

**Title 17**

**ZONING**

**Chapters:**

**17.04 Zoning Code**

**17.08 Board of Adjustment**

17.04.010

**Chapter 17.04**

**ZONING CODE**

**Sections:**

**17.04.010**     **Adopted by reference.**

**17.04.010**     **Adopted by reference.**

The official zoning regulations, rules and guidelines of the city, which are attached to the ordinance codified in this section and made a part hereof by reference, are approved and enacted. (Ord. 653 § 1, 1995)

## Chapter 17.08

### BOARD OF ADJUSTMENT

**Sections:**

- 17.08.010 Policy adopted.**
- 17.08.020 Board of adjustment designated as hearing officer.**
- 17.08.030 Membership—Terms of office.**
- 17.08.040 Policy on appeals of administrative dedications or exactions.**

**17.08.010 Policy adopted.**

The city adopts and establishes the policy of the city on appeals of administration dedications or exactions, which is found in this chapter. (Ord. 659 § 1 (part), 1995)

**17.08.020 Board of adjustment designated as hearing officer.**

The board of adjustment is designated as the hearing officer for appeals of administrative dedications or exactions, as established by the policy found in this chapter. (Ord. 659 § 2, 1995)

**17.08.030 Membership—Terms of office.**

A. All membership positions on the board of adjustment shall be deemed vacated as of the date of final adoption of the ordinance codified in this section and reappointments shall be made in accordance with the provisions set out herein.

B. In order to create a system of staggered terms, one member will be appointed to serve a term expiring June 30, 1998, two members will

be appointed to serve a term expiring June 30, 1999, and three members will be appointed to serve a term expiring June 30, 2000. After these initial appointments, members will be appointed to serve three-year terms. In the event of a death or resignation of a member, the vacancy may be filled by appointment by the mayor with approval of the council for the unexpired term of the member replaced. (Ord. 702 §§ 1, 2, 1997)

**17.08.040 Policy on appeals of administrative dedications or exactions.**

A. Rights of Property Owners. In addition to other rights granted by the U.S. and Arizona Constitutions, federal and state laws and city ordinances or regulations, property owners shall have the right to appeal any dedication or exaction which is required by an administrative agency or official of the city as a condition of granting approval of a request to use, improve or develop real property. This right of appeal does not apply to dedications or exactions imposed by ordinance or other legislative action of the mayor and council where no discretionary authority is given to an agency or official to determine the nature and extent of the dedication or exaction.

B. Appeal Procedure. The following procedures will apply to appeals of administrative dedications or exactions:

1. The city board of adjustment is designated as the hearing officer for these appeals. The address for the hearing officer is: Board of Adjustment, Douglas City Hall, 425 Tenth St., Douglas, Arizona 85607.

2. An appeal must be in writing and filed with or mailed to the hearing officer within thirty days after the administrative officer's or

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agency's final determination to require a dedication or exaction. No fee will be charged for filing an appeal.

3. A hearing on the appeal will be scheduled within thirty days of the hearing officer's receipt of the appeal. The property owner will be given at least ten days' notice of the hearing date unless the property owner agrees to a shorter notice.

4. The city has the burden of proving that there is an essential nexus between the proposed dedication or exaction and a legitimate governmental interest and that the dedication or exaction is roughly proportional to the impact of the proposed use, improvement or development.

5. The hearing officer must render its decision within five working days after the appeal is heard. If the hearing officer finds the city has not met the burden of proof set out in subsection (A)(4) of this section, the hearing officer shall modify or delete the dedication or exaction.

6. A property owner who is dissatisfied with the hearing officer's decision may file a complaint for a trial de novo in superior court within thirty days of the hearing officer's decision.

C. A copy of the policy codified in this section shall be given to property owners as notice of their rights to appeal administrative dedications and exactions and the applicable appeals procedure. (Ord. 659 § 1 (part), 1995)