

CHAPTER 1

ZONING CODE

ARTICLE F. ZONE VARIANCES AND
CONDITIONAL USE PERMITS

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PART 1. ZONE VARIANCES

9200: **VARIANCES:** When practical difficulties, unnecessary hardships, or results inconsistent with the general intent and purpose of this chapter, occur by reason of the strict and literal interpretation of any of its provisions, a zone variance may be granted in the manner hereinafter set forth in this article.

Minor building alterations and/or small expansions to existing facilities, which are proposed for the sole purpose of meeting the requirements of the Americans with disabilities act (ADA), shall be waived from a zone variance requirement. Specific instances may require a public hearing if it is determined by the community development director that the proposed building modifications involve more substantial work than mere compliance with ADA requirements. (1960 Code; amd. Ord. 93-751)

9201: **BURDEN OF PROOF:** Before any zone variance shall be granted, the applicant must show, to the satisfaction of the commission or the council, all of the following facts:

- A. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of such property, which do not generally apply to other properties in the same zone; and
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property similarly situated, but which is denied to the property in question; and
- C. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the adjacent or neighboring properties; and
- D. That there are special circumstances as provided in section 65906 of the California Government Code. (1960 Code; amd. Ord. 92-723)

PART 2. CONDITIONAL USE PERMITS

9202: **CONDITIONAL USE PERMITS, WHEN REQUIRED:** The purpose of any conditional use permit shall be to ensure that

the proposed use will be rendered compatible with other existing, and permitted uses, located in the general area of the proposed use.

Minor building alterations and/or small expansions to existing facilities, which are proposed for the sole purpose of meeting the requirements of the Americans with disabilities act (ADA), shall be waived from a conditional use permit requirement. Specific instances may require a public hearing if it is determined by the community development director that the proposed building modifications involve more substantial work than mere compliance with ADA requirements.

The following uses shall be permitted in all zones (except in the residential zones unless otherwise herein provided) provided that a conditional use permit is first obtained pursuant to the provisions of part 3 of this article. Uses designated by a ** in the following list of uses shall be approved through an administrative review procedure:

Accessory building(s) in any R zone.

A. Any detached accessory building over five hundred (500) square feet in size or whenever there is more than five hundred (500) square feet of accessory building space on a lot, whether in one building or multiple buildings.

B. Any detached accessory building, except for required garage parking, having a gas hookup or plumbing other than for water supply purposes.

C. Any detached accessory building as described above shall be set back at least five feet (5') from any property line.

Acupressure establishment as defined in section 4180.1 of this code, subject to locational restrictions set forth in section 9455 of this chapter.

Airports, heliports and landing fields.

Alcohol, on premises serving and consumption.

Alcoholism hospitals.

Animal hospitals, veterinarian offices and clinics, and commercial kennels.

Automatic car washes.

Automobile trailer parks.

Bowling alley, billiard parlor, and similar recreational uses.

Cemeteries.

Children's treatment center (emotionally disturbed).

Churches, temples and other places of worship, including location in any residential zones.

Columbariums, crematories and mausoleums.

Commercial unit or manufacturing unit which is shared by more than one independently owned business enterprise.

Commercial unit or manufacturing unit which is subdivided or split into two (2) or more units.

Condominiums, commercial/office.

Condominiums, industrial/manufacturing.

Dairy.

Day treatment hospitals.

Daycare center, including all R zones.

Drying, freighting or trucking terminals.

Drive-in business.**

Dumps.

Dwelling unit(s), one or more new are added on an R-2 or R-3 zoned lot that currently has one dwelling unit and one or more of the following criteria are met for the second unit(s):

Unit exceeds one hundred percent (100%) of the floor area of the primary unit.

Unit exceeds two thousand (2,000) square feet, including a garage.

Unit is a two-story unit.

Dwelling units, three (3) or more located on the same lot to include apartments.

Educational institutions (including any R zones).

Emergency shelters and transitional housing (M-2 zone only).

Entertainment, including karaoke, live bands or performances and public dancing or singing.

Equestrian establishments, including academies, and riding stables.

Establishments or enterprises involving large assemblages of people or automobiles, including the following and similar uses:

Amusement parks.

Circuses, carnivals or fairgrounds.

Labor camps.

Open air theaters.

Race tracks and rodeos.

Stadiums.

Facilities for drug addicts.

Family care home for six (6) or less:

Game arcades, including any business establishment with more than four (4) arcade games as an incidental or accessory use.

Games-skill game business, including video and skill game arcades.

Government facilities or uses, including federal, state and county offices (including any R zoned property designated as institutional on the land use map of the adopted general plan).

Gymnasiums and health clubs (C-2 zone only).

Hog ranch.

Homes for the aged (including any "R" zoned property designated as institutional on the land use map of the adopted general plan).

Hospitals.

Hotels.

Industrial or manufacturing condominiums.

Living quarters for caretakers at mortuary.

Lodges, meeting halls, and social clubs, including any R zoned property designated as institutional on the land use map of the adopted general plan.

Mini-malls as defined in section 9109 of this chapter and as regulated by special development standards contained in section 9456 of this chapter.

Motorcycle sales, service or repairs (excluding the C-1 zone).

Move-on houses. (See section 9240 of this article.)

Movie theaters.

Natural resources.

Noncommercial kennels, including location in the residential zones.

Nursery schools, unless otherwise specifically permitted (including R-3).

Nursing and convalescent hospitals (including any R zoned property designated as institutional on the land use map of the adopted general plan).

Off street parking for commercial, manufacturing or institutional uses on any R zoned property.

Pad fill greater than twelve inches (12") in height from the natural grade on an R-1, R-2 or an R-3 zoned lot.

Parks, playgrounds and other commercial recreational facilities open to the public.

Plating of metals and finishing of metals.

Private recreational sports courts or facilities, including tennis courts, full basketball courts, skateboard ramps, golf putting enclosures and batting cages. These uses shall not be permitted in the front yard. (Portable or roof mounted basketball hoops or similar small, unlighted features are exempt from the CUP requirement.)

Psychiatric hospitals.

Public utility facilities and utilities operated by mutual companies or agencies in any zone wherein such facilities are not otherwise permitted other than residential zones; or water wells and related facilities operated by public or mutual water companies or agencies for the exploration, extraction, productions, and processing of water in any zone of the city, except that no conditional use permit shall be required for:

Any public utility facility for which a building permit is not required pursuant to the city's building regulations; and

Any public utility facility which is designated as a permitted use in a specified zone.

Radio or television towers and transmitters.

Resident facility (mentally retarded).

Resident school (mentally retarded) (including R-3).

Restaurants.**

Senior citizen housing as defined in section 9437 of this chapter, and regulated by special development standards contained in section 9438 of this chapter.

Service stations.**

Sewage disposal plants.

Shopping centers having two (2) or more units or more than thirty thousand (30,000) square feet of lot area.

Single-family dwelling, new which presents a period or historical architectural style but does not strictly comply with R-1 standards, if there are favorable findings with regard to the following conditions:

A. The proposed dwelling offers a unique and unusual architectural style which is not likely to be achieved within the parameters of the adopted development standards.

B. The proposed dwelling has a positive aesthetic impact upon the surrounding neighborhood.

C. The site for the new single-family dwelling is adequate in size, shape, topography and circumstances.

D. The site has sufficient access to streets and highways, which are adequate in width and pavement type to carry the quantity and quality of traffic generated by the new single-family dwelling.

E. The new single-family dwelling will not have an adverse effect upon the use, enjoyment or valuation of adjacent or neighboring properties or upon the public welfare.

Solid fill project.

Storage or shipping container over one hundred twenty (120) square feet in size or six feet (6') in height.

Subdivisions, including tract maps and parcel maps for flag lots, lot splits and condominium projects.

Theaters.

Towing service as an ancillary or secondary use to a permitted auto repair or service station business conducted as a principal use provided the towing service is operated under the same business name as the principal use and that there be no more than two (2) towing service related vehicles (C-2 and C-3 zones only).

Transfer stations. (1960 Code; amd. Ord. 82-521; Ord. 83-540; Ord. 85-579; Ord. 86-596; Ord. 88-631; Ord. 88-640; Ord. 89-654; Ord. 90-683; Ord. 90-688; Ord. 91-688; Ord. 91-710; Ord. 92-721; Ord. 92-723; Ord. 92-728; Ord. 92-729; Ord. 92-732; Ord. 93-738; Ord. 93-739; Ord. 93-751; Ord. 94-762; Ord. 95-772; Ord. 98-823; Ord. 02-874; Ord. 02-878; Ord. 05-896)

9203: **BURDEN OF PROOF:** Before any conditional use permit is granted, the applicant shall show, to the satisfaction of the commission or the council, the existence of the following facts:

- A. That the site for the proposed use is adequate in size, shape, topography and circumstances; and
- B. That the site has sufficient access to streets and highways, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use; and
- C. That the proposed use will not have an adverse effect upon the use, enjoyment or valuation of adjacent or neighboring properties or upon the public welfare. (Ord. 92-724)

PART 3. PROCEDURE

9204: **APPLICATION FOR VARIANCE OR CONDITIONAL USE PERMIT; WITHDRAWAL:** Applications for a variance or conditional use permit shall be filed with the planning department, on forms furnished by the director, setting forth fully the nature of the proposed use, and the facts deemed sufficient to justify the granting of the variance, or conditional use permit, in accordance with the provisions of this article.

The applicant shall furnish to the director a certified copy of the names and addresses of all property owners to whom notice must be mailed as hereinafter provided.

Any applicant may withdraw his application prior to a decision thereon, by filing a written request to do so; no refund of the filing fee shall be permitted in case of withdrawal.

No application may be resubmitted for the same or substantially the same variance or conditional use permit which had previously been denied by the planning commission or the city council within the previous eighteen (18) months. (1960 Code; amd. Ord. 98-830)

9205: **FILING FEES:** Each such application shall be accompanied by a filing and processing fee, the fees for planning services shall be prescribed by resolution adopted from time to time. (1960 Code)

9206: **HEARINGS:** Every application for a zone variance or conditional use permit shall be set for a public hearing before the planning commission by the director. If an appeal is taken from a planning commission decision, in the manner hereinafter specified, the said matter shall be set for consideration by the city council by the city clerk, as soon as possible. Hearings may be continued from time to time, by the commission or council, as may be deemed necessary. (1960 Code)

9207: **NOTICES:** Notices of the time and place of public hearings before the commission and the council, on zone variance and conditional use permit applications, shall be given by United States mail, postage prepaid, addressed to the owners of property located within a radius of three hundred feet (300') for residential zones (500 feet for all other zones) from the external boundaries of the property to which the application relates, addressed to said owners as shown on the latest equalized assessment roll of the county of Los Angeles, or from other records of the assessor or county tax collector which contain more recent and accurate addresses.

Notices shall contain a description of the subject property, a brief description of the proposed use, and the date, time and place of the hearing. (1960 Code; amd. Ord. 91-688; Ord. 01-857)

9208: **PLANNING COMMISSION ACTION:** Within a reasonable time after the public hearing upon a variance or conditional use permit application, the commission shall, by resolution adopted by not less than three (3) affirmative votes, approve, conditionally approve or deny the same. Said resolution shall contain a statement of facts upon which the decision is based. Within two (2) days following the adoption of the resolution by the commission, the director shall forward a copy thereof by United States mail, postage prepaid, addressed to the applicant and any other person requesting the same, at his last known address. The decision of the planning commission shall be final and conclusive at twelve o'clock (12:00) noon of the fifteenth day following the date of adoption of the resolution by the commission, or at twelve o'clock (12:00) noon of the day following the next regularly scheduled council meeting, whichever date is the latest, in the absence of the filing of a written appeal, in the manner hereinafter specified. Upon filing of an appeal in the manner herein set forth, the decision of the planning commission shall be suspended and of no force and effect. (1960 Code; amd. Ord. 01-857)

9209: **PLANNING COMMISSION TIE VOTE, EFFECTIVE OF:**
Where, by reason of disqualification, abstention or absence of any members of the planning commission, said planning commission is unable to reach a determination as to a zone variance or a conditional use permit application, within forty (40) days after the close of the public hearing relating thereto, said matter shall be deemed automatically appealed to the city council, without decision by the planning commission. In such event, the said matter shall be placed upon the city council's agenda and a de novo public hearing held thereon, and the matter shall be finally determined by the city council. (1960 Code)

9210: **APPEALS:** The applicant, or any other person, who owns real property or resides within the public hearing noticing boundary (300 feet for residential zones and 500 feet for other zones) of the property lines to which the variance or conditional use permit application relates, and who is aggrieved by the decision of the planning commission in conjunction with action taken on a variance or conditional use permit, may file a written letter of appeal with the city clerk together with a filing and processing fee, prior to the commission's action becoming final, appealing the decision of the planning commission to the city council. Upon receipt of such written letter of appeal, together with said fee, the city clerk shall set the matter for a public hearing before the city council. Notices of such hearing shall be given by the clerk in the manner described in section 9207 of this article and shall include all members of the city council, the planning commission, applicant, and all who appeared at the planning commission meetings with regard thereto.

The city council, by motion, carried by at least three (3) votes, made at any time prior to effective date of the planning commission's resolution, may appeal to itself, any planning commission decision on a variance or conditional use permit. A motion of the council to this effect shall be deemed an appeal from the decision of the commission for all purposes. No appeal may be withdrawn except by the appealing party, with the consent of the applicant and the city council.

The council shall have the authority, at any time prior to its final determination upon an appeal from a planning commission decision, to refer said matter back to the planning commission for reconsideration. The council may instruct the planning commission to conduct an additional public hearing in order to accept new evidence relating to such matter. (1960 Code; amd. Ord. 00-854; Ord. 01-857)

9210.1: **REQUESTS FOR REVIEW:** The following city officials may file with the city clerk a "request for review" (RFR) of any decision made by the planning commission:

Any council person: Based on his/her responsibility to the electorate.

The city manager: Based upon administrative management.

The city attorney: Based on legal ramifications.

- A. Such RFR shall be filed within fifteen (15) days of the decision by the planning commission, as a no fee filing, together with a statement that such RFR is not indicating support for or opposition to such decision, but is filed because the filer believes that such decision involves a matter of such interest, import, precedent or significance that such decision should as a matter of policy and planning be made by elected officials.
- B. Upon the timely filing of an RFR, the decision of the planning commission shall be suspended until the RFR is determined by the city council; and the city clerk shall immediately: 1) notify the council, planning commission, applicant and all who appeared at the planning commission meetings with regard thereto; and 2) set the matter for hearing before the city council for final determination.
- C. Except as set forth in this section, the procedures of an RFR shall be the same as those for an appeal under section 9210 of this article. (1960 Code; amd. Ord. 95-786)

9211: **DETERMINATION BY CITY COUNCIL:** The council shall render its decision approving, conditionally approving, or denying the variance or conditional use permit, within a reasonable time after conducting its deliberation. Its decision shall be by resolution, which shall contain the facts supporting the action. The decision of the council shall be final and conclusive. (1960 Code)

9212: **NOTICE OF CITY COUNCIL'S DECISION:** Within five (5) days following the adoption of the resolution by the council, the city clerk shall mail a copy thereof to the applicant and any other person requesting the same, at his last known address. (1960 Code)

9213: **FAILURE TO GIVE NOTICE:** Failure to give notice in the manner hereinabove prescribed shall have no effect upon any proceeding before the planning commission or council. (1960 Code)

PART 4: REVOCATION, MODIFICATION AND EXPIRATION

9230: **REVOCATION OF VARIANCES AND CONDITIONAL USE PERMITS:** Upon recommendation by the director, the body which originally granted the variance or conditional use permit, shall conduct a noticed public hearing to determine whether a variance or conditional use permit, should be revoked. If the revocation relates to a special use permit or zone exception granted by the county, the commission shall conduct a hearing. If the commission or council finds any one of the following facts to be present, it shall revoke the variance or conditional use permit:

- A. That the variance or permit was obtained by fraud; or
- B. That the use for which such approval was granted has ceased to exist, or has been suspended, for a period of six (6) months or more; or
- C. That the permit or variance granted is being, or has been, exercised contrary to the terms and conditions of such approval or in violation of any law; or
- D. That the use for which the approval was granted is being exercised so as to be detrimental to the public health or safety, or as to constitute a nuisance.

If the commission conducts the hearing, the action taken by the commission shall be subject to an appeal in the manner prescribed in section 9210 of this article.

The action of the council shall be final and conclusive. (1960 Code)

9231: **EXPIRATION:** Any variance or conditional use permit shall be null and void if the use permitted thereunder is not exercised within the time specified in the resolution approving such variance or conditional use permit, or if no time is so specified, if the same is not exercised within one year from the date said variance or permit is

granted; provided that the granting body upon good cause shown by the applicant, may extend the time limitations imposed by this section, once, for a period not to exceed one year. (1960 Code)

9232: **MODIFICATION:** Any condition imposed upon the granting of a variance or conditional use permit including special use permits and zone exceptions granted prior to the incorporation of the city, may be modified or eliminated, or new conditions may be added, provided that the granting body shall first conduct public hearings thereon, in the same manner as required for the granting of the same. No such modification shall be made unless the commission or council finds that such modification is necessary to protect the public interest. (In case of deletion of such a condition, that such action is necessary to permit reasonable operation under the variance or conditional use permit.) Modification proceedings relating to permits or exceptions granted by the county prior to incorporation of or annexation to the city, shall be processed by the commission.

All commission determinations regarding modification proceedings shall be subject to an appeal as set forth in section 9210 of this article, except the filing and processing fee shall be in the amount of twenty five dollars (\$25.00). (1960 Code)

9240: **MOVE-ON HOUSES:** No residential building or structure shall be moved from one lot to another lot in the city or from a lot outside the city to a lot in the city without an approved conditional use permit to do so.

- A. Application: The following information shall be filed with the planning department at the time application is made:
1. Present location of building, address, map of proposed route of travel.
 2. Plot plan of proposed site to include location of structures on adjacent lots.
 3. Floor plans, elevations, and landscaping plans of proposed site including front, side and rear yard areas.
 4. Five inch by seven inch (5" x 7") photographs of each facade of the main building and accessory buildings.

5. Five inch by seven inch (5" x 7") photographs of proposed site.
 6. Five inch by seven inch (5" x 7") photographs of main buildings on immediately adjacent lots.
- B. Approval: The planning commission, before approving a conditional use permit for a "move-on", shall make the following findings: "Moving this building onto the subject property will have no detrimental effect on the living environment or property values of the area."
- C. Basis For Findings: In approving an application for a conditional use permit to move a building into an area, the planning commission shall observe the following criteria:
1. That the building is in conformity with the type and quality of buildings existing in the area into which it is proposed to be moved.
 2. That said building is not more than two (2) stories in height.
 3. That its location on the lot does not in any way adversely affect buildings or uses on abutting properties.
 4. That the percentage of lot coverage by all buildings and structures be not greater than that permitted by the district into which the house is proposed to be moved.
 5. That all yard and setback provisions be observed.
 6. Prior to occupancy the building shall be brought up to standards of a new building, and shall be painted and refurbished.
 7. That all dedications and improvements required for streets and alleys necessary for access to the property upon which the house is to be located be provided in conformity with the standards of the city.
- D. Time Limit: All approved "move-ons" shall be allowed not more than one hundred eighty (180) days to be readied for occupancy.
- E. Appeal: The decision of the planning commission may be appealed to the city council as set forth in section 9210 of this article. (1960 Code; amd. Ord. 81-505)