

5. Applicant must submit evidence that surrounding property owners within 100' of subject property, excluding adjacent rights-of-way, have been notified by first class mail with proof of mailing.
6. Fiscal and operational impacts of new development and use conversions, such as residential conversions to reduced or non-contributing tax base uses, shall be evaluated for the City's ability to provide and maintain services and infrastructure necessary to support such development.

D. REVIEW PROCEDURE AND APPROVAL

1. PUBLIC HEARING

Submitted materials are reviewed by the Planning Department for completeness and, if found substantially so, placed on the Planning Commission agenda for public hearing. After consideration of staff, professional/technical, agency and public comment, the Planning Commission will make recommendations and refer the request(s) to the City Council at its next regular meeting following the completion of the summary of action and the submittal of any additional information or plans by the applicant.

2. BASIS FOR ISSUANCE OF A CONDITIONAL USE PERMIT

The Planning Commission shall not recommend a conditional use unless evidence is presented to establish that:

- a. The proposed use in its particular location is necessary or desirable to provide a service or facility that will contribute to the general welfare of the community.
- b. Such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety, and general welfare of persons, nor injurious to property or improvements in the community.
- c. The proposed use will comply with the regulations and conditions specified in the City Code for such use.
- d. The proposed use conforms to the goals and objectives of the City's Rainbow Vision Plan.
- e. The proposed use furthers the architectural and historical qualities and character of the community as set forth in the Manitou Springs Design Guidelines.
- f. The proposed use is compatible in function and design with surrounding land uses.

18.30.050 FINAL APPROVAL

Final approval or disapproval of a Conditional Use Permit rests with the City Council. The City Council shall make their decision on the basis of recommendations by the Planning Commission. Unless construction is begun, a building permit issued or use commences within a period of one year from the date of conditional use approval, the conditional use approval shall expire.

18.32 VARIANCES

18.32.010 POWER TO GRANT VARIANCES

Where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation or condition peculiar to a particular piece of property, the strict application of any provisions of these regulations would result in exceptional demonstrable, unnecessary hardship, the Planning Commission, upon receiving a complete application for relief and after reviewing a recommendation from the Planning Department, shall have the power to grant a variance from such strict application so as to relieve such demonstrable difficulties or hardships, subject to the requirements of this section.

18.32.020 PRE-APPLICATION CONFERENCE

A pre-application conference shall be held with the City Planner, unless waived by the Planning Department, in order for the applicant to:

1. Become acquainted with the variance standards and submittal requirements and other related development requirements; and
2. Obtain a checklist of what the application shall include plus additional documentation that may be required.

18.32.030 APPLICATION FOR VARIANCE

1. A written statement of intent explaining the objective to be achieved by the development and demonstrating:
 - a. That there exist special conditions and circumstances of the type specified in section 18.32.010, which are peculiar to the land, structure, or building involved and which are not applicable to other lands or structures in the same district;
 - b. That said special conditions and circumstances do not result from the actions of the applicant;
 - c. That literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.
2. A site map indicating existing structures and the proposed development.
3. Any other information that may be required in order for Planning Commission to make an informed recommendation as determined by the City Planner.
4. Applicant must submit evidence that surrounding property owners within 100' of subject property, excluding adjacent rights-of-way, have been notified by first class mail with proof of mailing.

18.32.040 PUBLIC HEARING ON APPLICATION

The Planning Commission shall hold a public hearing on the application. The City shall place at least one (1) notice of hearing on the property or structure, at least ten (10) days prior to the Planning Commission meeting at which the property or structure is to be considered.

18.32.050 FINDINGS

The Planning Commission, after receiving a recommendation from the Planning Department, shall make the following findings:

1. That the representations in the application are valid or invalid and the applicant has or has not met one or more of the criteria established in **Section 18.32.030**;
2. That the reasons set forth in the application justify or do not justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land or structure;
3. That the granting or denial of the variance will be in harmony with the general purpose and intent of the Rainbow Vision Plan and the Zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

18.32.060 ACTION

The Planning Commission, after receiving a recommendation from the Planning Department, shall consider the application and approve, conditionally approve or deny it according to the provisions of this section. In granting a variance, the Planning Commission may prescribe appropriate conditions in conformity with these regulations.

18.32.070 ISSUANCE OF PERMIT

Where a variance is required and granted, it shall be issued prior to the issuance of a building permit, and shall be issued subject to the conditions upon which the Planning Commission has determined to grant the variance. Unless a building permit is issued for the development within a period of one year from the date of variance approval, such approval shall expire unless good cause can be shown to the Planning Commission that, after review and recommendation by the Planning Department, the variance should not expire. In the event that good cause is shown, the permission may be extended for up to one, six (6) month period.

18.34 MINOR MODIFICATIONS

18.34.010 Planning Director Approval

If, after planning permission has been received, it becomes necessary to modify the approved plan, minor modifications may be approved or disapproved by the Planning Director or designee. In no case shall the request for modification exceed what is allowed by zone, to include the result of cumulative requests.

18.34.020 Minor Modifications - Criteria

Minor modifications include:

- A. Any change in commercial or industrial floor space up to 3%
- B. Any change in the amount of open space up to 1%
- C. Any change in the amount of land area covered by structures up to 2%
- D. Minor changes in the location of streets and utilities.