

WEST BOUNTIFUL CITY

ORDINANCE #516-26

AN ORDINANCE AMENDING TITLE 16 AND TITLE 17 OF THE WEST BOUNTIFUL MUNICIPAL CODE RELATED TO APPEAL AUTHORITIES

WHEREAS, West Bountiful City is empowered to adopt and amend general laws and land use ordinances pursuant to Utah State law (§10-20-101 et seq.) and under corresponding sections of the West Bountiful City Code; and

WHEREAS, the West Bountiful City Council desires to maintain land use regulations that meet the needs of its residents and comply with state law; and

WHEREAS, it was determined that there was need for modifications to West Bountiful City Code related to appeal authorities; and

WHEREAS, the West Bountiful Planning Commission held a public hearing on September 8, 2026, to consider the proposed modifications, and forwarded a recommendation to the City Council.

NOW THEREFORE, BE IT ORDAINED by the City Council of West Bountiful that the West Bountiful Municipal Code Section 16 and 17 be amended as shown in Exhibit A.

This Ordinance shall take effect immediately upon signing and posting.

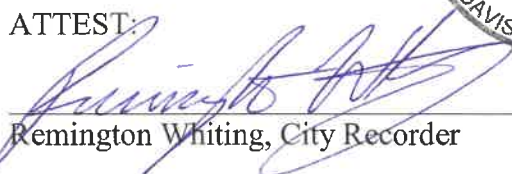
Adopted September 15, 2026.

By:


James Ahlstrom, Mayor Pro-Tem

Voting by the City Council:	<u>AYE</u>	<u>NAY</u>
Councilmember Ahlstrom	☒	☐
Councilmember Butterfield	☒	☐
Councilmember Enquist	☒	☐
Councilmember Nielsen	☒	☐
Councilmember Thompson	☒	☐

ATTEST:


Remington Whiting, City Recorder



West Bountiful City Ordinance #516-26 - Exhibit A

16.24.010 Appeal Authority

- A. For purposes of requests for a variance under Section 16.24.020, appeals under Section 16.24.030, or appeals from a fee charged under this title in accordance with the Utah Municipal Land Use, Development, and Management Act, as amended, the appeal authority shall be ~~the city council~~ a hearing officer appointed as set forth in Chapter 17.08. ~~Notwithstanding the foregoing, in appeals under Section 16.24.030 or from a fee charged under this title, the city council a hearing officer will act as appeal authority concerning any issue on which the city council has not acted as land use authority. To the extent of any issue on which the city council acted as land use authority, any appeal shall be made to district court in the manner provided by law.~~
- B. The appeal authority shall act in a quasi-judicial manner, shall serve as the final arbiter of issues involving the interpretation or application of land use ordinances under this title, and shall respect the due process rights of each of the participants in the appeal or request for variance. Except as otherwise specifically provided in this chapter, the procedures for appeal, including time for appeal, burden of proof, and standard of review, shall be those set forth in Chapter 17.08.

16.24.020 Variances

- A. Any subdivider desiring a waiver or modification of the requirements of this title as applied to the property to be subdivided may apply to the ~~city council, acting as the~~ appeal authority, for a variance from the terms of this title.
- B. The ~~city council~~ appeal authority may grant a variance only if:
1. Literal enforcement of the provisions of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the city's land use ordinances;
 2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;
 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;
 4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and

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5. The spirit of the land use ordinance is observed and substantial justice is done.
- C. In determining whether or not enforcement of the provisions of this title would cause unreasonable hardship under Subsection B(1), the ~~city council~~ appeal authority may not find an unreasonable hardship unless the alleged hardship:
 1. Is located on or associated with the property for which the variance is sought; and
 2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- D. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection B(1), the ~~city council~~ appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- E. In determining whether or not there are special circumstances attached to the property under Subsection B(2), the ~~city council~~ appeal authority 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 zone.
- F. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- G. Variances run with the land.
- H. The ~~city council~~ appeal authority may not grant a use variance.
- I. In granting a variance, the city council may impose additional requirements on the applicant that will:
 1. Mitigate any harmful effects of the variance; or
 2. Serve the purpose of the standard or requirement that is waived or modified.
- J. The ~~city council~~ appeal authority shall issue a written decision, including findings, with respect to the request for variance. Such written decision will be final when issued, and may thereafter be appealed to district court in accordance with applicable law.

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16.24.030 Appeals

Any person aggrieved by any decision, determination, or requirement of the ~~planning commission, zoning administrator, or city engineer~~ land use authority, under this title, or by a fee charged under this title in accordance with the Utah Municipal Land Use, Development, and Management act, as amended, may appeal such decision, determination, requirement or fee to the ~~city council~~ appeal authority under this chapter in accordance with the appeal procedures set forth in Chapter 17.08. Any person aggrieved by any decision, determination, or requirement of the ~~city council~~ appeal authority under this title may appeal such decision to district court in the manner provided by law.

17.08.120 Appeal From Decision of Land Use Authority

A. Exclusive Procedure. Notwithstanding any provision of the Municipal Code to the contrary, any appeal from the decision of a land use authority administering or interpreting a land use ordinance or from a fee charged under this title in accordance with the Utah Municipal Land Use, Development, and Management Act, as amended, may be made only in accordance with the provisions of this section and any applicable section in Title 16. Any appeal from the decision of a land use authority administering or interpreting the city's geologic hazards ordinance may be made only in accordance with the provisions of this section, subject to applicable provisions of State law, including the Utah Municipal Land Use, Development, and Management Act, as amended. Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to the appeal authority.

B. Appeal Authority. ~~The City Council will One or more~~ A hearing officer will serve as appeal authority for purposes of any appeal from a decision of the zoning administrator, planning commission, or other land use authority under this title. The appeal authority will respect the due process rights of each of the participants in the appeal proceedings. ~~If the City Council has acted as the land use authority regarding the subject matter of the appeal, there shall be no appeal authority and any appeal shall be made to district court in the manner provided by law. The~~ appeal authority shall operate in accordance with the following provisions:

1. Qualification and Selection

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- a. One or more hearing officers shall be appointed by the mayor with the advice and consent of the city council.
- b. The hearing officers shall be or have been a professional in law, land use, or public administration, and shall have the knowledge, training and experience necessary to effectively conduct administrative hearings regarding variances, and appeals of land use decisions, including knowledge and familiarity with the requirements of constitutional due process.
- c. The hearing officers shall not live within the limits of West Bountiful City.
- d. The mayor, with the advise and consent of the city council, may remove a hearing officer for any reason; provided, that such removal will not affect any pending decision of the hearing officer.

~~B.~~

- C. Time of Appeal. The city, a board or officer of the city, or any person adversely affected by a land use authority's decision administering or interpreting a land use ordinance may file a written notice of appeal with the city recorder within ten (10) days after the land use authority's decision is issued. All appeal rights are waived if the notice of appeal is not filed within that time frame.
- D. Notice of Appeal—Contents. The notice of appeal shall contain a brief statement of all alleged grounds for appeal, including every theory of relief the adversely affected party can raise in district court, together with any supporting documentation and legal argument. The appellant waives any ground, theory, or argument not raised in the notice of appeal. Unless the appeal authority orders otherwise for good cause, the appellant will be precluded from presenting as evidence at the appeal hearing any document or other information that is not included in the notice of appeal.
- E. Response to Notice of Appeal. At its option, the city or any party opposing the appeal may file a written brief, together with any supporting documentation, responding to the notice of appeal prior to the appeal hearing. Failure to file a responsive brief or submit supporting documentation will not preclude the party from responding to the notice of appeal at the appeal hearing.
- F. Burden of Proof. The appellant bears the burden of proving that the land use authority erred.

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- G. Standard of Review. The appeal authority shall determine the correctness of the land use authority's decision interpreting or applying a land use ordinance. The appeal authority shall review de novo the evidence and arguments on appeal, without deference to any findings or conclusions of the land use authority.
- H. Hearing on Appeal. The appeal authority will hear the appeal at a ~~regular City Council meeting, scheduled at the convenience of the council~~ hearing that shall be open to the public. The city will provide notice of the hearing to the appellant and any party that has filed a responsive brief. At the hearing, each party will be allowed a reasonable time, as determined by the appeal authority, to present evidence, by way of live testimony and documentary evidence (including affidavits), and arguments supporting the party's position. In the interest of fairness, the appeal authority, in its discretion, may continue the hearing to another ~~City Council meeting~~ hearing or allow the parties to submit supplemental materials addressing any information raised at the hearing.
- I. Final Decision. Following the hearing the appeal authority may affirm, reverse, affirm in part and reverse in part, or modify the decision of the land use authority; or the appeal authority may remand the matter to the land use authority for further proceedings. The written decision of the appeal authority constitutes a final decision and will be binding on all parties when issued.
- J. Further Appeal. The city, a board or officer of the city, or any person adversely affected by the decision of the appeal authority may appeal to district court as provided by law.

17.08.130 Variances

- A. Any person or entity desiring a waiver or modification of the requirements of this title as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to ~~the City Council, acting as~~ the appeal authority, for a variance from the terms of the ordinance.
- B. The ~~City Council~~ appeal authority may grant a variance only if:
 - 1. Literal enforcement of the provisions of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the city's land use ordinances;

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2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;
 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;
 4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 5. The spirit of the land use ordinance is observed and substantial justice is done.
- C. In determining whether or not enforcement of the provisions of this title would cause unreasonable hardship under Subsection B(1), the ~~City Council~~ [appeal authority](#) may not find an unreasonable hardship unless the alleged hardship:
1. Is located on or associated with the property for which the variance is sought; and
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- I. In granting a variance, the ~~City Council~~ appeal authority may impose additional requirements on the applicant that will:
 - 1. Mitigate any harmful effects of the variance; or
 - 2. Serve the purpose of the standard or requirement that is waived or modified.
- J. The ~~City Council~~ appeal authority shall issue a written decision, including findings, with respect to the request for variance. The written decision will be final when issued, and may thereafter be appealed to district court in accordance with applicable law.

**CERTIFICATE OF PASSAGE
AND POSTING ORDINANCE**

*I, the duly appointed and acting recorder for the City of West Bountiful,
do hereby certify that the foregoing Ordinance No. 516-26 was duly
passed and posted on the Utah Public Notice Website, the City Website,
and at West Bountiful City Hall on September 16th, 2026.*


Remington Whiting, City Recorder

DATE: 09/16/26