

**RICHMOND CITY CORPORATION
ORDINANCE 2020-07**

WHEREAS, the City Council of Richmond has the responsibility for the general welfare of the City; and

WHEREAS, such responsibility includes but is not limited to, establishment of best management practices; and

WHEREAS, management practices may evolve over the passage of time:

NOW THEREFORE, the City Council of Richmond City, County of Cache, State of Utah, hereby adopts, passes and publishes the following:

AN ORDINANCE AMENDING TITLE 12-000 "LAND USE, DEVELOPMENT AND MANAGEMENT (LUDMO), CHAPTER 12-300 "DEFINITIONS", CHAPTER 12-400 "ESTABLISHMENT AND PROCEDURAL MATTERS", PART 12-405 "DECISION APPEAL PROCESS", PART 12-406 "ESTABLISHMENT OF APPEAL AUTHORITY", PART 12-410 "VARIANCES", PART 12-411 "APPLICABILITY OF THE STATE OF UTAH PROPERTY RIGHTS OMBUDSMAN", PART 12-412 "DISTRICT COURT REVIEW OF APPEALS/JUDGE/BOARD OF ADJUSTMENT DECISION", CHAPTER 12-500 "ADMINISTRATION", PART 12-508 "BUILDING PERMITS", CHAPTER 12-900 "ZONES", PART 12-902-2 "RULES FOR LOCATING BOUNDARIES", PART 12-906-2 "SITE DESIGN GUIDELINES/SITE PLAN REVIEW", CHAPTER 12-1000 "OVERLAYS", PART 12-1020-4 "PLANNED INDUSTRIAL COMMERCIAL DEVELOPMENT APPROVAL PROCESS", PART 12-1050-6 "DEVELOPMENT PLAN PROCEDURE" AND DELETING IN ITS ENTIRETY CHAPTER 12-400 "ESTABLISHMENT AND PROCEDURAL MATTERS", PART 12-408 "BOARD OF ADJUSTMENT"

BE IT ORDAINED BY THE CITY COUNCIL OF RICHMOND CITY, CACHE COUNTY, UTAH AS FOLLOWS:

1. Sections shall be amended such that the **highlighted** areas below shall be added and the ~~strikeout~~ areas shall be deleted.

Chapter 12-300 DEFINITIONS

- CY. "Lot". A parcel of land occupied or to be occupied by a main building, or group of buildings (main and accessory, together with such yards, open spaces, lot width and lot area as are required by this ordinance and having frontage upon a street, or upon a right-of-way as approved by the ~~Board of Adjustment or Appeals Judge~~ **Appeal Authority**.

Part 12-405 Decision Appeal Process

- B. Decisions of the Richmond City Council based only upon recommendations or decisions handed down by the Planning and Zoning Commission may be further appealed to ~~either a Land Use, Development, and Management Appeals Judge (hereafter referred to as Appeals Judge) or to a Board of Adjustment~~ **the Appeal Authority**.
- C. Appeals of the decision of the ~~Appeals Judge or Board of Adjustment~~ **Appeal Authority** shall go to the First District Court.

Part 12-406 Establishment of Appeal Authority

The Richmond City Council shall establish ~~a Land Use, Development, and Appeals Judge, commonly referred to simply as the Appeals Judge, or a Board of Adjustment~~ **an Appeal Authority**.

Part 12-408 Board of Adjustment

- A. ~~The Board of Adjustments shall be comprised of five (5) citizens living within the Richmond City limits.~~
- B. ~~The appointment of each of the individual members of the Board of Adjustment shall be made, through open vote, at a regularly scheduled, agenda meeting of the Richmond City Council.~~
- C. ~~Members of the Board of Adjustment shall serve without compensation, except for the reimbursement of reasonable expenses incurred in performing their duties as members of the board.~~
- D. ~~Each member of the Board of Adjustment shall serve for a term of five (5) years.~~
- E. ~~The first Board of Adjustment organized following the passage of this ordinance shall consist of one member appointed for a period of five years, one member appointed for a period of four years, one member appointed for a period of three years, one member appointed for a period of two years, and one member appointed for a single, one year term.~~
 - 1. ~~As the original board members term expires, a replacement member shall be appointed for a period of five years.~~
 - a. ~~Should a board member leave the Board of Adjustment prior to the completion of his/her term, the replacement member shall be appointed only to complete the departing members term.~~
 - 2. ~~Board members may be appointed to a single consecutive term, no Board member serving for more than ten (10) years.~~

- F. ~~A Board of Adjustment member may be removed from the position through resignation, mutual agreement to discontinue in the position, elimination of the position by the Richmond City Council, or for cause following due process.~~
- G. ~~The Board of Adjustment shall elect a chairperson and may adopt such rules for its own proceedings as are deemed necessary; however, all such rules must be in keeping with the provisions of this Title and Utah Code Annotated Title 10, Chapter 9a, Section 701.~~
- H. ~~Meetings of the Board shall be held at the call of the chairperson and at such other times as the board may determine.~~
1. ~~The Chairperson, or in his/her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses.~~
2. ~~The Board will designate a Secretary from within their body, and 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 immediately be filed in the Richmond City Office, which shall be the office of the Board, and shall be a public record.~~
- I. ~~The Board of Adjustment shall hear and decide:~~
1. ~~Appeals from zoning decisions applying the zoning ordinance;~~
2. ~~Special exceptions to the terms of the zoning ordinance; and~~
3. ~~Variances from the terms of the zoning ordinance.~~
4. ~~The Board of Adjustment may make determinations regarding the existence, expansion, or modification of noneonforming uses if that authority is delegated to them by the Richmond City Council through separate ordinance.~~

Part 12-410 Variances

- A. Any person or entity desiring a waiver or modification of the requirements of the zoning ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeals Judge/Board of Adjustment Appeal Authority for a variance from the terms of the zoning ordinance.
- B. The Appeals Judge/ Board of Adjustment Appeal Authority may grant a variance only if:

Part 12-411 Applicability Of The State Of Utah Property Rights Ombudsman

- C. It is noted that under Title 13, Chapter 43, Section 204.(4), quote: "The filing with the Office of the Property Rights Ombudsman of a request for mediation or arbitration of a

constitutional taking issue does not stay any county or municipal land use decision, including the decision of a ~~board of adjustment~~ **the Appeal Authority.**”

- D. At any time before a final decision on a land use application by the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority**, a local government or a potentially aggrieved person may request a written advisory opinion from a neutral third party in keeping with the provisions of Title 13, Chapter 43, Section 206.

Part 12-412 District Court Review of ~~Appeals/Judge/Board Of Adjustments~~ **Appeal Authority Decision**

- A. Any person adversely affected by any decision of the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** may petition the District Court for a review of the decision.
- B. In the petition, the plaintiff may only allege that the ~~Appeals Judge/Board of Adjustment's~~ **Appeal Authority** decision was arbitrary, capricious, or illegal.
- C. The petition is barred unless it is filed within 30 days after the ~~Appeals Judge/Board of Adjustment's~~ **Appeal Authority** decision is final per Utah Code Annotated Title 10, Chapter 9a, Section 801.(2)(a).
- D. The ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** shall transmit to the reviewing court the record of proceedings including minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
- E. If there is a record, the district court's review is limited to the record provided by the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority**.
1. The court may not accept or consider any evidence outside the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** record unless that evidence was offered to the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** and the court determines that it was improperly excluded by the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority**.
- F. The court shall affirm the decision of the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** if the decision is supported by substantial evidence in the record.
- G. The filing of a petition does not stay the decision of the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority**.
1. Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Utah Code Annotated Title 13, Chapter 43, Section 204, the aggrieved party may petition the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** to stay its decision.
2. Upon receipt of a petition to stay, the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** may order its decision stayed pending district court review if the

~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** finds it to be in the best interest of Richmond City.

3. After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Utah Code Annotated Title 13, Chapter 43, Section 204, the petitioner may seek an injunction staying the ~~Board of Adjustment's~~ **Appeal Authority** decision.

Part 12-508 Building Permits

- C. No permit shall be issued for any building or structure or part thereof on any land located between the mapped lines of any street as shown on any official street map adopted by the Richmond City Council.
 1. However, the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** shall have the power, upon an appeal filed with it by the owner of any such land, to authorize the grant of a permit for a building or structure or any part thereof within any mapped street located in any case in which the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** upon the evidence finds:
 2. Before taking any such action, the ~~Appeals Judge/Board of Adjustment~~ **Appeal Authority** decides to authorize a building permit, it shall have the power to specify the exact location, ground area, height and other details and conditions of extent and character and also the duration of the building, structure, and part thereof to be permitted.

Part 12-902-2 Rules For Locating Boundaries

- C. Where the application of the above rules does not clarify the zone boundary location, the ~~Board of Adjustment/Appeals Judge~~ **Appeal Authority** shall interpret the map.

Part 12-906-2 Site Design Guidelines/Site Plan Review

C. Procedures

2. Site plans shall be submitted to Richmond City for review. The review process shall proceed as follows:

- d. All appeals shall be made to the ~~Richmond City Board of Adjustments/Appeals Judge~~ **Appeal Authority** within thirty (30) days of receipt of the written finding of the Richmond City Council.

Part 12-1020-4 Planned Industrial Commercial Development Approval Process

C. Application

2. The Richmond City Council shall hold a public hearing on the application and approve or deny the application within forty-five (45) days of the public hearing.

a. All appeals shall be made to the ~~Richmond City Board of Adjustments/Appeals Judge~~ **Appeal Authority** within thirty (30) days of receipt of the written finding of the Richmond City Council.

Part 12-1050-6 Development Plan Procedure

A. Procedures.

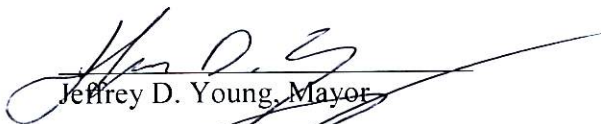
d. All appeals shall be made to the ~~Richmond City Board of Adjustments/Appeals Judge~~ **Appeal Authority** within thirty (30) days of receipt of the written finding of the Richmond City Council.

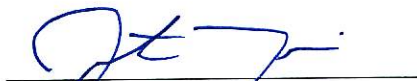
2. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, in whole or in part, the same shall not affect the validity of the Ordinance as whole, or any other part thereof.
3. All ordinances, and the chapter, clauses, sections, or parts thereof in conflict with provisions of this ordinance are hereby repealed, but only insofar as is specifically provided for herein.
4. This ordinance shall become effective after the required public hearing and upon its posting as required by law.

THIS ORDINANCE shall be attached as an amendment to the Richmond City Municipal Code above referred to.

ADOPTED AND PASSED by the Richmond City Council on this 18th day of February, 2020.

RICHMOND CITY CORPORATION


Jeffrey D. Young, Mayor
ATTEST:


Justin B. Lewis, City Recorder

