

**CITY OF SULTAN
WASHINGTON
ORDINANCE NO. 1235-16**

**AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,
ADDING A NEW SULTAN MUNICIPAL CODE CHAPTER 2.27
ESTABLISHING A BOARD OF ADJUSTMENT FOR THE CITY;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN
EFFECTIVE DATE**

WHEREAS, the City finds that it is the best interest of the City and its citizen to have a cost-effective and timely process for appeals of administrative decisions, particularly when matters involve minor code enforcement; and

WHEREAS, the City has determined that an alternative option for administrative appeals is necessary to reduce the costs caused by utilizing a Hearing Examiner for all administrative appeals; and

WHEREAS, RCW 35A.63.110 authorizes the City to establish a board of adjustment to hear appeals of administrative decisions regarding zoning, building, and construction codes as well as appeals of general code enforcement actions (hereafter, "administrative appeals");
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1 New Chapter 2.27 SMC, Board of Adjustment, Adopted. Sultan Municipal Code Chapter 2.27, entitled Board of Adjustment, is hereby adopted to read as follows:

**Chapter 2.27
BOARD OF ADJUSTMENT**

Sections:

- 2.27.010 Purpose.
- 2.27.020 Establishment – Membership.
- 2.27.030 Organization.
- 2.27.040 Terms of office.
- 2.27.050 Removal.
- 2.27.060 Vacancy filling.
- 2.27.070 Meetings.
- 2.27.080 Rules and records.
- 2.27.090 Powers and duties.
- 2.27.100 Appeals from board of adjustment.

2.27.010 Purpose.

The purpose of this chapter is to establish a board of adjustment for the city, to provide for their powers and duties, and to set forth their procedures.

2.27.020 Establishment – Membership – Quorum.

Pursuant to RCW 35A.63.110, a board of adjustment is established, which shall consist of three members who are residents of the city or its urban growth area, to be appointed by the mayor

and approved by the city council. No member of the board of adjustment shall be a member of the planning board or city council. A quorum of this committee shall be two members.

2.27.030 Organization.

The board of adjustment shall elect a chairman and vice chairman from among its members and shall provide a secretary who need not be a member of the board. The planning staff shall provide assistance necessary to carry out the functions of the board of adjustment.

2.27.040 Terms of office.

The initial appointments to the board of adjustment shall be staggered. One member shall be appointed for one year, one member shall be appointed for two years, and one member shall be appointed for three years. Thereafter, the terms of all members shall be for three years.

2.27.050 Removal.

Any member of the board of adjustment may be removed by the mayor for neglect of duty or malfeasance in office. Neglect of duty shall include, but not be limited to, three consecutive unexcused absences for regular meetings, or a recurring pattern of unexcused absences, not necessarily consecutive.

2.27.060 Vacancy filling.

Vacancies on the board of adjustment shall be filled by appointment of the mayor and approval by the city council. Appointment shall be for the unexpired portion of the vacated term.

2.27.070 Meetings.

The board of adjustment shall meet on the first Thursday of any month as may be needed for conducting their business at 7:00 p.m., at City Hall, 319 Main Street, Sultan, WA, and all such meetings shall be open to the public in accordance with the provisions of Chapter 42.30 RCW, the Open Public Meetings Act.

2.27.080 Rules and records.

The board of adjustment shall adopt rules for the transaction of its business and shall keep official minutes of its proceedings and shall keep a public record of its transactions, findings and determinations.

2.27.090 Powers and duties.

A. The board of adjustment shall hear and decide the following:

1. Zoning Ordinance. To hear and decide appeals of orders, decisions, or determinations made by the planning staff regarding the application and interpretation of the Zoning Code, SMC Title 16;
2. Building and Construction Codes. To hear and decide appeals of orders, decisions, or determinations made by the building official or his or her designee regarding the application and interpretation of the Building and Construction Codes adopted by Title 15 SMC;
3. Sultan Municipal Code. To hear and decide appeals of orders, decisions or determinations made by city staff regarding the enforcement of other city codes.

B. Whenever existing ordinances, codes or policies authorize or direct the hearing examiner to undertake certain activities which the board of adjustment has been assigned by this chapter, such ordinances, codes or policies shall be construed to refer to the board of adjustment.

C. Majority Vote Required. The concurring vote of two members of the board of adjustment shall be necessary to set aside any order, decision, or determination regarding a requirement or condition placed on an appellant's development application or project for any matter upon which the board is required to pass under this chapter.

D. Inclusion of Findings of Fact. The board of adjustment shall, in making an order, decision, or determination, include, in a brief non verbatim written record of the case, the findings of fact upon which the action is based.

2.27.100 Appeals from board of adjustment.

A. Action Final. The action by the board of adjustment shall be final and conclusive unless within 21 days from the date of said action the original appellant or an adverse party makes application to the Snohomish County Superior Court for a writ of certiorari, a writ of prohibition, or a writ of mandamus.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

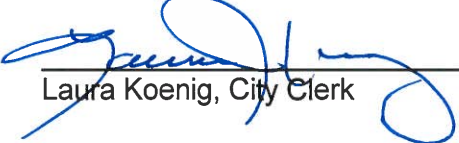
ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 12th DAY OF MAY, 2016.

CITY OF SULTAN



Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:



Laura Koenig, City Clerk

Approved as to form:



Amy S. Mill, City Attorney

Date of Publication: 5-16-16
Effective Date: 5-21-16