

Article 6: Development Permits

Division 8: Variance Procedures

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0801 Purpose of Variance Procedures

The purpose of these procedures is to provide relief for cases in which, because of special circumstances applicable to the property including size, shape, topography, location, or surroundings, the strict application of the development regulations would deprive the property of privileges enjoyed by other property in the vicinity and under the same land use designation and zone.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0802 When a Variance May Be Requested

A variance may be requested for proposed *development* that would not comply with an applicable development regulation of the Land Development Code, except that *density* shall not be increased through a variance.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0803 Application for a Variance

An application for a variance shall be filed in accordance with Section 112.0102.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0804 Decision Processes for a Variance

A decision on an application for a variance shall be made in accordance with Process Three. The decision may be appealed to the Planning Commission unless otherwise specified by the Land Development Code.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

§126.0805 Findings for Variance Approval

The decision maker may approve or conditionally approve an application for a variance only if the decision maker makes the following *findings*:

- (a) There are special circumstances or conditions applying to the land or *premises* for which the variance is sought that are peculiar to the land or *premises* and do not apply generally to the land or *premises* in the neighborhood, and these conditions have not resulted from any act of the *applicant* after the adoption of the applicable zone regulations;

- (b) The circumstances or conditions are such that the strict application of the regulations of the Land Development Code would deprive the *applicant* of reasonable use of the land or *premises* and the variance granted by the City is the minimum variance that will permit the reasonable use of the land or *premises*;
- (c) The granting of the variance will be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare; and
- (d) The granting of the variance will not adversely affect the applicable *land use plan*. If the variance is being sought in conjunction with any proposed *coastal development*, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified *land use plan*.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)