

BOARD OF ADJUSTMENTS
APPLICATION INSTRUCTIONS

The Board of Adjustments approves citizen requests for variances to the city zoning ordinance and approves home occupation requests.

***Please read through all instructions carefully prior to filing your application to be placed on the Board of Adjustments agenda. STAFF CANNOT GIVE LEGAL ADVICE, TELL YOU WHAT TO PRESENT TO THE BOARD, NOR TELL YOU HOW THE BOARD WILL DECIDE.**

-Before You Apply:

1. Determine if the Board of Adjustments has authority to grant your request.
(See Cedar City Ordinance Section 26-IX-2.)
2. Check the requirements necessary for a positive decision by the Board to determine if you can meet those requirements and if you can show that you meet them to the Board.
3. If you are not the owner of the property at issue, please present evidence (typically by letter or by that person's attendance at the meeting) that the owner has approved of the proposed use.

-If all three (3) requirements above are met, continue to instruction #4 (below).

4. Fill out the attached application and return the completed application along with the \$25 fee to the City Offices before 5:00 p.m. on or prior to the application deadline. Any applications received after the application deadline **will not** be added to the next agenda date and will be placed on the following month's agenda. **NO EXCEPTIONS!!** *Please refer to the attached deadline sheet for dates.*
5. You will then need to verify the meeting date with the Board of Adjustments secretary. You will then be notified of the date and time to put on the Notice of Public Meeting form for property owner notification.
6. Attend the meeting and present all evidence and argument in support of your request.
7. If your request is granted, you must meet all additional conditions set by the Board before you will be allowed to proceed forward with the granted request.

For home occupations, please be prepared to present any previously obtained licenses necessary for your intended business. The Board does not have authority to waive City, State, and Federal licensing and tax ID requirements. If you have failed to previously obtain a necessary license, the Board may condition its approval on you obtaining said license(s) or delay the Board's decision until you have done so. The City suggests that all applicants file for a City business license after obtaining approval from the Board of Adjustments.

PREPARING FOR THE MEETING

Present all information you believe is relevant to the Board's decision.

For Home Occupations you must:

- **Submit a site plan showing how parking will be accommodated on the lot, as well as proof that notice has been given to all property owners within a 300-foot radius from the boundary of the home occupation. This documentation **MUST** be submitted to the City's building official at least **five (5) business days** prior to the Board of Adjustments Meeting.**
- **Contact the Building Department at least seven (7) days prior to the meeting to schedule a building inspection. They can be reached at (435) 865-4519.**

If you wish to present either paper documentation or computer/PowerPoint presentations, please provide a copy of the item(s) with your application if possible. If you have large objects or color photographs that you wish to provide to the Board prior to the meeting, please provide eight (8) copies of the item(s) with your application.

CONTACT PERSONS

- For Board applications and application deadlines: Natasha Nava, Executive Assistant (435) 586-2953
- For business licensing questions: Renon Savage, License Officer/City Recorder (435) 865-5106
- For building and zoning questions: Drew Jackson, Chief Building Official (435) 865-4519



Cedar City

10 North Main Street • Cedar City, UT 84720
 435-586-2950 • FAX 435-586-4362
www.cedarcity.org

Mayor
 Garth O. Green

Council Members
 Terri W. Hartley
 Craig E. Isom
 W. Tyler Melling
 R. Scott Phillips
 Ronald Riddle

City Manager
 Paul Bittmenn

2023/2024 Board of Adjustments AGENDA DEADLINES

APPLICATION DEADLINE DATE*	PUBLIC MEETING DATE**
January 26 th , 2023	February 6 th , 2023
February 23 rd , 2023	March 6 th , 2023
March 23 rd , 2023	April 3 rd , 2023
April 20 th , 2023	May 1 st , 2023
May 25 th , 2023	June 5 th , 2023
June 29 th , 2023	July 10 th , 2023
July 27 th , 2023	August 7 th , 2023
August 31 st , 2023	September 11 th , 2023
September 21 st , 2023	October 2 nd , 2023
October 26 th , 2023	November 6 th , 2023
November 22 nd , 2023	December 4 th , 2023
December 28 th , 2023	January 8 th , 2024
January 25 th , 2024	February 5 th , 2024
February 22 nd , 2024	March 4 th , 2024
March 21 st , 2024	April 1 st , 2024

* - Applications **must** be submitted **no later than 5:00 p.m.** on the application deadline date indicated.
NO EXCEPTIONS!!

** - Public meeting date is subject to change.



CEDAR CITY

10 North Main, Cedar City, UT 84720
435-586-2950 • Fax 435-586-4362
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\$25 fee paid: _____

Receipt No.: _____

BOARD OF ADJUSTMENTS APPLICATION

PLEASE ATTACH ADDITIONAL SHEETS FOR ANY INFORMATION YOU BELIEVE WILL HELP THE BOARD MAKE ITS DECISION

TYPE OF APPLICATION (mark all that apply):

- Administrative Appeal Special Exception Variance
 Conditional Use Appeal Non-conforming Use Zoning Map Interpretation
 Daycare/Nursery
 Home Occupation: School Other Home Occupation
 Other:

APPLICANT'S NAME _____ PHONE # (____) _____

BUSINESS NAME AND/OR DBA (if any) _____

ADDRESS OF PROPERTY(IES) _____

CITY Cedar City STATE UT ZIP _____

ZONE(S) WHERE PROPERTY IS LOCATED (Leave blank if unsure)
 Residential GC NC I&M-1
 CC HS DC I&M-2

APPLICANT'S INTEREST IN PROPERTY Owner Tenant
 Developer Other _____

APPLICANT'S MAILING ADDRESS _____

CITY _____ STATE _____ ZIP _____

PLEASE EXPLAIN IN DETAIL THE ISSUE, MATTER, AND/OR USE YOU WANT THE BOARD TO ADDRESS (Attach other pages if necessary)

I understand that falsifying any information on this application constitutes sufficient cause for rejection or revocation of my application, license, and/or permit. I also understand that the Board of Adjustments may require additional information as permitted by the ordinance, and agree to supply the same as part of this application.

APPLICANT'S SIGNATURE

DATE

NOTICE OF PUBLIC MEETING

The undersigned, in accordance with City Ordinance, hereby gives Notice of a Proposed:

Home Occupation (In-home business)

Type of business:

Number of employees requested: _____

Number of parking spaces intended for business: _____

This proposal is within 300 feet of property you own. This proposal will be considered and possibly voted on during a Board of Adjustments to be held as follows:

DATE: _____

TIME: _____

PLACE: Cedar City Council Chambers, 10 North Main, Cedar City, UT

Anyone wishing to comment on this proposal should attend the Board of Adjustments meeting. You can send your written comments to:

Drew Jackson
Building Department
Cedar City Corporation
10 North Main Street
Cedar City, Utah 84720

Notice sent by: _____

(Proponent printed name and address)

(Proponent signature)

CEDAR CITY CORPORATION
HAND DELIVERY
NOTIFICATION CERTIFICATION

NOTICE BY THE APPLICANT shall be given to all property owners of record within a 300-foot radius from the boundary of the applicant's residence. Said notice shall be sent certified mail or hand-delivered to the property owners in accordance with the most current Iron County Assessment Roll no later than five (5) days before the Board of Adjustments meeting. Proof of certified mail and/or a certificate documenting hand delivery to property owners as required herein shall be delivered to the City Building Official prior to the Board of Adjustments meeting.

Address of applicant's property: _____

I, _____ do hereby certify that notification was hand-delivered to the following property owners of record.

PROPERTY OWNER

ADDRESS

PROPERTY OWNER	ADDRESS

Applicant's Signature

Date

(Use additional pages as needed)

Section 26-IX-3 Variances

1. In accordance with State law, the Board of Adjustments shall hear any person or entity desiring a waiver or modification of the requirements of zoning ordinance as applied to a parcel of property that he owns, leases, or in which he holds some beneficial interest, the Board of Adjustments may grant a variance from the terms of the zoning ordinance if:
 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. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
 4. The variance will not substantially effect the general plan and will not be contrary to the public interest; and
 5. The spirit of the zoning ordinance is observed and substantial justice is done.
2. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship, the Board of Adjustments may not find an unreasonable hardship unless the alleged hardship (a) is located on or associated on the property for which the variance is sought; and (b) comes from circumstances peculiar to the property, not from conditions that are general, to the neighborhood.
3. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship, the Board of Adjustments may not find an unreasonable hardship if the hardship is self-imposed or economic.
4. In determining whether or not there are special circumstances attached to the property, the Board of Adjustments may find that special circumstances exist only if the special circumstances:
 1. Relate to the hardship complained of; and
 2. Deprive the property of privileges granted to other properties in the same district.
5. The applicant shall bear the burden of proving that all conditions justifying a variance have been met.
6. All variances run with the land.
7. The Board of Adjustments, and any other body, may not grant use variances.
8. In granting a variance, the Board of Adjustments may impose additional requirements on the applicant that will:
 1. Mitigate the harmful effects of the variance; or
 2. Serve the purpose of the standard or requirement that is waived or modified.

Amended by Cedar City Ordinance No. 0612-13-2

Section 26-IX-4 Special Exceptions

To hear and decide requests for special exceptions or other special requests upon which such board is authorized to pass as herein set forth; provided, however, that the board shall not act upon matters which have not been specifically delegated to it by the terms of this chapter. Every decision of the Board of Adjustments shall be based upon findings of fact, and every fact and every finding of fact shall be supported in the record of the proceedings of the Board.

The special exceptions or other special requests on which the Board of Adjustments shall be authorized to pass are:

1. To permit the building of a dwelling upon a lot which does not have frontage on a street, if an adequate easement is provided,
2. To interpret the zone map,
3. To reduce the amount of off-street parking required where sufficient off-street parking is not readily available within the vicinity, and/or where acquisition of land for such use would cause exceptional hardships. Also to decide the number of off-street parking spaces which shall be required when the number is not specifically set forth in this ordinance.
4. The Board of Adjustments may permit buildings to be constructed within seventy-five (75) feet from a natural flood channel, provided measures are taken which will adequately protect the buildings or structures from damage due to floods, will not increase the hazard of flood damage to surrounding lands and buildings, and will be located in accordance with the plan of flood drainage as approved by the City Council.
 1. Such use is similar in character and nature to the uses permitted in the zone.
 2. Such use conforms to the basic characteristics of the zone in which it is added and is in harmony with the objectives and purposes of the zone.
 3. Such use is not likely to create any more traffic, or be more offensive due to noise, heat, dust, smoke, odor, glare, vibration or other objectionable influence than the minimum amount normally resulting from the other uses listed in the zone in which it is added. When any use has been added to any zone in accordance with this procedure, such use shall thereafter be deemed to be a permitted use within that zone.

5. Grant **Home Occupations**: The Board of Adjustments may grant home occupations in the R1, R-2 (Dwelling, Single Unit), R-2 (Dwelling, Two Unit), R-3 (Dwelling, Single Unit), R-3 (Dwelling, Multiple Unit), and RE zones provided:
 1. The home occupation is conducted entirely within a dwelling and is carried on by members of the family residing in the dwelling. Employees other than family members residing in the dwelling are permitted as long as the following conditions are complied with: (a) the total number of full time and part time employees, including those residing in the home, shall not exceed 1 employee for every one hundred and fifty (150) square feet of area devoted to the home occupation, as per 26-IX-4(E)(6) and in no event exceed a maximum of five (5) outside employees; and (b) provide off street parking as required by 26-IX-4(E)(9).
 2. The home occupation does not involve the use of any accessory buildings or yard space for storage or activities outside of the dwelling not normally associated with residential use, except for Nursery Schools, in which case it is presumed that rear yard space is utilized and the rear yard space must be completely fenced with at least a six-foot (6') high fence.
 3. No commercial vehicles are used except one delivery truck which does not exceed one (1) ton capacity.
 4. The home occupation does not include a drive through.
 5. The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling.
 6. Signs shall be limited to one non-flashing non-illuminated sign not larger in area than six (6) square feet. Said sign must be located at least ten feet (10') behind the sidewalk, and comply with the provisions of 26-IV-3, clear view of intersecting streets. The top of a freestanding sign not attached to the residence shall not be more than four (4) feet from ground level.
 7. Not more than the equivalent of twenty-five percent (25%) of the ground floor area of the dwelling is devoted to the home occupation. Nursery schools and daycare centers may use up to twenty-five percent (25%) of the ground floor area and one other floor of the home. Nursery schools and day care centers need not designate a particular twenty-five percent (25%) of the two-floor area; however, the actual 25% of the two-floor area shall be utilized to calculate the maximum number of children allowed in the dwelling pursuant to Section 26-IX-4(E)(11)(b). Ground floor area is defined as the square footage computed in the outside measurements of the dwelling portion of the home on the ground floor level. Basement or basement level floor space shall not be used in computing ground floor area.
 8. The home occupation shall apply for and receive and maintain a Cedar City business license.
 9. In the opinion of the Board of Adjustments, the activities in connection with the home occupation are not contrary to the objectives and characteristics of the zone in which the home occupation is located.
 10. Off-street parking will be provided. Except as provided under Section 26-IX-4(E)(14), the amount of off street parking shall depend on the type of home occupation being requested and shall meet the requirements of Chapter 26, Section V, required parking. When applying the parking requirements from Chapter 26, Section V, the required parking for the home occupation shall be in addition to the required parking for the entire residential use of the property. The applicant shall submit to the City's building and zoning official a site plan showing how the parking will be accommodated on the lot at least five (5) days prior to the board of adjustment meeting.
 11. In addition to the above requirements, home occupations for Nursery Schools may be granted by the Board of Adjustments provided that the proposed Nursery School has:
 1. A maximum of sixteen children at any one time, including the occupant's own children;
 2. That the portion of the dwelling used for the Nursery School contains floor space of at least thirty-five (35) square foot per child and alternate door exits.
 12. Before conducting a hearing on a home occupation request the Building Inspector shall have conducted an on-site inspection and shall make a report of his findings to the Board of Adjustments.
 13. Notice by the applicant shall be given to all property owners of record within a 300-foot radius from the boundary of the proposed home occupation. Said notice shall be sent certified mail or hand-delivered to the property owners in accordance with the most current Iron County Assessment Roll no later than five (5) days before the board of adjustments meeting. Proof of the certified mail and/or a certificate documenting hand delivery to property owners as required herein shall be delivered to the City Building Official prior to the board of adjustments meeting.
 14. For temporary home occupations obtaining a transitional license under Section 23-14(D)(3), the Board of Adjustments may exempt, in full or in part, the applicant from the business portion of the parking requirements under Section 26-IX-4(E)(10) if, in the opinion of the Board of Adjustments, the exemption will not create a safety hazard.
 15. The applicant certifies that the home occupation will not violate any CC&R's that regulate the dwelling.

Amended by Cedar City Ordinance No. 0416-14,1114-18-4, 0213-19 and 0810-22-14

Amended by Cedar City Ordinance No. 0612-13-2