the General Plan.
3. Supporting documentation, maps, studies and any other information that would allow the City Council to make a well-informed decision.
4. The payment of the appropriate fee in accordance with the City fee schedule.

Upon receipt by the Planning Commission of the proposed amendment, the Commission shall hold a public hearing in accordance with Section 12.2.7 herein. Following the public hearing, the Planning Commission shall forward a recommendation to the City Council on the proposed amendment.

The City Council shall hold a public hearing on the proposed amendment in accordance with Section 12.2.7 herein. The City Council may approve, amend and approve, remand the proposed amendment back to the Planning Commission for further review, or deny the proposed amendment.

12.2.9 Relationship to Other Ordinances

This ordinance is intended to be consistent with all other laws, ordinances and resolutions of Bluffdale City, specifically including, but not limited to, the following:

1. The Bluffdale City General Plan and General Plan Map.
2. The Bluffdale City Subdivision Ordinance.
3. The Bluffdale City Design Guidelines and Standard Specifications.

12.2.10 Development Applications

A development application shall be required for approval of all proposed development reviewed under this ordinance including additions to existing buildings and temporary uses. All development applications are available from the City Recorder. The City is not obligated to act on any application that is not complete or does not contain all of the information required herein.

Any application for a subdivision shall also satisfy the applicable requirements of the Subdivision Ordinance. Review of zoning requirements and subdivision approval may be completed concurrently.

No use, development or development activity may be commenced until all necessary approvals, permits, and licenses have been issued in accordance with the provisions of this ordinance, and all required fees have been paid by the applicant.

12.2.11 Termination of Application

If a request of the City Council, Planning Commission, Board of Adjustment, or staff has not been responded to within sixty (60) days of the written request, the application may be terminated. The City Council may extend this deadline, or reinstate the application upon request by the applicant.

An application will be considered null and void if substantial construction or development has not occurred in

connection with the application within one (1) year of final approval.

Should the application be terminated, the applicant shall be required to resubmit the application and shall satisfy all requirements in place at the time of resubmission, including the payment of fees.

12.2.12 Vested Rights & Constitutional Takings Issues

In order to provide certainty and predictability in the development approval process, the City Council has developed a procedure for considering and evaluating vested rights claims made under Utah law as amendments are made to this ordinance from time to time. This procedure may include the processing of consent agreements for the settlement of disputes pertaining to vested rights or other legal claims arising from this ordinance.

12.2.13 Temporary Regulations

In accordance with § 10-9-404 of the Utah Code Annotated 1953, as amended, the City Council may, without a public hearing, enact ordinances establishing temporary zoning regulations for any part or all of the area within the municipality.

The City Council shall establish a period of limited effect for the temporary regulations, not to exceed six (6) months.