



CITY OF LEBANON
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Lebanon Municipal Code Title 16: Development Code

Article Five: Exceptions To Code Standards

Chapter 16.29: Variances and Adjustments

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CITIZEN SERVICES & DEVELOPMENT CENTER

925 Main Street • Lebanon, Oregon 97355 • 541.258.4906 • 541.258.4955 Fax • www.ci.lebanon.or.us

Chapter 16.29: Variances and Adjustments

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Chapter 16.29: Variances and Adjustments

16.29.010 PURPOSE

This Chapter provides standards and procedures for Variances and Adjustments, modifications to land use or development standards that are not otherwise permitted elsewhere in this Code. This Code cannot provide standards to fit every potential development situation. The City's varied geography, and complexities of land development, require flexibility. This Chapter provides that flexibility, while maintaining the purposes and intent of the Code. The City's Variance and Adjustment procedures provide relief from specific Code provisions when they have the unintended effect of preventing reasonable development in conformance with all other Codes. The Variance and Adjustment procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met.

16.29.020 APPLICABILITY

A. Exceptions and Modifications Versus Variances and Adjustments

A Code standard or decision criterion (in a "Code Section" or "Subsection") may be modified without approval of an Adjustment or a Variance if the applicable Code Section expressly allows exceptions or modifications. If the Code Section does not expressly provide for exceptions or modifications, then a Variance or an Adjustment is required to modify that Code Section using the provisions of this Chapter.

B. Variances and Adjustments Versus Permitted and Prohibited Uses

An Adjustment or a Variance shall not be approved that would allow a new use to be established in a Land Use Zone.

C. Combining Variances and Adjustments with Other Applications

Adjustment or Variance requests may be combined with and reviewed concurrently by a City review authority with other land use and development applications.

D. Three Types or Classes of Variances (and Adjustments)

1. There are technically three types of Variances: Class 1, 2, or 3.
2. Two of the Variance procedures are referred to as "**Adjustments**" since they are designed to permit flexibility in situations not involving serious impacts nor hardship circumstances.
3. The type of process required depends on the extent of the request and the degree of discretion involved in the decision making process.
4. **Minor Adjustments** (Class 1) are granted using "clear and objective standards," and use a Ministerial Review procedure.
5. **Adjustments** (Class 2) require an Administrative Review.
6. **Variances** (Class 3) require a Quasi-Judicial procedure.

16.29.030 MINOR ADJUSTMENTS (CLASS 1)

A. Review Process

The following Minor Adjustments are reviewed using a Ministerial Review procedure, as governed by the applicable provisions of Chapter 16.20, using the Decision criteria in Subsection 16.29.030.C, below.

B. Applicability (Fence Variances)

1. Minor Adjustments for height limitations and/or set back requirements for fences, walls, and hedges (as noted in Chapters 16.05 – 16.10 and Chapter 16.15) may be granted by the Planning Official when it can be demonstrated that the following circumstances are applicable (Decision Criteria in Subsection 16.29.030.C).
2. A decision of the Planning Official shall be final unless appealed to the Planning Commission as described in Chapter 16.20 of this Code.

C. Decision Criteria

The City's Planning Official may grant a Minor Adjustment to height limitations and/or set back requirements on fences and walls, if such variations do not infringe upon the clear vision triangle requirements at intersections of streets or at the intersections of driveways and streets.

16.29.040 ADJUSTMENTS (CLASS 2)

A. Review Process

Adjustments shall be reviewed using an Administrative Review procedure, in accordance with the applicable provisions of Chapter 16.20.

B. Thresholds

Adjustment requests must conform to the following thresholds:

1. The Adjustment standards apply to recorded lots or parcels only.
2. The Adjustment procedure shall not be used to modify a standard for lots or parcels yet to be created through a partition or subdivision process; such requests shall utilize the Class 3 Variance procedure.

C. Decision Criteria

Adjustment requests apply to the types of requests meeting the Decision criteria listed below.

1. Adjustments to Vehicular Access and Circulation Standards (Chapter 16.12)

Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular lot or parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another lot or parcel is not feasible, the City may grant an Adjustment to the access requirements after finding all of the following:

- a. There is not adequate physical space for shared public street access, or the owners of abutting properties do not agree to execute a joint access easement;
- b. There are no other alternative access points on the street in question or from another street.
- c. The access separation requirements cannot be met.
- d. The request is the minimum Adjustment required to provide adequate access.
- e. The approved access or access approved with conditions will result in a safe access.
- f. The visual clearance requirements of Subsection 16.12.030.H in Chapter 16.12 will be met.
- g. Adjustments for street access deviations shall be subject to review and approval by the roadway authority.
- h. Adjustments for access deviations on a County road right-of-way shall be subject to review and approval by Linn County.

2. Adjustments to Parking and Loading Standards (Chapter 16.14)

- a. The City may approve Adjustments to the minimum or maximum standards for off-street parking (quantities and dimensions of parking spaces) in Chapter 16.14 upon finding all of the following:
 - (1) The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity, or modified parking dimensions, as demonstrated by a parking analysis or other facts provided by the applicant.
 - (2) The need for additional parking cannot reasonably be met through provision of shared parking with adjacent or nearby uses.
 - (3) All other applicable Code standards are met.
- b. The City may reduce the number of required bicycle parking spaces, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
- c. The City may allow a reduction in the amount of vehicle stacking area required for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, functionality of the site, service availability, public safety, and impact on adjacent roadways and properties.

- d. The City may modify the loading area standards if such a reduction is deemed appropriate after analysis of the use, anticipated shipping or delivery traffic generated by the use and alternatives for loading/unloading, such as use of on- or off-street parking areas during non-business hours provided that traffic is not impeded.

3. Adjustments to Minimum Yard Setbacks to Avoid or Reduce Impacts to Floodplains, Significant Trees, Wetlands, or Other Natural Features

- a. The City may grant an Adjustment to the applicable setback requirements of this Code for the purpose of avoiding or reducing impact to floodplains, significant trees, wetlands, or other natural features.
- b. Modification of the standard shall not be more than is necessary for the preservation of the nature feature to be protected.

4. Other Requirements Eligible for the Adjustment Process

- a. The following standards may be modified by the Adjustment Process if the Criteria listed below in "Subsection b" are Met:

(1) Front Yard Setbacks

Up to a 15 percent change to the front yard setback standard in the land use district.

(2) Interior Setbacks

Up to a 15 percent reduction of the dimensional standards for the side and rear yard setbacks required in the Land Use Zones.

(3) Site Coverage

Up to a 15 percent increase of the maximum lot or parcel coverage allowed in the Land Use Zones.

(3) Landscape Area

Up to a 15 percent reduction in landscape area (overall area or interior parking lot landscape area).

(4) Signage Dimensions

See Signage regulations in Chapter 16.18.

(5) Minimum Lot Area

Up to a 5 percent reduction in the minimum lot area standard.

(6) Maximum Building Height

Up to a 10 percent increase in the maximum height limitation.

b. Decision Criteria

In addition to specific criteria noted above, Adjustment requests (excluding Signage Dimensions) must meet the following Decision Criteria:

- (1)** The proposed Adjustment will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, or to other properties in the same land use zone or vicinity.

- (2)** The use proposed will be the same as permitted under this Code and City

standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land.

- (3) Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard.

16.29.050 VARIANCES (CLASS 3)

A. Applicability

Variations shall be reviewed using a Quasi-Judicial procedure, in accordance with the applicable provisions of Chapter 16.20.

B. Thresholds

Variance requests must conform to the following thresholds:

1. Variance requests are those that do not conform to the provisions of Minor Adjustments (Class 1) and Adjustments (Class 2) as noted above.
2. The Variance procedure may be used to modify a standard for any lot creation process, including lots yet to be created through a partition process.

C. Decision Process

Variations (except Signage Dimensions) shall be processed using a Quasi-Judicial procedure, as governed by applicable provisions of Chapter 16.20, using the Decision criteria listed below (16.29.050.D).

D. Decision Criteria

In addition to all other applicable criteria, a Variance request must meet the following Decision Criteria:

1. The proposed Variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, or to other properties in the same land use zone or vicinity.
2. A hardship to development exists that is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and that are not applicable to other properties in the vicinity (e.g., the same Land Use Zone).
3. The use proposed will be the same as permitted under this Code and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land.
4. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard.
5. The hardship is not self-imposed.
6. The Variance requested is the minimum Variance that would alleviate the hardship.

16.29.060 ADJUSTMENT AND VARIANCE APPLICATIONS AND APPEALS

A. Application

1. All Adjustment and Variance applications shall conform to the requirements for Ministerial Reviews, Administrative Reviews, or Quasi-Judicial Procedures (Chapter 16.20), as applicable.
2. In addition, the applicant shall provide a narrative or letter explaining the reason for his/her request, alternatives considered, and how the stated Decision Criteria are satisfied.

B. Appeals

Appeals of Adjustment or Variance decisions shall be processed in accordance with the applicable provisions of Chapter 16.20.