

**City of College Place**  
**Ordinance # 1089**

AN ORDINANCE OF THE CITY OF COLLEGE PLACE, WASHINGTON, AMENDING SECTIONS 17.72.050, 17.72.060, 17.72.070, 17.72.080, 17.72.090 AND 17.72.110 OF THE COLLEGE PLACE MUNICIPAL CODE RESPECTING NONCONFORMING STRUCTURES, LANDS AND USES, OR ANY COMBINATION THERE THEREOF MADE NECESSARY DUE TO THE ELIMINATION OF THE BOARD OF ADJUSTMENT AND THE CREATION OF A HEARING EXAMINER POSITION.

WHEREAS, The City of College Place is establishing a hearing examiner system pursuant to the provisions of RCW 35A.63.170; and

WHEREAS, the Board of Adjustment will be abolished as a result; and

WHEREAS, the Hearing Examiner will be handling the duties and responsibilities formerly handled by the Board of Adjustment as regards variance requests; and

WHEREAS, sections 17.72.050, 17.72.060, 17.72.070, 17.72.080, 17.72.090 and 17.72.110 of the College Place Municipal Code and Sections 24.04, 24.05, 24.06, 24.07, 24.08 and 24.10 of Ordinance 539 must therefore be revised to accommodate the newly created position of Hearing Examiner;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLLEGE PLACE, WASHINGTON DO ORDAIN AS FOLLOWS:

**Section 1.** Sections 17.72.050, 17.72.060, 17.72.070, 17.72.080, 17.72.090 and 17.72.110 of the College Place Municipal Code are hereby amended as follows:

**17.72.050 – Existing nonconforming uses of structure or land—Continuance terms and conditions.**

If a lawful use of a structure or land, or of structure and premises in combination, exists at the effective date of adoption or amendment of the ordinance title codified in this title, that would not be allowed in the district under the terms of this title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing use not permitted by this title in the district in which it is located shall be changed except in changing the use to a use permitted in the district in which it is located. Notwithstanding any other provision of this title, the hearing examiner after public hearing shall have the power to grant a special permit for a change of said nonconforming use on the application by the owners showing that the proposed change in said nonconforming use shall not be adverse to the public health, safety or general welfare of the immediate neighborhood within which it is located or of the community as a whole. In any case, the following conditions shall be considered by the hearing examiner in determining whether or not to grant said special permit:

1. The change in said nonconforming use must generally conform to the provisions of the city comprehensive plan.
2. Increase in existing off-street parking requirements due to the proposed change should be discouraged.
3. Safe, convenient, ingress and egress should be provided.
4. The potential for increased traffic flows and turning movements should be evaluated.
5. Adequate landscaping and buffering from any adjacent residential uses and streets should be required.
6. Compatibility with the adjacent uses should be evaluated.
7. Utility services should be considered.
8. The proposed use is equally appropriate or more appropriate than the existing use.
9. The hearing examiner shall prescribe a time limit within which the action for which the permit is issued shall be begun or completed or both. Failure to begin or complete or both the action within the time period set shall void the permit.
10. The hearing examiner may impose safeguards applicable to such new nonconforming uses which are in accord with this title.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance codified in this title, but no such use shall be extended to occupy any land outside the building.

C. Any structure, land, or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which it is located and the nonconforming use may not thereafter be resumed.

D. When a nonconforming use of a structure, land, or structure and premises in combination, is discontinued or abandoned for one year, no use shall take place except a use in conformance with the regulations of the district.

E. Upon the removal or destruction of a structure in which a use is taking place, an allowed use may be carried on if the structure is reconstructed.

**17.72.060 - Public hearing required—Notice—Hearing Examiner authority.**

Upon receipt of a request for a change in nonconforming use, the administrator shall set a date for a public hearing and give public notice of the time and place of the hearing as required by Section 19.12.030 of the College Place Municipal Code. Findings and determination of the hearing examiner resulting from this public hearing shall be made in writing and transmitted to the applicant or petitioner within 10 days after the date of the hearing.

**17.72.070 – Hearing Examiner review.**

If, after consideration of the applicant's petition, the hearing examiner finds the change in nonconforming use will not be adverse to the public health, safety or general welfare of the

immediate neighborhood where it is located or of the community as a whole, the hearing examiner may grant a special permit with conditions for the change to take place.

**17.72.080 - Change in nonconforming use procedure—Petition and public hearing required.**

- A. A petition for change of a nonconforming use shall be filed with the administrator by the owner, owners, or contract purchaser.
- B. When a petition has been filed with and certified by the administrator as a valid petition, notice of public hearing shall be given in accordance with Title 19.12.030.
- C. The public hearing shall be held. Any party may appear in person or by agent or attorney.

**17.72.090 - Procedure—Rehearing or petition refiling.**

If a petition for change of a nonconforming use is denied by the hearing examiner, another petition shall not be filed within a period of six months from the date of denial.

**17.72.110 - Appeal.**

Action taken by the hearing examiner with regard to permits for the change of nonconforming use shall be final and conclusive unless an aggrieved party files an appeal pursuant to the provisions of Section 19.15.050 of the College Place Municipal Code with the Superior Court of Washington for Walla Walla County.

**Section 2. Severability.**

In any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.


**Section 3. Savings Clause.**

Existing sections 17.72.050, 17.72.060, 17.72.070, 17.72.080, 17.72.090 and 17.72.110 of the College Place Municipal Code and Sections 24.04, 24.05, 24.06, 24.07, 24.08 and 24.10 of Ordinance 539, which are amended by this ordinance, shall remain in force and effect until the effective date of this ordinance.

**Section 4. Effective Date.**

This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication contemporaneously with Ordinances 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1090, 1091.

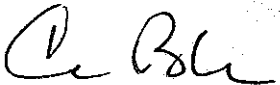
APPROVED by the College Place City Council this 24<sup>th</sup> day of June, 2013

  
Rick Newby, Mayor

ATTEST:

  
Sarah K. Scott, City Clerk

Approved as to Form:

  
Charles B. Phillips, City Attorney