

Article 71. Permit and Variance Procedures

Sec. 8-5.7101. Filing Applications.

Applications and other approvals required by this Chapter shall be filed with the Planning Department by at least one of the property owners, or by an authorized agent of the property owner. The application shall be on forms, and contain information, prescribed by the Planning Director. All applications required by this chapter shall be accompanied by the appropriate fees, as established by the City Council.

Sec. 8-5.7102. Applicability.

All permits and variances approved under the authority of this Chapter shall run with the lot(s) for which the permit or variance is issued and not with a person, unless otherwise stated within the permit.

Sec. 8-5.7103. Concurrent Processing of Multiple Applications.

Whenever there are multiple applications required by this chapter and chapters 8-2 (Subdivisions), 8-6 (Condo conversions), 8-7 (Stock cooperatives) and 8-8 (General Plan amendments) of the Municipal Code for a single project, the applicant may chose to have the applications processed concurrently. When this method is utilized, the decision on all the project applications shall be made by the highest level of review authority required for any of the applications.

When concurrent applications are filed, which includes a General Plan amendment and/or rezoning, the time limits for processing project applications pursuant to State Government Code Section 65950 et. seq. shall not commence until the general plan amendment and zoning ordinance become effective.

Sec. 8-5.7104. Appeals.

A. Planning Director decisions.

1. **Filing** - Any applicant or person claiming to be directly and adversely affected by any action of the Planning Director in carrying out the provisions of this chapter may, within 10 days after such action, file a written appeal to the Planning Commission. Such appeal shall be filed with the Planning Department and shall stay the issuance of any permit in connection with the action pending a decision by the Commission.
2. **Decision** - Upon receipt of such appeal, the Planning Commission shall, after receiving a report from the Planning Director and after holding at least one public hearing on the matter, render a decision sustaining, amending, or overruling the action of the Planning Director on such matter.

B. Planning Commission decisions.

1. **Filing** - Any applicant or person claiming to be directly and adversely affected by any action of the Planning Commission in carrying out the provisions of this chapter may, within 10 days after such action, file a written appeal to the Council. Such appeal shall be filed with the City Clerk. The filing of an appeal shall stay the issuance of any permit in connection with the action pending a decision by the Council.

2. **Decision** - Upon receipt of such appeal, the City Council shall, after receiving a report from the Planning Commission and after holding at least one public hearing on the matter, render a decision sustaining, amending, or overruling the action of the Planning Commission on such matter.

Sec. 8-5.7105. Expiration of Permits and Variances.

Every permit and variance provided for in this chapter, unless otherwise provided or otherwise conditioned as part of the permit, expires and is null and void without further action by the City if the activity or use for which the permit was issued has not substantially commenced, or in the case of new construction, the construction has not been substantially commenced, within 2 years of the date of its approval or, in the case of appeals, the date the approval was affirmed or a denial was reversed. For the purpose of this article, "commencement of construction" means the installation of building foundations.

In the case of phased projects decided upon by the Planning Commission or City Council, construction of the first phase must be substantially commenced within 2 years, additional phases may be granted additional time if provided as a part of the application process or as an amendment to the application.

In the case of a project that has commenced construction prior to its expiration date, or its extended expiration date if an extension has been granted, or the phase expiration date if it is a phased project, construction must be completed within 2 years of the expiration date or the permit expires and becomes null and void without any further action by the City.

When a use or action for which a permit was granted has been discontinued for a period one year, that permit shall expire and becomes null and void without further action by the City.

Sec. 8-5.7106. Extensions of Time.

The body that considered the original application may grant 2 year extensions for any permit or variance. In order to grant the extension, a written request for an extension must be made by the applicant prior to the expiration date and it is determined that conditions have not changed to the extent that would warrant denial of the extension. No public hearing is required to grant an extension of time.

Sec. 8-5.7107. Amendments to Permits and Variances.

Amendments to permits may be granted as follows:

- A. Minor revisions for which the resulting project is considered by the Planning Director to be substantially the same as originally approved, may be approved by the Planning Director.
- B. All other revisions must be reviewed and decided upon by the body having the authority to decide upon the original application. Upon application for an amendment to a permit, the permit procedures and requirements set forth in this chapter shall be complied with.

Sec. 8-5.7108. Failure to Comply with Conditions.

Failure to comply with any permit or variance condition is a violation of the Zoning Code subject to enforcement provisions described in Article 74 of this chapter. Furthermore, a permit granted in accordance with this chapter may be revoked by the City Council (Sec. 8-5.7109) upon failure to comply with any of the conditions of the permit or any ordinance in connection with the permit.

Sec. 8-5.7109. Revocation of Permits and Variances.

Any permit or variance approved under the authority of this chapter may be revoked by the City Council. In lieu of revocation, the City Council may amend the existing conditions of approval or impose additional conditions, as appropriate.

Whenever the Planning Director determines that one or more grounds may exist for the revocation of a permit or variance, the City Council may set the matter for a hearing. The holder of the permit or variance shall be given notice by mail of the time and place of the hearing at least 10 days prior to the hearing.

Grounds for revocation include:

- A. Noncompliance with conditions of approval.
- B. Violation of the law in connection with any permit or variance.
- C. Expansion of the use or facility without amending the existing permit or variance or not obtaining a new permit or variance.
- D. Conducting the use or exercising the variance in a manner that threatens or is injurious to public health or safety or constitutes a nuisance.
- E. False or erroneous information was provided as to a material matter or significant issue regarding the permit or variance.

Sec. 8-5.7110. Reapplication.

Following the denial of a permit or variance by the Planning Commission, or revocation or denial of an appeal by the City Council, no permit or variance for the same or substantially the same permit or variance shall be filed within 6 months after the date of the previous final action.