

ARTICLE 28 VARIANCES

SEC. 25-28-01 PURPOSE

To allow variations from the rules, regulations, and provisions of this chapter where practical difficulties or unnecessary hardships may result from the strict application of the provisions of this chapter.

SEC. 25-28-10 APPLICATION

- A. Filing: Application shall be made in writing by the property owner or his authorized agent, on forms provided by the Community Development Department, and accompanied by such data and information as may be necessary to fully describe the request.

- B. Fee: The filing and investigation fee shall be as prescribed by City Council resolution.

SEC. 25-28-20 PUBLIC HEARING

Upon the filing of an application for variance, the Zoning Administrator shall set the matter for hearing. A notice of hearing shall be mailed at least ten (10) calendar days prior to said hearing to all property owners, any part of whose property lies within a radius of three hundred (300) feet of the applicant's property, using for this purpose the names of such owners as shown on the last equalized assessment roll, or alternatively, from such other records of the assessor or the tax collector as contain more recent addresses. In addition, if warranted in the determination of the Community Development Director, notice shall be provided by conspicuously posting the subject property for at least ten days prior to the hearing. Failure to receive the notice by this section shall not invalidate the action of the Zoning Administrator.

SEC. 25-28-30 ZONING ADMINISTRATOR ACTION

The Zoning Administrator shall have the power to grant variances, exclusive of use variances, when the Zoning Administrator has found and determined that the following circumstances apply:

- A. 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 zone in which the subject property is located.

- B. That because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the zoning regulation is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under the same zone classification.
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity or the zone in which the subject property is located.
- D. That the granting of such variance will be in conformity with the general purpose and intent of this chapter and the General Plan.
- E. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zoning regulations governing the parcel of property.

SEC. 25-28-40 APPEALS

The Zoning Administrator's action on the variance shall be final unless, within ten (10) calendar days after the decision, the applicant or any other person not satisfied with the decision of the Zoning Administrator, may appeal in writing to the Planning Commission. Said appeal shall be accompanied by a filing fee as prescribed by City Council resolution. At its next regular meeting after the filing of such appeal, the Planning Commission shall set a date for a public hearing and shall give notice to the appellant, the applicant and neighboring property owners in the manner provided in SEC. 25-28-20.

SEC. 25-28-45 FURTHER APPEALS

The planning commission's action on the variance shall be final unless, within fourteen (14) calendar days after the decision, the applicant or any other person, including the city council, any individual city council member, or the city manager, not satisfied with the decision of the planning commission may appeal in writing to the city council. No conflict of interest shall exist solely by reason of the filing of an appeal by the city council, an individual city council member, or the city manager. The appeal shall be filed with the city clerk and, except an appeal by the city council, a council member, or

the city manager, shall be accompanied by a filing fee as prescribed by city council resolution. The clerk shall set a date for a public hearing and shall give notice to the appellant, the applicant and the neighboring property owners in the manner provided in Section 25-28-20.

SEC. 25-28-50 ISSUANCE

No variance which has been approved by the Zoning Administrator shall be issued prior to the expiration of the appeal period as set forth in SEC. 25-28-40, or the final action on an appeal to the Planning Commission.

SEC. 25-28-60 EXPIRATION

Any variance granted or approved by the Zoning Administrator involving the erection, alteration, or enlargement of a building or structure for which a building permit is required is null and void after the expiration of one (1) year from date said variance is granted unless the applicant obtains a building permit within one (1) year from date said variance is granted and thereafter the time provisions of the building permit so secured shall prevail. The Zoning Administrator for good cause shown, may extend said one (1) year period for not longer than any additional six (6) months upon application in writing being made before expiration of said variance.