

**CITY OF SHERIDAN
ORDINANCE 2275**

**THE TRANSITION OF RESPONSIBILITIES FROM THE BOARD OF APPEALS TO
THE BOARD OF ADJUSTMENT**

WHEREAS, The City of Sheridan does not currently have an appointed Board of Appeals; and

WHEREAS, The City wishes to consolidate the duties of the responsibilities of the Board of Appeals with the Board of Adjustment;

NOW THEREFORE, be it ordained by the Governing Body of the City of Sheridan, in the State of Wyoming, as follows:

SECTION 1: **AMENDMENT** “7-16 Revocation” of the Sheridan Municipal Code is hereby *amended* as follows:

A M E N D M E N T

7-16 Revocation

- (a) *Basis for revocation.* The Public Works Director, may, upon recommendation of the building official, revoke any license for the following reasons:
- (1) A license is obtained through nondisclosure, misstatement or misrepresentation of a material fact.
 - (2) A licensee is convicted of a misdemeanor or felony for violating the city technical codes adopted by section 7-2, or violating chapter 7 or 29 of city code.
 - (3) A licensee commits an act of nondisclosure, misstatement or misrepresentation of a material fact during the course of permitting, inspection or enforcement of city technical codes adopted by City Ordinance 7-2, or violating chapter 7 or 29 of city code.
- (b) *Revocation notice.* A revocation notice shall be in writing and delivered to the licensee in any manner allowed by Wyoming Rules of Civil Procedure. The notice shall include the name of the licensee, date of revocation, basis for revocation, date of reinstatement if eligible, conditions for reinstatement, date of hearing and state the entirety of section 7-16(c).
- (1) *Effect of revocation notice.* The revocation notice shall prohibit the licensee from conducting their trade and business as defined by city code until the scheduled hearing.
 - (2) *Disclosure of administrative record.* Upon the revocation notice being delivered, the licensee shall immediately be entitled to all discoverable information and records.

(c) *Board of Adjustment Hearing.* Before a license may be revoked, the licensee shall be entitled to a hearing by the board of Adjustment, established by Section 29-2. The hearing shall not be held sooner than five (5) days from receipt of the notice nor later than fifteen (15) days after the receipt of notice. If the notice is required to be published to perfect service, the date of services shall be the last day of publication. The licensee and Public Works Director shall be given an opportunity to present testimony, oral or written, and have the right to cross-examination. All testimony shall be given under oath. The Board of Adjustment shall have power to administer oaths, issue subpoenas, and compel the attendance of the witnesses.

- (1) The Board of Adjustment shall retain its own independent legal counsel.
- (2) The Public Works Director shall have the burden of proof by a preponderance of the evidence that the licensee committed the acts described in the revocation notice.
- (3) Should the licensee fail to appear at the hearing, the Public Works Director revocation shall be certified.
- (4) The Public Works Director and licensee may resolve the matter by agreement which shall be submitted to the Board of Adjustment for approval.
- (5) The City shall ensure that the hearing is recorded and a record of the proceedings and evidence is preserved. The record shall include:
 - (A) All testimony reported verbatim stenographical or other appropriate means;
 - (B) All formal or informal notices, pleadings, motions and intermediate rulings;
 - (C) Evidence received or considered including matters officially noticed;
 - (D) Questions and offers of proof, objections and rulings thereon;
 - (E) Any proposed findings and exceptions thereto;
 - (F) Any opinion, findings, decision or order of the agency and any report by the officer presiding at the hearing.
- (6) Within five (5) days of the hearing, the Board of Adjustment decision shall be issued in writing with findings of fact and conclusions of law. Additionally, the Board of Adjustment may set the conditions and parameters of the revocation, term of revocation which includes the ability to permanently prohibit the licensee from reobtaining a license in the City of Sheridan, conditions of reinstatement, and assess all costs and expenses of the city, including the cost for City staff time, reasonably related to the revocation.

(d) *City Governing Body Appeal.* A licensee may appeal the Board of Adjustment decision by providing written notice to the City Clerk within thirty (30) days from the date of the Board of Adjustment decision. The licensee shall pay a docketing fee set by the City Governing Body.

- (1) Upon receiving the notice of appeal, the City Clerk shall provide the Governing Body, appellee and appellant with a certified record of the proceeding.
- (2) The appeal shall be considered at a special meeting called by the Mayor. The

special meeting must be held within fifteen (15) days of the clerk receiving the written notice of appeal.

- (3) The Governing Body shall review the record of the hearing by the Board of Adjustment and affirm, deny, modify or remand the determination. The Governing Body's decision shall be binding upon all agencies and administrative personnel of the City of Sheridan and appellant, as an exhaustion of administrative remedies on the issue.

(Ord. No. 2257 § 1, 12-19-22.)

SECTION 2: **AMENDMENT** "7-63 Variance" of the Sheridan Municipal Code is hereby *amended* as follows:

AMENDMENT

7-63 Variance

- (a) An application for a variance must be submitted to the City Clerk on the form provided by the City of Sheridan and include at a minimum the same information required for a development permit and an explanation for the basis for the variance request.
- (b) Upon receipt of a completed application for a variance, the variance request will be set for public hearing at the next Board of Adjustment meeting in which time is available for the matter to be heard.
- (c) Prior to the public hearing, notice of the hearing will be published in the official newspaper of the City of Sheridan at least fifteen (15) days prior to the hearing. In addition to the newspaper publication, written notice shall be provided to all adjoining property owners within one hundred (100) feet of the property boundary.
- (d) The burden to show that the variance is warranted and meets the criteria set forth by City Code and Wyoming Statute is on the applicant.

(Ord. No. 2140, § 6, 2013.)

SECTION 3: **AMENDMENT** "7-65 Variance Decision" of the Sheridan Municipal Code is hereby *amended* as follows:

AMENDMENT

7-65 Variance Decision

The City of Sheridan Board of Adjustment's decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the flood protection elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk.

(Ord. No. 2140, § 6, 2013.)

SECTION 4: **AMENDMENT** "7-66 Appeals" of the Sheridan Municipal Code is hereby *amended* as follows:

A M E N D M E N T

7-66 Appeals

Those aggrieved by the decision of the Board of Adjustment, may appeal such decision to the District Court, as provided in section 15-1-707 Wyoming Statutes.

(Ord. No. 2140, § 6, 2013.)

SECTION 5: **AMENDMENT** "29-2 Building Process--Appeals" of the Sheridan Municipal Code is hereby *amended* as follows:

A M E N D M E N T

29-2 Building Process--Appeals

An appeal of determinations in the course of the building process shall be handled as follows:

- (a) The standard of review by which the Board will evaluate the issue(s) brought to it on appeal shall be primarily based on the intent of City of Sheridan Code within a standard of reasonableness and consideration given to alternative methods which may reasonably satisfy the intent. Any alternative method, means or material proposed by the appellant to reasonably satisfy the intent of the City Code and Wyoming Statute and which reasonably satisfies the intent and purpose of the building and/or fire codes adopted by the City of Sheridan will be considered by the board.
- (b) Appeals to the Board shall be in writing and delivered to the City Clerk's office.
 - (1) The board shall consider the appeal within fifteen (15) business days of the filing of notice of appeal, and shall thereafter issue its decision on the appeal no later than five (5) business days thereafter.
 - (2) If the appellant asserts substantial economic injury may be caused by delay,

the appellant may request an expedited hearing to be held within two (2) business days. Upon receipt of such request, the board shall either: consider the appeal within the two-day period and immediately rule upon the merits of the appeal, or it may determine more time is needed to consider the appeal, or it may determine that the appellant will not suffer substantial economic injury and postpone further proceedings to the standard period for appeal time set forth in subsection (1) of this subsection.

(c) The Board shall be entitled to independent legal counsel.

(Ord. No. 2031 § 1, 10-15-07.)

SECTION 6: **AMENDMENT** “29-3 Development Process--Appeals” of the Sheridan Municipal Code is hereby *amended* as follows:

AMENDMENT

29-3 Development Process--Appeals

An appeal of determinations in the course of the development process shall be handled as follows:

- (a) From any determination by City staff in their administration of the development process, a subdivider or landowner may appeal such determination by filing a written notice with the City of Sheridan Planning Commission no later than thirty (30) days from such determination. The Planning Commission shall thereupon place the matter on the agenda of its next regularly scheduled meeting. The Planning Commission may affirm, deny, modify or remand the determination by City staff.
- (b) Any person aggrieved by the decision of the Planning Commission may appeal in accordance with Wyoming Statute .
- (c) The standard of review by which the Planning Commission will evaluate the issue(s) on appeal shall be primarily based on the intent of City of Sheridan City Code within a standard of reasonableness and consideration given to alternative methods which may reasonably satisfy the intent. Any alternative method, means or material proposed by the appellant to reasonably satisfy the intent of the City Code60915-1-609Code and which reasonably satisfies the intent and purpose of the City Code relating to the development process and is in compliance with Wyoming Statute and City Code will be considered by the board.

(Ord. No. 2031 § 1, 10-15-07.)

SECTION 7: **AMENDMENT** “14 Board Of Adjustment” of the Sheridan

Municipal Code is hereby *amended* as follows:

AMENDMENT

14 Board Of Adjustment

Generally. A Board of Adjustment is hereby created. The word “board” used in this section shall be construed to mean the board of adjustment. The board shall consist of five (5) members to be appointed by the Mayor with approval of the City Council. The term of each member shall be three (3) years, provided that of the members first appointed, one (1) shall serve for one (1) year, two (2) shall serve for two (2) years, and two (2) shall serve for three (3) years. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One of the members first appointed shall be named by the City Council as chairman, and this member shall serve as chairman for one (1) year. Thereafter, the members of the Board shall elect annually from among their number a chairman to serve for a term of one year. The City Governing Body council shall have the power to remove any member of the board for cause upon written charges and after public hearing.

Meetings. Meetings of the Board shall be held at the call of the chairman, and at such other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Board of Adjustment the Board Board and shall be a public record.

Appeals. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Sheridan affected by any decision of the official, inspector or as allowed by City Ordinance . Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing with the Public Works Director and with the Board a notice of appeal specifying the grounds thereof. The Public Works Director inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Public Works Director certifies to the board after notice of appeal shall have been filed that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, granted by the District Court for the district, or a judge thereof, on notice to the Public Works Director, and on due cause shown. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Jurisdiction. The Board shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the City in the enforcement of this ordinance.
2. To hear and decide special exemptions to the terms of this ordinance upon which the Board is required to pass. In granting special exemptions, the Board shall find the following:
 - a. The exemption requested is listed as an allowed special exemption within the zoning district in which the property is located.
 - b. The use is consistent with the goals, policies, and recommended future land use of the adopted master plan.
 - c. The granting of the exemption is in harmony with the general purposes and intent of the ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
3. Interpret the boundaries of districts where the street layout on the ground varies from the street layout shown on the Zoning District Map, in such a way as to carry out the intent and purpose of the map.
4. To authorize upon appeal in specific cases such variance from the terms of this ordinance and the adopted Sign Ordinance (Chapter 3 Article 11 of the Sheridan City Code) as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of the ordinances shall be observed and substantial justice done, as follows:
 - a. Grant in undeveloped sections of the city temporary and conditional permits for not more than two (2) years for any building or use.
 - b. Grant permits for temporary buildings or structures for commerce or industry, where such uses are incidental to the residential development.
 - c. Permit the extension of a nonconforming building upon the lot occupied by such building at the time of passage of this ordinance.
 - d. Permit in any district such modification of the requirements of this ordinance as the board may deem necessary to secure an appropriate development of a lot, when such lot is adjacent to a non-conforming use.
 - e. Permit such variation of the area requirements as may be necessary to secure an appropriate improvement of a lot which has such exceptional geographical or topographic conditions that it cannot be appropriately improved without such variation.
 - f. Permit the erection and use of a building or the use of land in any district by a public service corporation for public utility purposes which the board determines is reasonably necessary for the public convenience or welfare.
 - g. Permit a variation from the requirements of the Sign Ordinance for properties Downtown Business District in cases where strict adherence to the ordinance may damage the façade of a designated historic structure, or building for which a historic façade easement has been granted. In no case shall the board grant a variance allowing a prohibited sign listed in Chapter 3-16 of the

Sheridan City Code, nor allow an increase in the allowed sign area. The board may, however, allow variances for the type of sign, and grant the transfer of sign area from one type of sign to another as necessary to preserve the historic character of a building and the Downtown Business District.

- h. Grant a permit wherever it is provided in this ordinance that the approval of the board is required.
 - i. Grant an amendment to an approved PUD Master Plan if the amendment conforms to requirements outlined in section 806.8 (B) of City Code.
 - (1) Revocation of a license in accordance with City Code 7-16.
 - (2) A variance in accordance with City Code 7-63.
 - (3) A variance in accordance with City Code 7-65.
 - (4) An appeal in accordance with City Code 29-3.
 - j. Permit a variation of a cemetery ordinance or variation from the Cemetery Policies and Procedures.
5. In exercising the above-mentioned powers the Board may, in conformity with law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Public Works Director as ought to be made, and to that end shall have all the powers of the Public Works Director. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of the Public Works Director inspector, or to decide in favor of the appellant on any matter upon which the board is required to pass under this ordinance, or to effect any variance in the requirements of this ordinance.

(Ord. No. 1482, § 1, 2-4-80; Ord. No. 1812, § 1, 5-4-98; Ord. No. 2005, 10-16-06; Ord. No. 2208, § 1, 4-17-20.)

SECTION 8: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

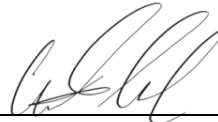
PASSED AND ADOPTED BY THE CITY OF SHERIDAN GOVERNING BODY APRIL 15, 2024.

Presiding Officer

Attest



Richard Bridger, Mayor, City of
Sheridan



Cecilia Good, City Clerk, City of
Sheridan

