

21A.06.040 Board of adjustment.

- A. Creation. The board of adjustment is created pursuant to the enabling authority granted by the Municipal Land Use Development and Management Act, Section 10-9-701 of the Utah Code Annotated.
- B. Jurisdiction and Authority. The board of adjustment shall have the following powers and duties in connection with the implementation of this title:
1. Hear and decide appeals from any administrative decision made by the zoning administrator in the administration or the enforcement of this title pursuant to the procedures and standards set forth in this Part II, Chapter 21A.16, Appeals of Administrative Decisions;
 2. Authorize variances from the terms of this title pursuant to the procedures and standards set forth in this Part II, Chapter 21A.18, Variances;
 3. Authorize special exceptions to the terms of this title pursuant to the procedures and standards set forth in Part V, Chapter [21A.52](#), Special Exceptions;
 4. Make determinations regarding the existence, expansion or modification of nonconforming uses and noncomplying structures pursuant to the procedures and standards set forth in Part IV, Chapter [21A.38](#), Nonconforming Uses and Noncomplying Structures.
- C. Membership. The board of adjustment shall consist of five members appointed by the mayor with the advice and consent of the city council from among qualified electors of the city in a manner that will provide balanced representation in terms of geographic, professional, neighborhood and community interests. Members may serve a maximum of two consecutive full terms of five years each. The terms of all members shall be so arranged that the term of one member will expire each year. In addition, the mayor, with the advice and consent of the city council, may appoint alternate members of the board of adjustment for a term not to exceed five years, to serve in the absence of a member or members of the board of adjustment. No more than two alternate members shall vote at any meeting of the board of adjustment at one time. The prior term of an alternate member who subsequently becomes a full-time member of the board of adjustment shall not prevent that member from serving two consecutive terms. Appointments to fill vacancies of members or alternate members shall be only for the unexpired portion of the term. Appointments for partial terms to fill vacancies shall not be included in the determination of any person's eligibility to serve two full consecutive terms.
- D. Officers. The board of adjustment shall annually elect a chair and a vice-chair who shall serve for a term of one year each. The chair or the vice-chair may be elected to serve consecutive terms in the same office. The secretary of the board of adjustment shall be designated by the zoning administrator.
- E. Meetings. The board of adjustment shall meet at least once a month.
- F. Record of Proceedings. The proceedings of each meeting and public hearing shall be recorded on audio equipment. Records of confidential executive sessions shall be kept in

compliance with the Government Records Access and Management Act. The audio recording of each meeting shall be kept for a minimum of sixty days. Upon the written request of any interested person, such audio recording shall be kept for a reasonable period of time beyond the sixty-day period, as determined by the board of adjustment. Copies of the tapes of such proceedings may be provided, if requested, at the expense of the requesting party. The board shall keep written minutes of its proceedings and records of all of its examinations and official actions. The board of adjustment may, at its discretion, have its proceedings contemporaneously transcribed by a court reporter.

- G. **Quorum and Vote.** No business shall be conducted at a meeting of the board of adjustment without a quorum of at least three members, consisting of either three regular members, or one regular member and up to two alternate members. A simple majority of the voting members present at a meeting at which a quorum is present shall be required for any action except a decision on appeal to reverse an order, requirement, decision or determination of any administrative official or agency or to decide in favor of an appellant. In such case, a concurring vote of three members of the board of adjustment shall be necessary. Decisions of the board of adjustment shall become effective on the date that the vote is taken.
- H. **Public Hearings.** The board of adjustment shall schedule and give public notice of all public hearings pursuant to the provisions of this Part II, Chapter 21A.10, General Application and Public Hearing Procedures.
- I. **Conflict of Interest.** No member of the board of adjustment shall participate in the hearing or disposition of any matter in which that member has any conflict of interest prohibited by Title 2, Chapter 2.44 of the Salt Lake City Code. The board of adjustment may, by majority vote of the members present, allow a member, otherwise required to leave due to a conflict, to be present if required by special or unusual circumstances.
- J. **Removal of a Member.** Any member of the board of adjustment may be removed by the mayor for violation of this title or any policies and procedures adopted by the board of adjustment following receipt by the mayor of a written complaint filed against the member. If requested by the member, the mayor shall provide the member with a public hearing conducted by a hearing officer appointed by the mayor.
- K. **Policies and Procedures.** The board of adjustment shall adopt policies and procedures for the conduct of its meetings, the processing of applications and for any other purposes considered necessary for its proper functioning. (Ord. 26-95 ? 2(3-4), 1995)