

## **BOARD OF ADJUSTMENTS** **APPLICATION INSTRUCTIONS**

The Board of Adjustments approves citizen requests for variances to the city zoning ordinance and approves home occupation requests.

**\*Please read through all instructions carefully prior to filing your application to be placed on the Board of Adjustments agenda. STAFF CANNOT GIVE LEGAL ADVICE, TELL YOU WHAT TO PRESENT TO THE BOARD, NOR TELL YOU HOW THE BOARD WILL DECIDE.**

### **-Before You Apply:**

1. Determine if the Board of Adjustments has authority to grant your request.  
(See Cedar City Ordinance Section 26-IX-2.)
2. Check the requirements necessary for a positive decision by the Board to determine if you can meet those requirements and if you can show that you meet them to the Board.
3. If you are not the owner of the property at issue, please present evidence (typically by letter or by that person's attendance at the meeting) that the owner has approved of the proposed use.

### **-If all three (3) requirements above are met, continue to instruction #4 (below).**

4. Fill out the attached application and return the completed application along with the \$25 fee to the City Offices before 5:00 p.m. on or prior to the application deadline. Any applications received after the application deadline **will not** be added to the next agenda date and will be placed on the following month's agenda. **NO EXCEPTIONS!!** *\*Please refer to the attached deadline sheet for dates.\**
5. You will then need to verify the meeting date with the Board of Adjustments secretary. You will then be notified of the date and time to put on the Notice of Public Meeting form for property owner notification.
6. Attend the meeting and present all evidence and argument in support of your request.
7. If your request is granted, you must meet all additional conditions set by the Board before you will be allowed to proceed forward with the granted request.

For home occupations, please be prepared to present any previously obtained licenses necessary for your intended business. The Board does not have authority to waive City, State, and Federal licensing and tax ID requirements. If you have failed to previously obtain a necessary license, the Board may condition its approval on you obtaining said license(s) or delay the Board's decision until you have done so. The City suggests that all applicants file for a City business license after obtaining approval from the Board of Adjustments.

## **PREPARING FOR THE MEETING**

Present all information you believe is relevant to the Board's decision.

### **For Home Occupations you must:**

- **Submit a site plan showing how parking will be accommodated on the lot, as well as proof that notice has been given to all property owners within a 300-foot radius from the boundary of the home occupation. This documentation **MUST** be submitted to the City's building official at least **five (5) business days** prior to the Board of Adjustments Meeting.**
- **Contact the Building Department at least seven (7) days prior to the meeting to schedule a building inspection. They can be reached at (435) 865-4519.**

If you wish to present either paper documentation or computer/PowerPoint presentations, please provide a copy of the item(s) with your application if possible. If you have large objects or color photographs that you wish to provide to the Board prior to the meeting, please provide eight (8) copies of the item(s) with your application.

## **CONTACT PERSONS**

- For Board applications and application deadlines: Onjulee Pittser, Executive Secretary (435) 586-2953
- For business licensing questions: Renon Savage, License Officer/City Recorder (435) 865-5106
- For building and zoning questions: Drew Jackson, Chief Building Official (435) 865-4519



# Cedar City

10 North Main Street • Cedar City, UT 84720  
 435-586-2950 • FAX 435-586-4362  
[www.cedarcity.org](http://www.cedarcity.org)

**Mayor**  
 Maile Wilson-Edwards

**Council Members**  
 Ronald R. Adams  
 Paul Cozzens  
 Terri W. Hartley  
 Craig E. Isom  
 R. Scott Phillips

**City Manager**  
 Paul Bittmenn

## 2019/2020 Board of Adjustments AGENDA DEADLINES

APPLICATION DEADLINE DATE*	PUBLIC MEETING DATE**
August 28, 2019	September 9, 2019
September 25, 2019	October 7, 2019
October 23, 2019	November 4, 2019
November 20, 2019	December 2, 2019
December 26, 2019	January 6, 2020
January 22, 2020	February 3, 2020
February 19, 2020	March 2, 2020
March 25, 2020	April 6, 2020
April 22, 2020	May 4, 2020
May 20, 2020	June 1, 2020
June 24, 2020	July 6, 2020
July 22, 2020	August 3, 2020
August 26, 2020	September 14, 2020
September 23, 2020	October 5, 2020
October 21, 2020	November 2, 2020
November 25, 2020	December 7, 2020

\* - Applications must be submitted no later than 5:00 p.m. on the application deadline date indicated.

\*\* - Public meeting date is subject to change

Administration  
 586-2953

Airport  
 867-9408

Building and Zoning  
 865-4519

Economic Development  
 586-2770

City Engineer  
 586-2963

Parks & Recreation  
 865-9223

Public Works  
 586-2912



# CEDAR CITY

10 North Main, Cedar City, UT 84720  
435-586-2950 • Fax 435-586-4362  
www.cedarcity.org

\$25 fee paid: \_\_\_\_\_

Receipt No.: \_\_\_\_\_

## BOARD OF ADJUSTMENTS APPLICATION

PLEASE ATTACH ADDITIONAL SHEETS FOR ANY INFORMATION YOU BELIEVE WILL HELP THE BOARD MAKE ITS DECISION

TYPE OF APPLICATION (mark all that apply):

- Administrative Appeal       Special Exception       Variance   
 Conditional Use Appeal       Non-conforming Use       Zoning Map Interpretation   
    Daycare/Nursery  
 Home Occupation: School       Other Home Occupation   
 Other:

APPLICANT'S NAME \_\_\_\_\_ PHONE # (\_\_\_\_) \_\_\_\_\_

BUSINESS NAME AND/OR DBA (if \_\_\_\_\_

any) \_\_\_\_\_

ADDRESS OF \_\_\_\_\_

PROPERTY(IES) \_\_\_\_\_

CITY Cedar City STATE UT ZIP \_\_\_\_\_

ZONE(s) WHERE PROPERTY \_\_\_\_\_

LOCATED \_\_\_\_\_ Residential  GC  NC  I&M-1

(Leave blank if unsure) CC  HS  DC  I&M-2

APPLICANT'S INTEREST IN PROPERTY Owner  Tenant

Developer  Other \_\_\_\_\_

APPLICANT'S MAILING ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

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I understand that falsifying any information on this application constitutes sufficient cause for rejection or revocation of my application, license, and/or permit. I also understand that the Board of Adjustments may require additional information as permitted by the ordinance, and agree to supply the same as part of this application.

APPLICANT'S SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

## **HOME OCCUPATIONS**

### **Cedar City Ordinance 26-IX-04(E)**

The Board of Adjustments may grant home occupations in the R1, R-2 (Dwelling, Single Unit), R-2 (Dwelling, Two Unit), R-3 (Dwelling, Single Unit), R-3 (Dwelling, Multiple Unit), and RE zones provided:

(1) The home occupation is conducted entirely within a dwelling and is carried on by members of the family residing in the dwelling. Employees other than family members residing in the dwelling are permitted as long as the following conditions are complied with: (a) the total number of full time and part time employees, including those residing in the home, shall not exceed 1 employee for every one hundred and fifty (150) square feet of area devoted to the home occupation, as per 26-IX-4(E)(6) and in no event exceed a maximum of five (5) outside employees; and (b) provide off street parking as required by 26-IX-4(E)(9).

(2) The home occupation does not involve the use of any accessory buildings or yard space for storage or activities outside of the dwelling not normally associated with residential use, except for Nursery Schools, in which case it is presumed that rear yard space is utilized and the rear yard space must be completely fenced with at least a six-foot (6') high fence.

(3) No commercial vehicles are used except one delivery truck which does not exceed one (1) ton capacity.

(4) The home occupation does not include a drive through.

(5) The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling.

(6) Signs shall be limited to one non-flashing non-illuminated sign not larger in area than six (6) square feet. Said sign must be located at least ten feet (10') behind the sidewalk, and comply with the provisions of 26-IV-3, clear view of intersecting streets. The top of a freestanding sign not attached to the residence shall not be more than four (4) feet from ground level.

(7) Not more than the equivalent of twenty-five percent (25%) of the ground floor area of the dwelling is devoted to the home occupation. Nursery schools and day care centers need not designate a particular twenty-five percent (25%) of the ground floor area; however, the actual 25% of the ground floor area shall be utilized to calculate the maximum number of children allowed in the dwelling pursuant to Section 26-IX(E)(10)(b). Ground floor area is defined as the square footage computed in the outside measurements of the dwelling portion of the home on the ground floor level. Basement or basement level floor space shall not be used in computing ground floor area.

(8) The home occupation shall apply for and receive and maintain a Cedar City business license.

(9) In the opinion of the Board of Adjustments, the activities in connection with the home occupation are not contrary to the objectives and characteristics of the zone in which the home occupation is located.

(10) Off-street parking will be provided. The amount of off street parking shall depend on the type of home occupation being requested and shall meet the requirements of Chapter 26, Section V, required parking. When applying the parking requirements from Chapter 26, Section V, the required parking for the home occupation shall be in addition to the required parking for the entire residential use of the property. The applicant shall submit to the City's building and zoning official a site plan showing how the parking will be accommodated on the lot at least five (5) days prior to the Board of Adjustments meeting.

(11) In addition to the above requirements, home occupations for Nursery Schools may be granted by the Board of Adjustments provided that the proposed Nursery School has:

- a. A maximum of sixteen children at any one time, including the occupant's own children;
- b. That the portion of the dwelling used for the Nursery School contains floor space of at least twenty five square foot per child and alternate door exits.

(12) Before conducting a hearing on a home occupation request the Building Inspector shall have conducted an on-site inspection and shall make a report of his findings to the Board of Adjustments.

(13) Notice by the applicant shall be given to all property owners of record within a 300-foot radius from the boundary of the proposed home occupation. Said notice shall be sent certified mail or hand-delivered to the property owners in accordance with the most current Iron County Assessment Roll no later than five (5) days before the Board of Adjustments meeting. Proof of the certified mail and/or a certificate documenting hand delivery to property owners as required herein shall be delivered to the City Building Official prior to the Board of Adjustments meeting.

## **VARIANCES**

### **Cedar City Ordinance 26-IX-3**

(A) In accordance with State law, the Board of Adjustments shall hear any person or entity desiring a waiver or modification of the requirements of zoning ordinance as applied to a parcel of property that he owns, leases, or in which he holds some beneficial interest, the Board of Adjustments may grant a variance from the terms of the zoning ordinance 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 is done.

(B) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship, the Board of Adjustments may not find an unreasonable hardship unless the alleged hardship (a) is located on or associated on 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.

(C) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship, the Board of Adjustments may not find an unreasonable hardship if the hardship is self-imposed or economic.

(D) In determining whether or not there are special circumstances attached to the property, the Board of Adjustments 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.

# NOTICE OF PUBLIC MEETING

The undersigned, in accordance with City Ordinance, hereby gives Notice of a Proposed:

## Home Occupation (In-home business)

Type of business:

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Number of employees requested: \_\_\_\_\_

Number of parking spaces intended for business: \_\_\_\_\_

This proposal is within 300 feet of property you own. This proposal will be considered and possibly voted on during a Board of Adjustments to be held as follows:

DATE: \_\_\_\_\_

TIME: \_\_\_\_\_

PLACE: Cedar City Council Chambers, 10 North Main, Cedar City, UT

Anyone wishing to comment on this proposal should attend the Board of Adjustments meeting. You can send your written comments to:

Drew Jackson  
Building Department  
Cedar City Corporation  
10 North Main Street  
Cedar City, Utah 84720

Notice sent by: \_\_\_\_\_

(Proponent printed name and address)

\_\_\_\_\_  
(Proponent signature)

**CEDAR CITY CORPORATION**  
**HAND DELIVERY**  
**NOTIFICATION CERTIFICATION**

NOTICE BY THE APPLICANT shall be given to all property owners of record within a 300-foot radius from the boundary of the applicant's residence. Said notice shall be sent certified mail or hand-delivered to the property owners in accordance with the most current Iron County Assessment Roll no later than five (5) days before the Board of Adjustments meeting. Proof of certified mail and/or a certificate documenting hand delivery to property owners as required herein shall be delivered to the City Building Official prior to the Board of Adjustments meeting.

Address of applicant's property: \_\_\_\_\_

I, \_\_\_\_\_ do hereby certify that notification was hand-delivered to the following property owners of record.

<b>PROPERTY OWNER</b>	<b>ADDRESS</b>

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**(Use additional pages as needed)**