

## **ARTICLE V ADMINISTRATION**

### **CHAPTER 17.68 GENERAL ADMINISTRATION**

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### **17.68.010 Purpose**

It is the purpose of this chapter to provide the efficient and uniform processing of zoning devices (variances, conditional use permits, precise plans of designs, or other matters necessitating administrative or public hearings). It is understood and declared that it is impossible to establish absolute restrictions and regulations upon all subjects mentioned in this title, and therefore from time to time it will be necessary to allow for due process of applications for change or relief and appropriate legislative action thereon. (Ord. 98 § 20.01, 1974)

### **17.68.020 City Council Amendments Authorized**

The City Council, in accordance with State law as mentioned previously in this title, may amend, supplement, or change the regulations and districts herein or subsequently established. Such action may be instigated by petition of property owners providing the request is clearly set forth and all relevant facts presented in a form and at a processing fee as established by the City Council. (Ord. 98 § 20.02, 1974)

### **17.68.030 Variance – Authorized When**

When practical difficulties arise, unnecessary hardships are imposed, or result inconsistent with the intent and purpose of this title occur by reason of the strict and literal interpretation of language in its provisions, a variance may be granted as set forth in this chapter. (Ord. 98 § 20.03, 1974)

### **17.68.040 Variance – Application**

An application for a variance from zoning regulations shall be filed by the owner or his authorized agent upon forms approved by the Planning Department together with the payment of a variance review fee in an amount to be established by resolution of the City Council. (Ord. 230 § 4, 1980; Ord. 98 § 20.03.01, 1974)

### **17.68.050 Variance – Hearing Notice**

The Planning Department shall set the matter for public hearing within thirty days of receipt of the application in proper form. All property owners indicated on the applicant's list shall be notified by mailing of notice at least five days prior to the hearing, postage prepaid. The applicant shall bear responsibility for accuracy of the property owners list. The notice shall set forth the time, place, and subject matter of the public hearing as well as a general description of the property involved. (Ord. 98 § 20.03.02, 1974)

### **17.68.060 Variance – Conditions for Granting – Planning Commission Action**

- A. The Planning Commission, on the date set, shall hold a public hearing on the application and establish that the applicant has shown a reasonable existence of grounds for consideration of the matter. Before any variance may be granted the City Council on appeal, it shall be shown:
1. That there are exceptional and extraordinary circumstances of conditions applicable to the property involved;
  2. That such variance is necessary for the preservation and enjoyment of the substantial property right possessed by other property in the same vicinity and zone and denied to the property in question.
  3. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which property is located;
  4. The granting of such variances will be consistent with the General Plan for the City;
  5. That a public hearing was held wherein the applicant is heard and in which he substantiates all of the conditions cited in this subsection;
  6. That the Planning Commission, in reviewing such requests and hearing the evidence, finds that the conditions of subdivisions 1 through 5 of this

subsection have been met.

- B. The Planning Commission may approve, conditionally approve, or deny any variance request by written notice to be mailed to the applicant and any other person requesting such report no later than five days following the rendering of a decision. (Ord. 485 § 4, (part), 1992; Ord. 98 § 20.03.03, 1974)

#### **17.68.070 Minor Deviation – Granting Authority**

Subject to the provisions of this chapter, the Planning Director or any official authorized by the City Manager may grant or deny minor deviations. (Ord. 98 § 20.04 (part), 1974)

#### **17.68.080 Minor Deviation – Defined**

For the purpose of Sections 17.30.070 through 17.30.120, "minor deviation" means variances from yard, setback, or open space requirements of not to exceed fifteen percent; variances from required lot area, or dimension requirements of not to exceed ten percent; and variances from height requirements of not to exceed twenty percent. (Ord. 98 § 20.04.01 (part), 1974)

#### **17.68.090 Minor Deviation – Chapter Applicability**

Upon the filing with the Planning Director of an application for a variance which could constitute only a minor deviation, the provisions of this chapter shall apply in lieu of any contrary provisions of this title. Otherwise, the provisions of Sections 17.30.070 through 17.30.120 shall apply. (Ord. 98 § 20.04.02, 1974)

#### **17.68.100 Minor Deviation – Granting or Denial**

The Planning Director shall set each application for hearing at such time and place as the Director shall designate and shall give written notice thereof at least 10 days before said hearing by United States mail, postage prepaid to the applicant and to the owners of all property abutting or cornering on the subject property or separated there from only by a street or alley, at the address of such owners as shown on the latest available assessment roll. The Planning Director shall conduct a public hearing upon the application at said time and place, or at such time as the hearing may be adjourned to, at which time the Director shall hear the applicant and any protests. If the facts are found to exist as in Section 17.30.080, he shall grant the same in writing stating the reasons therefore, subject to such conditions as may be necessary to protect the public peace, health, safety, morals, or general welfare and shall thereupon transmit copies thereof to the members of the City Council and to the applicant. If the Director does not find such facts to exist, he shall deny the application in writing and transmit a copy of such denial to the applicant. (Ord. 485 § 4 (part), 1992; Ord. 98 § 20.04.03 (part),

1974)

The decision of the Planning Director shall be final and effective ten days after the date of transmitting copies of his written determination as provided in Section 17.30.100 unless, during such time, an appeal in writing is filed with the Planning Commission, or unless a motion of appeal is adopted by the Planning Commission. Such appeal shall suspend and set aside the decision of the Planning Director, and the Planning Commission may act upon said appeal. (Ord. 485 § 4, (part), 1992; Ord. 98 § 20.04.04, 1974)

#### **17.68.120 Minor Deviation – Application Without Variance Formalities**

The City Council shall establish a procedure for processing deviations from zoning regulations that are deemed to be of a minor non-impacting nature and, in such instances, shall permit application and processing of such minor deviation to occur without the formalities required for a variance from zoning regulations, and the City Council shall establish by resolution a minor deviation processing fee. (Ord. 230 § 5, 1980; Ord. 98 § 20.04.05, 1974)

#### **17.68.130 Conditional Use Permits – Approval Conditions Generally**

Uses permitted subject to conditional use permits are those uses necessary for the development of the community, but which uses must be located, planned, and used in such a manner as not to be detrimental to the property abutting such uses and to the community as a whole. In considering conditional use permits, the Planning Commission shall determine whether the use is suitable in the area and if a grant is made, shall require the safeguards necessary to protect the health, safety, morals, and general welfare. In approving such uses, the Planning Commission shall set forth the manner in which the use is to be conducted, approve the design or plan of the structures, including their location and the yards around them, and consider the adequacy and facilities to serve them. (Ord. 485 § 4 (part), 1992; Ord. 98 § 20.05 (part), 1974)

#### **17.68.140 Conditional Use Permit – Specific Uses Designated**

The following uses may be permitted pursuant to the provisions of this title in any zone except where expressly prohibited, when such uses are determined by the Council to be essential or desirable for the public welfare and convenience and in conformity with the General Plan and its objectives:

- A. Conditional uses permitted in any zone:
  - 1. Cemeteries, columbariums, mausoleums, and mortuaries,
  - 2. Churches,

3. Educational uses, public or private, including nursery schools and day nurseries having more than six children,
4. Golf courses (excepting driving ranges, miniature courses, and similar uses),
5. Governmental enterprises, federal, state, and local, where buildings are publicly owned,
6. Planned residential developments,
7. Public utility structures and service facilities such as reservoirs, pumping plants, electrical substations, filtration plants, communication substations, microwave stations, and towers,
8. Historical or landmark structures within which a commercial activity is sought to be conducted. The determination that a structure is historical or a landmark, and that its preservation should be encouraged, as well as limitations upon the type and size of the commercial activity proposes therein shall be within the complete discretion of the City Council,
9. Such similar uses as the City Council may deem to be similar and equally essential to the public welfare,
10. Retail landscape nurseries having a minimum two-acre site and other similar agricultural uses as determined by the Director of Planning complying with other conditions as may be deemed appropriate.
11. Pet vaccination clinics;

B. Conditional uses in specified zones:

1. Airport and heliport in R-3, A-1, or any less restrictive commercial or industrial zone,
2. Automobile service stations in C-1 or any less restrictive commercial or industrial zone,
3. Building height in excess of two and one-half stories in Zone A-P,
4. Civic and community clubs in R-2 or any less restrictive residential or commercial zone,

5. Development of natural resources (excluding drilling for or producing oil, gas, or other hydrocarbon substances or the production of rock and gravel) together with the necessary buildings, apparatus, or appurtenances incident thereto in any industrial zone,
6. Drive-in businesses. The term "drive-in businesses" shall mean uses directed primarily to the occupants of a motor vehicle where the business or service may be conducted with the occupants without the occupants alighting from the motor vehicle or where the occupants alight from the motor vehicle for quick service at or within a structure. Uses which are a part of a shopping center or a multiple-use building shall not be considered a drive-in business unless the business or service may be conducted without the occupants alighting from the motor vehicle. In the event of any question as to whether or not a particular use is a drive-in business, upon request of any party in interest, the City Council shall, prior to the filing of a conditional use permit application, make a determination as defined in this subdivision,
7. Social care facilities including hospitals, medical clinics, and sanitariums in R-3 or A-P zones,
8. Mobile home parks in Zone R-3,
9. Trailer coaches for temporary office or business purposes in R-3 or any less restrictive commercial or industrial zone,
10. Freestanding service station identification signs in C-1 zoning districts,
11. Any such similar uses as the Planning Commission may deem to be similar and equally essential to the public welfare,
12. Residential developments which do not front upon a dedicated street,
13. The moving and relocation of buildings in all zones, and the siting of mobile homes on individual lots in single-family residential zones,
14. Freestanding signs within one hundred feet of the Interstate 10 freeway in the C-1, C-2, C-M, and C-F zones, subject to the following criteria:
  - a. The sign is located on the same property as the use advertised,  
and

- b. The parcel must have a minimum of two hundred lineal feet of freeway frontage, or
  - c. Be located on a freeway frontage parcel consisting of no less than three acres, or
  - d. Have principal structures consisting of a collective total of not less than fifty thousand square feet.
15. Enclosed storage structures in the R-3 zone located on interior side yard and/or rear yard property lines,
16. Small collection facilities for recycling materials in the C-1, C-2, C-F, and C-M zones,
17. Large collection facilities for recycling materials in the C-M, M-R, and M-1 zones. (Ord. 485 § 4M), 1 M; Ord. 385 § 1, 1987; Ord 384 § 4, 1987, Ord. 376 § 1 (part), 1987; Ord. 355 § 1, 1986; Ord. 309 § 1, 1983; Ord. 302 § 1, 1983; Ord. 296 § 1, 1982; Ord. 293 § 1, 1982; Ord. 258 § 1 (part), 1981; Ord. 216 § 2, 1979; Ord. 129 § 1, 1976; Ord. 98 § 20.05.01, 1974)

#### **17.68.150 Conditional Use Permit – Application – General Criteria**

- A. Applicant must be the property owner or an authorized agent of the owner.
- B. Responsibility for the posting of bonds fulfilling of City requirements for both on- and off-site improvements rests with the applicant. (Ord. 98 § 20.05.02(a), 1974)

#### **17.68.160 Conditional Use Permit – Application – Contents**

Application for a conditional use permit shall include the following:

- A. A signed application and payment of such fee as shall be established by resolution of the City Council shall be submitted to the Planning Department accompanied by copies of the site development and elevation as required by the Planning Department;
- B. The site plan shall be prepared to scale showing accurately, and with complete dimensioning, all buildings proposed for the parcel. The data contained on said plan shall include information on all buildings, structures, signs, parking,

landscaping, walls, or fences, and the points of ingress and egress. In addition, all necessary information to clearly define the intended use of the property and its relationship to adjacent properties shall be included;

- C. A legal description of the property involved;
- D. Reference to specific provisions of this title which are applicable to the conditional use permit sought;
- E. A list of all names and addresses of all owners of real property within three hundred feet from external boundaries of the property involved, as shown on the latest available tax roll;
- F. Evidence of ability and intention of applicant to proceed with actual construction work in accordance with a submitted plan within one hundred eighty days from the date of granting the permits;
- G. Any additional information required by the Planning Department to evaluate the application. (Ord. 230 § 2, 1980; Ord. 98 § 20.05.02(b), 1974)

**17.68.170 Conditional Use Permit – Application – Required Dedications, Easements and Improvements**

Required dedications, easements, and improvements for a conditional use permit application shall be as follows:

- A. Dedications and/or easements for streets, alleys, drainage, public utilities, bridle trails, flood control, and such other rights-of-way as may be determined essential to the orderly development of the site and abutting properties;
- B. Improvements:
  - 1. Grading on/off site drainage and drainage structures,
  - 2. Curbs and gutters,
  - 3. Sidewalks,
  - 4. Street pavement,
  - 5. Adequate domestic water service,
  - 6. Sanitary sewer facilities and connections,

7. Services from public utilities where provided,
8. Street trees,
9. Street lights and street name signs,
10. All water lines are to be laid and fire hydrants installed subject to City specifications,
11. In addition to the aforesaid minimum improvements, the Planning Commission shall require such additional improvements and facilities as determined necessary for the proper development of the site and area. (Ord. 485 § 4 (part), 1992; Ord. 98 § 20.05.02(c), 1974)

### **17.68.180 Conditional Use Permit – Hearing – Date Setting**

Upon receipt of an application, the Planning Director shall set a date for a public hearing before the Planning Commission. The date of the hearing shall be not less than ten days or more than forty days after the date of receipt of such application. (Ord. 485 § 4 (part), 1992; Ord. 98 § 20.05.03, 1974)

### **17.68.190 Conditional Use Permit – Hearing Notice**

The Planning Director shall give notice of such conditional use permit application and of the time and place of such hearing as follows:

- A. By mailing notices not less than five days prior to the date of hearing to the owners, as their names and addresses are shown by the last equalized assessment roll, of real progeny owners within three hundred feet of the external boundaries of property under consideration;
- B. By posting said notice in conspicuous places close to the property affected, not less than ten days prior to the date of such hearing, a notice consisting of the words: "NOTICE OF PROPOSED CONDITIONAL USE PERMIT" printed in plain type letters not less than one inch in height and containing a statement in legible print setting forth a description of the property, the nature of the proposed conditional use permit, and time and place of public hearing;
- C. By one posting of notice in at least three public places in the City at least ten days prior to the date of the hearing. (Ord. 98 § 20.05.04, 1974)

### **17.68.200 Conditional Use Permit – Hearing – Rules of Conduct**

At the time and place fixed and noticed, the public hearing shall be conducted before the Planning Commission, and it shall be the duty of each applicant of a conditional use

permit to make a presentation for the need of the conditional use permit and to provide the Planning Commission with all pertinent factual data that will enable the Planning Commission to evaluate the effect which the proposed use will have on existing uses and possible future uses of adjoining land and objectives of the master plan. The Planning Commission may establish its own rules for the conduct of such public hearing and may, for any reason it shall deem appropriate, continue such hearing from time to time. (Ord. 485 § 4 (part), 1992; Ord. 98 § 20.05.05, 1974)

### **17.68.210 Conditional Use Permit – Required Findings**

- A. The Planning Commission, in approving a conditional use permit, shall find as follows:
1. That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this title;
  2. That the said use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the General Plan, and is not detrimental to existing uses or to uses specifically permitted in the zone in which the proposed use is to be located;
  3. That the site for the intended use is adequate in size and shape to accommodate said use and all of the yards, setbacks, walls, or fences, landscaping and other features required in order to adjust said use to those existing or permitted future uses on land in the neighborhood;
  4. That the site for the proposed use related to streets and highways is properly designed and improved to carry the type and quantity of traffic generated or to be generated by the proposed use;
  5. That the conditions set forth in the permit and shown on the approved site plan are deemed necessary to protect the public health, safety, and general welfare. Such conditions may include:
    - a. Regulation of use,
    - b. Special yards, spaces, and buffers,
    - c. Fences and walls,
    - d. Parking areas subject to City specifications including location and surfacing,
    - e. Regulation of paints of vehicular ingress and egress and on-site

- f. traffic circulation,  
Regulation of signs,
  - g. Required landscaping and maintenance thereof,
  - h. Regulation of noise, vibration, odors, and lights,
  - i. Regulation of time for certain activities,
  - j. Duration of use,
  - k. Any such other conditions as will make possible the development of the site in an orderly and efficient manner and in conformity with the intent and purposes set forth in this title.
- B. The Planning Commission may grant the conditional use permit in whole or in part upon such conditions as it may deem necessary and appropriate.
- C. The Planning Commission shall make its findings and decisions within forty days after the conclusion of the hearing by a minute order. Upon failure of the Planning Commission to make a determination within the time limit specified, the application shall be deemed to have been denied. (Ord. 485 § 4 (part), 1992; Ord. 98 § 20.05.05, 1974)

#### **17.68.220 Conditional Use Permit – Approval Void When**

Any permit granted pursuant to this chapter shall become null and void if not exercised as specified in such permit, or if no date is specified, the development shall commence within one hundred eighty calendar days from the date of approval and shall be pursued diligently and continuously to completion. (Ord. 98 § 20.05.07, 1974)

#### **17.68.240 Conditional Use Permit – Reapplication Prohibited When**

No person shall reapply for a similar conditional use permit for the same land, building, or structure within a twelve-month period from the date of the denial of the application. (Ord. 98 § 20.05.09, 1974)

#### **17.68.250 Planning Director Decision Appeal process**

In the event that the decision of the Planning Director or his appointed representative, of an administrative action so described herein, is contested, the following appeal procedure is established as contained in Section 2.08.030. (Ord. 364 § 1, 1986; Ord. 98 § 20.06, 1974)

### **17.68.260 Precise Plan of Design – Required When**

In order to fairly administer and provide for adequate consideration of all provisions of this title, it shall be required for all property development or establishment of use on a property to file a precise plan of design to accomplish as nearly as possible a uniformity in the permitted use and enjoyment in any zone while at the same time imposing a uniformity of regulation to protect use and enjoyment of surrounding properties. Therefore, no person shall commence any use and no building permit shall be issued for any structure until a precise plan of design covering the parcel or parcels to be used shall be approved and adopted as herein provided. Exceptions to this include additions or modifications to individual single-family homes, fences in a valuation of one thousand five hundred dollars or less. (Ord. 98 § 20.07 (part), 1974)

### **17.68.270 Precise Plan of Design – Contents**

The precise plan of design shall specify and include:

- A. The location, size, bulk, height, and number of stories of all buildings and structures including signs, walls and fences;
- B. The ration, size, and dimension of yards, courts, setbacks, and all other open spaces between buildings and structures;
- C. The location, dimensions, and method of improvements of all driveways, parking areas, walkways and means of access, ingress and egress, and drainage;
- D. The location, dimensions, and methods of improvement of all property to be dedicated to the public or to public utilities;
- E. The general nature of the proposed use;
- F. Relationship to all abutting public thoroughfares;
- G. Grading profile of site and relationship to abutting sites. (Ord. 98 § 20.07.01, 1974)

### **17.68.280 Precise Plan of Design – Approval or Rejection**

Any such precise plan of design may be rejected, adopted, modified and adopted, or adopted subject to conditions. Any such precise plan of design, after adoption, may be amended in the same manner as a precise plan of design is first adopted hereunder. If the precise plan of design would substantially depreciate property values in the vicinity or would unreasonable interfere with the use or enjoyment or property in the vicinity by

the occupants thereof for lawful purposes or would adversely affect the public peace, health, safety, or general welfare to a degree greater than that generally permitted by this title, such plan shall be rejected or shall be so modified or conditioned before adoption as to remove the said objections. Otherwise, such proposed precise plan shall be approved. Modifications and conditions may be imposed only to the extent reasonably necessary in connection with the proposed use to remove the said objections, and to the extent may impose greater, but shall not permit lesser, restrictions than those imposed by this title. (Ord. 98 § 20.07.2, 1974)

### **17.68.290 Precise Plan of Design of Design – Application Procedure**

Application for approval of a precise plan of design shall be made in such form as the Planning Commission shall prescribe. The procedure (but not the grounds) set forth in Sections 17.30.030 through 17.30.060 shall apply to the processing and approval or rejection of proposed precise plans of design, subject, however, to the following exceptions:

- A. Upon the filing of an application and prior to setting the same for hearing before the Planning Commission, the application shall be referred to the Planning Director. If the Planning Director determines that none of the grounds for rejection as set forth in Sections 17.30.030 through 17.30.060 exist, he or she shall endorse his or her approval thereon in writing within ten days after the date of filing. Approval may also be subject to express written alterations or conditions if the applicant accepts the same in writing. Such approval shall be final or terminate the proceedings; otherwise, it shall be set for hearing before the City Council.
- B. Notice of the public hearing shall be mailed no less than ten calendar days prior to the date of the public hearing to all property owners within a three-hundred-foot radius of the property and by posting at the official notice locations as determined by the resolution of the City Council.
- C. A filing fee in an amount established by resolution of the City Council shall be paid at the time of filing the application with the Planning Department.
- D. Applicant need not comply with Section 17.30.050 requiring a list of the names and addresses of all owners of real property within three hundred feet of the external boundaries of the property involved. (Ord. 485 §§ 4 (part), 17, 1992; Ord. 323 § 1, 1984; Ord. 230 § 3, 1980; Ord. 98 § 20.07.03, 1974)

### **17.68.300 Precise Plan of Design – Conditional Approval**

A precise plan of design may be approved and adopted subject to the granting of a change of zone, a conditional use permit, a variance, or the approval of a final

subdivision map or parcel map, and the Planning Commission may require such a precise plan of design to be submitted prior to the granting or recommending of a zone change, variance, or conditional use permit. (Ord. 485 § 4 (part), 1992; Ord. 98 § 20.07.04, 1974)

### **17.68.310 Precise Plan of Design – Definition Distinction**

The precise plans of design referred to in this chapter are not to be confused with or considered to be “precise plans” as referred to in the Government Code of the state. (Ord. 98 § 20.07.5, 1974)

### **17.68.320 Provisions Applicable After Zoning Device Action**

Once action has been taken on any zoning device (zone or boundary change, variance, minor deviation, conditional use permit, or precise plan of design), the provisions of Section 17.30.330 through 17.30.360 shall have an equal application to all such zoning devices. (Ord. 98 § 20.08 (part), 1974)

### **17.68.350 Zoning Device – Imposition of Terms Authorized**

In approving any zoning device, reasonable terms and conditions may be imposed deemed necessary to protect the health, safety, convenience, and welfare of the community and assure the intent and purpose of this title. Surety devices or other forms of guarantee may be required if deemed necessary to ensure such terms and conditions are being or shall be complied with. (Ord. 98 § 20.08.03, 1974)

### **17.68.360 Zoning Device – Time Limit Extension Fee**

Whenever a permit, entitlement, privilege, approval, or other forbearance is granted by the City and such action on the City’s part imposes a time limit within which an act is to be done and the applicant or recipient therefore requests an extension of time, the Planning Commission may grant such additional time for any cause which it deems justified. The City Council shall establish, by resolution, a processing fee to be paid upon the filing of a request for such time extension. (Ord. 485 § 4 (part), 1992; Ord. 98 § 20.08.04, 1974)

### **17.68.370 Zoning Device – Refund of Application Fees**

The City Council is authorized to establish a standardized refund policy by resolution of the City Council for the purpose of determining the amount method of calculating refunds for zoning device application fees. (Ord. 292 § 1, 1982)

### **17.68.380 Providing Zoning Flexibility to Encourage Smaller Affordable Housing Units Through the Use of Bonus Density or Alternative Incentives**

When a developer of housing agrees to construct at least twenty-five percent of the total units of a housing development for persons and families of low or moderate income, as defined in Section 50093 of the California Health and Safety Code, or ten percent in the total units of a housing development for lower income households as defined in Section 50079.5 of the California Health and Safety Code, the City will enter into an agreement with the developer to either grant a density bonus or provide other alternative incentives for the development project.

The factors determining the incentives shall be set forth by minute order of the Planning Commission from time to time, and shall be on file with the City Planning Department.

In considering such developments, the City shall assure that the number of units allowed will be compatible with surrounding land uses, that traffic and public services will not be adversely impacted, and that the development will not result in adverse off-site parking impact. (Ord. 485 § 4 (part), 1992; Ord. 326 § 1, 1984)

### **17.68.400 Applications to Planning Commission**

- A. Applications shall be filed with the Community Development Department on forms furnished by the City setting forth fully the nature of the proposed use, and the facts deemed sufficient to justify the granting of the requests, in accordance with the provisions of this chapter.
- B. Every application shall be signed by the owner of the subject property or by his authorized agent or by an agency or corporation who is, or will be a plaintiff in an action of eminent domain to acquire the property.
- C. 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.
- D. No application which has been denied wholly or in part shall be resubmitted for a period of one year from such denial, except on the grounds of new evidence or proof of changed conditions. (Ord. 485 § 16 (part), 1992)

### **17.68.405 Filing Fees**

Each application or time extension request shall be accompanied by a filing and

processing fee as established and amended by resolution of the City Council. Application fees for modification proceedings, under this chapter, shall also be accompanied by a filing and processing fee. The amount shall be established by a resolution of the city Council and may be changed from time to time. (Ord. 485 § 16 (part), 1992)

### **17.68.410 Hearings**

Every application for a variance, conditional use permit, tentative tract map, parcel map, lot split, street and alley vacation and time extension shall be set for a public hearing. If an appeal is taken from a Planning Commission decision regarding variances and conditional use permits, in the manner hereinafter specified, the said matter shall be set for consideration by the City Council as soon as possible. However, tentative tract map, parcel map, lot split, street and alley vacation requests or their time extension request as adopted pursuant to the Subdivision Map Act (Sec. 66411 et seq. of the Government Code, hereafter "Act") shall be subject to approval by the City Council. Hearings may be continued from time to time, by the Commission or City Council, as may be deemed necessary. (Ord. 485 § 16 (part), 1992)

### **17.68.415 Notices**

Notices of the time, place, and subject matter of public hearings before the Planning Commission and City Council, on variance, conditional use permit, tentative tract map, parcel map, lot split, street, and alley vacation requests or their time extension request, shall be given of such hearings in the following manner:

- A. By mailing a notice to each property owner within three hundred feet of the subject premises or as otherwise required by this code, whose name and address appear in such application, informing such owner of the nature of the application, the location of the property and the time and place of the hearing; and
- B. By posting a notice in the three public posting places designated by the City Council. (Ord. 485 § 16 (part), 1992)

### **17.68.420 Planning Commission Action**

- A. Within a reasonable time after the public hearing upon a variance or conditional use permit application, the Planning Commission shall approve, conditionally approve or deny the same by minute order or resolution adopted by the affirmative votes of not less than a majority of the total number of the membership of the Planning Commission. The minute order or resolution shall contain a statement of facts upon which the decision is based.

- B. Within seven calendar days following the action by the Commission, the Director shall cause to be forwarded 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.
- C. The decision of the Planning Commission shall be final and conclusive at twelve noon of the fifteenth day following the date of adoption of the minute order by the Commission, or at twelve noon of the day following the next regularly scheduled City Council meeting, whichever date is the latest in the absence of the filing of a written appeal, in the manner hereinafter specified. Upon the filing of an appeal in the manner herein set forth, the decision of the Planning Commission shall be suspended until action on the appeal is taken by the City Council. (Ord. 485 § 16 (part), 1992)

#### **17.68.425 Planning Commission Indecision – Effect of**

Where, for any reason, the Planning Commission is unable to reach a determination as to a zone variance or a conditional use permit application, within forty-two days after the close of the public hearing relating thereto, the matter shall be deemed automatically appealed to the City Council, without decision by the Planning Commission. In such event, the 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. (Ord. 485 § 16 (part), 1992)

#### **17.68.430 Appeals**

- A. The applicant, or any other person who owns real property or resides within three hundred feet of the property lines of the property to which the variance, conditional use permit, or precise plan of design application relates, and anyone who is aggrieved by the use permit, or precise plan of design, may prior to the effective date of the action, file a written letter of appeal with the City Clerk together with a filing and processing fee, appealing the decision of the Planning Commission to the City Council. Upon receipt of such written letter of appeal, together with the fee, the City Clerk shall place the matter upon the City Council agenda at the next regularly scheduled meeting of the City Council which is not less than ten days from the date of receipt of the notice of appeal.
- B. Any two Council members may appeal to the City Council any decision on a variance, conditional use permit, or precise plan of design. No appeal may be withdrawn except by the appealing party, with the consent of the applicant and the City Council.

- C. Where an appeal is pending before the City Council from a decision of the Planning Commission, the City Council shall order the City Clerk to give notice thereof in the same manner as the notice required for the hearings before the Planning Commission.
- D. The filing and processing fees shall be established by resolution of the City Council.
- E. The City Council shall have the authority, at any time prior to its final determination upon an appeal from a Planning Commission decision, to refer the matter back to the Planning Commission for consideration. The City Council may instruct the Planning Commission conduct an additional public hearing in order to accept new evidence relating to such matter. (Ord. 485 § 16 (part), 1992)

#### **17.68.435 Determination by the City Council**

The City Council shall render its decision approving, conditionally approving, or denying the variance, conditional use permit, or precise plan of design, within a reasonable time after conducting its deliberation. Its decision shall be by resolution, which shall contain the facts supporting the action. The action of the City Council shall be final and conclusive. (Ord. 485 § 16 (part), 1992)

#### **17.68.440 Notice of City Council Decision**

Within five days, following the adoption of the resolution by the City Council, the City Clerk shall mail a copy thereof to the applicant and any other person requesting the same, at his last known address. (Ord. 485 § 16 (part), 1992)

#### **17.68.445 Conditions of Approval – Scope**

Whenever the City Council or Planning Commission grants a variance or conditional use permit, the granting authority may attach conditions thereto necessary to make the required findings mandated by the state and the findings in this chapter.

- A. In any case, the granting authority may apply such condition as is necessary to protect the public health, safety, and general welfare, including conditions relating to yards, fences and walks, dedications, improvements, landscaping, regulation of nuisance factor, regulation of signs and such other matters as will make the development compatible with the neighborhood. In granting a conditional use permit, the City Council may grant deviations or relief from the yard, fence, sign, height, parking, loading, and open space regulations of this chapter.

- B. In any case, the granting authority may attach a requirement of a bond (in the form of cash, surety bond, or certificate of deposit) for the purpose of guaranteeing faithful performance of any conditions imposed. (Ord. 485 § 16 (part), 1992)

#### **17.68.450 Acceptance**

The acceptance of any of the benefits of such grant shall constitute acceptance of the burdens and conditions attached thereto. (Ord. 485 § 16 (part), 1992)

#### **17.68.455 Interpretation**

The attaching of conditions shall be construed as a material part of the grant, without which the application would otherwise be denied. The invalidation of any condition shall constitute invalidation of the entire grant. (Ord. 485 § 16 (part), 1992)

#### **17.68.460 Variances, Conditional Use Permits, Precise Plans of Design – Revocation**

- A. Upon recommendation by the City Council, the body which originally granted the permit, shall conduct a noticed public hearing to determine whether the permit should be revoked. If the granting agency or City Council finds any one of the following facts to be present, it shall revoke the permit:
1. That any condition of the permit has not been complied with or has been violated;
  2. That the use is detrimental to public health, safety, or is a nuisance;
  3. That the permit was obtained by fraud;
  4. That the use for which the permit was granted has ceased or has been discontinued or has not been pursued for a period of one year.
- B. Notice
1. Notice shall be by registered mail, return receipt requested to the recorded owner or lessee of the subject property not less than twenty days prior to giving public notice. The notice shall state the complaint and shall request appearance of the owner or lessee at the time and place specified for the hearing to show cause why the permit should not be revoked.

2. Public notice shall be given as provided in Section 30.415.

If the Planning Commission conducts the hearing, the action taken shall be subject to an appeal in the manner prescribed in this chapter.

- C. The body which originally granted the permit shall make its findings and decision within forty days after the conclusion of the hearing by a formal and numbered resolution. After revocation, the subject property shall conform to all regulations of the zone in which it is located.

The action of the City Council shall be final and conclusive. (Ord. 485 § 16 (part), 1992)

#### **17.68.465 Time Limit**

Any permit shall be null and void to the extent the grant permitted there under is not exercised within the time specified in the minute order approving such permit, or if no time is so specified, to the extent the same is not exercised within one year from the date the permit is granted provided that the granting body, upon request of applicant showing good cause, may extend the time limitations imposed by the section for a period of not to exceed one year. (Ord. 485 § 16 (part), 1992)

#### **17.68.470 Modification**

Any condition imposed upon the granting of a permit 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 same:

- A. No such modification shall be made unless the hearing body finds that such modification is necessary to protect the public interest, or, in the case of deletion of such a condition, that such action is necessary to permit reasonable operation under the permit;
- B. All Planning Commission determinations regarding modification proceedings shall be subject to an appeal as set forth in this title. (Ord. 485 § 16 (part), 1992)