

# City of Ontario Planning and Zoning Application Form

444 SW 4<sup>th</sup> Street, Ontario, OR 97914

Community Development Center: 458 SW 3rd Street

Voice (541) 881-3222 / (541) 881-3224

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## ADMINISTRATIVE VARIANCE

**FILE #** \_\_\_\_\_

**Date Received** \_\_\_\_\_

**Administrative (10B-40):**

**Fee: \$60.00 + \$120.00 = \$180.00**

(Mailing & Advertising \$120.00)

**Time Received** \_\_\_\_\_

**PDAC Date:** \_\_\_\_\_

**Accepted as Complete** \_\_\_\_\_

**Scheduled for hearing(s)**

Administrative decision \_\_\_\_\_

Hearings Officer \_\_\_\_\_

Planning Commission \_\_\_\_\_

City Council \_\_\_\_\_

**Applicant(s)** – attach additional sheets as necessary

**Property Owner(s)** – attach additional sheets as necessary

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_

email \_\_\_\_\_

signature \_\_\_\_\_

**Description of proposed action:** \_\_\_\_\_

If the application includes any site plans or other drawings, please submit electronic copies in pdf format

**Property information:**

Address \_\_\_\_\_

Tax Map # \_\_\_\_\_

Tax Lot #(s) \_\_\_\_\_

Lot size \_\_\_\_\_

Zoning \_\_\_\_\_

Existing use \_\_\_\_\_

### OFFICE USE ONLY

**120 day time limit**

Accepted as complete \_\_\_\_\_

Final decision by \_\_\_\_\_

**DLCD 45-day notice required**

Y/N\_\_\_\_ Date mailed \_\_\_\_\_

Date of first hearing \_\_\_\_\_

Notice of Pending Hearings Officer Decision or Hearing

Date mailed \_\_\_\_\_

Notice to media

Publication date \_\_\_\_\_

Emailed \_\_\_\_\_

Notice of Decision

Date mailed \_\_\_\_\_

Appeal deadline \_\_\_\_\_

**Associated applications**

\_\_\_\_\_

## **CHAPTER 10B-40 - ADMINISTRATIVE VARIANCE**

**10B-40-05 - PURPOSE AND AUTHORITY.** Administrative variances are intended to provide for minor adjustment or relief from regulations that, because of unique conditions, would cause undue hardship. Administrative variances may be granted only for those quantifiable or dimensional requirements listed below under approval criteria. No administrative variance shall be issued for permitted uses in zones, or other non-quantified regulations.

**10B-40-10 - INITIATION OF ACTION.** Administrative variance applications shall be filed, appropriate fees paid, and a Hearing Officer review date scheduled by the Planning Director in accordance with the provisions of this Title.

**10B-40-15 - AGENCY COORDINATION.** Any proposed administrative variance shall be submitted to City department heads, Malheur County and State or Federal agencies, deemed by the Planning Director to have an interest in the action. Such departments or agencies shall submit comments, if any to the Hearing Officer no later than the date of review for approval of the application. If coordination reveals serious problems in need of resolution, the hearing officer may continue the action to another time specified.

**10B-40-20 - DECISION.** The Planning Director shall set a date for review of the application. On the set date the Hearing Officer shall study the issues raised by the application, examine the situation on the ground and consider all comments by interested governmental agencies, then decide the issue and make findings appropriate to support the decision. The Planning Director shall notify the applicant of the decision and shall notify all property

**Staff will evaluate your proposal based on the criteria below. Please provide a written (Preferably typed) response addressing the criteria below, as they relate to your proposal and the applicable zone.**

### **10B-40-25 - REQUIRED FINDINGS, DECISION CRITERIA.**

The Hearing Officer may grant an Administrative Variance of up to 25 percent of required setbacks, fence height, vision clearance area, number of parking spaces, or minimum open area; or up to 15 percent of required lot area, lot depth and width, lot coverage, and any other quantifiable land development standard, in each case when all of the following conditions are found to exist:

1. Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Title;
2. Strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges generally enjoyed by the owners or other properties classified in the same zone;
3. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other properties classified in the same zone;
4. The granting of the administrative variance will not constitute a grant of special privileges inconsistent with the limitations on other properties classified in the same zone;
5. The granting of the administrative variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and
6. The administrative variance is the minimum variance which would alleviate the difficulty.

**10B-40-30 - EXPIRATION OF ADMINISTRATIVE VARIANCE.** No administrative variance granted by the hearing officer shall be valid for a period longer than six months unless permitted administrative variance is established within such period, or in the event such permitted variance is dependent upon the erection or alteration of a building, unless the building permit for said erection or alteration is obtained within such six-month period; provided, however, that the Hearing Officer, upon a written request of the applicant, may extend the period six months but not in excess of 18 months from the date the first order granting the administrative variance was given.

**10B-40-35 - APPEAL TO PLANNING COMMISSION.** The action and/or decision of the Hearing Officer may be appealed to the Planning Commission within the time frame and by those with standing to appeal as set forth in this Title.

### **PROCEDURE – HEARINGS OFFICER DECISIONS**

**10B-04-10 DEFERRAL TO HEARINGS OFFICER OR PLANNING COMMISSION.** The Planning Official or Hearings Officer may defer any matter to the Planning Commission. Such deferral shall be based upon a determination that one or more of the following situations exist:

1. The Official or Hearings Officer has an indirect or direct conflict of interest; or
2. The Official or Hearings Officer determines that he has prejudged the matter under consideration; or
3. The Official or Hearings Officer determines that the matter is, in his opinion, deserving of a public hearing; or
4. The workload of the Planning Department is such that it is more efficient for the applicant to be deferred to the Planning Commission.

The reason(s) for the deferral shall be part of the written record of the matter deferred.

#### **10B-04-15 APPLICATION.**

1. Prior to submitting any application for any building permit or land use action, the applicant shall complete at least one Preliminary Design Advisory Committee meeting with the City’s Technical Review Committee; otherwise, no application shall be accepted by the City Public Works, Planning, or Building Officials unless this requirement is specifically waived in writing by the applicable named official.
2. An application for a Land Use Decision shall be on forms provided by the City and shall include all information specified by the Planning Official. If, upon receipt of application material the Official determines that the application is incomplete, the Official shall, within 10 days of receipt of the application, transmit to the applicant a written request for the needed information to the applicant. The written request shall include the Statement: “The specified information must be submitted to the Planning Official within 30 days from the date of this letter; if the information is not received within the 30-day period, the matter may be processed “as is”. Consistent with State Law and the Ontario Municipal Code, the burden of proof is on the applicant; the applicant bears the sole responsibility to provide the needed information. Failure to provide the specified information will most likely result in denial of the request.”

**10B-04-20 REVIEW BY HEARINGS OFFICER.** A complete application for a Land Use Decision under the Hearings Officer’s jurisdiction shall be reviewed and all appeals at the local level be complete within 120 days of the date the application is determined to be complete. Such determination of completeness shall be the date a receipt is issued by the City for the application fee. The Hearings Officer shall make every effort to issue a decision on the application within 30 days of receiving a complete application.

**10B-04-25 DECISION.** The Hearings Officer Decision shall be a written decision which includes a statement of applicable decision criteria and/or standards relevant to the decision, and the findings of fact and conclusions relied upon as the justification for the decision.

**10B-04-30 NOTICE OF DECISION.** Notice of the Hearing Officer's decision shall be in writing and communicated via first class mail by the Planning Official to those specified in Section 10B-03-10 of this Code.

**10B-04-40 FINAL DECISION.** In the absence of an appeal the Hearing Officer's decision shall become the final decision of the City. No argument or further testimony will be taken by the City, and no appeal to any City decision making body shall be approved.

**10B-04-45 APPEAL OF A HEARING OFFICER'S DECISION.** A person may appeal a Hearings Officer decision provided that such appeal is filed within the guidelines of the appeal procedures as set forth in Section 10B-10-20 through 10B-10-45 of this Title.

**10B-10-10 FINAL ACTION, HEARINGS OFFICER, PLANNING COMMISSION, COUNCIL, APPEALABLE.** Unless otherwise provided for in this Chapter, where final decision authority is granted by this Title to the Hearings Officer, Planning Commission or City Council, that decision shall be the final action of the City unless an appeal is received pursuant to this Chapter.

**ADMIN. VARIANCE**

**FILE #** \_\_\_\_\_

**Applicant is:**

- \_\_\_\_\_ The owner of the property.
- \_\_\_\_\_ The purchaser of the property under a duly executed written consent of the owner to make such application.
- \_\_\_\_\_ A lessee in possession of the property who has the written consent of the owner to make such authorization.
- \_\_\_\_\_ The agent of any of the above, who is duly authorized in writing by the principal.

**AUTHORIZATION:**

I hereby consent that I am authorized to make the application for a variance and the statements within this application are true and correct to the best of my knowledge and belief. I verify that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by the City of Ontario may be revoked if it is determined that the authorization was issued on account of false statements or misrepresentation.

\_\_\_\_\_  
Signature of applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of property owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of property owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of property owner

\_\_\_\_\_  
Date

**10B-05-15 BURDEN, CRITERIA OF PROOF.**

1. The proponent of proposals shall have the burden of proving the justification of the request. The greater the impact of the request on an area, the greater is the burden upon the proponent.
2. The requested proposal must be supported by proof that it conforms to all applicable standards and criteria of the OMC. The Planning Official may require that proponents submit written evidence, facts and/or written findings substantiating such conformance, as part of the application.

**Incomplete applications, or insufficient information, may result in delay or denial of the application.**  
**SUPPLEMENTAL INFORMATION TO SUBMIT WITH APPLICATIONS:**

**The following information may be required by the Planning or Public works Official:**

1. Any data required by OMC land development regulations.
2. Finished floor elevation related to curb, street, or other established grade or benchmark.
3. Drainage patterns. All lots shall show grading and drainage and finished grades or contours (clearly indicated).
4. The size and location of all existing and proposed public and private utilities, easements, or right of way.
5. The size, setback dimensions, and height of all proposed structures, and all existing structures to be retained on-site, and, the use of each structure. The locations may be indicated by construction site envelopes showing possible legal locations near the spot, building dimensions including height, and building separation.
6. Location, dimensions and names of adjacent streets and proposed internal streets, showing centerline radii and curb return radii.
7. The location and dimensions of existing and future sidewalks shall be shown.
8. The proposed layout of parking lots including the location and dimensions of parking spaces, curbed islands, internal planter strips, maneuvering aisles, and access driveways with indication of direction of travel.
9. The location of all signs, exterior lighting and fencing to be used to divide properties and to screen mechanical equipment and trash containers.
10. Existing physical features including drainage ways and structures with indication as to which are to be retained. Adjacent properties and their physical features within 50 feet of the property line shall be identified, including setback dimensions of adjacent structures.
11. The location of existing trees and scrubs and notation of which are to be retained on the property; location and dimensions of proposed landscaped areas; location and types of all proposed plant material and ground cover; location and type of irrigation systems; and, all other pertinent landscape features.
12. Location of all recreational amenities such as open play areas, swimming pools, tennis courts and recreational equipment.
13. Statement of maintenance responsibility for all improvements shown on the site plan.
14. Site data in tabular form including:
  - a. Total area of the property in square feet.
  - b. Building coverage in square feet and percent total.
  - c. Parking lot in square feet and percent total.
  - d. Landscaped area in parking lot in square feet.
  - e. All other landscaped areas in square feet.
  - f. Number of parking spaces provided.
  - g. Number of residential units if appropriate.
  - h. Existing and proposed gross floor area in square feet.

**If the applicant is not the property owner, the Planning Official may require documentation of consent to represent the owner including:**

- A. A description of the property and the specific action for which approval is sought
- B. Signature of owner
- C. Date of consent
- D. Party to whom consent is given
- E. Notarization of consent

**If you are providing large or detailed plans, please provide electronic copies with your application, or make arrangements to email them to staff.**

**Electronic copies of all written materials are appreciated if available.**