

## CHAPTER 18.54

### ADMINISTRATION AND ENFORCEMENT

#### SECTION:

- 18.54.010: Use of Permits
- 18.54.020: Permits - Issuance and Review
- 18.54.030: Procedure for Variance
- 18.54.040: Procedures for Appeals
- 18.54.050: Findings for Variance
- 18.54.060: Limitations and Conditions
- 18.54.070: Appeal from Hearing Examiner
- 18.54.080: Application Resubmittal
- 18.54.090: Penalties
- 18.54.100: Intent - Stricter Regulation to Govern

**18.54.010: Use of Permits:** Any permit, limited change-of-zone, conditional use permit or any other permit, license or approval issued under this Title is subject to the terms, conditions, limitations contained therein and any law, ordinance or regulation which touches and concerns it. Such licenses and permits may be altered or amended from time-to-time as may be necessary to protect the public health, convenience and safety. Likewise any permit, license or other approval issued under this Title may be suspended or revoked for failure of the property owner or occupant to comply with conditions thereof and, if it appears reasonably necessary to ensure compliance with the terms and conditions of any permit or license or to insure against financial loss to any person who may be adversely affected thereby, a surety or cash bond in an amount determined by the Director. (Ord. 5180 Sec. 1, 2007)

**18.54.020: Permits - Issuance and Review:**

- (1) The Planning Director will issue all permits under this Title in the time and manner and in accord with the conditions established in this Code.
- (2) Upon the issuance, denial or conditioning of any permit, any party aggrieved thereby may request review. If he has not already done so, the Planning Director may hold a hearing and otherwise obtain such information as he deems relevant to the matter. Alternately, he may, or, if he has already held a hearing, he shall forward the matter to the Hearing Examiner.
- (3) Review of a decision must be made within 10 days, but a permittee at any time may seek review of a permit condition. Review is initiated by filing a written request with the Director.
- (4) The Planning Director will give reasonable notice of any hearing as is required for the permit. At the hearing he will consider such evidence and other information as he deems appropriate and shall issue a decision making such findings and conclusions as he deems warranted and as are necessary to support his decision. A record shall be made of the proceedings.

(5) Following hearing, the Director's decision is final unless appealed to the Hearing Examiner within 10 days. Appeal is initiated by filing a written request with the Director. (Ord. 5322 Sec. 56, 2010: Ord. 5180 Sec. 1, 2007)

**18.54.030: Procedure for Variance:**

(1) Application for a variance must be accompanied by a report showing the name and address of the owner and all owners of property within 100 feet 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. The application must also be accompanied by a map or drawing showing the location and reason for the variance and a filing fee in accord with the adopted fee schedule.

(2) Notice on any appeal must be given in the same manner as required for the permit. (Ord. 5180 Sec. 1, 2007)

**18.54.040: Procedures for Appeals:**

(1) Matters referred to the Hearing Examiner by the Planning Director without hearing shall be heard by it de novo, and the Hearing Examiner shall have full power, after hearing, to grant, deny, or condition any permit or to do any other act in the place of the Director.

(2) When the Hearing Examiner reviews the decisions on the record, the appellant has the burden of showing that the Planning Director has made an error of law, acted outside his authority, or made a decision that is clearly erroneous. The Hearing Examiner's decision shall be in writing. (Ord. 5322 Sec. 57, 2010: Ord. 5180 Sec. 1, 2007)

**18.54.050: Findings for Variance:** The Hearing Examiner shall approve an application for a variance only when all of the following conditions are found:

(1) The variance will 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) That such variance is necessary because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

(3) That the granting of the 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. (Ord. 5322 Sec. 58, 2010: Ord. 5180 Sec. 1, 2007)

**18.54.060: Limitations and Conditions:** No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. The Hearing Examiner shall not grant a variance under any circumstances to allow a use not permissible under the terms of this Title in the district involved, or any use expressly, or by implication, prohibited by the terms of this Title in the district. The approval of any variance by the Hearing Examiner may be subject to additional conditions. The Hearing Examiner may prescribe a time limit within which the action for which the variance is granted shall be

begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the variance. The time limits may be extended by the Hearing Examiner for good cause shown. (Ord. 5322 Sec. 59, 2010: Ord. 5180 Sec. 1, 2007)

**18.54.070: Appeal from the Hearing Examiner:** Any person aggrieved by the decision of the Hearing Examiner on an appeal from an administrative order, ruling, determination, or decision, any property owner whose application for a request for variance has been denied, and any property owner entitled to notice of a hearing on an application for a request for a variance and who has appeared at the public hearing and objected to the variance may petition the Benton County Superior Court. The petition must be filed and served within 21 days from the date of the decision. Any adjoining property owner who appeared and testified must be served personally within 21 days of the date of the decision and any other person who appeared and testified must be served personally or by first class mail, postage prepaid, within 21 days of the date of the decision. (Ord. 5322 Sec. 60, 2010: Ord. 5180 Sec. 1, 2007)

**18.54.080: Application Resubmittal:** Any applications disapproved by the Planning Director or the Hearing Examiner may not be resubmitted for six months. (Ord. 5322 Sec. 61, 2010: Ord. 5180 Sec. 1, 2007)

**18.54.090: Penalties:** Any person violating any provisions of this Title or failing to comply with any condition, restriction, term or condition of any license, permit, or other approval is guilty of a misdemeanor and shall be punished accordingly. (Ord. 5180 Sec. 1, 2007)

**18.54.100: Intent - Stricter Regulation to Govern:** This Title does not interfere with easements, covenants, deed restrictions or other agreements except insofar as it may impose greater restrictions than are imposed thereby. (Ord. 5322 Sec. 62, 2010: Ord. 5180 Sec. 1, 2007)