

ORDINANCE NO. 1219

THE CITY OF WOODLAND, WASHINGTON

AN ORDINANCE AMENDING WMC 17.81.020 TO DEFINE MAJOR AND MINOR VARIANCES, CLARIFY APPROVAL AND APPEAL AUTHORITY FOR MINOR VARIANCES AND MINOR MODIFICATIONS TO APPROVED CONDITIONAL USES, AND TO ESTABLISH REVIEW CRITERIA FOR MINOR VARIANCES AND MINOR MODIFICATIONS TO APPROVED CONDITIONAL USES AND AUTHORIZE PUBLICATION OF SUMMARY.

WHEREAS, pursuant to RCW 35A.11.020 and the Constitution of the State of Washington, Article 11, Section 11, cities have the power to enact regulations in the interest of the health, safety and welfare of their residents;

WHEREAS, all procedural requirements of the Woodland Municipal Code (WMC) for these amendments have been met;

NOW THEREFORE, be it hereby ordained by the City Council of the City of Woodland as follows:

WMC 17.81.020 Creation of land use hearing examiner.

The office of Woodland municipal land use hearing examiner, hereinafter referred to as "examiner," is created. The examiner shall interpret, review, and implement land use regulations and policies as provided in this chapter or by other ordinances of the city, including but not limited to the following:

A. Conditional Uses per Chapter 17.72. Applications for conditional uses when the zoning ordinance sets forth the specific uses to be made subject to conditional use permits.

B. Major Variances. A major variance shall be defined as a variance to a measurable zoning standard which does not fall under a category of minor variances as outlined in WMC 17.81.180.A. The examiner shall decide upon application for major variances from the terms of this title; provided that any variance granted shall be subject to such conditions as will assume that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and:

1. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to other properties in the vicinity and in the same zone in which the subject property is located; and

2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;
3. If such permit for variance is denied, no reapplication shall be made within one year from the date of denial;
4. An approved variance will go with or be assigned to the subject property and shall not be transferable to another property;
5. No use variance shall be granted except for lawfully created pre-existing uses in accordance with WMC 17.60.

C. Violations. Recognizing the fact that a building may be erected in good faith with every intent to comply with the provisions of this title in respect to the location of the building upon the lots and the size and location of required yards, and that it may later be determined that such building does not comply in every detail with such requirements, although not violating the spirit or intent of this title, the examiner may issue a waiver of violation, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

D. All appeals regarding SEPA matters, shoreline exemptions and supplemental environmental impact statements.

E. Issuance of replats, plat vacations, shoreline development permits, shoreline conditional use permits and shoreline variances. See also Section 19.08.030 describing decision making and appeal authority of the hearing examiner.

F. Appeals regarding written administrative decisions concerning a land use or environmental permit application as outlined in WMC 19.08.030 or written interpretations of a provision of the Woodland Municipal Code (WMC) issued by the Development Review Committee (DRC) or Public Works Director.

17.81.180 Minor variances or minor modifications to approved conditional uses or administrative conditional uses – Review and Appeal Authority.

A. The following variances shall be deemed minor in nature and may be approved, approved with conditions, or denied by the Development Review Committee (DRC) without a public hearing based on the approval criteria outlined in WMC 17.81.180.B and in accordance with the notice requirements outlined in WMC 17.81.200:

1. A reduction in lot area, setbacks, lot dimensions; and, an increase in lot coverage and building height, all by not more than thirty percent of that required by the applicable standard of the zoning district in which the proposal is located;

2. Any reduction in a side or rear yard setback below the minimum setback required by the applicable standard in the Light Industrial (I-1) or Heavy Industrial (I-2) zoning district; or

3. The modification of pre-existing nonconforming structures housing permitted uses, to the extent that the modification will not cause a greater infringement than exists of any standard of the zoning district in which the proposal is located.

B. Approval criteria for minor variances

1. No variance shall be approved by the DRC which will allow an increase in the number of dwelling units on a parcel greater than that permitted by the applicable zoning district, or which will permit the reduction in area of any lot created after the adoption of the ordinance codified in this chapter;

2. All major variance criteria outlined in WMC 17.81.020.B shall be met, except where a variance is proposed to side or rear setback standards applicable to the Light Industrial (I-1) or Heavy Industrial (I-2) zoning districts. In these cases, the DRC shall consider criteria 2-5 outlined in WMC 17.81.020.B. The DRC shall also consider whether or not the requested minor variance is necessary due to the unique physical characteristic of the existing site configuration, building, and/or use and consistent with the intent of applicable standard to which the minor variance is sought.

C. The following modifications to approved conditional uses or administrative conditional uses shall be deemed minor in nature and may be approved , approved with conditions, or denied by the DRC without a public hearing based on the approval criteria outlined in WMC 17.81.180.D and in accordance with the notice requirements outlined in WMC 17.81.200:

1. Construction of accessory buildings which will not alter or affect the permitted conditional use of the property.

D. Approval criteria for minor modifications to approved conditional uses or administrative conditional uses

1. No minor modifications to an approved conditional use or administrative conditional use shall be approved by the DRC which will allow an increase in the number of dwelling units on a parcel greater than that permitted by the applicable zoning district, or which will permit the reduction in area of any lot created after the adoption of the ordinance codified in this chapter; and

2. Granting of the proposed minor modification to the approved conditional use or administrative conditional uses is consistent with the applicable zoning district requirements, and will not be materially detrimental to the public welfare or injurious

to the property or improvements in the vicinity and zone in which the subject property is situated.

E. The DRC may solicit advice from the Planning Commission as part of a public meeting and/or qualified professionals without a public meeting, to help determine whether the proposed minor variance or minor modification to the approved conditional use or administrative conditional use meets the approval criteria.

F. The DRC shall develop a written decision including the DRC's response to each applicable approval criteria concerning minor variances outlined in WMC17.81.180.B or concerning minor modifications to approved conditional uses or administrative conditional uses outlined in WMC 17.81.180.D.

G. The DRC's decisions concerning minor variances or minor modifications to approved conditional uses or administrative conditional uses can be appealed to the Planning Commission within ten days from the date the DRC's written decision is issued. The Planning Commission shall review such appeals at an open record public hearing in accordance with the notice requirements outlined in WMC 19.06.070 and .080 and render decisions based on the applicable review criteria outlined in WMC17.81.180.B or WMC 17.81.180.D, the intents of applicable standards, and applicable provisions in the Woodland Comprehensive Plan.

17.81.190 Minor variances or minor modifications to approved conditional uses or administrative conditional uses --Procedure.

A. Valid Applicant. The proper owner, or the owner's authorized agent, or a non-owner resident may file an application for a minor variance or minor modification to an approved conditional use or administrative conditional use. Where the applicant is a non-owner resident, the owner or owner's agent shall co-sign the application.

B. An application for a minor variance or minor modification to an approved conditional use or administrative conditional use shall be accompanied by the following:

1. A site plan of the property involved that is to scale showing all property lines, existing and proposed structures and off-street parking;
2. In the case of a variance from the height limitations, front and side or longitudinal cross-sections of the proposed structure(s) showing grade and building elevations;
3. A filing fee as determined by the city council;
4. The applicant's response to each applicable approval criteria outlined in WMC 17.81.180.B or WMC 17.81.180.D; and
5. Other information as determined by the DRC that is necessary to demonstrate the proposed minor variance or minor modification to the approved conditional use or

administrative conditional use permit meets the approval criteria and other applicable standards in the Woodland Municipal Code and policies and goals in the Comprehensive Plan.

17.81.200 Minor variances or minor modifications to approved conditional uses or administrative conditional uses --Notification.

Upon receipt of a valid application, the city clerk-treasurer or designee shall notify in writing the applicant, the owner of record of the subject property, the Planning Commission, and the owners of record of all properties located within three hundred feet that the requested minor variance or minor modification to an approved conditional use or administrative conditional use is being reviewed and approved, approved with conditions, or denied by the DRC based on the applicable approval criteria. The City shall mail such notices at least fourteen days prior to the date the DRC makes the final decision on the proposal. Such notices shall provide a fourteen-day public comment period. Not later than five days following the rendering of the DRC's written decision, copies thereof shall be mailed to the applicant, the owner of record of the subject property, and those who have submitted to the City a non-anonymous written comment during the fourteen-day comment period.

CHAPTER 19.08 – APPROVAL, REVIEW AND APPEAL AUTHORITY

19.06.040 - Administrative approvals.

Administrative decisions regarding the approval or denial of the following applications or determinations/interpretations may be appealed to the hearing examiner within fourteen days of the final staff decision as set forth in WMC 15.04.225 (Refer to WMC 19.08.030 for other appeal authorities):

- A. All administrative interpretations/determination;
- B. Boundary line adjustments;
- C. Building permits;
- D. Preliminary short plats;
- E. Preliminary SEPA threshold determination (EIS required);
- F. Shoreline exemptions and staff-level substantial development permits;
- G. Sign permits;
- H. Temporary uses, administrative;
- I. Conditional uses, administrative

19.08.010 – Approval and appeal authorities.

The project review process for an application or a permit may include review and approval by one or more of the following processes:

Department Staff. Individual staff as assigned by the director shall have the authority to review and approve, deny, modify, or conditionally approve, among others, boundary line adjustments, administrative temporary and conditional use permits, building permits and other construction permits exempt from the State Environmental Policy Act, environmental determinations, review (including reviews of undersized lots of record) short plats, sign permits, certificates of occupancy, and shoreline exemptions, and to provide interpretations of codes and regulations applicable to such projects.

(Ord. 983 § 2, 2003; Ord. 817 § 4 (part), 1996)

19.08.020 – Consolidation of appeals/completion of process.

A. Any development which includes a request for one or more variances shall be considered by the planning commission concurrently with the plat or plan to which it applies.

B. When a public hearing is required in conjunction with a project permit, the recommending authority shall issue its recommendation in sufficient time for the hearing examiner to issue a notice of final decision within one hundred twenty days of the date of the complete application.

C. In the event RCW 43.21C.075 or other state law shall now or in the future require the city to consolidate appeals of procedural determinations made under SEPA with any appeal of the underlying governmental action, both shall be consolidated in one open record hearing before the hearing examiner. Subsequent appeals of the consolidated open record hearing shall be governed by the city's SEPA appeals process as set forth in Section 19.08.030 of this chapter.

(Ord. 1087 § 1, 2006; Ord. 817 § 4 (part), 1996)

19.08.030 – Review and appeal authority.

The following table describes development permits and the final decision and appeal authorities. When separate applications are consolidated at the applicant's request, the final decision shall be rendered by the highest authority designated for any part of the consolidated application.

Council decisions may be appealed to superior court except comprehensive plan decisions which may be appealed to the State Growth Management Hearings Board and final shoreline permit actions which may be appealed to the shoreline hearings board.

Key:	R	=	Recommendation to Higher Review Authority			D	=	Decision
	OP	=	Open Record Predetermination Hearing			SR	=	Staff Recommendation
	OPX	=	Optional Open Record Hearing			A	=	Appeal Decision
	C	=	Closed Record Appeal Hearing					
			NOT SUBJECT TO RCW 36.70B	PUBLIC WORKS DEPARTMENT STAFF	DEVELOPMENT REVIEW COMMITTEE	HEARING EXAMINER	PLANNING COMMISSION	CITY COUNCIL
ZONING								
ADMIN. CONDITIONAL USE PERMITS				D		A (OPX)		
CONDITIONAL USE PERMITS					R	D (OP)		A (C)
TEMPORARY USE PERMITS				D		A (OPX)		
MAJOR VARIANCE					R	D (OP)		A (C)
MINOR VARIANCE				D			A(OP)	
SITE SPECIFIC ZONE CHANGES					SR		R (OP)	D (C)
ZONING TEXT AMEND (DEV. REG. CHANGES)					SR		R (OP)	D (OPX)
AREA WIDE MAP AMEND								D (OPX)
COMPREHENSIVE PLAN								
C.P. TEXT AMENDMENT					SR		R (OP)	D (OPX)

C.P. MAP AMENDMENT			SR		R (OP)	D (OPX)
LAND DIVISION						
RE-PLAT		R		D (OP)		A (C)
PLAT VACATION		R		D (OP)		A (C)
BOUNDARY LINE ADJUSTMENT		D				A (OP)
PRELIMINARY PLAT			SR		R (OP)	D (C)
SHORT PLAT		D				A (C)
FINAL PLAT			SR		R	D
PLANNED UNIT RESIDENTIAL DEVELOPMENT			SR		R (OP)	D (C)
BINDING SITE PLAN		D				A (C)
PLAT TIME EXTENSION			SR			D (C)
ENVIRONMENTAL						
CRITICAL AREAS PLAN		D		A (OP)		
SEPA DET.						
1. DNS		D		A (OP)		
2. MDNS		D		A (OP)		
3. DS/EIS		D		A (OP)		
4. SUPPLEMENTAL		D		A (OP)		

SHORELINES						
SUB. DEV. PERMIT			SR	D (OP)		
CONDITIONAL USE PERMIT			SR	D (OP)		
VARIANCE			SR	D (OP)		
EXEMPT		D		A (OP)		
SITE PLAN REVIEW						
COMMERCIAL			D		A (OP)	A (C)
INDUSTRIAL			D		A (OP)	A (C)
MULTI FAMILY			D		A (OP)	A (C)
M/H PARK			D		A (OP)	A (C)
OTHER						
BLDG. PERMIT W/SEPA		#		A (OP)*		

Decision made by Building Official

* If appeal includes SEPA matters

(Ord. 983 § 2, 2003: Ord. 817 § 4 (part), 1996)

19.08.040 – Conflicts.

In the event of conflicts between the procedural requirements of this title and other development regulations of the city, the provisions of this title shall control.

Chapter 17.46 - HEAVY INDUSTRIAL DISTRICT (I-2)

17.46.128 - Variance from requirements.

Whenever there are difficulties that result from physical peculiarities of the property which make it difficult to implement these standards, the hearing examiner or Development Review Committee shall have the authority to grant a variance from strict compliance with specific standards or requirements. The hearing examiner shall review

applications for major variances at an open record public hearing in accordance with the procedure outlined in WMC Chapter 17.81 and render decisions based on the criteria outlined in WMC Section 17.81.020(B) and provisions in the Woodland Comprehensive Plan. The DRC shall review applications for minor variances based on approval criteria outlined in WMC 17.81.180(B) and provisions in the Woodland Comprehensive Plan. Any such deviation so granted shall be specifically identified in the approved site plan and landscaping plan.

Chapter 17.44 - LIGHT INDUSTRIAL DISTRICT (I-1)

17.44.138 - Variance from requirements.

Whenever there are difficulties that result from physical peculiarities of the property which make it difficult to implement these standards, the hearing examiner or Development Review Committee shall have the authority to grant a variance from strict compliance with specific standards or requirements. The hearing examiner shall review applications for major variances at an open record public hearing in accordance with the procedure outlined in WMC Chapter 17.81 and render decisions based on the criteria outlined in WMC Section 17.81.020(B) and provisions in the Woodland Comprehensive Plan. The DRC shall review applications for minor variances based on approval criteria outlined in WMC 17.81.180(B) and provisions in the Woodland Comprehensive Plan. Any such deviation so granted shall be specifically identified in the approved site plan and landscaping plan.

If any section, sentence, clause or phrase of this Ordinance shall be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

A Summary of this Ordinance shall be published.

This ordinance shall be in full force and effect five days after publication as required by law.

Adopted in an open public meeting this 6th day of February, 2012.

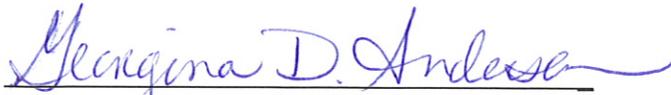
CITY OF WOODLAND, WA

Approved:



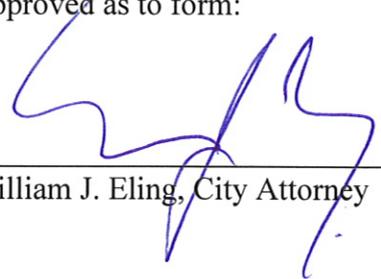
Grover B. Laseke, Mayor

Attest:



Georgina D. Anderson, Deputy Clerk-Treasurer

Approved as to form:



William J. Eling, City Attorney

**SUMMARY OF ORDINANCE NO. 1219
OF THE CITY OF WOODLAND, WASHINGTON**

On February 6, 2012 the City Council of the City of Woodland, Washington, approved Ordinance No. 1219 the main point of which may be summarized by its title as follows:

AN ORDINANCE AMENDING WMC 17.81.020 TO DEFINE MAJOR AND MINOR VARIANCES, CLARIFY APPROVAL AND APPEAL AUTHORITY FOR MINOR VARIANCES AND MINOR MODIFICATIONS TO APPROVED CONDITIONAL USES, AND TO ESTABLISH REVIEW CRITERIA FOR MINOR VARIANCES AND MINOR MODIFICATIONS TO APPROVED CONDITIONAL USES.

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their regular meeting of February 6, 2012.


Georgina D. Anderson, Deputy Clerk-Treasurer

Published: February 15, 2012
Effective: February 20, 2012