

ORDINANCE NO. 962

AN ORDINANCE OF THE CITY OF CLYDE HILL, WASHINGTON, AMENDING CHAPTER 17.72 OF THE CLYDE HILL MUNICIPAL CODE (“CHMC”) ELIMINATING REFERENCES TO THE FORMER BOARD OF ADJUSTMENT AND PROVIDING FOR THE ROLE OF THE HEARING EXAMINER; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, the City Council has provided by ordinance for the position of Hearing Examiner and repealed provisions for the establishment of a Board of Adjustment; and

WHEREAS, Chapter 17.72 of the Clyde Hill Municipal Code (“CHMC”) requires amendment to substitute the Hearing Examiner for the Board of Adjustment and to make revisions to provide that the decisions of the Hearing Examiner are final decisions of the City,

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF CLYDE HILL, WASHINGTON, DO ORDAIN
AS FOLLOWS:

Section 1. Amended. Chapter 17.72 of the CHMC is hereby amended to read as follows

(additions shown by underline and deletions shown by strikeout):

Chapter 17.72
SPECIAL EXCEPTIONS – BOARD OF ADJUSTMENT

Sections:

17.72.010 *Renumbered.*

17.72.020 Variances and special exceptions – Purpose.

17.72.030 Variances and special exceptions – Criteria for approval.

17.72.040 Damaged, destroyed or demolished buildings and structures – Expiration of
variance.

17.72.050 Lapse.

17.72.060 Interpretations.

17.72.070 *Repealed.*

17.72.080 *Repealed.*

17.72.090 Custodian of records.

17.72.100 Fees.

17.72.110 *Repealed.*

17.72.010 General provisions.

Renumbered to Chapter 2.21 by Ord. 753. (Ord. 628 § 1, 1990; Ord. 590 § 3, 1988; Ord. 496 § 18, 1984; Ord. 421 § 1, 1980; Ord. 293 § 1, 1972; Ord. 74 § 12(A), 1959)

17.72.020 Variances and special exceptions – Purpose.

The ~~Board of Adjustment~~ Hearing Examiner may, upon written application, grant special exceptions to the provisions of this title, for the following purposes:

A. To permit any land use not enumerated for a particular district when such use is in general keeping with uses authorized in such districts;

B. To grant, in undeveloped sections, temporary and conditional permits for not more than one year;

C. To permit variation from the requirements of this title when exceptional circumstances relating to the property require relief from strict adherence to the requirements in order to allow the owner to make reasonable use of the property.

17.72.030 Variances and special exceptions – Criteria for approval.

No application for a variance or special exception shall be granted unless the board of adjustment finds that:

A. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property, on behalf of which the application was filed, is located;

B. The variance is necessary because of exceptional circumstances relating to the narrowness, shallowness or shape of a specific piece of property, or because of exceptional topographic conditions or other extraordinary situation or condition of the land, building or structure or the use or development of property immediately adjoining the property in question; and

C. The granting of the variance will not be materially detrimental to the public health, safety and welfare, substantially offensive to the rights of other persons living in or near the area involved or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

17.72.040 Damaged, destroyed or demolished buildings and structures – Expiration of variance. In the event that any building or structure for which a special exception or variance has been granted under the provisions of this chapter is substantially damaged or destroyed by fire, explosion, act of God, act of the public enemy or other hazard, or is demolished or remodeled by the owner, then and without further action by the board of adjustment, all special exceptions or variances previously granted shall immediately lapse and become null and void. All further construction on the land on which the building or structure was located shall thereafter comply with the provisions of this title, unless a new special exception or variance is applied for and granted.

A building or structure will be considered “substantially” damaged, destroyed, demolished or remodeled when the cost to repair the damage, destruction or demolition, or the cost of the remodel, equals or exceeds 75 percent of the fair market value of the building or structure for the year that the damage, destruction, demolition or remodel occurred. For purposes of this section, the “fair market value” shall be presumed to equal the assessed value, unless the owner provides the city with an appraisal prepared and certified by a licensed real estate appraiser, in which case the appraised value shall be used.

17.72.050 Lapse.

If construction of the project for which the variance or special exception is granted has not commenced within 18 months or is not completed within three years, the special exception or variance shall lapse and be null and void.

17.72.060 Interpretations.

A decision by the code enforcement officer or public works director as to the meaning, application or intent of any provision of this title, or CHMC Title 16, Subdivisions, as it relates to a particular piece of property is known as an “interpretation.” Any person may request an interpretation, by filing a written request as follows:

A. An application for the interpretation shall be filed with the city clerk, which shall include the following:

1. A description of the situation under which the request for an interpretation arose, as well as the specific code sections involved;
2. The name and address of the applicant, the name of the property owner affected by the interpretation, if different from the applicant, and the relationship of the applicant to the property owner;
3. The location and address of the subject property.

B. Requests for code interpretations are Type III applications, and shall be processed under the procedures described in CHMC Title 19.

C. Appeals.

1. To the ~~Board of Adjustment~~ Hearing Examiner. If an applicant disagrees with the interpretation of the code enforcement officer or public works director, the applicant may appeal the interpretation to the ~~board of adjustment~~ hearing examiner. Such appeal must be made in writing within 10 days after the interpretation issues. The appeal fee, as set by council resolution, shall accompany the appeal. The burden to establish that the interpretation is incorrect is on the applicant. After considering the appeal, the ~~board of adjustment~~ hearing examiner may affirm, reverse or modify the interpretation. Such appeal shall be heard in an open record public hearing.

~~2. To the City Council. If the applicant or another party with standing disagrees with the decision of the board of adjustment, an appeal may be filed to the city council, who shall hear the appeal on a closed record. Such appeal shall be accompanied by the requisite appeal fee (set by council resolution) and must be filed within 10 days after the issuance of the board's decision. The burden to establish that the board's decision is incorrect is on the appellant.~~

~~3.~~ 2. To Superior Court. Any appeals of the ~~council's~~ hearing examiner's decision must be brought in accordance with Chapter 36.70C RCW, as amended, within 21 days of the date the decision by the council issues.

17.72.070 Specific findings to be recorded.

Repealed by Ord. 742. (Ord. 628 § 1, 1990; Ord. 74 § 12(F), 1959)

17.72.080 Public hearing.

Repealed by Ord. 742. (Ord. 628 § 1, 1990; Ord. 74 § 12(E), 1959)

17.72.090 Custodian of records.

The city clerk shall prepare, maintain, and be custodian of all records of the ~~board~~ hearing examiner, ~~minutes of the meetings~~ and all findings and decisions made by the ~~board of adjustment~~ hearing examiner.

17.72.100 Fees.

The fees for applications for variances or appeals to the ~~city council~~ hearing examiner provided for in this chapter shall be as established from time to time by resolution of the city council.

17.72.110 Appeal to Superior Court.

Repealed by Ord. 742. (Ord. 628 § 1, 1990; Ord. 74 § 12(J), 1959)

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the invalidity or unconstitutionality does not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3 Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law. Publication may be by summary publication consisting of the Ordinance Title.

PASSED by the City Council and APPROVED by the Mayor of the City of Clyde Hill, at a regular meeting held this _____ day of _____, 2018.

CITY OF CLYDE HILL, WASHINGTON:

MAYOR, GEORGE MARTIN

ATTEST/AUTHENTICATED:

CITY CLERK, MITCH WASSERMAN

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
CITY ATTORNEY

FILED WITH THE CITY CLERK: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO.: _____

SUMMARY OF ORDINANCE NO. _____

of the City of Clyde Hill, Washington

On _____, 2018 the City Council of the City of Clyde Hill, Washington, approved Ordinance No. _____, the main points of which are summarized by its title as follows:

AN ORDINANCE OF THE CITY OF CLYDE HILL, WASHINGTON, AMENDING CHAPTER 17.72 OF THE CLYDE HILL MUNICIPAL CODE (“CHMC”) ELIMINATING REFERENCES TO THE FORMER BOARD OF ADJUSTMENT AND PROVIDING FOR THE ROLE OF THE HEARING EXAMINER; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY. The full text of this ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of _____, 2018.

CITY CLERK, MITCH WASSERMAN