

Chapter 5.1 - Variances**Sections:**

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5.1.100 Purpose

Hardships may result from the size, shape, or dimensions of a site or location of existing features thereon, geographic or topographic or other physical conditions on the site or in the immediate vicinity. The Planning Director or designee, through an administrative review or the Planning Commission through a Public Hearing process may grant a variance to overcome these hardships.

5.1.200 Exceptions

- A. The following regulations of the Development Code shall not be varied:
1. The uses permitted in the land use district.
 2. Definitions.
 3. The minimum and maximum residential development density allowed in a land use district.
 4. Uses or developments that are "prohibited" by this code.
- B. A variance shall not be granted when special circumstances upon which the applicant relies are a result of the actions of the applicant or owner or previous owner (s), including but not limited to:
1. Self-created hardships.
 2. Willful or accidental violations.
 3. Manufactured hardships.

5.1.300 Minor Variance

The following types of minor variances shall be processed using a Type II procedure, as governed by Chapter 4.1. and using the approval criteria in Section 5.1.500. Minor Variances are limited to lot setbacks, landscaping, tree preservation or sign standards, including up to a 10 percent change to the setback standard required in the base land use district, up to 10 percent reduction in landscape area, or up to a 20 percent difference in sign size.

5.1.400 Major Variance

Major Variances involve discretionary decision-making and apply to all Variances that are not Minor Variances. A Major Variance shall be processed using a Type III procedure, as governed by Chapter 4.1, using the approval criteria in Section 5.1.500, herein. In addition to the application requirements contained in Chapter 4.1.500, the applicant shall

provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in Section 5.1.500.

5.1.500 Approval Criteria

- A.** The Community Development Director or designee, through an administrative review (Type II) or the Planning Commission through a Public Hearing (Type III) shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:
1. That any Variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated; and
 2. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, preservation of significant trees, the strict application of the zoning law is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;
 3. That the granting of the variance will not be contrary to the intent of this Chapter or to the public safety, health and welfare, or quality of natural resources or injurious to other properties in the vicinity; and,
 4. The variance requested is the minimum variance which would alleviate the hardship.

5.1.600 Approval Period, Extensions and Appeals

- A. Approval Period.** Unless otherwise specified at the time of approval, a variance approval shall be valid for one (1) year.
- B. Extension.** A variance approval may be extended for good cause at the discretion of the approving authority responsible for the original decision. The applicant shall submit the request for extension in writing to the Community Development Department prior to expiration of the initial variance provided that no changes are made to the original approval.
- C. Appeals.** Appeals to variance decisions shall be processed in accordance with the provisions of Chapter 4.1.
- D. Revocation for Noncompliance.** Any variance may be revoked by the Planning Commission for noncompliance with conditions set forth in the original approval, after first holding a public hearing and giving written notice of such hearing to the grantee. The recipient of the revoked permit may appeal the revocation decision in the manner prescribed within the Type III appeals, section 4.1.

5.1.700 Amendment to a Variance

A variance may be amended, extended, varied or altered only pursuant to the standards and procedures for the original approval of a variance. An application for the same variance on the same site may not be considered within twelve months of the date of final action on the prior application.

5.1.800 Mapping

Within thirty (30) days after the entry of the variance order, the permit application file number shall be indicated on the officially adopted zoning map on the lot or lots affected by such variance permit.