

## Chapter 16.32 – Variances and Appeals

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### 16.32.010 Variances–Permissible When.

The City Council shall consider variances to the terms of this title which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title will result in unnecessary hardship and under such conditions that the spirit of this title shall be observed and substantial justice done. A variance shall not be considered a right or special privilege and may be granted to an applicant only upon showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. In acting upon such variance, the city council shall make full investigation and shall only recommend granting a variance upon finding that the following are true:

- A. That the granting of the variance will not be, in conflict with the spirit and intent of the comprehensive plan for the city, and will not effect a change in zoning;
- B. That there are exceptional or extraordinary circumstances or conditions, applicable to the property involved, or the intended use thereof, which do not apply generally to the property or class of use in the district, so that a denial of the relief sought will result in:
  - 1. Undue loss in value of the property,
  - 2. Inability to preserve the property rights of the owner,
  - 3. The prevention of reasonable enjoyment of any property right of the owner;
- C. The granting of such relief will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements of other property owners, or the quiet enjoyment of such property improvements.
- D. That the reason for a variance was not caused by the owners, or previous owner’s, actions.

### 16.32.020 Variances–Request Procedure.

- A. In requesting any modification of, or variance to, the provisions of this title, a developer or his engineer shall make written request to the city engineer.
- B. Such request, together with such related data and maps as necessary to fully illustrate the relief sought, shall be referred by the city engineer in writing to the Planning Commission.
- C. The Planning Commission shall notify all adjoining property owners of the variance request and determine whether to hold a public hearing. They shall act upon such request and make recommendation to the council at its next regular meeting or within thirty days. If no recommendation is made within such time, the approval of the request shall be considered to be recommended.

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- D. The council, after receiving the recommendations of the planning commission, shall act upon such request at its next regular meeting.
- E. Approval of such modifications shall require a majority vote of the regular membership of the council.

**16.32.030 Variances–Council’s Authority to Set Conditions.**

In granting variances and/or modification from the regulations of this title, the council may require such conditions as will, in its judgement, secure substantially the objective of the standards or requirements so varied or modified.

**16.32.040 Right of Appeal.**

Any person, firm or corporation may appeal the decision of the council to the district court in the same manner and within the same time as other appeals may be taken from orders of the council.