

CHAPTER 18.42

LAND USE PERMITS

SECTION:

- 18.42.010: Purpose
- 18.42.020: Applications for Permits
- 18.42.030: Action
- 18.42.040: Conditions of Approval
- 18.42.050: Compliance With Permits
- 18.42.060: Term of Permits
- 18.42.080: Additional Animals
- 18.42.090: Home Occupations
- 18.42.100: Conditional Uses
- 18.42.110: Site Plans
- 18.42.120: Minor Variations
- 18.42.140: Mixed Use Site Plan

18.42.010: Purpose: This Chapter establishes an expeditious method for the review and approval of various land use permits. It is intended to promote the development of land in a manner, which is not detrimental to the public health, safety or welfare or to adjacent properties, allow certain additional uses in some districts, allow for more flexible development and allow certain minor variations from normal development standards. (Ord. 5180 Sec. 1, 2007)

18.42.020: Applications for Permits:

- (1) Director Approval. All permits issued under this Chapter are to the approval of the Director.
- (2) Procedure:
 - (a) All applications for land use permits must be made on forms supplied by the Department. The owner or his representative must sign the application.
 - (b) The application must be accompanied by the following, when required:
 - (i) A site plan in accord with Section 18.42.110;
 - (ii) A report showing the names and addresses of the owners and the names and addresses of applicable surrounding landowners as they appear on the tax rolls of the county treasurer. If the owner of the property under consideration owns another parcel or parcels of property, which lie adjacent to the property under consideration, notice will be given to owners of such property located within a prescribed distance of the boundaries of such property;
 - (iii) An application fee in accord with the adopted fee schedules; and
 - (iv) An environmental checklist.
- (3) Notification. Upon completing his review and in conjunction with applicable environmental reviews, the Director, when applicable, will refer the application to

appropriate agencies and notify the public in accord with the requirements of 18.42.020(2)(b)(ii); 4.08.310, and 4.12.090. (Ord. 5180 Sec. 1, 2007)

18.42.030: Action: The Planning Director will make appropriate findings and either approve, conditionally approve, or deny the application. Should an application be approved or conditionally approved, the permit will not become effective until after the time for appealing the permit has expired. (Ord. 5180 Sec. 1, 2007)

18.42.040: Conditions of Approval:

(1) Permits may be made subject to any condition, which the Planning Director finds necessary to protect the public health, safety and welfare or otherwise bring a proposed development into compliance with the purpose and intent of this Title. Such conditions may include, but are not limited to, special setbacks and buffers, including landscaping, fences and walls; lighting; surfacing of parking and driveways; the installation of drainage; the construction of service roads and alleys; the regulation of the time and type of various activities, points of vehicular ingress or egress, noise, vibration, odors and similar conditions, signs, and obstructions to visibility; and such other conditions as will make possible the development of the City in an orderly and efficient manner in conformity with the purpose and intent of this Title.

(2) The Planning Director may impose any condition he finds warranted in accord with the State Environmental Policy Act, RCW 43.21C. These conditions may be as the result of or in lieu of an environmental impact statement.

(3) Applicable sections of Chapter 13.12 relating to traffic obstructions and KMC Section 5.56.070 relating to street and right-of-way improvements apply. (Ord. 5180 Sec. 1, 2007)

18.42.050: Compliance with Permits: All premises must be developed and maintained in accord with an approved land use permit. The failure of the property to be so developed or maintained is grounds for the revocation of that permit. The Planning Director may inspect any premises at reasonable times to determine that it is being so developed and maintained. No certificate of occupancy or business license will be issued until all conditions of the permit have been complied with or assurances given that the conditions will be met. (Ord. 5180 Sec. 1, 2007)

18.42.060: Term of Permits:

(1) Expiration of permits and applications under this Chapter shall be determined as provided under KMC 4.12.075.

(2) The Planning Director may review any permit from time-to-time and may, upon his own motion or at the request of an owner or occupant of the premises covered by such a permit or by an adjacent or affected property owner, review the permit and amend its conditions, if conditions so warrant. Such amendment may not require the construction, reconstruction, removal or relocation of any building, however, unless the Planning Director finds that there is a hazard to the public's safety. Changes and requests for changes may not be made more frequently than once every six months. (Ord. 5471 Sec. 1, 2012; Ord. 5180 Sec. 1, 2007)

18.42.080: Additional Animals: The Planning Director may permit additional animals in any “R” district for non-commercial purposes under this section.

- (1) Notice will be given to all abutting property owners who will have 15 days to comment on the application.
- (2) The Planning Director will take action after the comment period and may, depending on public comment, increase the allowable number of animals if he finds:
 - (a) All cages, pens, runs, and similar structures can be constructed in accord with Chapter 18.27 (building permits may be required);
 - (b) Odors and smells can be contained in accord with Section 9.52.060 (noise);
 - (c) The facilities must be in accord with accepted standards of animal care; and
 - (d) The facilities must not allow animals to roam or fly to adjacent properties.
- (3) The Planning Director will impose such conditions upon the permit as may be necessary and will require that all cages, pens, runs, and other structures be maintained in a safe and sanitary condition, free from odors and smells and of such structural soundness that animals will, under normal circumstances, be unable to escape. A yard enclosed by a fence at least six feet in height and resistant to tunneling will normally be considered proper enclosure for dogs. The facilities must be maintained and constructed so as to protect animals from injury and illness. Facilities must regularly be cleaned, food supplied, bedding changed, and waste disposed of so as to maintain the premises in a clean and sanitary condition, free from insects, rodents, weather and odors at all times. Structures must be constructed so as to protect all animals from the elements. There must be facilities for appropriate exercise, movement, and sleeping. There must be adequate drainage to prevent the ponding of water and mud. Manure, excreta, and other animal waste and carcasses must be disposed of in a sanitary fashion. Conditions may be imposed which will result in the construction of easily maintainable, sanitary facilities. (Ord. 5180 Sec. 1, 2007)

18.42.090: Home Occupations: Under this Section the Planning Director may approve a home occupation for any residential unit, regardless of zoning designation.

- (1) The Planning Director or Designee may approve a home occupation if he finds that it complies with the following criteria:
 - (a) There must be no structural alterations to accommodate the occupation;
 - (b) Unless otherwise required by law, the entrance to the home occupation must be from within the residence;
 - (c) The use must not occupy more than 25% of the floor area of the residential structure; and any accessory building used in conjunction with the home occupation;
 - (d) The occupation may occupy an accessory building or structure, providing that off-street parking requirements are maintained;
 - (e) During the first 18 months of operation, a home occupation may engage one temporary or irregular employee or business assistance person in addition to members of the immediate family;
 - (f) There must be no exterior advertising, except a residential use sign;
 - (g) There must be no window displays nor commodities displayed outside the building;
 - (h) There shall be no retail sales on the premises;

- (i) No materials or equipment which may be detrimental to adjoining residences because of vibration, noise, odor, or interference with radio or television reception will be permitted;
 - (j) All deliveries or shipments to or from the residence should be done by the operator of the occupation except for normal delivery service using delivery vehicles up to 26,000 pounds GVW;
 - (k) No more than two vehicles, related to the occupation, not exceeding 10,000 pounds GVW, shall be kept on the premises, providing that appropriate off-street parking requirements are maintained;
 - (l) There must be no exterior storage of materials or equipment other than the occupation-related vehicle;
 - (m) There shall be no more than four (4) customer/client visits per day, by appointment only, at the residence, and no more than one (1) on the premises at any given time between the hours of 8:00 a.m. and 7:00 p.m. For purposes of this section, one customer/client visit shall be considered to include not more than four (4) persons arriving in a single vehicle; and
 - (n) A home occupation shall not include automobile repair, body shop work, dog kennels, dog boarding, nor construction-related heavy equipment or vehicles.
- (2) Within “R” Districts, if the Planning Director finds that the applicant cannot substantially meet each and every one of the above-described criteria, the application will be denied.
- (3) No home occupation permit is final until the applicant has obtained a business license. (Ord. 5180 Sec. 1, 2007)

18.42.100: Conditional Uses: Conditional uses are approved in accord with this section as follows:

- (1) Notification will be given to property owners within 300 feet who will have 15 days to express comments.
- (2) The Planning Director will normally take action within 20 working days after the comment period.
- (3) Depending on public comment, a conditional use permit may be approved if:
 - (a) The use will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity;
 - (b) Public ways serving the site are properly designed, improved and of sufficient condition to carry the type and quantity of traffic which can or will be generated by the proposed project; and
 - (c) The site is adequate in size and shape to accommodate the use in harmony with its Surroundings.
- (4) Conditions. The permit may be conditioned in any way necessary to protect the health, safety and general welfare of the public and nearby property. (Ord. 5180 Sec. 1, 2007)

18.42.110: Site Plans:

- (1) No building permit will be issued nor may any use or change in use be made of land without a site plan. This does not apply to open or temporary land uses which do not exceed 10 days in duration or single-family and duplex residences and their accessory structures in R districts.

(2) Each site plan or amendment submitted for approval must be accompanied by a scale drawing, showing lot lines and dimensions, the location of existing structures intended to remain, proposed buildings or improvements, the heights of all structures, parking lot design and location including access and drainage, street right-of-way lines, setbacks, exterior lighting, garbage facilities, signs, landscaping, fences, and any other information necessary to ensure compliance with the provisions of this Title. If known, the plan must indicate the proposed or probable use of the development and a brief statement of the type of construction contemplated.

(3) The plan will be conditioned or amended so that the development will conform in all respects to this Title and other applicable laws and ordinances.

(4) The plan will be such as to best harmonize with the project's surroundings and not be detrimental to the use and development of adjoining properties.

(5) Any permit or amendment thereto which authorizes the division of property in lieu of a plat or short plat must be recorded with the Benton County Auditor. The plans and the record of survey filed therewith have the same legal effect as a plat.

(6) Site Plans must be in conformance with the applicable design standards in Chapter 18.75 and Chapter 18.78. (Ord. 5471 Sec. 2, 2012; Ord. 5355 Sec. 1, 2011; Ord. 5180 Sec. 1, 2007)

18.42.120: Minor Variations: The Planning Director may approve, without notice, a reduction in lot area, setback and width and an increase in lot coverage and building height, none of which exceeds 10 percent of the standards of the zone in which the use is located. Minor variations may not allow an increase in the number of dwelling units on a parcel nor permit a reduction in lot area of any lot created after January 1, 1977. If the Planning Director denies a minor variation, the applicant may apply for a variance to the Hearing Examiner (18.54.070). (Ord. 5322 Sec. 51, 2010; Ord. 5180 Sec. 1, 2007)

18.42.140: Mixed Use Site Plan:

(1) Single Mixed-Use Project (Vertical and Horizontal). A mixed-use project that is either vertical or horizontal and contained within a single building and single parcel shall be reviewed through the Site Plan process.

(2) Multiple Building / Multiple Site Mixed-Use Development Projects. If the project is horizontally-integrated on more than one parcel and/or in more than one building, a Mixed-Use Master Site Plan is required to ensure that the buildings are functionally and physically integrated.

(a) Mixed-Use Master Site Plan Requirements. Initial development of a multiple building mixed use site or phased development of a mixed use site shall require submittal and approval of a Mixed Use Master Plan. The following requirements shall apply:

(i) Required components. Mixed-Use Master Site Plans shall contain the following:

- A. All submittals according to the Site Plan requirements.
- B. Mapping and written description of all proposed uses and use types.
- C. A maintenance agreement between the City and the property owner's association.
- D. If applicable, description of proposed future phasing.

- E. Written description of proposal's consistency with transportation and other service requirements.
 - F. Compliance with the City's land use plan and policies.
 - G. A parking plan with written descriptions and graphics describing how residential and non-residential uses can provide sufficient and coordinated parking to avoid impacts to adjacent off-site residential.
- (ii) Approval Criteria. Approval or approval with conditions shall be granted upon findings that:
- A. The Master Site Plan and associated conditions of approval ensure future development will meet all applicable criteria of this chapter;
 - B. If phasing is proposed, the phase boundary must be outlined in the Master Site Plan. The total floor area proposed in each phase and the percentage of residential and commercial mix in each phase must also be indicated;
 - C. There is or will be sufficient capacity within the transportation system and public sewer, water, police, fire, and stormwater services to adequately serve all portions of the site at the time of development; and
 - D. The Master Plan is in compliance with Comprehensive Plan policies and any other relevant Sub-Area plan(s).
- (iii) Modifications. Proposed modifications to previously approved Mixed-Use Master Plans shall require review and approval by the City.
- (iv) Final Plan Approval. No single phase may contain more than 50% of the total square footage for any one major use type (commercial, office or residential) envisioned by the Master Site Plan unless 25% of the total square footage of all major use types envisioned by the Master Plan are included in the proposed phase or were included in previous phases. This requirement may be waived by the Director of Community Planning, if the applicant provides a security or other form of binding assurance that the remaining major use types contemplated in the Master Plan will be built.

(3) All mixed-use plans shall run with the land unless modified as approved by the City. Park fees or parkland dedication shall be required according to KMC 17.100.010. All other applicable regulations in the Kennewick Municipal Code shall apply. (Ord. 5262 Sec. 1, 2009)