

24.19.400 VARIANCES

24.19.410 PURPOSES AND AUTHORIZATION

- A. Variances from the terms of the Zoning Ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. Any Variance granted shall be subject to such conditions as will assure that the deviation thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- B. A Variance does not extend to conditional use regulations. Flexibility to the zoning regulations is provided in the Conditional Uses provisions of this Ordinance.
- C. The Planning Commission may grant Variances to the Zoning Regulations prescribed by this Ordinance in accord with the procedure prescribed in this Section, with respect to fences, walls, hedges, screening and landscaping; width, and depth; front, rear, and side yards; coverage; height of structures; distances between structures; usable open space; signs; off-street parking facilities, or frontage on a public street.

24.19.415 APPLICATION: DATA AND MAPS TO BE FURNISHED

Application for a Variance shall be filed with the Planning Director on a form prescribed by the Planning Director and may include data and maps as specified in this Section. The Planning Director may require additional information or plans, to enable a determination as to whether the circumstances prescribed for the granting of a Variance exist. The Planning Director may authorize omission of any or all of the plans and drawings required by this Section, unless directed otherwise by the Planning Commission.

- A. Name and address of the applicant.
- B. Statement that the applicant is the owner or the authorized agent of the owner of the property on which the Variance is being requested.
- C. Address and legal description of the property.
- D. Statement of the precise nature of the Variance requested and the practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning regulations that would result from a strict or literal interpretation and enforcement of the specified regulation, together with any other data pertinent to the findings prerequisite to the granting of a Variance, prescribed in Section 24.19.440 (Findings).

24.19.415 APPLICATION: DATA AND MAPS TO BE FURNISHED (cont.)

- E. An accurate scale drawing of the site and any adjacent property affected, showing, when pertinent, the contours at intervals of not more than two (2) feet, and all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking facilities, and landscaped areas.

24.19.420 FEES

The application shall be accompanied by a fee established by Resolution of the City Council to cover the cost of handling and processing the application as prescribed in this Section. A single application may include requests for Variances from more than one regulation applicable to the same site, or for similar Variances on two or more adjacent sites with similar characteristics.

24.19.425 PUBLIC HEARING

The hearing shall be set and notice given as prescribed in Section 24.19.630 (Public Hearing by Planning Commission and City Council). At a public hearing, the Commission shall review the application, statements, and drawings submitted therewith and shall receive pertinent evidence concerning the Variance, particularly with respect to the findings prescribed in Section 24.19.440 (Findings).

24.19.430 INVESTIGATION AND REPORT

The Planning Director shall make an investigation of each application that is the subject to a public hearing and shall prepare a report thereon which shall be submitted to the Planning Commission and made available to the applicant at least seven (7) days prior to the public hearing.

24.19.435 ACTION OF THE PLANNING COMMISSION

Within thirty (30) days following the closing of the public hearing on a Variance application, the Planning Commission shall act on the application. The Commission may grant by Resolution, a Variance as was applied for or in modified form or the application may be denied. Variance for signs may be conditioned to expire with the change of copy for the use, be reviewed on a periodic basis or be required to conform upon change of ownership, and/or shall automatically expire upon any designated period of time.

24.19.440 FINDINGS

The Planning Commission may grant a Variance to a regulation prescribed by this Ordinance with respect to fences, walls, hedges, screening, or landscaping; width, or depth; front, rear, or side yards, coverage; height of structures; usable open space, or frontage on a public street, as the Variance was applied for or in modified form, if, on the basis of the application and the evidence submitted, the Commission makes findings of fact that establish that the circumstances prescribed in paragraphs A, B, C, D, E, and F below do apply.

- A. That there are special circumstances applicable to the property, (size, shape, topography, location or surroundings) or the intended use of the property, and because of this, the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other properties in the vicinity under identical zoning classification; and
- B. That granting the Variance or its modification is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property for which the Variance is sought; and
- C. That granting the Variance or its modification will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and zone in which the property is located; and
- D. The granting of this Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated; and
- E. The granting of this Variance does not allow a use or activity which is not otherwise expressly authorized by the zoning regulation governing the parcel of property.
- F. That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.

24.19.445 SIGNS: ADDITIONAL FINDINGS

All signs must comply with the current sign ordinance requirements in the City Code. The Planning Commission may grant a Variance for sign location and other similar performance standard except area and height as the Variance was applied for or in modified form, if on the basis of the application and the evidence submitted, the Planning Commission makes findings of fact that establish that the circumstances prescribed in Section 24.19.440 (Findings) apply and the following circumstances also apply.

- A. That the granting of the Variance will not detract from the attractiveness or orderliness of the City's appearance or the surrounding neighborhood.
- B. That the granting of the Variance will not create a hazard to public safety.

24.19.450 PARKING: ADDITIONAL FINDINGS

The Planning Commission may grant a Variance to a regulation prescribed by this Ordinance with respect to off-street parking facilities as the Variance was applied for or in modified form if, on the basis off the application and the evidence submitted, the Planning Commission makes findings of fact that establish that the circumstances prescribed in Section 24.19.440 (Findings) apply and the following circumstances also apply:

- A. That neither present nor anticipated future traffic volumes generated by the use of the site or the uses of the sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation; and
- B. 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; and
- C. That the granting of the Variance will not create a safety hazard or any other condition inconsistent with objectives of this Ordinance.

24.19.455 APPEALS OF PLANNING COMMISSION ACTION

Appeals of the actions of the Planning Commission, may be made by any person, by filing a written notice of appeal with the City Clerk within ten (10) calendar days following the Planning Commission's decision. The City Council will consider the matter and may affirm or reverse wholly or partly, the action which is in question. While an appeal is pending, the establishment of any affected structure or use is to be held in abeyance.

24.19.460 EFFECTIVE DATE OF VARIANCE

A decision of the Planning Commission on a Variance shall be effective after ten (10) days unless an appeal of the decision is filed within ten (10) calendar days of the Commission's action.

24.19.465 LAPSE OF VARIANCE

- A. A Variance shall lapse and shall become void one year following the date on which the variance became effective unless, prior to the expiration of one year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the Variance application, or a permit is issued authorizing occupancy of the site or structure which was the subject of the Variance application, or the site is occupied if no building permit or certificate of occupancy is required.
1. 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 became effective, an application for renewal of the Variance is filed with the Planning Director.
 2. The Planning Commission may grant, grant conditionally, or deny an application for renewal of a Variance.

24.19.470 REVOCATION

A Variance granted by the Planning Commission, subject to conditions may be revoked by the Commission if the applicant has not complied with the conditions. The decision of the Commission revoking a Variance shall become effective ten (10) calendar days following the date on which it was revoked.

24.19.475 NEW APPLICATION

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

24.19.480 VARIANCE RELATED TO PLANS SUBMITTED

Unless otherwise specified at the time a Variance is granted, it shall apply only to the plans and drawings submitted as part of the application.