

## Chapter 25.195

### LAND USE HEARINGS BY EXAMINER

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#### **25.195.010 Purpose.**

The purpose of this chapter is to establish a system of applying land use regulatory controls which will best satisfy the following basic needs:

- (1) To assure procedural due process and appearance of fairness in certain land use regulatory hearings; and
- (2) To provide an efficient and effective land use regulatory system, which integrates the public hearing and decision-making process for certain land use matters by adopting a hearing examiner system as provided by RCW [35.63.130](#) in accordance with Chapter [2.50](#) PMC. [Ord. 3765 § 4, 2006; Code 1970 § 25.84.010.]

#### **25.195.020 Land use decision authority.**

The Hearing Examiner shall receive and examine available information, conduct public hearings, and prepare a record thereof; and enter findings of fact, conclusions and a decision as provided for herein. The Hearing Examiner shall hear and decide the following land use decisions:

- (1) *Variances*. Applications for variances from the terms of this title; provided, that any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zoning in which the subject property is situated, and that the following circumstances are found to apply:
  - (a) Because of special circumstances applicable to the subject property, including size, shape, topography, location of surroundings, the strict application of the zoning ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zone classification.
  - (b) 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.

(c) The special circumstances applicable to the subject property were not created through the action(s) of the applicant or any predecessor in interest.

(2) *Review – Administrative Action.* Appeals may be heard by the examiner, where it is alleged by the applicant that there is error in any order, requirement, permit, decision or determination made by the City Planner in the administration or enforcement of this title. Where the street or lot layout actually on the ground, or as recorded, is different from the street and lot lines as shown on the zoning map, the examiner, after notice to the owners of the property, and after public hearings, shall interpret the map in such a way as to carry out the intent and purposes of this title. In case of any questions as to the location of any boundary line between zoning districts, a request for interpretation of the zoning map may be made to the examiner, and a determination shall be made by the examiner.

(3) *Waiver of Violations.* Recognizing the fact that a building may be erected in good faith with every intent to comply with the provisions of this title with respect to the location of the building upon the lot and the size and location of required yards, and that it may later be determined that such building does not comply in every detail with such requirements, although not violating the spirit or intent of the zoning ordinance, the examiner may issue a waiver of violation subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

(4) *Extension of Use on Border of District.* The examiner may hear and approve the extension of a use or building into a more restricted zone classification immediately adjacent thereto, but not more than 30 feet beyond the dividing line of the two zone classifications, and under such conditions as will safeguard development in the more restricted district.

(5) *Administrative Exceptions.* An administrative exception not to exceed one foot of any dimensional standard pertinent to front yard, side yard, rear yard, flanking street, and building line may be granted by administrative action of the examiner without public hearing and without posting or public notices.

(6) Land use decisions described in PMC [2.50.080](#). [Ord. 4433 § 6, 2019; Ord. 3765 § 4, 2006; Code 1970 § 25.84.020.]

## **25.195.030 Land use application.**

Applications for permits or approvals within the jurisdiction of the Hearing Examiner shall be presented to the office of the Planning Division. The application shall be accepted only if applicable filing requirements are met. The Planning Division shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the statute or ordinance governing the application. [Ord. 4433 § 7, 2019; Ord. 3765 § 4, 2006; Code 1970 § 25.84.030.]

## **25.195.040 Report of Community and Economic Development Department for land use application.**

For any land use issue coming before the examiner, the Department of Community and Economic Development shall coordinate and assemble the reviews of other City departments, governmental agencies, and other interested parties and shall prepare a report summarizing the factors involved and the Department's finding and recommendations. At least seven calendar days prior to the scheduled hearing, the report shall be filed with the examiner and copies thereof shall be mailed to the applicant and made available for public inspection. Copies thereof shall be provided to interested parties upon payment of reproduction costs. In the event that information to be provided by the applicant or other parties outside of City control has not been provided in sufficient time for filing seven days in advance of the hearing, the Community and Economic Development Department may reschedule the hearing and notify interested parties. [Ord. 4433 § 8, 2019; Ord. 3765 § 4, 2006; Code 1970 § 25.84.040.]

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**The Pasco Municipal Code is current through Ordinance 4606, passed September 6, 2022.**

Disclaimer: The City Clerk's office has the official version of the Pasco Municipal Code. Users should contact the City Clerk's office for ordinances passed subsequent to the ordinance cited above.

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