

BINGEN MUNICIPAL CODE

Chapter 17.88

BOARD OF ADJUSTMENT

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17.88.010 Created.

To carry out the intent and policy of this chapter, the city council shall serve as the board of adjustment until such time as the city council appoints a separate body for such purpose pursuant to Section 17.88.020. (Ord 440 Att. A (part), 1997).

17.88.020 Membership—Appointment—Compensation.

The board of adjustment shall consist of five voting members, all of whom shall serve without compensation. The members of the board of adjustment shall be appointed, serve, and be removed in accordance with provisions of RCW Chapter 35.63. One member of the board of adjustment shall be an appointment member of the planning commission. (Ord 440 Att. A (part), 1997).

17.88.030 Quorum.

The presence of three voting members shall constitute a quorum. (Ord 440 Att. A (part), 1997).

17.88.040 Powers and duties.

The jurisdiction duties and powers of the board of adjustment are as follows:

- A. Hearing and deciding applications for conditional uses (principal and accessory) expressly provided for in certain districts. A conditional use permit shall be granted by the city only if the application demonstrates that:

1. The conditional use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;
 2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
 3. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
 4. The conditional use is not in conflict with health and safety of the community;
 5. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
 6. The conditional use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.
- B. Application for variance from the terms of this title; provided, that any variance granted shall be subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which subject property is situated, and that the following circumstances are found to apply:
1. Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of rights and privileges enjoyed by other property in the vicinity and under identical zoning district classifications;
 2. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district in which subject property is situated;
- C. Appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, or determination made by an administrative official in the administration or enforcement of this title. (Ord 440 Att. A (part), 1997).

17.88.042 Conditional use permit action by the board of adjustment.

In permitting a conditional use the city may impose, in addition to regulations and standards expressly specified in this title, other conditions found necessary to protect the best interests of

the surrounding property or neighborhood, or the city as a whole. These conditions may include requirements which:

1. Increase the required lot size or yard dimensions;
2. Increase street widths;
3. Control the location and number of vehicular access points to the property;
4. Increase the number of off-street parking or loading spaces required;
5. Limit the number of signs;
6. Limit the coverage or height of buildings because of obstructions to view and reductions of light and air to adjacent property;
7. Limit or prohibit openings in sides of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area;
8. Requirements under which any future enlargement or alteration of the use shall be reviewed by the city and new conditions imposed; and
9. Regulations as to the use of such property as found necessary to protect the public health or safety or necessary to protect other property from adverse effects or such conditional use. (Ord 440 Att. A (part), 1997).

17.88.050 Appeal—Time limit for filing.

Appeals may be taken to the board of adjustment by any person aggrieved, or by any officer, department, board or bureau affected by any decision of an administrative official of this title. Such appeals shall be filed in writing in duplicate with the board of adjustment within twenty days of the date of the action being appealed. (Ord 440 Att. A (part), 1997).

17.88.060 Conditional uses permit hearing notice.

Upon filing of an application for a conditional use permit or a variance, the board of adjustment shall set the time and place for a public hearing on such matter, and written notice thereof shall be mailed to all property owners of record within a radius of three hundred feet of the exterior boundaries of subject property. The written notice shall be mailed no less than fourteen days prior to the hearing. (Ord 440 Att. A (part), 1997).

17.88.070 Appeal—Hearing notice.

Upon filing of an appeal from an administrative determination, or from the action of the administrator, the board of adjustment shall set the time and place at which the matter will be

considered. At least a fourteen-day notice of such time and place, together with one copy of the written appeal, shall be given to the official whose decision is being appealed. At least fourteen days notice of time and place shall also be given to the adverse parties of record in the case. The official from whom the appeal is being taken shall forthwith transmit to the board of adjustment all of the records pertaining to the decision being appealed from, together with such additional written report as the official deems pertinent. (Ord 440 Att. A (part), 1997).

17.88.080 Appeal—Scope of authority.

In exercising the powers granted in this chapter, the board of adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made, and to that end, shall have all the powers of the official from whom the appeal is taken, insofar as the decision on the particular issue is concerned. (Ord 440 Att. A (part), 1997).

17.88.090 Action final—Exception.

The action by the board of adjustment on a application for conditional use permit or a variance, or on an appeal from the decision of the administrator or other administrative officer shall be final and conclusive unless within twenty-one days from the date of the action the original applicant or an adverse party makes application to a court of competent jurisdiction for a writ of prohibition, a writ of mandamus, or a land use petition in accordance with appropriate state statute and Chapter 17.100 of this title. (Ord 440 Att. A (part), 1997).

17.88.100 Findings of fact required.

The board of adjustment shall, in making an order, requirement, decision or determination, include in a written record of the case findings of fact upon which the action is based. (Ord 440 Att. A (part), 1997).

17.88.110 Appeal to city council.

Any interested citizen or administrative officer of the city may appeal to the council from rulings of the planning commission where such ruling allegedly is adverse to his or her interests. Written notice of appeal from such ruling shall be filed within five days from such ruling. Thereupon the planning commission shall forthwith transmit to the council all papers constituting the record upon which the ruling was made. The council at its hearing may receive such further evidence as seems relevant. After a hearing the council may overrule or alter the decision of the planning commission by a majority vote of the full council. (Ord 440 Att. A (part), 1997).