

*Town of Horizon City, TX
Tuesday, March 11, 2025*

Chapter 1. General Provisions

ARTICLE 1.03. BOARDS, COMMITTEES AND COMMISSIONS

Division 3. Board of Adjustment

§ 1.03.061. Created.

Pursuant to section 211.008 of the Texas Local Government Code, the board of adjustment for the city is hereby created.

(Ordinance 0022, sec. I, adopted 3/8/94; Ordinance 0022, sec. I, adopted 5/9/00; Ordinance 0022, sec. I, adopted 11/11/03; Ordinance 0022, sec. I, adopted 1/11/05)

§ 1.03.062. Membership; appointment and term of members.

- (a) The board of adjustment shall consist of five (5) members who shall serve for two (2) year terms. No members of the city council may serve on the board of adjustment. The mayor and city council shall also appoint four (4) alternate members who may serve in the absence of a regular member of the board of adjustment, who shall also serve a term of two (2) years. Alternate board members shall serve in the absence of one or more regular members when requested to do so by the mayor.
- (b) The terms of appointment and initial terms of the members are as follows:
 - (1) The mayor and city council shall appoint, by nomination and vote, the five regular members of the board.
 - (2) Staggered terms of membership shall be abolished effective September 1, 2004 and conclude August 31, 2006. Existing members shall serve until the end of their appointed term unless they choose to resign or are removed for cause. In September of 2005 the positions of 1, 3, 5, 7, and mayor's appointment "B" will not be renewed and one position shall be nominated and filled to serve until August 31, 2006. All five board members shall be selected for a two-year term beginning September 1, 2006.
 - (3) Alternate board members shall be appointed by the mayor and city council for a two (2) year term beginning September 1, 2003. The fourth position for alternate shall be appointed effective with approval of this amendment [Ordinance 0022 adopted 1/11/05], and shall serve until September 1, 2005.
 - (4) The terms of office shall be the 1st day of September and shall end two years later on the 31st day of August.
 - (5) Further, each member appointed to the board of adjustment shall serve on the board beyond the term until that member is reappointed or a new member has been appointed by the mayor and city council.

(c) The city council may remove a board member for cause on a written charge after a public hearing.

(d) A vacancy on the board shall be filled for the unexpired term only.

(Ordinance 0022, sec. II, adopted 3/8/94; Ordinance 0022, sec. II, adopted 5/9/00; Ordinance 0022, sec. II, adopted 11/11/03; Ordinance 0022, sec. II, adopted 1/11/05)

§ 1.03.063. Authority.

(a) All cases presented to the board of adjustment shall be heard by at least four (4) members. The concurring vote of 75 percent of the five members of the board shall be necessary to reverse any order, requirement, decision, or determination of an administrative official of the city or to decide in favor of any applicant on any matter on which the board is required to pass under a zoning ordinance, or to authorize a variance from the terms of the zoning ordinance.

(b) The board of adjustment may:

(1) Hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;

(2) Hear and decide special exceptions to the terms of the zoning ordinance when the ordinance requires the board to do so and apply each of the following standards to special exceptions to the zoning ordinance:

(A) The exceptions will be in harmony with the spirit and purpose of all planning and zoning ordinances.

(B) The variance is not contrary to public interest and welfare.

(C) The variance is due to special conditions.

(D) The use of neighboring property will not be substantially injured.

(E) The board will include any conditions or safeguards which they deem appropriate, such as site arrangements, landscaping, or hours of operation.

(F) Building permits and inspections shall only be issued for twelve (12) months after board authorization unless otherwise directed by the board at the time the authorization is approved.

(G) Extension of the time may be requested from the board during the one-year period. The request for an extension shall be exempt from all fees, and no notice and hearing shall be required. If a board authorization expires, a new appeal accompanied by new fees is required.

(H) Appeals for special exceptions may be granted, denied or granted with conditions by the board.

(I) The board will not consider an appeal or application that is the same or very similar to one that has been denied by the board for a period of one (1) year.

(J) The board of adjustment shall have authority to revoke a variance or special exception if it finds development and/or operation which is not in accordance with the conditions under which a variance or special exception was permitted. If such action is taken by the board, any fees paid by the applicant under this division shall not be refunded.

(3) Authorize in specific cases a variance from the terms of the zoning ordinance if the variance is not contrary to the public interest and due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

- (c) In exercising its authority, the board of adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the board has the same authority as the administrative official.

(Ordinance 0022, sec. III, adopted 3/8/94; Ordinance 0022, sec. III, adopted 5/9/00; Ordinance 0022, sec. III, adopted 11/11/03; Ordinance 0022, sec. III, adopted 1/11/05)

§ 1.03.064. Appeals.

- (a) Appeals from the decision of an administrative official to the board of adjustment may be taken by any person aggrieved by, or by an officer, department, board, or bureau of the city affected by, the decision of the administrative officer.
- (b) Appeals shall be filed within thirty (30) days, as provided by the rules of the board, by filing with the administrative officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof.
- (c) The administrative officer from whom the appeal is taken shall immediately transmit to the board all documents constituting the record upon which the action appealed was taken from.
- (d) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.
- (e) The board of adjustment shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney.
- (f) The board of adjustment shall decide the appeal within fifteen (15) working days.
- (g) Fees under section **1.03.065** also apply to convening the board of adjustment for appeals.

(Ordinance 0022, sec. IV, adopted 3/8/94; Ordinance 0022, sec. IV, adopted 5/9/00; Ordinance 0022, sec. IV, adopted 11/11/03; Ordinance 0022, sec. IV, adopted 1/11/05)

§ 1.03.065. Fees.

All applicants shall be required to pay the following fees:

- (1) Residential fees: In the amount set forth in the fee schedule adopted by the city council. The applicant will also be responsible for all fees incurred by the city in connection with their appeal, which could include but is not limited to attorney's fees, engineering fees, and any publication of the variance, if granted.
- (2) Commercial and manufacturing fees: In the amount set forth in the fee schedule adopted by the city council. Any and all publication fees or cost for notice of the variance requests. The applicant will be responsible for all fees incurred by the city in connection with their appeal, which could include but are not limited to attorney's fees and engineering fees incurred by the city.

(Ordinance 0022, sec. V, adopted 11/11/03; Ordinance 0022, sec. V, adopted 1/11/05)

§ 1.03.066. Rules.

The following rules are hereby established for the board of adjustment but it is expressly understood that the board shall establish its own rules or modify these rules as required. Until such time that new rules are adopted by the board it shall be presumed that these rules are those agreed to and adopted by the board.

- (1) Meetings of the board shall be held as necessary to comply with the requirements of this section at the call of the chairperson and at other times as determined by the board. The board or chairperson may call special meetings, and the chairperson may establish a regular schedule each year for meetings and move meetings when they conflict with holidays or member or staff schedules and cancel meetings where there are no matters to hear.
- (2) All meetings of the board shall be open to the public and shall be in compliance with the Texas Open Meetings Act.
- (3) A chairperson shall be selected from among the board membership.
- (4) The board shall designate a secretary to keep records and minutes, to prepare and post notices of meetings, and to keep appropriate forms for persons to bring an appeal to the board.
- (5) The board shall keep minutes of its proceedings to indicate the vote of each member on each question or the fact that a member is absent or fails to vote.
- (6) The board shall keep records of its examination and other official actions.
- (7) The minutes and records shall be filed with the city clerk and are public records.
- (8) The board must set a reasonable time for each appeal hearing, and in addition to the public notice of the hearing, must give written notice to the parties in interest.
- (9) The chairperson or acting chairperson may compel the attendance of witnesses by establishing a procedure to subpoena witnesses as authorized by law.
- (10) All witnesses shall testify under oath administered by the chairperson or acting chairperson and are subject to cross-examination.
- (11) All appeals shall be decided within fifteen (15) working days.

(Ordinance 0022, sec. V, adopted 3/8/94; Ordinance 0022, sec. V, adopted 5/9/00; Ordinance 0022, sec. VI, adopted 11/11/03; Ordinance 0022, sec. VI, adopted 1/11/05; Ordinance 0196 adopted 11/27/12)

§ 1.03.067. through § 1.03.090. (Reserved)