

ARTICLE 4: ADMINISTRATION, VARIANCES AND APPEALS

17-4-1. BUILDING PERMITS.

- (1) In addition to the requirements of the Building Code, no building permit shall be issued unless:
 - (a) Issuance of the permit is authorized by the Director; and
 - (b) The plans for the proposed construction, enlargement, alteration, repair, improvement or conversion, and the use of the building or structure conforms to all requirements of this Zoning Ordinance.
- (2) The application for each building permit, in addition to any other required information, shall give a description of the lot or land involved, the location and intended use of the proposed building or buildings, the number of housekeeping units the building is designed to accommodate, if any, and such other information as may be required by this Ordinance. All applications for permits and copies of permits issued shall be kept for public reference by the Department of Community Planning and Development. (As amended by 0-91-59.)
- (3) For all new buildings, before footing inspections and approval thereof, the owner, lessee, builder or contractor shall locate the property boundaries by placing at the property corner of the building site stakes or other monuments to establish said boundaries.
- (4) Except in cases of applications for building permits made in response to orders from building or fire officials to remedy conditions immediately dangerous to life, health or property, and except in cases exempted pursuant to Section 17-11-20, upon the filing of an application for a permit for the performance of any work coming within the scope of Section 17-11-16 of this Zoning Ordinance, the Building Division shall require the applicant to meet the additional submittal requirements set forth in section 17-11-17 of this Ordinance. Upon receipt of a complete submittal, the Building Division shall refer the permit application to the Landmark Preservation Committee, and such application shall be considered and acted upon as provided in Part 3 of Article 11 of this Zoning Ordinance. (As amended by 0-99-4.)

17-4-2. DEPARTMENT OF COMMUNITY PLANNING AND DEVELOPMENT.

- (1) It shall be the duty of the Director of Community Planning and Development to enforce the provisions of this Ordinance and the regulations contained herein.
- (2) The Director of Community Planning and Development may delegate to any employee of the Department of Community Planning and Development any of the responsibilities assigned to the Director by this Ordinance. Delegation by the Director shall be in writing with the specific responsibilities delegated also designated in writing. The designee shall be subject to the same restrictions and standards as are applicable to the Director.

- (3) The Director of Community Planning and Development and such persons as he may designate in writing shall be considered peace officers within the meaning of the Lakewood Municipal Code Section 1.04.010(10) solely for the purposes of enforcing the provisions of this Ordinance. (As amended by 0-91-59.)
- (4) No oversight or dereliction or error on the part of the Director or any employee of the Department of Community Planning and Development or on the part of any other official or employee of the City of Lakewood shall legalize, authorize, or excuse the violation of any of the provisions of this Ordinance.

17-4-3. BOARD OF ADJUSTMENT VARIANCES.

- (1) In passing upon appeals, the Board of Adjustment may vary the application of the regulations set forth in this Zoning Ordinance only if the Board finds that: (As amended by 0-93-11.)
 - (a) By reason of exceptional narrowness, shallowness or shape of a specific piece of property on the date this section takes effect or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property;
 - (b) The variance, if granted, will observe the spirit of this Ordinance, secure the public safety and welfare, and achieve substantial justice;
 - (c) The variance, if granted, will not adversely affect the adjacent property or the neighborhood;
 - (d) The variance, if granted, will not substantially or permanently impair the appropriate use or development of adjacent property;
 - (e) The variance, if granted, is the minimum variance that will afford relief with the least modification possible of this Ordinance; and,
- (2) In deciding variance applications, the Board may consider whether the alleged difficulty or hardship was self-imposed.
- (3) The Board of Adjustment may not grant any variance relating to the use of property. (As amended by 0-93-11.)
- (4) The Board of Adjustment shall conduct a public hearing on each variance application, with prior notice thereof pursuant to its rules and regulations.
- (5) No variance shall be granted by the Board of Adjustment until a variance fee has been paid by the applicant. The amount of the fee shall be established by the City Council, and

shall vary according to whether the variance is deemed major or minor. (As amended by 0-85-125.)

17-4-4. MINOR VARIANCES.

- (1) Upon application, the Director may grant a variance from the application of standards relating to setback, lot area, lot width, and the minimum number of required parking spaces, for a particular use on a specific piece of property only if:
 - (a) The variance, if granted, does not deviate more than twenty (20) percent from the requirement, independent of variances granted for other requirements; provided, however, the Director may not grant variances of lot area more than ten (10) percent of the minimum lot area, and may not grant variances of lot width more than ten (10) percent of the minimum lot width, independent of variances granted for other requirements. The Director may grant variances to the number of required parking spaces up to ten (10) percent or five (5) parking spaces, whichever is less. The intent of this provision is to provide for variances with certain percentage limitations, and further to clarify that any variance is considered to be independent of any other variance and is not to be considered cumulative. The Director shall have no authority to grant a variance for the purpose of qualifying any property for rezoning consideration. (As amended by 0-94-81.)
 - (b) The Director finds that the proposed variance meets each of the standards set forth in Section 17-4-3(1)(a) through (e).
 - (c) The applicant pays a variance fee in an amount established by City Council Resolution.
- (2) In deciding variance applications, the Director may consider whether the alleged difficulty or hardship was self-imposed.
- (3) Written notice shall be provided at the applicant's expense, on forms provided by the Department of Community Planning and Development, to all owners of property adjacent to the applicant's property, that a variance application is pending, describing the variance requested, indicating where written or oral objections to the variance may be presented, and stating that no hearing on the variance application will be held unless objections to the variance and a request for a hearing are filed, in writing, with a specified person in the Department of Community Planning and Development, within a time set forth in the notice, but not earlier than ten (10) days after mailing of the notice. On the same day that written notice is provided to owners of adjacent property, notice that the variance application is pending shall also be posted by the applicant on the applicant's property for at least ten (10) days and shall state where additional information on the variance may be obtained. The posted notice shall be in such form and contain such additional information as the Director may require. (As amended by 0-91-59.)

17-4-5. EXPIRATION OF VARIANCE. Any variance granted by the Board or Director shall automatically expire within one hundred eighty (180) days of the date it was granted, or within such other time as the Board or Director may prescribe, unless a building permit for the variance is obtained within such period of time. Extensions of time may be granted for good cause shown, but only if an application for the extension is made prior to the expiration of the variance.

17-4-6. APPEALS TO THE BOARD OF ADJUSTMENT.

- (1) Unless otherwise stated in this Ordinance, the Board of Adjustment may hear and decide appeals from any order, requirement, decision, or determination by the Director or any employee in the enforcement of this Ordinance. (As amended by 0-94-81.)
- (2) Appeals of an order, requirement, decision, or determination may be made by the owner or lessee of the property to which the Director's or employee's action pertains. An order, requirement, decision, or determination by the Director or any employee shall be made in writing and sent by regular mail to the address furnished by the owner or lessee. Appeals by the owner or lessee to the Board of Adjustment must be filed in writing with the Director no later than 15 days from the date of the Director's or employee's action. Any appeal shall be accompanied by a Board of Adjustment appeal fee in an amount established by City Council Resolution. (As amended by O-94-81)

17-4-7. ADDITIONAL POWERS OF THE BOARD OF ADJUSTMENT.

- (1) Upon application, the Board of Adjustment may reduce the total number of off-street parking spaces required pursuant to Section 17-9-1(3) if the Board finds that the parking demand engendered by different uses included in any integrated parking and access system occurs at such different times of day that successive, rather than simultaneous, demands for use will be placed on the parking spaces within the system. The total number of spaces required, although reduced, shall remain sufficient to reasonably serve the demand created by all uses included in the system.
- (2) Upon application, the Board of Adjustment may reduce the number of off-street parking spaces required for any particular use if the Board finds that, because of the unique and peculiar nature of a proposed use of property, the total number of parking spaces required by this Ordinance for the use is unnecessary or would create practical difficulties or unnecessary hardship. The number of spaces required for such use, although reduced, shall remain sufficient to reasonably serve the demand created by the use.
- (3) Upon application, the Board of Adjustment may reduce the structural parking requirements of Section 17-9-2(3)(b) for multi-family structures upon evidence that the parking required by Section 17-9-2(3)(a) and the open space required by Section 17-5-12(5) for such multi-family structures is provided on the site. (As amended by 0-82-71.)
- (4) All applications for parking variances to the Board of Adjustment must be supported by technical documentation to justify the variance request. Typically, parking accumulation studies for uses similar to the one for which a variance is being requested will suffice. (As amended by 0-85-125 and 0-90-39.)

- (5) Any application for a parking variance, as provided in subsections (1) through (3) above, shall be accompanied by an application fee in an amount established by City Council Resolution. (As amended by 0-85-125.)
- (6) The Board shall have such other powers as are granted to it by this and any other ordinance of the City of Lakewood. (As amended by 0-85-125.)

17-4-8. MINIMUM WIDTH OR AREA OF LOT. Upon proof that a lot is shown on a subdivision plat of record in the Office of the County Clerk and Recorder of Jefferson County on or before April 30, 1969, with a smaller area or less width than the minimum area or width requirements of this Ordinance, a building permit for the construction, conversion, or structural alteration of a building or buildings on such lot may be issued so long as all other requirements of this Ordinance are met.

17-4-9. JUDICIAL REVIEW. Any person applying to the courts for a review of any final and reviewable decision made under this Zoning Ordinance by the City Council, Planning Commission or Board of Adjustment, shall pay the cost of preparing any necessary transcript and any necessary record of proceedings.