

## Chapter 17.44 ADMINISTRATION AND ENFORCEMENT

### 17.44.010 Provisions of title control.

In interpreting and applying the provisions of this title, said provisions shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare; therefore, when this title imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger open spaces than are imposed or required by other laws, ordinances, rules or regulations, the provisions of this title shall control.

(Ord. No. 527, § 1, 6-14-2022)

### 17.44.015 Planning director/administrator—Powers and duties.

Unless another administrator is specified elsewhere in the Code, the planning director shall be responsible for the following:

- A. Establishing general procedures and preparing forms and applications for the administration of all building and land use permit decisions, including:
  - 1. Reviewing all applications made under this title, ~~and Title 14,~~ Title 15, Title 16, and/or Title 18, as applicable, for compliance with this Code, including completeness, and notifying applicants of any noncompliance;
  - 2. Issuing permits for activities consistent with this title, as provided in Title 14;
  - 3. Investigating and ruling on certain applications as provided by this Code;
  - 4. Investigating applications for conditional uses, variances or nonconforming use or structure variances;
  - 5. Maintaining an interested person list for each application; and
- B. Determining whether proposed or ongoing activities violate Titles 14, 15, 16, 17, or 18.

Related duties include:

- 1. Making administrative decisions, exceptions, and interpretations of the policies and regulations of this Code as provided in Chapter 14.12 Land Use Permit Review and Chapter 17.38 General Provisions;
  - 2. Making field inspections where necessary or deemed advisable or requested by the hearing examiner, planning commission or city council;
  - 3. Determining whether a use is prohibited under this title, and if not prohibited, the appropriate permit procedure applicable for that use;
  - 4. Determining violations of this title, or of any permits issued hereunder, and seeking a remedy for such violation, including enforcement under this chapter; and
- C. Assisting the city council in the effective administration and amendment of Titles 14, 15, 16, 17, and 18, including:

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1. Providing technical and administrative assistance to the planning commission, hearing examiner, and the city council as required for effective and equitable implementation of this title; and
  2. Investigating, developing, and proposing amendments to this title as deemed necessary to more effectively and equitably achieve its goals and policies, including amendment of the zoning code, critical areas ordinance, and an updated comprehensive plan.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.020 Planning Commission—Powers and duties.**

- A. With the exception of actions requiring legislative authority pursuant to Sections 17.44.020(B) and 17.44.030 or that are otherwise delegated to the hearing examiner, the planning commission shall review and make recommendation to the city council regarding applications filed ~~under this title~~, as outlined in Chapter 14.12 with the classification and review process as defined in Section 14.12.025, Applications / Project Classification Types and Review Process, and where necessary, will conduct open public record hearings to do so.
- B. The planning commission is charged with periodic review of the city's comprehensive plan, critical areas ordinance, and this title and uses and permits developed hereunder, to determine if the provisions hereof meet the goals and policies of the city comprehensive plan, and with recommending necessary amendments hereto and conducting open record public hearings thereon.
- C. The planning commission shall function as the long-range planning body of the city and may instigate action on its own accord when it deems it necessary to meet the goals and policies of the city's planning documents or to make necessary changes thereto. The planning commission shall also process and review citizen proposals to amend this Code in accordance with Chapter 14.12.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.025 Hearing examiner—Administrative review.**

A hearing examiner shall have the authority granted by Chapter 2.56, Chapter 14.12, and this title to review recommendations and/or decisions as set forth herein.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.030 City council—Powers and duties.**

The city council shall have the following powers and duties under this title:

- A. Making final decisions, subject to judicial review, on applications for amendment of this title, Title 14, Title 15, Title 16, and/or Title 18; and
- B. Initiating amendments to this title on its own initiative, and making final decisions thereon after any applicable hearing, review and recommendation; and
- C. Requiring an applicant for a permit hereunder to post a bond as authorized by this title in an amount determined by them and running to the city.
- D. Unless otherwise provided, hearing appeals from recommendations and/or decisions of the planning director, planning commission or hearing examiner, as outlined in Chapter 14.12 with the classification and review process as defined in Section 14.12.025, Applications / Project Classification Types and Review Process.

(Supp. No. 21)

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With the exception of project permits where the appeal process is outlined in Section 14.12.025, Any interested person or administrative officer of the city may appeal to the city council from any ruling of the planning commission pertaining to an administrative interpretation when such ruling is adverse to his/her interest, by filing with the City Clerk within twenty-one (21) days from such ruling a written notice of appeal. Thereupon the chair of the planning commission shall forthwith transmit to the city council all papers constituting the record upon which the action appealed from was taken, and in addition thereto, the city council may, at its hearing, receive such further evidence as seems to be relevant. Upon due and public hearing, the city council shall have power to overrule or alter any such ruling of the planning commission pertaining to an administrative interpretation so applied for.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.040 Permit required for erection or alteration.**

- A. No person, company or corporation shall erect a building or structure of any kind, or alter any building or structure already erected when said alteration is made for the purpose of changing the use or purpose of occupancy, or institute or change a property use, without first obtaining a permit, in writing, from the city. Any permit shall expire at the end of one year after issuance unless the permittee has completed the structure or structures or instituted the use authorized by said permit, which shall conclude the permit, or obtained an extension in accordance with Title 15.
- B. Unless otherwise specified in this title or in Titles 14, 15, 16, or 18, all land use activity that is authorized via approved application and/or permit, shall expire three (3) years from the date the final decision is rendered or the date the permit is issued, as applicable.
1. The applicant may apply for a 180-day extension request to be reviewed by the planning director / city planner if submitted prior to the expiration date. Some progress must have been made on the project or construction is being actively pursued, in order for an extension request to be considered by the planning director / city planner. The provisions of this section shall not apply to one-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed one hundred twenty (120) square feet.
- C. The city council shall set by resolution, fees for structural moving applications and the following permits: building, change of use, demolition, fence, manufactured home, mechanical, and plumbing permits as described in 15.04.015, subsection B.
- D. Refer to Section 15.04.020(F)(1) for permit exemptions.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.050 Site plan to accompany application for building permit or change of use.**

All applications for building permits or change of use, or other applications/projects as determined by the planning director / city planner, shall be accompanied by a site plan, in triplicate, drawn to scale, showing the actual dimensions of the lot to be built upon or on which a change of use is desired, also the size, the use and location of existing buildings and buildings to be erected, underground utilities, driveway and other site improvements, and such other information required by the permit instructions or the planning department as may be necessary to provide for the enforcement of this title.

- A. Interior alterations are exempt from site plan review when they are consistent with the exemptions provided in RCW 36.70B.140, provided that the interior alterations do not result in the following:

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1. Additional sleeping quarters or bedrooms;
  2. Nonconformity with federal emergency management agency substantial improvement thresholds; or
  3. Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

B. Application. The following material or information is required to be submitted for development subject to site plan review:

1. A complete application for site plan review on forms furnished by the City.
2. Project description.
3. Site plan, drawn to scale and showing location and size of all uses and structures, critical areas, buffers, area of disturbance, setbacks, landscaping, parking, easements, and utilities.
  - a. A topographic map based on a site survey prepared by a licensed surveyor in the state of Washington may be required for project sites slopes of 10% or greater. The site survey shall include existing and proposed contours at no less than five-foot intervals and shall identify any critical areas.
4. Circulation plan illustrating all access points for the site, size and location of all driveways or drive aisles, turning radii, and proposed pedestrian circulation system.
5. A complete SEPA environmental checklist, when required.
6. Public notification submittals, when required by Title 14.

C. Criteria of Approval. Site plan review shall be processed in accordance with Chapter 14.12 and shall only be approved when the planning director / city planner determines the site is compliance with city code.

D. Duration of Permit Approval. An approved site plan shall expire three (3) years from the date of permit issuance, unless the site plan approval is appealed in accordance with Chapter 14.12, in which case the permit shall expire three years following the date of the decision on the appeal.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.055 Addressing Standards**

A. Purpose.

1. The purpose of this section is to establish a uniform method for naming streets and assigning street addresses for real property and structures within the city, consistent with the regional addressing standards for Spokane County.

B. The goals of Section 17.44.055 are as follows:

1. Facilitate expedient emergency response by medical, law enforcement, fire, rescue, and any other emergency services.
2. Regulate the display of property address numbers and provide for accurate street name signage, installation, and maintenance thereof.

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3. Provide property owners, the general public, emergency responders, and government agencies and departments with an accurate and systematic means of identifying and locating property and/or structures.

C. Applicability.

1. This section applies to addresses for real property and structures situated within the city. The city may name or rename streets pursuant to the adopted Millwood street standards, and assign or reassign addresses as necessary to further the purposes of this section.
2. These provisions shall apply to the assignment of addresses to all new buildings or properties.
3. All nonconforming addresses may be changed to conform to the standards set forth in 17.44.055.

D. Administration.

The planning director / city planner shall administer the provisions of 17.44.055, except as otherwise provided for herein. The city will coordinate with Spokane Valley Fire or the fire district serving the subject area to be addressed.

E. The City shall participate in the use of the regional addressing grid system described in this subsection:

1. Sprague Avenue divides the region into north and south addresses.
  - a. No part of the City of Millwood is located south of Sprague Avenue (Spokane Valley).
  - b. All directional designations are referenced as north for City of Millwood.
2. Division Street divides the east and west addresses.
  - a. No part of the City of Millwood is located west of Division Street (Spokane).
  - b. All directional designations are referenced as east for City of Millwood.
3. On streets running north and south:
  - a. Addresses shall have even numbers on the east side of the street; and
  - b. Addresses shall have odd numbers on the west side of the street.
4. On streets running east and west:
  - a. Addresses shall have even numbers on the south side of the street; and
  - b. Addresses shall have odd numbers on the north side of the street.
5. The appropriate directional designation or abbreviation (e.g., "North" or "N.") is part of the address and follows the number. For example, a lot on the east side of a street named "City Street" would have a street address of "10 N. City Street" with the number consistent with the surrounding address grid.

F. Addressing standards.

1. Each property owner who has addressable property within the city and has not been assigned an address has a responsibility to apply to the city for a physical address for that property.
2. Application for each address assignment prior to the issuance of a building permit (temporary addresses) shall include, at a minimum, a site map showing any proposed or existing structures, driveways, and approach locations.

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3. The numbering of addressable properties or structures along each street shall begin at the appropriate grid point of origin and continue in sequence. No address along a street shall be out of sequence in relation to the adjacent addresses.
  4. Each block along a street may have up to 100 address numbers. The hundred series shall change upon crossing a street intersection or in the best possible alignment with the established address grid if applicable, with the exception of intersecting driveways and/or alleys. The hundred series along a public street shall not change upon crossing a private street unless deemed necessary by the planning director / city planner for continuity of address sequencing.
  5. Private streets wholly contained within plats shall be assigned the hundred series as if they were public streets. Except for loops and circles, two uniquely named streets may not intersect more than once (e.g., Main Ave. should not intersect Cherry Lane at 201 E. Main Ave. and also intersect Cherry Lane at 401 E. Main Ave.). Loops and circles shall be reviewed on an individual basis and require approval by the planning director / city planner.
  6. Addresses along a street shall have even numbers on one side of the street and odd numbers on the other side of the street pursuant to 17.44.055, as now adopted or hereafter amended.
  7. Individual address numbers shall be assigned to fit within the block range of the street segment to which the address is assigned (e.g., a new address that is assigned to the 9000 block of E. Frederick Ave. shall be assigned a number between 9001 and 9099). Individual addresses shall be assigned to be consistent with adjacent blocks of the same north-south or east-west orientation.
  8. Addresses accessed via a shared driveway shall be assigned based on the point of origin of the driveway from the connecting street and shall be sequential.
  9. Addressable property or structures shall be assigned based upon the street from which primary vehicular access to the property or structure is obtained, with the following exceptions as determined by the planning director / city planner:
    - a. Commercial and public facility structures may be assigned an address based upon the street the main entrance faces and not necessarily the access street.
    - b. Residential structures on corner lots may be assigned an address based upon the street the main entrance faces and not necessarily the access street.
  10. Fractional addresses shall not be used (e.g., no "101 1/2 E. Main Ave.").
  11. Address numbers shall not contain any nonnumeric characters (e.g., no "118a").
  12. Addresses on individual parcels in the city of Millwood shall comply with the following:
    - a. The street number shall be four or five numbers.
    - b. No address shall have two or more zeros in a row at end of address unless referencing the location of a utility or communication facility.

G. Change in street or address status.

If a public or private street is altered, the planning director / city planner shall review the alteration and may assign a corrected street name and/or address pursuant to this section. If the access to an individual address is altered, the planning director / city planner shall assign a corrected address pursuant to this section (e.g., the owners of 201 E. Cherry Lane change the location of their access from Cherry Lane to Houk Lane necessitating an address on Houk Lane)

H. Multiple units.

1. Duplex units shall be assigned a separate and unique address for each unit.

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2. Accessory dwelling units (ADUs) shall be assigned a unit designation with reference to the same address as the primary dwelling and shall follow the addressing standards in this section (e.g. primary residence is 101 E. Main Ave, Unit A, ADU #1 is 101 E. Main, Unit B, and ADU #2 is 101 E. Main, Unit C).
  3. Manufactured home parks which contain dwelling units fronting on a public or private street(s) shall be assigned one address for each dwelling unit. Manufactured home parks which contain dwelling units fronting on an unnamed private access street(s) shall be assigned one address for the entire property, and a secondary address assigned for individual spaces by the manufactured home park owner subject to approval by the planning director / city planner (e.g., "10201 E. Trent Ave., Space 1").
  4. Multiple unit complexes shall be assigned one address for the property based upon the street from which vehicular access to the structure is obtained, except as otherwise provided herein. If necessary, the planning director / city planner may assign an address based upon the street the main entrance faces (e.g., "3012 N. Fowler Rd, Space 10"). If additional parcels are added to an existing development, and access is taken through the existing development, a "0 Address Unknown" will be assigned to the new parcel to aid in emergency response.
  5. Structures within multiple unit complexes shall be assigned a building designator for each structure, as opposed to a unique address (e.g., "123 E. Main Ave., Building A"), unless an exception is granted by the planning director / city planner. The building designators shall be generally arranged in a counterclockwise rotation from the point of entry.
  6. When secondary addresses are assigned to multiple unit structures with individual building designations, the unit designator shall include the building designation (e.g., "123 E. Main Ave., Apartment A200" or "123 E. Main Ave., Building A, Apartment 200").
  7. When secondary addresses are assigned to buildings with multiple floors, all above-ground units shall be assigned a three-digit number (or higher) where the beginning number shall represent the floor upon which the unit is located (e.g., first-floor units would be assigned three-digit numbers beginning with 1, "Apartment 101"; tenth-floor units would be assigned four-digit numbers beginning with 10, "Apartment 1001").
  8. Units within below-grade stories shall include the alphabetical characters "LL" to indicate lower level, and then be assigned a three-digit number where the beginning number shall represent the floor upon which the unit is located (e.g., all units in the first level below grade would be assigned three-digit numbers beginning with 1, "Apartment LL101"; units on the second level below grade would be assigned three-digit numbers beginning with 2, "Apartment LL201").
  9. If a remodel of a multiple-unit structure alters the number or configuration of units, the addresses of units within said structure shall be updated to remain in compliance with these standards.
  10. If a remodel of a single-unit structure creates a multiple-unit structure, the address units within said structure shall be updated to remain in compliance with this section.
  11. When secondary addresses are assigned to individual multifamily dwellings (including apartments and condominiums), the units shall use the unit designator for apartment (Apt) or unit (Unit).
  12. When secondary addresses are assigned to individual dwellings/spaces in manufactured home parks, the units shall use the unit designator for space (Spc).
  13. When secondary addresses are assigned to individual commercial suites or tenant spaces within a commercial structure(s), the units shall use the unit designator for suite (Ste).

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14. All other multiple-unit structures not previously described shall contain a unit designator which most closely identifies the unit's location and which is in accordance with current postal addressing standards.

I. Final plat / short plat / BSP addresses.

Temporary addresses assigned during the preliminary plat review shall be indicated on the final short plat, plat, or binding site plan drawings. The permanent physical addresses shall not be issued prior to recording the approved final short plat, plat, or binding site plan.

J. Display of address.

1. On currently existing structures, or hereafter erected, the owner of the property or structure shall conspicuously place the correct address pursuant to these standards. Addresses shall be displayed on all new and existing buildings. Letters, numbers, or symbols shall meet the following standards:
  - a. The posted address shall be metal or other durable material.
  - b. The numbering/lettering shall be at least four inches in height, and one-half inch in stroke width. In cases where conditions adversely affect the visibility and/or legibility of the numbers, additional numbers, larger numbers, or other modifications may be required in coordination with the city and Spokane Valley Fire or the fire district serving the subject area to be addressed.
  - c. The posted address shall contrast with its background.
  - d. The address shall be placed on the structure plainly legible and visible from the street on which vehicular access is provided to the property or structure.
  - e. Addresses shall be visible from all directions of travel.
2. Structures located in excess of 100 feet from the street fronting the property shall display the address on a sign, monument, or post not less than three feet or greater than seven feet above the ground and located at the entrance to the property from the nearest street. The structure shall display additional posting at the structure location.
3. If two or more addressable structures share a common primary access, and any one of the addressable structures is located more than 100 feet from the street designated in the assigned address, the addresses for each structure shall be posted at the intersection of the shared access and the named street on a sign or post not less than three feet or more than seven feet above the ground, and each structure shall display additional posting at the structure location.
4. Address numbers, signage, location, and sizing shall be maintained by the responsible property owner. Spokane Valley Fire / fire districts, in coordination with the city, may require modifications to these standards if deemed appropriate for fire and life safety.

K. List of established street names, assigned addressing, and mapping.

Public and private streets and addresses within the city shall be maintained in a publicly viewable database which may be part of a larger database for all or a portion of Spokane County. The City may participate in any regional committees, organization, or entity to maintain, manage, review, or have control over such database.

L. Deviations from literal compliance.

Applicants may request minor deviations from any requirement in 17.44.055. The applicant shall identify the requested deviation, including the basis for the request, to the city in writing. The planning director / city planner may grant minor deviations in instances where complete compliance would create an

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obvious practical problem, provided the deviation still adequately addresses the property for location by emergency service providers and to promote the other purposes of 17.44.055. The city may consult with Spokane Valley Fire/fire districts/other impacted agencies in approving deviations.

M. Definitions. Refer to Title 17, Appendix A.

### **17.44.060 Variance permits.**

In some cases, circumstances may exist such that the strict application of the provisions of the zoning code may cause practical difficulties regarding the use of a property. Following the demonstration by the property owner of circumstances outlined in Section 17.44.065, the property owner may be granted a variance from the provisions of the zoning code. No variance shall be granted which would permit the establishment of a use otherwise prohibited in the zone in which the property is located.

(Ord. No. 527, § 1, 6-14-2022)

### **17.44.065 Variance permit application process.**

- A. Variance—Application. Application shall be made in writing by the property owner or his or her agent to the planning director on the appropriate application forms available from the planning department. The variance permit application fee shall be set by resolution of the city council.
- B. Variance—~~Processing Public Hearing. A variance request shall be processed in accordance with Chapter 14.12 with the classification and review process as defined in MMC Section 14.12.025, Applications / Project Classification Types and Review Process. The city shall provide or shall cause public notice to be given by the applicant in accordance with adopted procedures in the MMC and shall include notice to city departments and affected agencies to provide opportunity for comments. A public hearing to consider a request for a variance permit shall be held pursuant to Chapter 14.12 and notice shall be given in accordance with Section 14.12.080(D).~~
- C. Variance Permit—~~Approval Granting by Hearing Examiner.~~ Applications for variances from the terms of the zoning ordinance, under procedures and conditions prescribed by this chapter and Chapter 14.12, shall be granted only if the ~~hearing examiner~~city finds:
  - 1. The variance 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
  - 2. The variance shall ensure that the intent and purpose of the zoning code is maintained with regard to location, site design, appearance, landscaping and other features of the proposal; and
  - 3. Such variance is necessary, because the strict application of the zoning code creates unnecessary hardship and practical difficulty due to special circumstances relating to size, shape, topography, location or surroundings of the subject property and the strict application of the zoning code is found to deprive the property of rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
  - 4. The granting of such variance will not be materially detrimental to the environment, public interest, general welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and
  - 5. The granting of the variance shall not be substantially based upon precedent established by illegal or nonconforming circumstances; and
  - 6. The variance shall not result in a de facto zone change.

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- D. All variance ~~permits approvals~~ shall ~~be signed by the mayor and shall~~ stipulate restrictions or conditions that safeguard and uphold the spirit and intent of the zoning ordinance and mitigate any adverse effect upon the neighborhood properties by reason of the variance allowed, as determined by the hearing examiner.
- E. ~~Variance Permit~~—Termination of Variance Permit. The planning director shall have at any time the right and duty to investigate any complaints concerning the use of any structure or property in accordance with the provisions covering variance permits, and in accordance with 17.44.160. Upon ~~his or her~~ the planning director's finding that the use or continued use of said premises is contrary to the provisions of this title establishing conditions for such use, then ~~he or she~~ the planning director, or designee, shall forthwith issue a cease and desist order prohibiting the use or continuance of use of said premises for said purpose and it shall be abated as a public nuisance. Any order of cease and desist issued by the planning director shall be appealable in writing to the planning commission for a period of twenty-one (21) days after the issuance of the order per the administrative appeal provisions in Chapter 14.12 and specifically 14.12.140.
- F. If not otherwise specified, any variance permit authorized shall terminate at the end of one year unless the authorized use has been established and is being actively maintained or unless construction is being actively pursued. Applicants may apply for a 180-day extension, as outlined in 17.44.040, subsection B(1).

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.070 Conditional use permit.**

- A. Uses referred to in this chapter as special permit uses or designated in this chapter as conditional uses shall be permitted, enlarged or altered upon approval ~~of the city council~~ by the city in accordance with the standards and procedures of this chapter and Chapter 14.12.
- B. In addition to any land uses that may now or hereafter be expressly identified as conditional, conditional uses are those which may be appropriate, desirable, convenient or necessary, but which by reason of their nature, including height or bulk or the creation of traffic hazards or parking problems may be injurious to the public health, safety, welfare, comfort and convenience unless appropriate conditions are imposed.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.080 Conditional use permit—Application.**

Application shall be made in writing by the property owner or his or her agent to the planning director on the appropriate application forms available from the planning department. The conditional use permit application fee shall be set by resolution of the city council.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.100 Conditional use permit—~~Public hearing~~Processing.**

A conditional use permit request shall be processed in accordance with Chapter 14.12 with the classification and review process as defined in MMC Section 14.12.025, Applications / Project Classification Types and Review Process. The city shall provide or shall cause public notice to be given by the applicant in accordance with adopted procedures in the MMC and shall include notice to city departments and affected agencies to provide opportunity for comments. An open record pre-decision public hearing to consider a request for a conditional use shall be held

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~~following procedures pursuant to Chapter 14.12 and notice shall be given in accordance with Subsection 14.12.080(D).~~

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.110 Conditional use permit—Review—Findings of fact—~~City council's decision.~~**

~~In accordance with Chapter 14.12, the hearing body/decision body After the open record pre-decision public hearing before the planning commission, the planning commission shall make written findings of fact based on the evidence presented to the planning commission for consideration. When the hearing body provides a recommendation to the decision body, Aa recommendation, together with a summary of the record and reasons for the recommendation shall be forwarded to the city council/decision body by the planning commission/hearing body. The city council/decision body shall provide a final decision in accordance with 14.12.120 Final decisions, after an examination of the recommendations and reasons determine to:~~

~~A. — Affirm the recommendation by granting or denying the permit based on the reasons given; or~~

~~B. — Conduct a closed-record hearing to review the entire record and recording of the testimony and take such action as, in its opinion, is indicated by such evidence; or~~

~~C. Refer the matter to the hearing examiner for further consideration in a closed-record hearing, which may include but is not limited to, review of the planning commission recommendations and/or decisions, or any other act directed by the city council that is consistent with this title, provided, however, all final decisions shall be made by the city council.~~

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.120 Conditional use permit—Granting by city councilDecision.**

The ~~city council/decision body~~, may, after application has been duly filed ~~and after an open record pre-decision public hearing by the planning commission, processed, and reviewed~~, grant a conditional use permit for any use designated in this ~~chapter-code~~ as a conditional use when it is found that:

- A. The proposed use is in harmony with the purpose and intent of the general plan for the physical development of the vicinity and zone in which the property on behalf of which the application was filed is located, as embodied in this title and in any plan or portion thereof adopted or proposed as part of said general plan; and
- B. The proposed use will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood.

~~Permits for conditional uses shall be signed by the planning director and~~Approved conditional use permits shall stipulate restrictions or conditions which may include a definite time limit, provisions for a front, side or rear yard greater than the minimum requirements of the zoning ordinance, suitable landscaping, additional off-street parking, and any other reasonable restrictions, conditions, or safeguard that would uphold the spirit and intent of the zoning ordinance, and mitigate any adverse effect upon the neighborhood properties by reason of the use extension, construction, or alteration allowed.

(Ord. No. 527, § 1, 6-14-2022)

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#### **17.44.130 Conditional use permit—Conditions or limitations—Termination of permit.**

- A. The planning director shall have at any time the right and duty to investigate any complaints concerning the use of any structure or property in accordance with the provisions covering conditional uses, in accordance with 17.44.160. Upon ~~his or her~~ the planning director's finding that the use or continued use of said premises is contrary to the provisions of this title establishing conditions for such use then ~~he or she~~ the planning director or designee, shall forthwith issue a cease and desist order prohibiting the use or continuance of use of said premises for said purpose and it shall be abated as a public nuisance. Any order of cease and desist issued by the planning director shall be appealable in writing ~~to the planning commission for a period of twenty-one (21) days after the issuance of the order~~ per the administrative appeal provisions in Chapter 14.12 and specifically 14.12.140.
- B. If not otherwise specified, any conditional use permit authorized shall terminate at the end of one year unless the authorized use has been established and is being actively maintained or unless construction is being actively pursued. Applicants may apply for a 180-day extension, as outlined in 17.44.040, subsection B(1).

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.135 Temporary use permit.**

Where permitted and in accordance with Chapter 14.12 with the classification and review process as defined in MMC Section 14.12.025, Applications / Project Classification Types and Review Process, the planning director has the authority to approve temporary use permits provided:

- A. A temporary use application is submitted and approved.
- B. A written restroom facility agreement with an adjoining commercial business is submitted. The adjoining commercial business must be lawfully in existence, including having a lawfully issued certificate of occupancy.
- C. The temporary use will be restricted to the same hours and days of operation as those of the adjoining business.
- D. The director may require a traffic and parking plan.
- E. The director may include any conditions for the temporary use permit deemed necessary in order to reasonably mitigate any adverse impacts anticipated from the permit.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.140 Special permit—Fee.**

To defray the costs of administering this chapter, the city council may establish and adopt a fee schedule for special or project permit applications and requests for interpretation filed pursuant to this title. The applicable fee shall accompany each permit application under this chapter and any request for interpretation of this title.

(Ord. No. 527, § 1, 6-14-2022)

#### **17.44.150 Zone change.**

Circumstances may arise that make it necessary to revise zoning districts. An application for a zone change may be made when changes in economic, technological, or land use conditions have occurred which warrant

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modification of a zoning district, in accordance with Chapter 14.12 with the classification and review process as defined in MMC Section 14.12.025, Applications / Project Classification Types and Review Process.

- A. A proposal to change a zone may be initiated by a majority vote of the city council or the planning commission in regular session; or
- B. The owner or owners of any property or properties may apply in writing to the planning director for a zone change. The application shall be made in writing by the property owner or his or her agent on the appropriate application forms available from the planning department. An application fee may be established pursuant to this chapter. The application for a zone change must, at a minimum, show the following:
  - 1. The date the existing zone became effective;
  - 2. The changes in the economic, technological or land use conditions that have occurred to warrant a zone change;
  - 3. That the proposed zone change is not detrimental to the environment, public health, safety and general welfare;
  - 4. The effect the proposed zone change will have on the value and character-quality of life of adjacent property;
  - 5. The effect on the property owner or owners if the request is not granted;
  - 6. Such other information the planning director or planning commission requires.

The Millwood zoning map is consistent with the land use map in the city Comprehensive Plan; therefore, approval of a zone change will also require amendment to the Comprehensive Plan Land Use Map to maintain consistency.

- C. Zone Change—Public Hearing. The planning director shall, upon receipt of a complete application and required fees, request an open record public hearing before the planning commission. An open record public hearing to consider a request for a zone change shall be held pursuant to Chapter 14.12 and notice shall be given ~~according to Subsection 14.12.080(D). and by mailing by first class mail the notice of public hearing to all property owners of record within four hundred (400) feet of the subject property in accordance with Chapter 14.12.~~
- D. Zone Change—Decision. The planning commission shall make a recommendation to the city council to approve or disapprove the proposed zone change following an open record public hearing in accordance with the standards and procedures of this chapter and Chapter 14.12. The planning commission may recommend approval of a zone change when it is found that:
  - 1. The proposed zone change is not detrimental to the environment, public health, safety and general welfare;
  - 2. The proposed zone change is in harmony with the surrounding land uses and zoning district;
  - 3. The proposed zone change will not be detrimental to the use or development of adjacent properties or the general neighborhood;
  - 4. The applicant has clearly shown that changes in the economic, technological or land use conditions have occurred which warrants a zone change; and
  - 5. The proposed zone change will not have a negative effect on the value of adjacent property.

Within thirty (30) days of the hearing, the planning commission shall deliver its written recommendation to the city council, which will then make a final decision on the basis of the planning commission recommendation and the record, in accordance with 14.12.120 Final decisions. Zone change final decisions

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shall stipulate reasonable restrictions or conditions that would uphold the spirit and intent of the zoning ordinance and mitigate any adverse effect upon the neighborhood properties by reason of the zone change allowed. ~~The city council may conduct a closed-record hearing on the matter or may refer the matter to the hearing examiner for further consideration in a closed-record hearing, which may include but is not limited to review of the planning commission recommendations and/or decisions, or any other act directed by the city council that is consistent with this title, provided, however, all final decisions shall be made by the city council.~~

E. Transmittal to the state of Washington. At least sixty (60) days prior to final action being taken by the city council, the Washington State Department of Commerce (WSDC) shall be provided with a copy of the proposed zone change/Comprehensive Plan Future Land Use Map amendment, in order to initiate the sixty-day comment period. No later than ten days after adoption of the proposal, a copy of the final decision shall be forwarded to WSDC.

~~E.F.~~ Zone Change—Enforcement. The planning director shall have at any time the right and duty to investigate any complaints concerning the use of any structure or property in accordance with the provisions covering zone changes, in accordance with 17.44.160. Upon his or her the planning director's finding that the use or continued use of said premises is contrary to the provisions of this title establishing conditions for such use then he or she the planning director or designee shall forthwith issue a cease and desist order prohibiting the use or continuance of use of said premises for said purpose and it shall be abated as a public nuisance. Any order of cease and desist issued by the planning director as above provided shall be appealable in writing to the planning commission for a period of twenty-one (21) days after the issuance of the order per the administrative appeal provisions in Chapter 14.12 and specifically 14.12.140.

(Ord. No. 527, § 1, 6-14-2022)

### **17.44.160 Violation—Penalty.**

It is the intent of this section to provide the procedures to be used in enforcing the provisions of this title, Title 14, Title 15, Title 16, and Title 18, as applicable, to further the purposes and objectives thereof. It shall be the duty of the planning director, or a designated representative, to interpret and enforce the provisions of this title and conditions of approval imposed by actions of the city council, planning commission, hearing examiner, or planning department. This section shall apply to any violation of this title and shall be in addition to other remedies or penalties prescribed in any other section or subsection for the violation. The procedures set forth in this section are not exclusive. These procedures shall not in any manner limit or restrict the City of Millwood from remedying violations or abating violations in any manner authorized by law.

#### **A. Civil Enforcement.**

1. Investigation of alleged violation. The planning director shall, upon receipt of a written complaint of violation from any interested citizen, investigate the claim and determine whether a violation has occurred or is occurring. The planning director may also commence investigation on its own initiative when it has reason to believe that a violation has occurred.
  - a. The planning director shall make the determination based on information derived from sources such as field observations, the statements of witnesses, relevant documents and applicable Millwood codes.
  - b. Any physical inspection of a property must comply with legal right of entry requirements, as established by state and constitutional law.
2. Noncompliance. Any person who fails to conform to the terms of a permit or decision issued under this title or who undertakes a development or use within the city in violation of the

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provisions of this title shall be subject to a civil penalty per Chapter 8.14. Each day of violation shall constitute a separate violation.

3. Aiding and Abetting. Any person who, through an act of commission or omission, aids or abets in a violation of this title shall be considered to have committed a violation for the purposes of a civil penalty.
4. Notice of Penalty or Violation. Whenever the planning director determines that a person has committed a violation of Titles 14, 15, 16, 17, or 18 of this Code or any condition of approval, the planning director shall issue a notice of violation in writing, served upon the property owner of record and/or those person(s) who are creating or contributing to the violation such person by either certified mail, postage prepaid, return receipt requested, or by personal service. The notice shall include, at a minimum, the following information:
  - a. The name and address of the owner of record or taxpayer or other person to whom the notice or order is directed;
  - b. The street address, when available, or a legal description or parcel number sufficient to identify the building, structure, lot or land upon which the violation is occurring;
  - c. A statement that the planning director has found the building, structure, lot or land is being used or maintained in violation of this title (reference MMC title, chapter, or section) or conditions of approval and a description of the specific nature of such violation and the damage or potential damage (if applicable), including applicable title sections;
  - d. A statement of the action required to be taken, such as a cease and desist order, as determined by the planning director, and a date for correction, which shall be not less than twenty-one (21) days from the date the planning director sends the notice, unless the planning director has determined the violation to be immediately hazardous, in which instance the planning director shall require immediate correction of the violation;
  - e. A statement of the applicable penalty and that each day in violation is a separate offense; and
  - f. A statement that the planning director's determination of violation may be appealed in writing with the applicable appeal process clearly stated to the city council within twenty-one (21) days of the final date for correction.
5. Proof of Service. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring time, date and manner by which service was made.
6. Remission or Mitigation. At any time prior to the date for correction, the person incurring the penalty may apply in writing to the planning director for remission or mitigation of such penalty. Upon receipt of the application, the planning director shall set a date to hear the applicant and may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. Any penalty imposed pursuant to this section shall be subject to review by the city council or hearing examiner, as applicable.
7. Voluntary compliance agreement. Any person incurring a penalty under this title may enter into a voluntary compliance agreement as provided for in Chapter 8.14.
8. Effective Date. A notice of violation or cease and desist order issued under paragraph subsection 4 above shall become effective immediately upon receipt by the person to whom the order is directed.

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9. Compliance. Failure to comply with a notice of violation, cease and desist order or a voluntary compliance agreement, or a repeat violation shall constitute a refutable presumption that the conduct is intentional, willful and knowing for the purpose of prosecuting a criminal violation.
10. Final Determination and Appeal. A notice of violation issued pursuant to this chapter constitutes a determination from which an administrative appeal may be filed in writing per the administrative appeal provisions in 14.12.140, Chapter 8.14, or Title 15, as applicable with the selection made by the planning director in accordance with 14.12.140, subsection H.  
to the city council may be taken pursuant to this title.
- B. Criminal Enforcement—Penalties for Violation. Any person who intentionally, knowingly or willfully violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of, any of the provisions of this title or conditions of approval imposed by actions of the city council, planning commission, hearing examiner, or planning director shall be guilty of a misdemeanor. Repeat violations, or violation of a notice of violation, voluntary compliance agreement or cease and desist order, creates a presumption of willful violation. If convicted of such a violation, punishment shall be by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment in the county jail not to exceed ninety (90) days, or both such fine and imprisonment for each offense. Each day in violation shall be deemed a separate offense.
- C. Investigation Fee. An investigation fee shall be assessed at one hundred (100) percent of the applicable fee total for all permits required on a project when work is started without the required permits and shall be assessed as an additional fee.
- D. Public Nuisance/Injunction. Any use in violation of this title shall be deemed a public nuisance, which, in addition to all other remedies or punishments, may be abated by injunctive relief in accordance with Chapter 8.14.
- E. Extension of time to correct. For good cause shown, the planning director may extend the date for correction in the notice of violation or cease and desist order an additional thirty (30) days. In the event that an extension is granted, the affected party shall have twenty-one (21) days from the amended date for correction to appeal such notice or order.
- F. The planning director may utilize the provisions in Chapter 8.14 Alternative Enforcement and/or Title 15, as needed or as applicable to the situation.
- G. Education. Whenever possible, the city should heighten the awareness of what constitutes nuisance code violations across the city by providing resource brochures and outlining the process to address each violation type, with an emphasis on education and voluntary compliance (per MMC Chapter 8.14). Education and voluntary compliance should be utilized prior to issuing fines or citations and possibly utilize partnerships with community organizations to assist vulnerable residents with meeting code requirements without displacement.
- H. If the city elects to utilize an interlocal agreement or services contract for code enforcement, the interlocal agreement/services contract shall specify if enforcement will be conducted per the MMC or the applicable entity's nuisance and code enforcement provisions, in order to have a clearly outlined code enforcement process which may differ by violation type.

(Ord. No. 527, § 1, 6-14-2022)