

ROLL CALL VOTING:	YES	NO
Mayor Brent Winder (tie only)	[]	[]
Council Member Ben Hillyard	[X]	[]
Council Member Dorel Kynaston	[X]	[]
Council Member Janet Lunt	[X]	[]
Council Member Kari Malkovich	[X]	[]
Council Member David Pratt	[X]	[]

I move that this Ordinance be adopted.

David Pratt

David Pratt (Feb 23, 2022 10:21 MST)

Council Member Pratt

I second the foregoing motion.

Kari L. Malkovich

Kari L. Malkovich (Feb 23, 2022 10:23 MST)

Council Member Malkovich

ORDINANCE NO. 2022-06

AN ORDINANCE AMENDING THE CITY OF WOODLAND HILLS TITLE 10-6 Appeal Authority

WHEREAS, the City of City of Woodland Hills has adopted City of Woodland Hills Title 10-6 Appeal Authority; and

WHEREAS the City of Woodland Hills Planning Commission held a public meeting on February 18, 2022, at 7:00pm, for the purpose of the proposed amendment to Title 10-6 Appeal Authority; and

WHEREAS the City of Woodland Hills City Council held a public meeting on February 22, 2022, at 6:00pm, for the purpose of the proposed amendment to Title 10-6 Appeal Authority; and

WHEREAS the public meetings were preceded by the posting of a notice of public meeting at the: city office, city mailboxes, along with notification to the Payson Chronicle Newspaper, a newspaper of general circulation within the city, at least 24 hours prior to the Public Meeting; and

WHEREAS, the notice of the meetings, were posted and published, by the City Council contains specific advance notice that the proposed ordinance amendment, as set forth herein, would be considered and that copies thereof were available for inspection in the city ' offices.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODLAND HILLS, UTAH, City Code Title 10-6 be amended to read:

Chapter 6: APPEAL AUTHORITY

Section

10-6-1: Applicability of State Statutes

10-6-2: Designation of Land Use Officer as Appeal Authority,

10-6-3: Procedures

10-6-4: Powers and Duties

10-6-5: Appeals

10-6-6: Variances

10-6-7: Special Exceptions

10-6-8 District Court Review of Appeal Authority Decisions

Statutory reference:

UCA §§ 10-9a-701 et seq.

10-6-1: APPLICABILITY OF STATE STATUTES:

Utah Code Annotated section 10-9a-701 et seq. is hereby adopted and made a part of this chapter and the terms of the statute shall prevail, except as may be modified by the terms of this title which are not in direct conflict thereto.

(Ord. 1993-05, 6-6-1993)

10-6-2: DESIGNATION OF LAND USE OFFICER AS APPEAL AUTHORITY

A. As authorized in Utah Code Annotated Section 10-9a-103(5) a land use hearing officer (“**Hearing Officer**”) is designated as the appeal authority for the City pursuant to the enabling authority granted Utah Code Annotated section 10-9a-701 *et seq.* The Hearing Officer shall replace in all respects the previous duties of the body formerly designated at the Appeal Authority. Only one Hearing Officer shall consider and decide any matter properly presented for review by the appeal authority.

B. One or more individuals with experience in land use and land use law shall be appointed by the Mayor as Hearing Officers subject to confirmation by the City Council. A Hearing Officer shall be compensated for his or her service at a rate agreed by the Hearing Officer and the City.

10-6-3: PROCEDURES

A. A Hearing Officer may administer oaths and compel the attendance of witnesses.

B. All hearings before the Hearing Officer shall comply with the requirements of Utah Code 52-4 and Public Meetings.

1. The Hearing Officer shall:

- a. Determine if an appeal is timely, within the jurisdiction of the appeal authority and the standing of those seeking to participate.
- b. Schedule a time, date, and place for the hearing at the earliest convenient time for the Hearing Officer and participants.
- c. Conduct the hearing.
- d. Take evidence from the appellant, land use applicant, if not the appellant, and any other adversely affected party, appearing.
- e. Keep minutes of his or her proceedings; and
- f. Cause and audio record of the hearing to be created and keep a copy of all exhibits offered.
- g. Issue a written decision on the appeal signed by the Hearing signed by the Hearing Officer.
- h. File his or her written decisions and records in the office of the City Recorder. All such records are public records.

2. Decisions of the Hearing Officer become effective and final upon service by mail or email of the written decision by the Hearing Officer on the appellant and all other participants in the appeal.

10-6-4: POWERS AND DUTIES:

The Hearing Officer shall:

- A. Act as the appeal authority for zoning decisions applying this title as provided in Section 10 of this code;
- B. Hear and decide variances from the terms of the zoning ordinances set forth in Section 10 of this code; and
- C. Hear and decide appeals for the expansion or modification of nonconforming uses.

10-6-5: APPEALS

- A. Authorized: The applicant or any other person or entity adversely affected by a zoning decision administering or interpreting a zoning ordinance may appeal that decision by alleging that an order, requirement, decision, or determination made by the city council, planning commission, or zoning enforcement officer, or interpretation of the zoning ordinances set forth in this section is arbitrary, capricious, or illegal.
- B. The appeal shall be heard on the factual record created before the land use authority
- C. The land use hearing officer shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.
- D. The land use hearing officer shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations; and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.
- E. The person or entity making the appeal has the burden of marshalling the evidence presented to the land use authority and proving that the decision is arbitrary, capricious (unsupported by the evidence or facts of record), or illegal.
- F. Only zoning decisions applying the ordinance and conditional use decisions by the city council or planning commission may be appealed to the land use hearing officer.
- G. A person may not appeal, and the land use hearing officer may not consider any zoning ordinance amendments.
- H. Appeals may not be used to waive or modify the terms or requirements of the zoning ordinance.
- I. An appeal to the land use hearing officer must be filed with the City Recorder within fourteen (14) days after the order, requirement decision or determination administering or interpreting the zoning ordinance is made in writing. The appeal shall set forth with specificity the reasons or grounds for the appeal.

10-6-6: VARIANCES

- A. Authorized: Any person or entity desiring a waiver or modification of the requirements of the zoning ordinances in this title as applied to a parcel of property owned by the person or entity, leased, or in which he/she holds some other beneficial interest may apply to the land use hearing officer for a variance from the terms of the zoning ordinance. ‘
- B. Conditions for Consideration: The Hearing Officer may grant a variance only if:
 - 1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;

2. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same 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 zoning ordinance is observed, and substantial justice done.

C. Unreasonable Hardship:

1. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection (B)(1), the land use hearing officer may not find an unreasonable hardship unless the alleged hardship:
 - a. Is located on or associated with the property for which the variance is sought; and
 - b. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
2. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection (B)(1), the land use hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

D. Special Circumstances. In determining whether or not there are special circumstances attached to the property under subsection (B)(1), the land use hearing officer 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 district.

E. Burden of Proof: The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

F. Variances Run with Land: Variances run with the land and not the property owner.

G. Use Variances Prohibited: In granting a variance, the land use hearing officer 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.

H. Additional Requirements Imposed: In granting a variance, the appeal authority may impose additional requirements on the applicant that will mitigate any harmful effects on the variance; or serve the purpose of the standard or requirement that is waived or modified.

10-6-7: SPECIAL EXCEPTIONS

A. The Hearing Officer may approve any of the following special exceptions to the zoning ordinance where he or she determines the exception is consistent with the purposes of the zoning ordinance and will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity:

1. Where a zone boundary line divides a lot in single ownership at the time of the passage of the ordinance codified in this title, the Hearing Officer may permit a use authorized on either portion of such lot to extend not more than fifty feet into the other portion of the lot.
2. The Hearing Officer may permit the enlargement of or addition to a noncomplying structure or a building or structure occupied by a nonconforming use.

3. The Hearing Officer may permit the relocation on a lot of a noncomplying structure, or a building or structure occupied by a nonconforming use; or the hearing officer may permit the reconstruction on a lot of a noncomplying structure, or a building occupied by a nonconforming use.

10-6-8: DISTRICT COURT REVIEW OF APPEAL AUTHORITY DECISIONS:

- A. Authorized: Any land use applicant or person adversely affected by any decision of the Hearing Officer as the appeal authority, may petition the district court for a review of the decision.
- B. Limitation: In the petition, the plaintiff may only allege that the Hearing Officer's decision as the appeal authority was arbitrary, capricious, or illegal.
- C. Time Limit for Filing: The petition is barred unless it is filed within thirty (30) days after the appeal authority's decision is final.
- D. Record Of Proceedings to Reviewing Court: Following a timely appeal to the district court The City Recorder shall transmit to the reviewing court the record of the proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings. The decision of the district court shall be based on the record provided to the district court.

ADOPTED by the City Council of Woodland Hills this 22nd day of February 2022.


Brent Winder, Mayor

Attest:


Jody Stones, Recorder



CERTIFICATE OF POSTING ORDINANCE
For the City of Woodland Hills

I, the duly appointed and acting Recorder for the City of Woodland Hills, hereby certify that copies of the foregoing Ordinance No. 2022-06 were posted at three public places within the municipality this 23rd day of February which public places are:

1. City Information Bulletin Board, 200 S. Woodland Hills Drive
2. Woodland Hills City Center, 690 S. Woodland Hills Drive
3. Woodland Hills Web Site, www.woodlandhills-ut.gov

Dated this 23rd day of February 2022.



Jody Stones, Recorder









Ord. 2022-06 Proposed Change to City Code Title 10-6

Final Audit Report

2022-02-23

Created:	2022-02-23
By:	jody stones (recorder@woodlandhills-ut.gov)
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"Ord. 2022-06 Proposed Change to City Code Title 10-6" History

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