

Chapter 18.21

VARIANCES

Sections:

- 18.21.010 Purposes.
- 18.21.020 Authority of the city council.
- 18.21.030 Application and fee.
- 18.21.040 Hearing and notice.
- 18.21.050 Public hearing—Procedure.
- 18.21.060 Action of the city council.
- 18.21.070 Building permit.
- 18.21.080 Lapse of variance.
- 18.21.090 Revocation.
- 18.21.100 New application.
- 18.21.110 Administrative adjustments.

18.21.010 Purposes.

The city council is empowered to grant variances only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. The power to grant variances does not extend to use regulations, because the flexibility necessary to avoid results inconsistent with the objectives of the zoning code is provided by the conditional use, planned unit development and amendment provisions of this title. (Ord. 437 § 1 (part), 1989)

18.21.020 Authority of the city council.

The city council may grant variances to the regulations prescribed by this title only with respect to fences and walls, site areas, width, frontage, depth, coverage, front yard, rear yard, side yards, height of structures, distances between structures, off-street parking facilities and off-street loading facilities. (Ord. 437 § 1 (part), 1989)

18.21.030 Application and fee.

A. Application for a variance shall be made to the community development department on a form

prescribed by the council which shall include the following data:

1. Name and address of applicant.
2. Statement that the applicant is the owner of the property or is the authorized agent of the owner or the plaintiff in an action of eminent domain to acquire the property involved.
3. Address or description of property.
4. Statement of the precise nature of the variance requested and why approval is necessary under the purposes described in Section 18.21.010, together with any other data pertinent to the findings prerequisite to the granting of variance prescribed in Section 18.21.060.

B. The application shall be accompanied by a drawing of the site and any adjacent property affected, showing all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.

C. A drawing of the site and surrounding area, showing all surrounding properties within three hundred feet of the site, and a list of names and last known addresses of the recorded legal owners of such properties, as shown on the latest adopted assessment roll of Tulare County. County assessor's maps may be used for this purpose.

D. The application shall be accompanied by a fee set by resolution of the city council sufficient to cover the cost of processing the application.

E. The city clerk shall give notice to the applicant of the time when the application will be considered, and may give notice of the time to any other interested party. (Ord. 437 § 1 (part), 1989)

18.21.040 Hearing and notice.

The city council shall hold a public hearing in accordance with the provisions of Section 18.17.040. (Ord. 437 § 1 (part), 1989)

18.21.050 Public hearing—Procedure.

At a public hearing, the council shall review the application and the statements and drawings submitted therewith and shall receive pertinent evi-

dence concerning the variance, particularly with respect to the findings prescribed in Section 18.21.060. (Ord. 437 § 1 (part), 1989)

18.21.060 Action of the city council.

A. The council shall act on the application within thirty days after the close of the public hearing. The council may grant a variance to regulations prescribed by this title, as the variance was applied for or in modified form, if, on the basis of the application, investigation and evidence submitted, the council makes the following findings:

1. That there are special circumstances or conditions applicable to the property involved, such 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.

2. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the vicinity and in the same zoning district.

B. The council may grant a variance to a regulation prescribed by this title, with respect to off-street parking facilities or off-street loading facilities as the variance was applied for or in modified form, if, on the basis of the application, investigation and the evidence submitted, the council makes the findings prescribed in subsection A of this section and the following additional findings:

1. That neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.

2. That the granting of the variance 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 variance will not create a safety hazard or any other condition inconsistent with the objectives of the zoning title.

C. In approving a variance, the council shall add such conditions of approval as it deems necessary to assure that the variance adjustment shall not constitute a grant of special privilege as described under subsection A of this section.

D. A variance may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the council may prescribe. The council may deny a variance application.

E. A variance shall become effective ten days following the date on which the variance was granted by the council. (Ord. 437 § 1 (part), 1989)

18.21.070 Building permit.

The issuance of a building permit shall be governed by the provisions of Section 18.17.090. (Ord. 437 § 1 (part), 1989)

18.21.080 Lapse of variance.

A variance shall lapse and become void one year following the date on which the variance becomes effective unless by condition of the variance a greater time is allowed, or unless prior to the expiration of one year, a building permit is issued by the building official and construction is commenced and diligently pursued toward completion on the site which was the subject of the variance application.

A variance may be renewed for an additional period of one year, provided that, prior to the expiration of one year from the date when the variance originally became effective, an application for renewal of the variance is made to the city council. The council may grant or deny an application for renewal of a variance. A variance which is approved concurrently with a tentative map shall have the same approval term, expiration date, and extension terms as the tentative map. The city council may also establish a different approval term for a variance which is approved concurrently with a tentative map, based on the circumstances of the particular application. (Ord. 486 § 23, 1997; Ord. 437 § 1 (part), 1989)

18.21.090 Revocation.

The revocation of a variance approval shall be governed by the provisions of Section 18.17.130. (Ord. 437 § 1 (part), 1989)

18.21.100 New application.

Following the denial of a variance application or the revocation of a variance, no application for the same or substantially the same variance on the same or substantially the same site shall be filed within six months of the date of denial of the variance application or revocation of the variance. (Ord. 437 § 1 (part), 1989)

18.21.110 Administrative adjustments.

A. Purpose. The purpose of an administrative adjustment (hereafter "adjustment") is to provide an alternative option for processing routine projects which require an interpretation of established zoning ordinance standards. Adjustments are not intended to set precedent, and shall be considered only on a case-by-case basis.

B. Scope of Authority. The community development director (hereafter "director") or his/her designee shall have the authority to grant adjustments to the development standards within this title. Upon written request, the director may approve, conditionally approve, or deny minor adjustments to the following development standards: setbacks, site area, lot width, lot depth, building height, sign height, landscape requirements, fence height, and fence setbacks. Adjustments to side yard setbacks shall also require the review and approval of the chief building official to verify compliance with building and fire codes.

Adjustments shall not exceed ten percent of a required development standard. In making the adjustment, the director shall make a finding that the adjustment is consistent with the criteria listed in subsection C of this section.

C. Adjustment Criteria. The director shall record the decision in writing on a form that indicates the basis for the decision. The director may approve and/or modify an application in whole or

in part, with or without conditions, if the following criteria are satisfied:

1. There are special circumstances applicable to the property (including but not limited to property size, shape, topography, location or surroundings) which create a practical difficulty or unnecessary hardship in strictly applying the development standard.

2. The adjustment is necessary to provide consistency with properties in the same vicinity, general plan designation and zoning ordinance district within which the adjustment is sought.

3. The adjustment will not be materially detrimental to the public health, safety, or welfare or injurious to property or improvements in the vicinity of the project site.

4. The adjustment will be consistent with the goals and policies of the general plan.

D. Appeal Process. The applicant may appeal the decision of the director, in writing, to the city council within ten business days of the decision. If an appeal is not filed within ten business days, the decision shall be final. (Ord. 486 § 24, 1997)