

City of Hawthorne, CA  
Friday, November 22, 2024

## Title 17. Zoning

### Chapter 17.40. CONDITIONAL USES—VARIANCES

#### § 17.40.010. Grant of variance.

When practical difficulties, unnecessary hardships or results inconsistent with the general purpose of this title result through the strict and literal interpretation and enforcement of the provisions hereof, the planning commission shall have the authority, as an administrative act, subject to the provisions of this chapter, to grant upon such conditions as it may determine, such variance from the provisions of this title as may be in harmony with its general purpose and intent, so that the spirit of this title shall be observed, public safety and welfare secured and substantial justice done.

(Prior code 12-1900)

#### § 17.40.020. Purpose.

The sole purpose of any variance shall be to prevent discrimination, and no variance shall be granted which would have the effect of granting a special privilege not shared by other property in the same vicinity and zone; provided, a variance may be granted permitting the temporary establishment of uses necessary by reason of public emergencies or need, or to permit the permanent establishment of a use essential for necessary service to the public if such use is found to be not incompatible to the classes of use permitted in the zone.

(Prior code § 12-1901)

#### § 17.40.030. Required showings.

A. Before any variance may be granted, all of the following showings shall be made:

1. That there are special circumstances applicable to subject property such as shape, topography, location or surroundings that do not apply generally to the other property or class of use in the same vicinity and zone, or to the intended use within the limitations of the definition of a variance;
2. That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which, because of special circumstances, is denied to the property in question;
3. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located;
4. That the granting of such variance will not adversely affect the comprehensive general plan.

B. Except as otherwise expressly provided herein, variances from any of the requirements of this chapter relating to the minimum number of required parking spaces shall be considered and processed in accordance with the procedures set forth in this subsection **B** and subsection **C**. Any

petition for a variance shall be accompanied by; either, a parking study prepared by an independent traffic engineer licensed by the state of California, or a parking justification letter, as determined by the planning director and/or designee. Notwithstanding the requirements of this chapter, a variance shall be granted upon a finding by the planning commission or city council that the evidence presented shows that all of the following conditions exist:

1. That the variance, under the conditions imposed, if any, will not cause fewer off-street parking spaces to be provided for the proposed use than the number of such spaces necessary to accommodate all vehicles attributable to such use under the normal and reasonably foreseeable conditions of operation of such use;
  2. That the variance, under the conditions imposed, if any, will not increase the demand and competition for parking spaces upon the public streets in the immediate vicinity of the proposed use;
  3. That the variance, under the conditions imposed, if any, will not increase the demand and competition for parking spaces upon adjacent private property in the immediate vicinity of the proposed use;
  4. That the variance, under the conditions imposed, if any, will not increase traffic congestion within the off-street parking areas or lots provided for the proposed use; and
  5. That the variance, under the conditions imposed, if any, will not impede vehicular ingress to or egress from adjacent properties upon the public streets in the immediate vicinity of the proposed use.
- C. With regard to parking variances, unless conditions to the contrary are expressly imposed upon the granting of any variance pursuant to this section, the granting of the variance shall be deemed contingent upon operation of the proposed use in conformance with the assumptions relating to the operation and intensity of the use, as contained in the parking demand study/parking justification letter that formed the basis for approval of the variance. Exceeding, violating, intensifying or otherwise deviating from any of the assumptions as contained in the parking demand study/parking justification letter shall be deemed a violation of the express conditions imposed upon the variance, which shall subject the variance to revocation or modification pursuant to the provisions of this chapter.

(Prior code § 12-1902; Ord. 2012 § 12, 2012; Ord. 2127 § 19, 2016)

## § 17.40.040. Imposition of conditions.

When granting a variance, the planning commission shall determine that the circumstances do exist as required by Section **17.40.030**, and may attach specific conditions to the variance which will serve to accomplish the standards, criteria and policies established by this title.

(Prior code § 12-1903)

## § 17.40.050. Conditional use permit—Granting.

- A. Upon application therefor, the planning commission may grant conditional use permits for such uses as are by this title required to be reviewed and allowed only upon the granting of a conditional use permit. Before approving a conditional use permit, the planning commission must make a finding of fact, by resolution, that the evidence presented shows that all of the following conditions exist:
1. That the proposed use is properly one for which a conditional use permit is authorized by this code;
  2. That the proposed use will not adversely affect the adjoining land uses, or the growth and development of the area in which it is proposed to be located;

3. That the size and shape of the site proposed for the use is adequate to allow the full development of the proposed use, in a manner not detrimental to either the particular area or health and safety;
  4. That the traffic generated by the proposed use will not impose an undue burden upon the streets and high-ways designed and improved to carry the traffic in the area; and
  5. That the granting of the conditional use permit under the conditions imposed, if any, will not be detrimental to the health and safety of the citizens of the city of Hawthorne.
- B. The granting of a conditional use permit shall constitute an individual determination pertaining to the particular project at the particular site, and shall not serve as a precedent to be followed in other cases of individual projects on individual sites.
- (Prior code § 12-1904; Ord. 2127 § 20, 2016)

## § 17.40.060. Conditional use permit—Purpose.

The purpose of a conditional use permit as defined in Section 17.04.180 shall be:

- A. To assure, by means of special degree of control, that the compatibility made the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses within the general area in which such use is proposed to be located;
- B. To recognize and impose controls that will compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, hazard (including traffic hazard), or public need; and
- C. To consider location and design of parking facilities, ingress and egress facilities, and on-site provisions for back-up storage of cars waiting to enter traffic flow on the street, as these factors relate to general safety and convenience of the public.

Before imposing conditions upon any use requiring a conditional use permit, if granted, the planning commission shall ascertain in its findings the characteristics that may be present in exceptional degree, and the conditions imposed shall be only such as will reasonably assure that nuisance or hazard to life or property will not develop, and which will assure that such use shall not be inimical to the public interest as established by this title. The planning commission may not, in connection with action on a conditional use permit, reduce the requirements specified in the zone in which the use is to locate. If the location of a particular use on a particular site involves the reduction of requirements as set forth in the zone in which the use is to be located, then any such adjustment shall be accomplished through the medium of a variance.

(Prior code § 12-1905)

## § 17.40.070. Application for variance or conditional use permit—Notice and hearing.

Upon the filing of an application for a variance or conditional use permit by a property owner of record, or a plaintiff in any proposed or pending action in eminent domain to acquire property affected, or by a lessee with the written consent of the owners, which application sets forth fully the grounds for, and the facts deemed to justify the granting of a variance or conditional use permit, the planning commission shall give public notice, as provided in Chapter 17.06, of the intention to consider at a public hearing the granting of a variance or a conditional use permit.

(Prior code § 12-1906)

## § 17.40.080. Commission findings and decision—Resolution.

Not more than thirty days following the termination of the proceedings of the public hearing on a variance or conditional use permit, the planning commission shall announce its findings by formal resolution, and said resolution shall recite, among other things, the facts and reasons which, in the opinion of the planning commission, make the granting or denial of the variance or conditional use permit necessary to carry out the provisions and general purpose of this title, and shall order that the variance or conditional use permit be granted or denied, and if such resolution orders that the variance or conditional use permit be granted, it shall also recite such conditions and limitations as the planning commission may impose.

(Prior code § 12-1907)

## § 17.40.090. Notice of decision of commission.

Not later than fourteen days following the rendering of a decision ordering that a variance or conditional use permit be granted or denied, a copy of the resolution shall be mailed to the applicant at the address shown on the application filed with the planning commission.

(Prior code § 12-1908)

## § 17.40.100. Record keeping.

The formal resolutions of the planning commission announcing its findings and order after hearing on an application for a variance or a conditional use permit, shall be numbered consecutively in the order of their filing and shall become a permanent record in the files of the planning commission.

(Prior code § 12-1909)

## § 17.40.110. Effective date of order—Appeal.

The order of the planning commission in granting or denying a variance or conditional use permit shall become final and effective ten days after the date of notification to applicant unless within such ten-day period either an appeal to the council in writing is filed with the secretary of the planning commission by either an applicant or an opponent, or the decision of the planning commission is called up for review by the city council. The filing of such an appeal or call for review within such time limit shall stay the effective date of the order of the planning commission until such time as the appeal or review has been acted upon as hereinafter set forth in this title. An appeal shall be on an appeal form provided by the planning commission.

(Prior code § 12-1910; Ord. 1679 § 3, 2000)

## § 17.40.150. Public hearing—Notice.

Within not to exceed sixty days following receipt of the resolution from the planning commission granting or denying the variance, or conditional use permit, the city council shall conduct a duly advertised public hearing on the matter, public notice of which shall be given as provided in Chapter **17.06**.

(Ord. 1266 § 4, 1982)

## § 17.40.160. Public hearing.

At the hearing, the city council shall review the record of the decision and hear testimony of the appellant, the applicant, and any other interested party.

(Ord. 1679 §§ 6, 7, 2000)

## § 17.40.170. Council to announce findings and decision by resolution.

After the hearing, the city council shall affirm, modify, or reverse the original decision. When a decision is modified or reversed, the city council shall state the specific reasons for modification or reversal. Decisions on appeals or review shall be rendered by adoption of a resolution. The city clerk shall mail notice of a city council decision. Such notice shall be mailed within fourteen days after the date of the decision to the applicant and appellant.

(Ord. 1679 §§ 8, 9, 2000)

## § 17.40.175. Decision of council shall be final.

The action of the council on the application for a variance or conditional use permit on appeal or review, shall be by a majority vote of the entire membership of the council, and shall be final and conclusive.

(Ord. 1266 § 9, 1982; Ord. 1679 § 10, 2000)

## § 17.40.180. Zoning record shall be corrected.

When a variance or conditional use permit is approved by the planning commission, or if the decision of the planning commission is appealed or reviewed, then if the variance or conditional use permit is approved by the council, an appropriate record shall be made and the secretary of the planning commission shall inform the administrative department having jurisdiction over the matter involved of the adjusted status of the property.

(Prior code § 12-1917; Ord. 1679 § 11, 2000)