

Chapter 17.13
ZONING REVIEW AND AMENDMENT PROCEDURES

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17.13.010 GENERAL REQUIREMENTS.

- A. Concurrent Review of Applications. Where a project involves more than one application under this Title, the Community Development Director may require that all relevant applications for the project to be submitted together for concurrent processing and review; except that variance applications shall be reviewed separately by the Board of Adjustment or the City Council as applicable.
- B. Review of Multiple Applications when Subject to Different Review Procedures. Where a project involves multiple applications with different review procedures (e.g., public hearing review of a “major” application or administrative review of a “minor” application as specified herein), the Community Development Director may process the subject applications individually under the respective review procedures, or where the Community Development Director deems it in the public interest, he or she may refer all applications for the project to the applicable hearing body for concurrent review.
- C. Criteria for Approval. Reviews of all applications under the Land Use Code shall be based on the applicable provisions of the Code and other applicable regulations. The burden shall be on the applicant to demonstrate conformity with the applicable regulations. Upon city approval, the applicant shall address all of the conditions imposed by the city decision-making body. Planning Clearances and the issuance of Certificates of Occupancy shall be contingent upon completing the project in accordance with the city’s approval and conditions thereof.
- D. Appeals. Any person aggrieved by a decision of the Community Development Department Director, under the provisions of this Title may appeal such decision as per Section 17.05.060 of this Title.

17.13.020 PLANNING CLEARANCES.

- A. Applicability. A Planning Clearance is required for any development requiring a building permit and any of the following, whether a building permit is required or not: changes in land use or development, including but not limited to new or replacement structures; significant exterior remodels of existing structures; changes to vehicle access or circulation; landscaping (except single-family residential land uses); parking, or lighting of the same; changes in building use; changes in occupancy type, as defined in applicable building codes; temporary uses; fences; sheds and any other accessory building or structure covering more than eighty (80) square feet of land area; canopies exceeding eight (8) feet in height and other accessory structures covering over eighty (80) square feet of land area, whether permanent or temporary; fireplaces and wood burning stoves (including replacement of the same); grading, excavation, or fill of more than fifty (50) cubic yards of material; and similar changes as determined by the Community Development Director.
- B. Procedure. The Community Development Director can administratively approve Planning Clearances.
- C. Approval Criteria. Planning Clearances shall be approved only if the application meets or can meet all applicable requirements of this Title and other Titles of the Municipal Code.
- D. Expiration. Planning Clearances expire automatically if:
 - 1. Within one (1) year after the issuance of such permit, the use or development authorized by such permit has not commenced; or
 - 2. Within one (1) year after the issuance of such permit, less than ten (10) percent of the total cost of all construction, alteration, excavation, demolition or similar work on any development authorized by such permit has been completed on the site. With respect to phased development this provision shall apply only to the phase under construction; or
 - 3. After some physical alteration to land or structures begins to take place, such work is discontinued for a period of three (3) years.

17.13.030 SITE DESIGN REVIEW.

- A. Applicability. Site Design Review is required for the following developments with the exception of subdivisions, detached single family residential, and duplex residential land uses:
 - 1. Changes in land use or remodels that result in an increase in floor area, lot coverage, or parking spaces by more than 40%; or
 - 2. Any change in land use or remodel that requires an Adjustment; or

3. Any development that requires construction of public improvements.
- B. Procedure. Two types of Site Design Review are authorized, Administrative Site Design Review and Site Design Review with adjustment, as follows:
1. Administrative Site Design Review. Developments subject to Site Design Review that do not require an Adjustment to any regulation under this Title by more than ten (10) percent (dimensional standards only) are reviewed and acted upon by the Community Development Director.
 2. Site Design Review With Adjustment. Developments subject to Site Design Review that require an Adjustment to one or more regulations under this Title by more than ten (10) percent are reviewed through the public hearing process in accordance with Section 17.05.070.
- C. Approval Criteria. The city decision-making body may approve a Site Design Review application only upon finding that it meets the applicable requirements of this Title and other applicable regulations.

17.13.040 CONDITIONAL USES.

- A. Applicability. A Conditional Use Permit is required for any use identified as a conditional use on the Land Use/Zoning Table in Section 17.07.060.F of this Title.
- B. Procedure. Conditional Use Permit applications shall be processed and reviewed through the public hearing process in accordance with Section 17.05.070.
- C. Approval Criteria for Conditional Use Permits. A Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:
1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;
 2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.07.080;
 3. The proposed use will not materially endanger the public health or safety; and
 4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.

- D. Expiration. A use requiring a Conditional Use Permit must commence within three years of approval or the Conditional Use Permit approval will expire. Conditional uses that have ceased for more than one year cannot be re-established without re-approval of the Conditional Use Permit.

17.13.050 VARIANCES.

- A. Applicability. A variance is an exception from the numerical requirements of this Title excluding the numerical standards contained in Chapter 11 and Chapter 41. Use variances are not permitted.
- B. Procedure. Variances are reviewed and acted upon at a public hearing before the Board of Adjustment with the exception of variances for signs which are reviewed and acted upon at a public hearing before the City Council as per Chapter 41.
- C. Approval Criteria. The Board of Adjustment may approve a variance request upon finding that the variance application meets or can meet the following approval criteria:
1. The variance granted is without substantial detriment to the public good and does not impair the intent and purposes of this Title and the Master Plan, including the specific regulation in question;
 2. By reason of exceptional narrowness, shallowness, depth, or shape of a legal lot of record at the time of enactment of this Title, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such property, the strict application of the subject regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property;
 3. A variance from such strict application is reasonable and necessary so as to relieve such difficulties or hardships, and the variance will not injure the land value or use of, or prevent the access of light and air to, the adjacent properties or to the area in general or will not be detrimental to the health, safety and welfare of the public;
 4. The circumstances found to constitute a hardship are not due to the result or general conditions throughout the zone, was not induced by any action of the applicant, and cannot be practically corrected, and;
 4. The variance granted is the minimum necessary to alleviate the exceptional difficulty or hardship.

- D. Final Decision. Any decision of the Board of Adjustment shall be final, from which an appeal may be taken to a court of competent jurisdiction, as provided in accordance with Section 31-23-307, C.R.S.
- E. Reconsideration of Denial of Variance. Whenever the Board of Adjustment denies an application for a variance, such action may not be reconsidered by the Board for one (1) year unless the applicant clearly demonstrates that circumstances affecting the subject property have substantially changed, or new information is available that could not with reasonable diligence have been presented at the previous hearing.

17.13.060 AMENDMENT TO OFFICIAL ZONING MAP (REZONE).

- A. Applicability and Procedures. The City Council may amend the number, shape, or boundaries of any zone, removing any property from one zone and adding it to another zone, only after recommendation of the Planning Commission. An amendment to the Official Zoning Map may be initiated by the owner of any property for which a rezone is sought or upon application of City Council.
- B. Approval Criteria. The Official Zoning Map may be amended when the following findings are made:
 - 1. The proposed rezone is compatible with surrounding land uses, pursuant to Section 17.07.080, and is consistent with the city's goals, policies and Master Plan; and
 - 2. The land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the city's goals, policies and Master Plan; or
 - 3. The area for which the rezone is requested has changed substantially such that the proposed zoning better meets the needs of the community; or
 - 4. The rezone is incidental to a comprehensive revision of the city's Official Zoning Map which recognizes a change in conditions; or
 - 5. The rezone is incidental to the annexation of the subject property.
- C. Protests. In case of a protest against an amendment to the Official Zoning Map which is submitted to the City Clerk at least twenty-four (24) hours prior to the City Council's vote on a proposed amendment to the Official Zoning Map, and which is signed by the owners of fifty (50) percent or more of either the area included in the proposed rezoning or of the land extending a radius of two hundred and fifty (250) feet from the land included in the proposed rezoning, then such rezoning shall not become effective except upon a favorable vote of three fourths (3/4) of the entire membership of the City Council, whether present or not.

- D. Additional Requirements. In addition to the procedures for public hearings under Section 17.05.070, if the zoning amendment is approved by the City Council, it shall enact an ordinance to such effect and the amendment to the Official Zoning Map shall become effective thirty (30) days after publication of said ordinance.

17.13.070 AMENDMENT TO THE LAND USE CODE.

- A. Applicability and Procedures. City Council may, after the recommendation of the Planning Commission, amend language in this Title, which amendment may be initiated by any citizen or group of citizens, firm or corporation residing or owning property within the city, or by the Planning Commission, or by the City Council.
- B. Approval Criteria. Amendment to this Title may be made upon a finding that the amendment is consistent with the city's goals, policies and Master Plan.

17.13.080 VACATION OF PUBLIC RIGHT-OF-WAY.

- A. The City Council may approve the vacation of a public right-of-way, after recommendation by the Planning Commission, upon finding that the vacation will not:
1. Create any landlocked parcels;
 2. Negatively impact adjacent properties;
 3. Reduce the quality of public services to any parcel of land; and
 3. Be inconsistent with the City's Master Plan.
- B. A right-of-way vacation may be approved through the Major Subdivision platting process as long as the above criteria are met in addition to the following:
1. The right-of-way to be vacated was previously dedicated to the public;
 2. The right-of-way to be vacated is entirely within the plat being created; and
 4. Existing and proposed utilities are accommodated with sufficient easements.

17.13.090 VACATION OF PUBLIC EASEMENT. The City Council may approve the vacation of a public easement, after recommendation from the Planning Commission, upon finding that there is no longer a public interest in retaining said easement and no utility provider objects to the easement vacation.