

## CHAPTER 21.44 DECISION CRITERIA

### SECTIONS:

- 21.44.010 **Purpose.**
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**21.44.010 Purpose.** The purposes of this chapter are to allow for consistent evaluation of land use applications and to protect nearby properties from the possible effects of such requests by:

- (1) Providing clear criteria on which to base a decision;
- (2) Recognizing the effects of unique circumstances upon the development potential of a property;
- (3) Avoiding the granting of special privileges;
- (4) Avoiding development which may be unnecessarily detrimental to neighboring properties;
- (5) Requiring that the design, scope and intensity of development is in keeping with the physical aspects of a site and adopted land use policies for the area; and
- (6) Providing criteria which emphasize protection of the general character of neighborhoods.

**21.44.020 (Reserved).**

**21.44.030 Temporary use permit.** A temporary use permit shall be granted by the City, only if the applicant demonstrates that:

- (1) The proposed temporary use will not be materially detrimental to the public welfare;
- (2) The proposed temporary use is compatible with existing land use in the immediate vicinity in terms of noise and hours of operation;
- (3) Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner; and
- (4) The proposed temporary use is not otherwise permitted in the zone in which it is proposed.

**21.44.040 Variance.** A variance shall be granted by the City, only if the applicant demonstrates all of the following:

- (1) The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
- (2) The variance is necessary because of the unique size, shape, topography, or location of the subject property;
- (3) The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;
- (4) The need for the variance is not the result of deliberate actions of the applicant or property owner;
- (5) The variance does not create health and safety hazards;
- (6) The variance does not relieve an applicant from any of the procedural provisions of this title;
- (7) The variance does not relieve an applicant from any standard or provision that specifically states that no variance from such standard or provision is permitted;
- (8) The variance does not allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located;
- (9) The variance does not allow the creation of lots or densities that exceed the base residential density for the zone;
- (10) The variance is the minimum necessary to grant relief to the applicant;
- (11) The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities; and
- (12) The variance does not relieve an applicant from any provisions of WMC 21.24 Critical Areas, except for the required buffer widths set forth in WMC 21.24.310, 21.24.330, or 21.24.380.

**21.44.050 Conditional use permit.** A conditional use permit shall be granted by the City, only if the applicant demonstrates that:

- (1) The conditional use is designed in a manner, which is compatible with the character and appearance of the existing or proposed development in the vicinity of the subject property;
- (2) The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
- (3) The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
- (4) Requested modifications to standards are limited to those, which will mitigate impacts in a manner equal to or greater than the standards of this title;
- (5) The conditional use is not in conflict with the health and safety of the community;
- (6) The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and

- (7) The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.

**21.44.060 Special use permit.**

- A. A special use permit for essential public facilities shall be granted, or, if applicable, conditionally granted, by the City provided that:
  - (1) The applicant can demonstrate that:
    - (a) The characteristics of the special use will not be unreasonably incompatible with the types of uses permitted in surrounding areas;
    - (b) The special use will not materially endanger the health, safety and welfare of the community;
    - (c) The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
    - (d) The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts;
    - (e) The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties;
    - (f) The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title;
    - (g) Where applicable, the special use meets the requirements of the Comprehensive Plan regarding the siting process for essential public facilities; and
  - (2) Subject to public notice requirements of WMC Title 17, the Hearing Examiner shall make a threshold determination on whether the proposal presents siting difficulties, and shall consider public comments in making that determination.
- B. With respect to essential public facilities, the provisions and decisional criteria of Chapter 21.25 WMC shall supersede the provisions of this section to the extent of any conflict or inconsistency

- 21.44.070 Zone reclassification.** A zone reclassification shall be granted only if the applicant demonstrates that the proposal is consistent with the Comprehensive Plan and applicable functional plans at the time the application for such zone reclassification is submitted, and complies with the following criteria:
- (1) There is a demonstrated need for additional zoning of the type proposed;
  - (2) The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties; and,
  - (3) The property is practically and physically suited for the uses allowed in the proposed zone reclassification. (Ordinance, 175 § 1, 1997)

- 21.44.080 Home occupation permit.** A home occupation permit shall be granted by the City only if the applicant demonstrates that the home occupation will be conducted in compliance with the provisions of WMC 21.30.040.
- 21.44.090 Home industry permit.** A home industry permit shall be granted by the City only if the applicant demonstrates that the home industry will be conducted in compliance with the provisions of WMC 21.30.050.