

VARIANCES

11.15.8505

Initiation

- (A) The Hearings Officer may permit and authorize a variance from the requirements of this Chapter only when unusual circumstances cause practical difficulties in the application of the Chapter. A variance shall be granted only when substantially all of the following conditions and facts are found to exist:
- (1) Unusual circumstances or conditions apply to the property or to the intended use that do not apply generally to other property in the same vicinity or district;
 - (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, possessed by the owners of other properties in the same vicinity or district;
 - (3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located; and
 - (4) The granting of the variance will not adversely affect the realization of the Comprehensive Plan.
- (B) A variance shall be void if no substantial construction or substantial expenditure of funds occurs on the affected property within 18 months after the variance is granted.

11.15.8510

Landing Field Height Limitation

- (A) In acting on an application for a variance from the height limitations of the Airport Landing Field District, under MCC .6080(A), the approval authority shall consider statements from the Federal Aviation Administration and the Port of Portland as to the effect of the variance on the operation of air navigation facilities or the safe and efficient use of navigable air space.
- (B) In the event a variance is granted from the height limitation of MCC .6080(A), a condition of such action shall be that such markings or lights shall be installed and maintained at the owner's expense, as are necessary to indicate to aircraft operators the presence of such structure or natural growth.

11.15.8515

Variances Under Certain Conditions

- (A) In lieu of the provision of MCC .8505(A), the Planning Director is authorized to grant variances of the setback, yard, height, coverage, lot size, width or depth requirements of this Chapter in accordance with the following procedures and conditions:
 - (1) Application shall be made on forms provided by the Planning Director and shall be accompanied by the written consent of the owner or owners of each lot adjoining and across any street from the subject property;
 - (2) The filing fee for the variance shall be as required by this ordinance;
 - (3) The Planning Director may, without notice or hearing, grant the variance for which the application is made and may attach reasonable conditions thereto.
- (B) A variance under subsection (A) above shall require a finding by the Planning Director that:
 - (1) The requirements of MCC .8505(A) of this Chapter have been met; and
 - (2) Due to the size, shape, topography or location of the site or the location of existing buildings or other conditions, compliance with applicable requirements can only be achieved with practical difficulty or hardship.
- (C) A statement reciting the findings under (B) above shall be attached by the Planning Director to the variance application.
- (D) The Planning Director shall in no case grant a variance in excess of 25 percent of the applicable requirements.

11.15.8520

Notice of Denial

In the event the Planning Director declines to grant a variance requested under MCC .8515(A), the Director shall notify the applicant, stating the reasons for denial. The applicant may, within 20 days after receipt of such notice, file a variance application under MCC .8505(A).

11.15.8525

Hillside Residential Variances by Administrative Action

- (A) Notwithstanding the limitation of MCC .8515(C), the Planning Director may approve reductions in the required front setback for hillside residential properties when the following conditions exist:

- (1) Application of the required setback will necessitate extraordinary cutting or filling of the land, resulting in potentially unsafe banks; and
 - (2) The reduction of the required setback would not permit the development of the property in a manner that would be more hazardous or detrimental to the public safety than development within the required setback.
- (B) For the purposes of this subsection, a hillside residential property is any legally created lot or parcel with an average grade from the front to the rear property line of more than five percent.