CHAPTER 2-10
BOARD OF ADJUSTMENTS

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Section 2-10-001-0001 Establishment of the Board

There is hereby created a Board of Adjustment (the "Board").

Section 2-10-001-0002 Membership

The Board of Adjustment shall be composed of five (5) voting members.

A. Four (4) members shall be appointed by the Mayor and City Council from the citizens of the City of Flagstaff.

B. One (1) member shall be appointed by the City Council from the membership of the Planning and Zoning Commission.

C. Terms shall be for three (3) years for members.

D. The Board shall elect from its voting members a chairperson and a vice chairperson who shall serve for a term of one (1) year. The chairperson shall have the power to administer oaths and take evidence.

Section 2-10-001-0003 Meetings

The meetings of the Board of Adjustment shall be open to the public and held at the time and place adopted for the regular monthly meetings of the Board. Meetings shall be conducted in accordance with the Board and Commission Members' Handbook adopted by resolution of the Flagstaff City Council, and in compliance with all other local, state, and federal laws. The minutes of its proceedings, showing the vote of each member and records of its examinations and other official actions shall be kept by the City Clerk as a public record.

A quorum shall be one more than half the voting membership of the Board of Adjustment.

Section 2-10-001-0004 Powers and Duties

The Board of Adjustment ("Board") is a quasi-judicial administrative body established by the City Council that functions on the level between enforcement officers and the Courts. The Board interprets the meaning and spirit of City Code Title 10 (Zoning Code) as enacted by the City Council; it does not have authority to make or change zoning law. The Board of Adjustment shall have the powers and duties per A.R.S. § 9-462.06 to:

A. Hear and decide appeals in which it is alleged there is an error in an order, requirement, or decision made by an administrative official in the enforcement of City Code Title 10 (Zoning Code).

B. Hear and decide appeals for variances from the terms of the Zoning Code only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance is subject to such conditions as will ensure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

C. Reverse or affirm, wholly or in part, or modify the order, requirement, or decision of an administrative officer appealed from, and make such order, requirement, decision, or determination as necessary.

D. Adopt such rules of procedure necessary for the administration of responsibilities consistent with these regulations.

Section 2-10-001-0005 Appeals

Any person aggrieved by a decision of the Board of Adjustment may, at any time within thirty (30) days after the Board has rendered its decision, file a complaint for special action in the superior court to review the Board's decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.

Section 2-10-001-0006 Restrictions

The Board of Adjustment may not:

A. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the Zoning Code provided the restriction in this paragraph shall not affect the

authority to grant variances pursuant to this Chapter and Division 10-20-70 (Variances).

B. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

C. Grant a variance on an appeal for any of the following:

1. Conditions or stipulations of a Zoning Map amendment.

2. Conditions of a Subdivision Plat recommended for approval by the Planning and Zoning Commission or as approved by the City Council, or of a Land Split Map.

3. Conditions of a Development Agreement.

4. Conditions of an Annexation Agreement or ordinance.

5. Conditions of a Conditional Use Permit.

6. Conditions of a Resource Mitigation Case.

7. Illegal or Prohibited Uses in any zoning district.

8. Illegal or Prohibited Signs, as listed in Division 10-50.90 (Sign Regulations), in any district.

9. Determination of a requirement for a General Plan Amendment by the Planning Director.

D. Applications for any of the above-listed items shall not be accepted or processed, nor will the Board of Adjustment schedule or conduct meetings regarding the same.

2-10-001-0007 City Council Authorized to Act as Board of Adjustment

When a quorum of the Board of Adjustment cannot be achieved due to absence or disqualification, upon majority vote the City Council may act as the Board of Adjustment. (Amended, Ord. No. 2011-23, 09/06/2011)

2-10-001-0008 Hearing Officer

Pursuant to A.R.S. § 9-462.08, the City has the authority to establish administrative hearing officers and, pursuant to A.R.S. § 9-462.06, may delegate to a hearing officer the authority to hear and decide on matters within the jurisdiction of the Board of Adjustment.

A. Appointment. The Hearing Officer shall be appointed by the City Manager on the basis of training and experience which qualifies him or her to conduct hearings and make findings and conclusions of the matters heard.

B. Powers and Duties. The Hearing Officer shall have all the powers and duties granted to the Board of Adjustment pursuant to this Section and prescribed by law.

C. Procedure. Public hearings conducted by the Hearing Officer shall be open to the public and conducted in accordance with the Rules of Procedure for the Board of Adjustment.

D. Appeal. Any person aggrieved by a decision of the Hearing Officer may file an appeal to the Board of Adjustment within fifteen (15) calendar days after the Hearing Officer has rendered a decision. Appeals of the decisions of the Hearing Officer shall be heard by the Board of Adjustment or, if a quorum of the Board of Adjustment cannot be achieved, by the City Council acting as the Board of Adjustment, as applicable. If the Board of Adjustment, or the City Council acting as the Board of Adjustment pursuant to Section 10-09-004-0001.E.7., is unable to achieve a quorum due to absence or disqualification, the aggrieved party may file a complaint for special action directly in the Superior Court within thirty (30) days after the Board of Adjustment, or the City Council acting as the Board of Adjustment, issues an order declaring its inability to hear the appeal.

(Amended Ord. No. 2011-27, 11/18/2011)

Section 2-10-001-0009 Appeal from the Board of Adjustment.

Any person aggrieved by a decision of the Board of Adjustment may appeal the decision directly to the Superior Court by filing a complaint for special action within thirty (30) days after the Board has rendered its decision.

(Amended Ord. No. 2011-27, 11/18/2011)

(Adopted, 1978 Code; Amended, Ord. No. 2010-35, 11/16/2010; Amended, Ord. No. 2011-23, 09/06/2011; Amended Ord. No. 2011-27, 11/18/2011)