

Article 10:

VARIANCES AND ADMINISTRATIVE EXCEPTIONS

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Sec. 9-1.1000:

Purposes and Authorization

The Variance and Administrative Exception process is established to allow for resolution of practical difficulties or unnecessary physical hardships that may arise due to the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic or other physical conditions on the site or in the immediate vicinity.

Variances and administrative exceptions should only be approved if the foregoing conditions deprive the owner of the property of substantially the same use and enjoyment of the property as that of other properties in the area.

Variances may only be granted with respect to the following development requirements: landscaping, screening, site area, site dimensions, yards and projections into yards, heights of structures, distances between buildings, open space and off-street parking and loading.

Variances may not be granted with respect to permitted and conditionally permitted land uses because such authority has been precluded by State laws, and because the flexibility necessary to avoid results inconsistent with the land use objectives set forth in the Development Code is provided by the power to grant Conditional Use Permits.

The power to grant variances does not extend to any public health or safety standard, because such authority is precluded by other local or State laws.

Administrative Exceptions may be allowed for minor deviations from development standards established in the Development Code.

Sec. 9-1.1005:

Application and Fees

Applications for Variances and Administrative Exceptions shall be filed with the Planning Department on the prescribed form and shall be accompanied by the following:

- A.** A completed Environmental Information Form describing existing environmental conditions, the proposed project and identifying potential environmental impacts of the project;
- B.** Maps, drawings, plans, tabulations and other documents required on the standard City application form to describe the project adequately;
- C.** Required fee(s);

- D. Other information as may be required by the Planning Department to explain the need for a Variance or Administrative Exception.
- E. Prior to the granting of any administrative exception, a pre-alteration report shall be prepared by the Building Department to determine Code compliance.

Sec. 9-1.1010:**Planning Department Action**

The Planning Department shall make an investigation of the application and shall prepare a written report to be submitted to the Planning Commission or Zoning Administrator and made available to the applicant prior to the public hearing. As part of its investigation, the Planning Department may confer with other departments and public agencies and shall include in the report any applicable comments resulting from such conferences.

Sec. 9-1.1015:**Public Hearings**

At least one public hearing shall be held on an application for a Variance, with applicable notice as required in Article 4. At the hearing, the hearing body shall review the application, all supporting materials and the reports of the Planning Department and any other City department, including the Development Advisory Board, if the application has been referred to that body.

Sec. 9-1.1020:**Zoning Administrator Action: Administrative Exceptions and Variances**

- A. The Zoning Administrator may grant an Administrative Exception or Variance as it was applied for or in modified form if, on the basis of the application and the evidence submitted, the following findings can be made:
 - 1. That special circumstances exist with respect to the property in question, including but not limited to the size, shape, topography or surroundings, and that strict or literal interpretation and enforcement of the specified regulation would result in practical difficulties or unnecessary physical hardship inconsistent with the objectives of the Development Code and/or General Plan;
 - 2. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
 - 3. That the approval of the Administrative Exception or Variance will not constitute a grant of special privilege inconsistent with the limitations of other properties classified in the same zoning district.
 - 4. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zoning district;
 - 5. The granting of the Variance or Administrative Exception will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
- B. The Zoning Administrator may grant an Administrative Exception for parking as it was applied for or in modified form if, on the basis of the application and the information submitted, if and only if the following findings can be made:

1. That neither present or anticipated future traffic volumes generated by the use or uses of the site in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation;
 2. That the granting of the Exception will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets;
 3. That the granting of the Exception will not create a safety hazard or any other condition inconsistent with the objectives of the Development Code;
 4. The granting of the Exception will not create a safety hazard or any other condition inconsistent with the provision of this chapter.
- C. Administrative Exceptions and Variances granted by the Zoning Administrator shall be made in writing and shall be made within twenty (20) days after the date of the hearing on the application. If the Zoning Administrator fails to act within the twenty day period, the application shall be automatically deemed to be denied. The applicant may appeal to the Planning Commission.

Sec. 9-1.1025:**Planning Commission Action: Required Findings**

- A. The Planning Commission may grant a Variance as it was applied for or in modified form if, on the basis of the application and the evidence submitted, the Planning Commission makes the following findings:
1. That special circumstances exist with respect to the property in question, including but not limited to the size, shape, topography or surroundings, and that strict or literal interpretation and enforcement of the specified regulation would result in practical difficulties or unnecessary physical hardship inconsistent with the objectives of the Development Code and/or General Plan;
 2. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
 3. That the approval of the Variance will not constitute a grant of special privilege inconsistent with the limitations of other properties classified in the same zoning district;
 4. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zoning district;
 5. The granting of the Variance will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
- B. Each decision by the Planning Commission authorizing a Variance shall be by resolution adopted by a majority of its membership setting forth in writing its findings. The Planning Commission shall make its findings and determinations within thirty (30) days after the date of the hearing on the application and may extend the time limit an additional twenty (20) days if it finds that an extension is necessary for the proper disposition of the application. If the Planning Commission fails to act within the prescribed time limit the application shall be automatically deemed to be approved. Decisions of the Planning Commission may be appealed to the City Council as provided by Article 5.

Sec. 9-1.1030:**Conditions of Approval**

In granting an application for a Variance or Administrative Exception, the hearing body may impose any condition or conditions it deems reasonable and appropriate to achieve the purposes of this article and to justify required findings.

At the discretion of the City Planner, applicants may post bonds to ensure the completion of on-or-off-site improvements prior to occupancy of a site or structure. The amount of the bond, or other suitable security, shall be determined by the City Planner for on-site improvements, and the City Engineer for off-site improvements.

Sec. 9-1.1035:**Lapses of Variances and Administrative Exceptions**

A Variance or Administrative Exception which is not part of an approved development plan pursuant to Article 8, shall lapse and become null and void one (1) year following the effective date of the Variance or Administrative Exception. A Variance or Administrative Exception which is part of an approved development plan shall become null and void two (2) years following the effective date of the Variance or Administrative Exception, unless prior to the expiration date a building permit is obtained and construction commenced and diligently pursued towards completion, or a certificate of occupancy is issued.

A Variance or Administrative Exception may be renewed for an additional period of time subject to the following conditions, provided, however, that prior to the expiration date, an application for renewal is filed with the Planning Department:

- A. A Variance or Administrative Exception which is not part of an approved development plan may be renewed for an additional period of one hundred eighty (180) days;
- B. A Variance or Administrative Exception which is part of an approved development plan may renewed for an additional period of time to coincide with any extensions of development plans which may be approved;
- C. As a condition of granting an extension of time, the Zoning Administrator or Planning Commission, at a public hearing, may revise existing conditions or impose additional conditions of approval to ensure that the variance is in compliance with City standards at the time such extension is granted;
- D. If there is no substantial change to the Variance or Administrative Exception application, the renewal may be granted by the Zoning Administrator or Planning Commission without holding a public hearing. Any application for renewal involving a substantial change from the original application or the conditions of approval may be subject to re-approval of the entire Variance with a new public hearing.

Sec. 9-1.1040:**Revocation**

A Variance or Administrative Exception granted subject to a condition or conditions shall be revoked by the Zoning Administrator or the Planning Commission if the condition or conditions are not complied with; provided, however, the Zoning Administrator or Planning Commission shall hold a public hearing prior to a revocation.

Sec. 9-1.1045:**New Applications**

Following denial or revocation of a Variance or Administrative Exception, no application for the same or substantially the same Variance on the same or substantially the same site shall be filed within one (1) year after the date of denial or revocation.