
CHAPTER 85.17 VARIANCES

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85.17.010 Purpose

A Variance (either Major or Minor) provides a process for County consideration of requests to modify certain standards of this Development Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same land use zoning district.

Adopted Ordinance 4011 (2007)

85.17.020 Applicability

A Variance may be granted to modify any requirement of this Development Code except: allowed land uses; residential density; specific prohibitions (for example, prohibited signs), or procedural requirements.

Adopted Ordinance 4011 (2007)

85.17.030 Procedures

Each application shall be reviewed by the Director to ensure that the proposal complies with this Chapter, and all other applicable requirements of this Development Code.

- (a) **Procedure.** Staff review with notice
- (b) **Review Authority.** Director
- (c) **Notice.** Before a decision on a Variance, the County shall provide notice in compliance with Section 85.03.080 (Notice of Pending Land Use Decisions).
 - (1) **Notice.** The notice shall state that the Director will decide whether to approve or disapprove the Variance application on a date specified in the notice, and that a

public hearing will be held only if requested in writing by any interested person before the specified date for the decision. The request for a hearing shall be based on issues of significance directly related to the application (e.g., provision of evidence that the request cannot meet one or more of the findings identified in Section 85.17.060 [Findings and Decision], below).

- (2) **If hearing is requested.** If a public hearing is requested, the Director shall schedule the hearing, which shall be noticed and conducted in compliance with Chapter 86.07 (Public Hearings).
- (3) **If no hearing is requested.** If no public hearing is requested, the Director shall render a decision on the date specified in the notice referred to in Subsection (c). (1) above.

Adopted Ordinance 4011 (2007)

85.17.040 Minor Variances

- (a) **Types of Minor Variances allowed.** The Director may grant a Minor Variance to reduce any of the following requirements of this Development Code up to the maximum specified in the Table 85-5 (Types of Minor Variances Allowed), below.

**Table 85-5
Types of Minor Variances Allowed**

Types of Minor Variances Allowed*		Maximum Variance
1	Area requirements. Excluding parcel area requirements.	30%
2	Distance between structures. Up to 40 percent, but no closer than 6 feet.	40%
3	Fence or wall heights. Up to 30 percent, but no higher than 6 feet in the front or street side yard setback.	30%
4	Floor width requirements. Of the single-family residential design standards.	20%
5	Gross floor area requirements.	50%
6	Height requirements. Except that any height adjustment not exceeding two feet in total height shall also be considered a Minor Variance.	30%
7	Off-street parking requirements. Parking and loading space requirements, not to exceed two spaces. Parking area/lot improvements.	30%
8	Overlay District requirements. Of the standards identified in the overlay districts.	30%
9	Setback requirements. a. Front setbacks. But no closer to the nearest property line than 15 feet in the valley and desert areas and 10 feet in the mountain region. b. Side setbacks. But no closer than three feet from the nearest property line, except in a Fire Safety Overlay District in which case no closer than five feet. c. Rear setbacks. But no closer than 10 feet from the nearest property line.	40% 40% 30%
10	Sign requirements. a. Sign area limitations. b. Sign height and setback limitations.. c. Sign number limitations: Not to exceed four signs.	10% 30% 100%

Notes.

(*) Administrative criteria for Minor Variances for these structures shall be established by the Building Official. Those proposals that do not meet the criteria shall be submitted to the Department of Public Works, with the appropriate fee, for road safety evaluation. Architectural design and construction materials shall be compatible with the visual setting of the surrounding area. Variances to the requirements of Section 83.02.030 regarding “clear sight triangles” shall not be evaluated with a Minor Variances.

- (b) **Major Variances.** Any request for a Variance, other than a Minor Variance, shall be termed a Major Variance.
- (c) **Referral to the Commission.** The Director may choose to refer any Variance application to the Commission for hearing and final action.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

85.17.050 Application Requirements

An application for a Variance (Major or Minor) shall be prepared, filed, and processed in compliance with Chapter 85.03 (Application Procedures). The application shall include the information and materials specified in the Department handout for Variances. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 85.17.060 (Findings and Decision), below.

Adopted Ordinance 4011 (2007)

85.17.060 Findings and Decision

- (a) **General findings.** The review authority may approve a Variance (Major or Minor) only after first finding all of the following:
 - (1) The granting of the Variance will not be materially detrimental to other properties or land uses in the area and will not substantially interfere with the present or future ability to use solar energy systems;
 - (2) There are exceptional or extraordinary circumstances or conditions applicable to the subject property or to the intended use that do not apply to other properties in the same vicinity and land use zoning district;
 - (3) The strict application of the land use zoning district deprives the subject property of privileges enjoyed by other properties in the vicinity or in the same land use zoning district; and
 - (4) The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan.
- (b) **Findings for off-site parking Variance.** The approval of a Variance to allow some or all of the parking spaces required for a nonresidential project to be located off-site, or to allow in-lieu fees or facilities instead of the required on-site parking spaces, shall require that the review authority first make both of the following findings in

compliance with Government Code Section 65906.5, instead of those required by Subsection (a), above.

- (1) The Variance will be an incentive to, and a benefit for, the nonresidential development; and
- (2) The Variance will facilitate access to the nonresidential development by patrons of public transit facilities.

Adopted Ordinance 4011 (2007)

85.17.070 Conditions of Approval

In approving a Variance (Major or Minor), the review authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Section 85.17.060 (Findings and Decision), above. The violation of any required condition shall constitute a violation of this Chapter and may constitute grounds for revocation or modification of the Variance in compliance with Section 86.09.070 (Revocation or Modification).

Adopted Ordinance 4011 (2007)

85.17.080 Post Decision Procedures

The procedures and requirements in Chapter 6 (Time Limitations), and those related to appeals and revocation in Division 11 (Development Code Administration), shall apply following a decision on an application for a Variance.

Adopted Ordinance 4011 (2007)