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**CITY OF WHITE SALMON  
ORDINANCE NO. 2024-01-1159**

**AN ORDINANCE AMENDING WHITE SALMON MUNICIPAL CODE CHAPTER 17.80  
CONDITIONAL USES, VARIANCES, AND APPEALS FOR THE CITY OF WHITE SALMON,  
WASHINGTON, INCLUDING SERVABILITY DATE.**

**WHEREAS**, The City of White Salmon adopted updates to WSMC 17 Zoning and WSMC 2.21 Hearings Examiner;

**WHEREAS**, The City of White Salmon has identified sections of code that need to be updated to be consistent with the changes adopted on December 20, 2023.

**NOW, THEREFORE**, the City Council of the City of White Salmon do ordain as follows:

**Section 1. Amendment to Title 17.80 Conditional Uses, Variances, and Appeals;** The City hereby repeals WSMC Title 17 Chapter 17.80 in their entirety, and adopts the following to be codified as WSMC Title 17 Chapter 17.80

Key: ~~**Bold and Strike through**~~ means repealed.

**Bold and underline** means new.

**17.80.010—17.80.050 Reserved.**

**17.80.055 Conditional use permit purpose and criteria.**

The ~~administrator or the planning commission~~ **hearing examiner** shall hear and decide applications for conditional uses ~~in certain districts~~; provided that any conditional use permit granted is subject to and consistent with the following conditional use permit review provisions:

1. Purpose. The purpose of the conditional use permit process is to provide flexibility in the city's land use regulations in order to accommodate uses which may be appropriate in an established zone under certain circumstances, but inappropriate in the same zone under others. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing the use to the goals and policies established in the city's comprehensive plan and the purpose of the zoning designation and this regulation. This review shall determine whether the proposed use should be permitted by weighing the public need or the benefit to be derived from the use, against the impact which it may cause.
2. Scope. This section shall apply to each application for a conditional use permit including both primary and accessory uses.
3. Application Submittal and Contents.
  - a. The application for a conditional use permit shall be submitted to the city on forms provided by the city, along with the appropriate documentation and signatures. The application shall include all materials required pursuant to city regulations.
  - b. Specific submittal requirements determined to be unnecessary for review of an application may be waived by the city.
4. Permit Review Process. Applications for conditional uses shall be processed ~~as a type I-B decision by the administrator for simple applications or~~ as a type II decision ~~where in the~~

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~~administrator's discretion additional public input or subject to hearing examiner review is necessary or appropriate~~ according to procedures set forth in Title 19.

5. Approval Criteria. The city may approve or approve with modifications an application for a conditional use permit if the following criteria are satisfied:
  - a. The conditional use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property;
  - b. The conditional use will be served by adequate public facilities including streets, fire protection, parking, water, sanitary sewer, and storm water control;
  - c. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject parcel;
  - d. The conditional use has merit and value for the community as a whole;
  - e. The conditional use is consistent with the goals and policies of the city of White Salmon's comprehensive plan;
  - f. The conditional use complies with all other applicable criteria and standards of the White Salmon Municipal Code; and
  - g. That the public interest suffers no substantial detrimental effect. Consideration shall be given to the cumulative impact of similar actions in the area.
6. Additional Conditions. The city may impose additional conditions on a particular use if it is deemed necessary for the protection of the surrounding properties, the neighborhood, or the general welfare of the public. The conditions may:
  - a. Increase requirements in the standards, criteria or policies established by this chapter;
  - b. Stipulate an exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;
  - c. Require structural features or equipment essential to serve the same purposes as set forth in subsection b. of this section;
  - d. Impose conditions similar to those set forth in subsections b. and c. of this section, as deemed necessary to establish parity with uses permitted in the same zone with respect to avoiding nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards and similar matters;
  - e. Require reporting by the applicant or operator on a regular basis sufficient to demonstrate continued compliance with all conditions of approval.
7. Authority to Deny. The city may deny any conditional use request when adverse impacts reasonably expected to result from the use cannot be avoided, eliminated or mitigated to an acceptable degree.
8. Use of Property Before Final Decision. No business license or building permit shall be issued for any use involved in an application for approval for a conditional use permit until the permit application becomes effective.
9. Conditional Use Permits—Effective Period.
  - a. A decision granting a conditional use permit shall become effective upon the date of such decision.

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- b. A conditional use permit automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the conditional use permit unless:
    - (i) The applicant has received an extension of time for the conditional use permit subject to city extension requirements.
    - (ii) The conditional use permit approval provides for a greater time period.
10. Extension of Time.
- a. The city may extend a conditional use permit, not to exceed one year, if the applicant demonstrates good cause to the city's satisfaction that:
    - (i) Unforeseen circumstances or conditions necessitate the extension of the permit;
    - (ii) Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and
    - (iii) An extension of the permit will not cause substantial detriment to existing use in the immediate vicinity of the subject property.
  - b. The director of the development services department may grant no more than two extensions. A second extension may be granted only if:
    - (i) The criteria listed in this subsection are met;
    - (ii) The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed; and
    - (iii) Conditions in the immediate vicinity of the subject property have not changed substantially since the conditional use permit was first approved.
11. Modification of Conditional Use Permit. The city may initiate a modification to an approved conditional use permit. A modification will be processed as a new conditional use permit but will consider only the impacts and mitigation related to the proposed modification. Through the modification procedure, the city may delete, modify or impose additional conditions upon finding that the use for which the approval was granted has been intensified, changed or modified by the property owner or by person(s) who control the property without approval so as to significantly impact surrounding land use.
12. Conditional Use Permit to Run with the Land. A conditional use permit granted pursuant to the provisions of this section shall continue to be valid upon a change of ownership of the site, business, service, use or structure which was the subject of the permit application. No other use is allowed without approval of an additional conditional use permit.

**17.80.058 Variance purpose and criteria.**

Application for variances from the terms of this title; provided, that any variance granted shall be subject to such conditions as will assure compliance with the following purpose and criteria:

1. Purpose. The purpose of the variance process is to provide a mechanism whereby the city may grant relief from the provisions of this chapter where practical difficulty renders compliance with the provisions of this chapter an unnecessary hardship, where the hardship is a result of the physical characteristics of the subject property and where the purpose of this chapter and of the city comprehensive plan can be fulfilled.
2. Scope. This section shall apply to each application for a variance from the provisions of this chapter.
3. Application Submittal and Contents. The application for a variance shall be submitted to the city on forms provided by the city, along with the appropriate fees established by city fee

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regulations. The application shall include all materials required pursuant to application requirements.

4. Permit Review Process. Variance applications shall be processed as a Type II decision according to the procedures set forth in Title 19.
5. Approval Criteria. The decision maker may approve or approve with modifications an application for a variance from the provisions of this chapter if:
  - a. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zoning district in which the subject property is located;
  - b. The 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 zoning district in which the subject property is located;
  - c. 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 zoning district in which the subject property is located;
  - d. The special circumstances of the subject property make the strict enforcement of the provisions of this chapter an unnecessary hardship to the property owner;
  - e. The special circumstances of the subject property are not the result of the actions of the applicant;
  - f. The variance is the minimum necessary to fulfill the purpose and the need of the applicant;
  - g. The variance is consistent with the purposes and intent of this chapter;
  - h. The variance is consistent with the goals and policies of the city comprehensive plan; and
  - i. The fact that property may be utilized more profitably will not be an element of consideration before the decision maker.

#### **17.80.059 Appeals.**

Appeals. The applicant may appeal any order, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of this chapter per provisions of Title 19, Article V Appeals.

#### **17.80.060 Conditional use permit or variance—Hearing.**

Upon ~~the~~ filing of an application for a conditional use permit or a variance, the ~~planning commission~~ **administrative official** shall set the time and place for a public hearing on such matter, and written notice thereof shall be mailed pursuant to the procedures of Title 19.

#### **17.80.070 Appeals—Filing time.**

Any person aggrieved, or by any officer, department, board or bureau affected by any decision of an administrative official may be entitled to file an appeal pursuant to the procedures set forth in Title 19, which shall be the exclusive section for administrative and land use appeals in this code.

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**Section 2. Severability / Validity.** The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance.

**Section 3.** This Ordinance shall take effect and be in force five (5) days after its publication according to law.

**Section 4. Transmittal to the State.** Pursuant to RCW 36.70A.106, a complete and accurate copy of this ordinance shall be transmitted to the Department of Commerce within ten (10) days of adoption.

Passed by the council and approved by the Mayor on this 17<sup>th</sup> day of January, 2024.

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Marla Keethler, Mayor

ATTEST:

APPROVED AS TO FORM:

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Stephanie Porter, Clerk Treasurer

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Shawn MacPherson, City Attorney