

- 8) Construction activities, land use, and/or other situations that are not in conflict with any condition of approval imposed as part of the original plan/permit.
- ii. Planning Director Determination. In the event the proposed minor amendment application does not clearly align with the allowances listed in subsection a. above, the Planning Director shall deem the application as a major amendment.
- iii. Approval Criteria. The following criteria apply when evaluating minor permit amendments.
  - 1) The granting of the minor amendment will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety or welfare.
  - 2) The granting of the minor amendment will not be contrary to the goals, policies, and objectives of the Comprehensive Plan.
- b. Option 2: Major Amendments. The applicant may apply for a major amendment to an approved permit subject to the allowances and limitations of this section. The major amendment shall be reviewed as the same application type that would have been required for the original approval. Under major amendments, the City shall only require submittal items applicable to the proposed changes.
  - i. Major Amendment Determination. A major amendment may be allowed for situations and site elements that do not constitute a “Minor Amendment” pursuant to this section.
- c. New Application. The applicant may apply for a new permit for the property where no development and land use activity has commenced pursuant to the original permit. Under a new application, the applicant shall comply with all the submittal requirements and subject to the review procedures identified in Table 17.04.030.a.

#### **17.04.070 Variance and Administrative Adjustments**

- A. Purpose. The variance and administrative adjustments procedures are established to allow applicants to seek deviations and modifications from certain requirements of VMC Title 17 to overcome unique site impediments and area conditions. Deviations or waivers to the City’s development standards may be specifically necessary to accommodate infill projects, adaptive use activities, and redevelopment projects in established areas of the City where existing site and area conditions may limit an applicant’s ability to fully comply with City requirements. Variances are intended to allow applicants to seek regulatory relief through a public hearing process, whereas administrative adjustments are intended to allow applicants to seek minor regulatory relief through an administrative process.
- B. Applicability. The provisions of this section apply to any applicant that seeks regulatory relief for a specific development project or construction activity subject to the allowances and limitations set forth herein.
- C. Allowances. Applicants may seek regulatory relief through application for a variance or an administrative adjustment and as allowed by the provisions of this section. The City may not grant deviations or waivers to land use restrictions in any zone except as allowed in Chapter 17.20 and in 17.04.120.
  - 1. Variances. Variances include a formal process where applicants may seek deviations, waivers, and/or modifications from certain VMC Title 17 dimensional or site design

standards. Variances may be approved through a formal application, and a public hearing before the Planning and Zoning Commission pursuant to Table 17.04.030.a.

- a. Allowances. Applicants may seek variances to the following code provisions:
  - i. Zoning district dimensional standards including lot size, setbacks, and height.
  - ii. Parking requirements including dimensional standards and parking ratios.
  - iii. Landscaping and buffering standards.
  - iv. Sign standards including size and location on a lot.
  - v. Fence and wall standards including material, size, location, and height.
  - vi. Specific use standards, except applications for additional accessory dwelling units (ADUs).
  - vii. Expansions of a legal nonconforming use as allowed and limited pursuant to Chapter 17.20

2. Administrative Adjustments. An administrative adjustment is a process where applicants may seek minor and limited reductions, deviations or modifications from certain VMC Title 17 dimensional or site design standards. Administrative adjustments may be approved through application and approval from the Planning Director pursuant to Table 17.04.030.a.

- a. Allowances. Applicants may seek administrative adjustments to the following code provisions:
  - i. Up to twenty percent (20%) of the zoning district dimensional standards including lot size, setbacks and height.
  - ii. Up to twenty percent (20%) of the required minimum parking ratio requirements for a specific use.
  - iii. Up to fifty percent (50%) of the required landscaping and buffering standards.
  - iv. Up to twenty percent (20%) of the required sign setback or sign size requirements.
  - v. Up to twenty percent (20%) of the required wall/fence height requirements.
  - vi. Up to twenty percent (20%) of the accessory structure size limitations.
  - vii. Expansions of legal nonconforming uses pursuant to VMC Title 17.20.G.1.

D. Approval Criteria. The Planning Department and the final decision-making authority shall evaluate whether the variance or administrative adjustment application complies with the criteria established in this section in determining to approve, approve with conditions, or deny the request. The decision-making authority may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest and demonstrate consistency with the review criteria.

1. Criterion 1: There are exceptional physical characteristics or conditions pertaining to the property which may affect intended land use or development thereon which do not generally apply to other properties in the same zoning district. This criterion is only applicable to variance requests; this does not apply to administrative adjustments.

2. Criterion 2: The strict application of the provisions of VMC Title 17 would result in practical difficulties or an unnecessary hardship to the applicant.
  3. Criterion 3: The granting of the variance or administrative adjustment will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety or welfare.
  4. Criterion 4: The granting of the variance or administrative adjustment will not be contrary to the goals, policies, and objectives of the Comprehensive Plan.
- E. Submittal Requirements. Applicants for a variance or administrative adjustment shall provide the following items to the City to commence the review.
1. Application and Fee(s). Applicants shall provide a complete application and pay associated application fees at the time of application filing. Additional expenses incurred by the City that are associated with the review may be paid at a later date but prior to action being taken on the application.
  2. Legal Description. Applicants shall provide a legal description of all the property that is subject of the variance or administrative adjustment application.
  3. Narrative. Applicants shall provide a project narrative that describes the location, proposed use(s), proposed site improvements, and zoning district. The narrative shall describe the existing and proposed building sizes, proposed density, as applicable, parking and access, and environmental conditions on and adjacent to the subject site. The narrative shall describe the requested deviations, waivers, or modifications. The narrative shall list all of the variance/administrative adjustment review criteria and provide a response describing how the proposal complies with those criteria.
  4. Plan Set. Applicants shall provide a plan set, at the discretion of the Planning Director, to illustrate the proposed site improvements. The plan set may include the following.
    - a. Property Survey. This shall be a scaled drawing with a surveyor's seal that graphically depicts the current lot/tract configuration with boundary dimensions, depicts current easements, and illustrates the exact location and dimensions of existing site improvements. The survey shall also include a legal description.
    - b. Site Plan. This shall be a scaled drawing that depicts the existing and proposed site conditions with a specific focus on the construction elements that are subject of the variance/administrative adjustment application. The site plan shall include the proposed building setbacks, as applicable to the variance/administrative adjustment application.
    - c. Building Elevations. This shall be scaled drawings showing the proposed building elevations for subject structure(s) of the variance/administrative adjustment application. The elevations shall include dimensions and material labels. Building elevations are only required for variances/administrative adjustments that involve an increase in building height beyond what is allowed in the zoning district.
  5. Technical Studies. The applicant may be required to submit technical studies at the discretion of the Planning Director to demonstrate compliance with the variance and administrative adjustment review criteria. These may include, but are not limited to, traffic studies, drainage studies, noise and vibration studies, and/or visual impact studies.

- F. **Review Procedure.** Variance and administrative adjustment applications shall be reviewed pursuant to Table 17.04.030.a. The City shall process the application pursuant to the following procedures.
1. **Initial Submittal and Completeness Review.** Upon receipt of an application submittal, the Planning Department shall review the submittal for completeness. Where the submittal lacks the required information, the Planning Department shall cease its review and notify the applicant of deficient information/items. After the applicant addresses the deficient items, the Planning Department may restart its review. The Planning Department shall provide written comments to the applicant detailing elements of the application that do not comply with regulations and policies.
  2. The Planning Department shall conduct a review of the application's consistency with the approval criteria, pursuant to Section 17.04.070.D, other Municipal Code provisions, the Comprehensive Plan, and other applicable regulatory and policy documents. The Planning Department may circulate the application to other city departments for comment. The Planning Department shall provide written comments to the applicant detailing elements of the application that are inconsistent with approval criteria.
  3. **Application Revisions.** As applicable, the applicant may revise its application submittal to address the Planning Departments comments. If the applicant provides a revised application packet, the Planning Department shall review the revised application for regulatory and policy compliance.
  4. **Staff Report.** The Planning Director, or designee, shall write a staff report that (i) summarizes the proposed variance/administrative adjustment in terms of location, proposed land use(s), and proposed structures, (ii) describes the deviations, waivers or modifications sought, (iii) provides findings to the variance and administrative adjustment approval criteria, (iv) provides findings to the specific use standards, as applicable, and (v) provides a recommendation to approve, approve with conditions, or deny the request. The staff report shall include the applicant's complete submittal and any public comments as attachments.
- G. **Public Notice Required for Variance.** The City shall provide public notice and document public comments regarding the variance application pursuant to Section 17.04.180.
- H. **Decision for Administrative Adjustments.** The Planning Director shall review the administrative adjustment application, review the staff report, and take action on the application. The Planning Director may approve, approve with conditions, or deny the application. The Planning Director, in their sole discretion, may provide public notice of an administrative adjustment application, provide opportunity for written public comments, and hold a public meeting for purposes of taking oral public comment.
- I. **Hearing & Decision for Variances.** The Planning and Zoning Commission shall conduct a public hearing to review the variance application, review the staff report, hear staff, applicant, and public testimony, discuss the proposal, and take action on the application. The Commission may approve, approve with conditions, or deny the application.

#### **17.04.090 Zoning Clearance Review**

- A. **Purpose.** A zoning clearance review is a formal process for the Planning Department to determine whether a land use or subdivision complies with VMC Title 17. A zoning clearance is intended to provide certainty to property owners, renters, occupants, and other interested parties that specific activities on a property comply with VMC Title 17.

- B. **Applicability.** A zoning clearance review is required for any new land use activity, expanded land use activity, a change of use on a property, and platting actions. A zoning clearance is a written determination granted to an applicant indicating that the property, land usage(s), and improvements conform to zoning requirements.
- C. **Review Process.** A zoning clearance application shall be reviewed pursuant to the following provisions.
  - 1. A zoning clearance must be determined prior to (1) establishing a new use on any land or within a structure or (2) the expansion of any use of land or structure. A zoning clearance shall be determined prior to the issuance of a building permit.
  - 2. A zoning clearance review may occur concurrently with other applications such as a building permit, subdivision, business registration, conditional use permit, and variance/administrative adjustment application. A separate zoning clearance application is not required during a concurrent review if sufficient information is included in the other application request.
  - 3. The Planning Director, or designee, shall review the zoning clearance application and issue a determination based on its consistency with VMC Title 17.
    - a. The issuance of a zoning clearance does not exempt an applicant from complying with all laws properly affecting the use or development of land.
  - 4. **Issuance and conditions.**
    - a. The resulting determination may require that the applicant make site modifications and/or secure the required permit approval for the requested outcome.
    - b. Planning staff may request additional information pertaining to the project in order to conduct a thorough review and ensure full compliance with VMC Title 17.

#### **17.04.120 Temporary Land Use Permits**

- A. **Purpose.** A temporary land use permit allows interim, nonpermanent, and/or seasonal uses of land that does not exceed six months in duration.
- B. **Applicability.** The provisions of this section apply to an interim, nonpermanent, and/or seasonal uses of land including but not limited to events, races, carnivals, concerts, outdoor sales events, markets, off-site construction yards, and similar uses that are not otherwise permitted outright in the zoning district in which the subject land is located or in conjunction with a legally established land use for said lot.
- C. **City-Owned Land.** Temporary land use permits shall be required for all interim, nonpermanent, and/or seasonal uses of city-owned land whether conforming or nonconforming except as otherwise provided herein.
- D. **Private, Federal, or State-Owned Land.** Temporary land use permits shall be required for all interim, nonpermanent, and/or seasonal uses on private, federal, or state-owned land that do not conform with permitted uses within the zoning district where the temporary use will occur.
- E. **Exceptions.** The following uses and situations are exempt from the temporary use standards and the associated review/approval standards of this section.
  - 1. **City use of City-owned Land.** Uses associated with municipal operations, services, and maintenance are not subject to a temporary land use permit.