

## VARIANCE

This information is provided from the California City Municipal Code.

## VARIANCE

### AN INFORMATIONAL GUIDE



### PLANNING DEPARTMENT

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#### 9-2.2600. Purpose.

Under this article, the Planning Director may grant variances to prevent or lessen practical difficulties and unnecessary physical hardships resulting from a strict or literal interpretation and enforcement of land use regulations.

#### 9-2.2601. Scope.

A practical difficulty or unnecessary physical hardship necessary for a variance must result from size, shape or dimensions of a site or the location of existing structures from geographic, topographic or other physical conditions on the site or in the immediate vicinity, or from population densities, street locations or traffic conditions in the immediate vicinity. A variance from use regulations is not permitted. Variances shall be limited to requirements for 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.

#### 9-2.2602. Procedure for Considering a Variance.

(a) Application for a variance shall be made to the Planning Director on a form which shall include the following:

- (1) Name and address of applicant.
- (2) Statement 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 the practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Title which would result from a strict or literal interpretation and enforcement of a specified regulation of this Title, together with any other data

pertinent to the findings prerequisite to the granting of a variance prescribed in this Section.

(5) A drawing of the site and adjacent property affected, showing existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.

(6) A drawing of the site and surrounding area, showing surrounding properties within three hundred (300) 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 Kern County shall be included. County Assessor's maps may be used for this purpose.

(7) The fee established by resolution of the City Council to cover the cost of handling the application.

(b) The Planning Director shall prepare a report and transmit the report to the applicant.

(c) The Planning Director shall act on the application within thirty (30) days of filing. The Planning Director may grant a variance if the Planning Director makes the following findings:

(1) Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship, inconsistent with the objectives of this Title.

(2) 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.

(3) The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district. The Planning Director may grant a variance for off-street parking facilities or off-street loading facilities if the Planning Director makes the findings prescribed above and the following additional findings:

(4) Present and anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably do not require strict or literal interpretation and enforcement of the specified regulation.

(5) 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 free traffic flow on the streets.

(6) The granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this Title. The variance may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the Planning Director may prescribe. The Planning Director may deny a variance application.

(d) A variance shall become effective upon the expiration of ten (10) days following the date on which the variance was granted unless an appeal has been taken to the Planning Commission.

(e) The Planning Director's decision may be appealed to the Planning Commission by the applicant or any other interested party within ten (10) days following the date of a decision of the Planning Director. The notice of appeal shall be filed with the Planning Secretary, and state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Director or wherein its decision is not supported by the evidence in the record. The Planning Secretary shall transmit the record to the Planning Commission within five (5) days of the filing of an appeal. The Planning Secretary shall give notice to the applicant and may give notice to any other interested party of the time within which the appeal will be considered by the Planning Commission. The Planning Commission shall hear the appeal at a regular meeting at least ten (10) days, but not more than thirty (30) days after the filing of the appeal. The Planning Commission may affirm, reverse or modify a decision of the Commission on a variance application. A decision which results in the granting a variance shall be on the basis of the record transmitted to the Planning Commission and such additional evidence as may be submitted, and shall be set forth in findings. A variance which has been the subject of an appeal to the Planning Commission shall become effective immediately following the date on which the variance is granted by the Planning Commission.

### **9-2.2603. Term of Variance.**

(a) the term of the variance shall be determined by the Planning Director or the Planning Commission, as the case may be.

(b) An application for renewal of the variance may be presented to the Planning Director, and the Director may grant or deny an application for renewal of a variance.

(c) The variance may be revoked upon violation of this Title, or if granted subject to a condition or conditions, upon failure to comply with the condition or conditions. Notice of revocation shall be sent to the person or persons responsible for compliance. Within thirty (30) days of the suspension, the Planning Director shall consider the suspension. If not satisfied the regulation, general provision, condition or conditions are being complied with, the Planning Director may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provision, condition or conditions.

### **9-2.2604. New Application for Variance.**

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 (6) months of the date of denial of the variance application or revocation of the variance.

### **HOW CAN I OBTAIN AN APPLICATION?**

You may visit the Planning Department to pick up the application, have one mailed to you or email your request. Emailed requests will receive a pdf version that you may print out. An application packet is available on the City website at <http://www.CaliforniaCity.com>

### **APPLICATION FEE**

The application fee for a Minor Variance, not requiring Planning Commission approval and approved solely by the City Manager/Planning Director is \$100.00. The fee

is collected at the time the application and backup material is accepted by the Planning Technician.

The City Manager/Planning Director may require a conceptual review and approval by the Planning Commission.

The regular Development Review Committee (DRC) fee of \$750.00 would apply.

Depending on the nature of the Variance and if the Planning Commission must review at a public hearing, the standard variance fee of \$750.00 plus \$20.00 per lot also applies and is in addition to the DRC fee.

### **PAYMENT OPTIONS**

Applicants may pay by cash, credit card or check made payable to the City of California City.

### **WHAT HAPPENS AFTER THE APPLICATION IS ACCEPTED?**

The application follows the process outlined in the California City Municipal Code.

### **CEQA REQUIREMENTS**

The California Environmental Quality Act (CEQA) requires that an environmental study be prepared for some types of projects. A is normally exempt from the requirements of CEQA. Typically, a Notice of Exemption is filed for a Variance requiring Planning Commission's approval with the County Clerk. There is a \$50.00 document handling fee imposed by the Kern County Clerk's Office. The County Clerk's Office will accept a money order or cashier's check, made payable to the Kern County Clerk's Office. You will be advised by the Planning Technician when to bring in your \$50.00 money order or cashier's check.

The Planning Technician will attach your money order or cashier's check to the completed Notice of Exemption and forward it to the County Clerk's Office for recording.