

DIVISION 6. VARIANCE AND MODIFICATION

Section 9676.2 - Application procedures

The following procedures shall be followed in considering variance and modification applications:

- A. *Investigation and report.* The department of planning and community development shall make an investigation of each application that is subject at a public hearing and shall prepare a report thereon which shall be submitted to the appropriate authority, and made available to the applicant prior to the public hearing.
- B. *Hearing responsibility.*
 1. Applications for modifications solely for the following regulations shall be heard and a determination shall be made by the director:
 - a. Building site area;
 - b. Building site width;
 - c. Yards;
 - d. Off-street parking regulations.
 2. All other variance and modification applications shall be heard and the planning commission shall make a determination.
 3. A modification is any change to the terms or requirements of this article, which, if granted, would allow the following:
 - a. A decrease of not more than ten (10) percent of the required building site area or width;
 - b. A decrease of not more than twenty (20) percent of the required width of a side yard or the yard between building;
 - c. A decrease of not more than twenty (20) percent of the required rear yard;
 - d. A decrease of not more than twenty (20) percent of the distance required between the front property line and the building line;
 - e. A decrease of not more than ten (10) percent of the required parking spaces;
 - f. An increase of not more than ten (10) percent of the permitted projection of steps, stairways, landings, eaves, overhangs, masonry chimneys, and fireplaces, into any required front, rear side or yard between buildings;
 - g. An increase in the size, height, number and location of new or existing signs. The increase in size or height of a sign shall not exceed thirty (30) percent.
- C. *Public hearing.* The planning commission shall hold a public hearing on an application for a variance or sign modification. The hearing shall be set and notice given as prescribed in

section 9804.2. At a public hearing, the commission shall review the application, statements, and drawings submitted therewith and shall receive pertinent evidence concerning the variance and/or sign modification, prescribed in section 9876. Public hearing notice requirements shall be made as provided in section 9804.4.

Hearing and noticing requirements for the Director consideration of a modification application for the items listed in 9676.2 B.1 above shall be pursuant to Section 9804.4.

D. *Action of the planning commission or director.* The planning commission or director may grant a variance or modification as the variance or modification was applied for or in modified form, or the application may be denied. A variance or modification may be granted for a limited time period, or may be granted subject to conditions as the commission or director may prescribe.

E. *Findings.* The planning commission may grant a variance and the director may grant a modification to a regulation prescribed by this article, if the following findings are made:

1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this article deprives such property of privileges enjoyed by thither property in the vicinity and under identical zoning classification.
2. That the granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.
3. That the strict interpretation and enforcement of the provisions of this article would result in practical difficulty or unnecessary hardship inconsistent with the objectives of this article.
4. That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
5. That the granting of the variance will be consistent with the charter of the surrounding area.

The planning commission may grant a sign modification if the following findings are made:

1. The sign is or will not be detrimental to surrounding uses or properties in the community in general; and
2. The approval of such modification is consistent with the purposes of the General Plan, the sign criteria set forth in section 9655.5 D and the adopted Sign Guidelines.

F. *Appeals.* A decision of the planning commission on a variance or sign modification may be appealed to the city council. A decision of the director may be appealed to the planning commission.

- G. *Determination by city council or planning commission.* The city council or planning commission shall hold a public hearing on a variance of modification as prescribed in chapter 8, if an appeal has been filed within the prescribed fifteen-day appeal period. The decision of the city council shall be final.
- H. *Effective date of variance or modification.* A decision of the planning commission or director on a variance or modification shall be effective fifteen (15) days after the date of the decision unless an appeal has been file. Variance and/or modifications shall become effective immediately after they are granted by the city council.