

CHAPTER 30.43 – VARIANCES

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30.43.010 – Purpose

The purpose of the variance is to assure that no property, because of the special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same zone and vicinity.

30.43.020 – Authority

- A. Except where another individual or commission is empowered with authority to grant a variance, the Hearing Officer may grant variances from the requirements of this Title pertaining to standards and from requirements of other titles of the Municipal Code where specifically authorized in such other titles in accordance with the findings of fact hereinafter prescribed. The Planning Commission may grant variances from the requirements of this Title related to uses allowed in all zoning districts except the ROS Residential Open Space Zone, the R1R Restricted Residential Zone, and the R1 Low Density Residential Zone in accordance with the findings of fact hereinafter prescribed.

In cases where a variance has been granted on or before April 3, 2009 that is related to uses allowed in the ROS, R1R, or R1 Zones, the Planning Commission may grant a new variance for the same use as previously approved. In these cases, the Planning Commission may also grant a new variance to allow expansion or modification of said previously-granted use, provided such expansion or modification does not include expansion of the boundaries of the subject property compared to the boundaries of the subject property at the time the original variance was granted. Variance applications to extend use variances in the ROS, R1R, and R1 Zones shall be filed within ninety days of the expiration date of any variance case. Any variance application filed between 91 and 180 days after the expiration date of a variance case shall only be accepted for filing if the Director of Community Development determines that the failure to file the application was due to a mistake or excusable neglect on the part of the applicant. If the Director of Community Development rejects the application on the grounds that the reason given for the late filing does not constitute mistake or excusable neglect, the applicant may appeal the Director of Community Development decision to the City Council. Any variance application filed between 181 and 365 days after the expiration date of a variance, and variance applications denied by the Director of Community Development pursuant the previous sentence, shall only be accepted for filing if the City Council determines that the failure to file the application in a timely manner was due to a mistake or excusable neglect on the part of the applicant. The Director of Community Development and City Council shall only make the finding that a failure to timely file a use variance application as set forth in this Section if the applicant demonstrates that there is a preponderance of evidence to support a finding of mistake or excusable

neglect.

In cases involving variances related to any standard and also a use, the Director of Community Development may authorize the variance requests to be considered by the Planning Commission rather than both the Hearing Officer and the Planning Commission. In granting any variance, the Hearing Officer and the Planning Commission may impose conditions to safeguard and protect the public health, safety and promote the general welfare, and to insure that the development so authorized is in accordance with approved plans and is consistent with the zoning ordinance objectives.

- B. For any project located entirely or partially in a redevelopment project area, as adopted by the Legislative Body/Glendale Redevelopment Agency, or in the DSP zone, for which an associated application for design review or parking exception is required for which the Glendale Redevelopment Agency is the design review and parking exception authority (or, if the Redevelopment Agency is suspended or eliminated, the City Council), the City Council may grant variances upon making the findings of the fact listed below. In granting a variance, the City Council may impose conditions to safeguard and protect the public health, safety and promote the general welfare, and to insure that the development so authorized is in accordance with approved plans and is consistent with the zoning ordinance objectives.
- C. For any project located entirely or partially in the DSP zone not located in a redevelopment project area, as adopted by the Legislative Body/Glendale Redevelopment Agency, for which an associated application for design review is required for which the Glendale City Council is the design review authority, the City Council may grant variances upon making the findings of the fact listed below. In granting a variance, the City Council may impose conditions to safeguard and protect the public health, safety and promote the general welfare, and to insure that the development so authorized is in accordance with approved plans and is consistent with the zoning ordinance objectives.

30.43.030 – Findings of Fact

A variance shall be granted only if the review authority first finds that:

- A. The strict application of the provisions of any such ordinance would result in practical difficulties or unnecessary hardship inconsistent with the general purposes and intent of the ordinance;
- B. There are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood;
- C. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or neighborhood in which the property is located; and
- D. The granting of the variance will not be contrary to the objectives of the ordinance.

Decisions related to development in the ROS and R1R zones shall consider the hillside development review policy contained in sub-section 30.11.040.A.

30.43.040 – Burden of Proof

The burden of proof to establish that findings of fact can be made as required by Section 30.43.030 is on the applicant.

30.43.050 – Authorization for Initiation, Application Filing and Filing Fees

For authorization for initiation, application filing and filing fees, see Chapter 30.40.

30.43.060 – Public Hearing and Notice

For public hearing and notice, see Chapter 30.61.

30.43.070 – Decision of the Review Authority

- A. The review authority shall hold a public hearing on the proposed variance and consider all evidence presented for and against the proposal. The review authority shall make findings of fact and determinations in writing and shall place in the mail a copy thereof, addressed to the applicant and those persons speaking at the hearing who submitted their correct mailing address. Where the Council has, acting as the initial review authority, approved or denied a variance for a project located entirely or partially in a redevelopment project area or located entirely or partially in the DSP Zone outside of a redevelopment project area, any interested person may make a written request for a Council rehearing in accordance with Section 2.88.060 of the Glendale Municipal Code.
- B. For variances decided by the Hearing Officer, the decision shall become final fifteen (15) days following the date of the decision unless an appeal to the Planning Commission is filed as provided in Chapter 30.62. For variances decided by the Planning Commission, the decision shall become final fifteen (15) days following the date of the decision unless an appeal to the City Council is filed as provided in Chapter 2.88 of this Code.

30.43.080 – Appeal Procedure

For appeals procedure, see Chapter 30.62.

30.43.090 – Resubmittal of Applications

No variance application which has been denied in whole or in part shall be filed again within six (6) months from the date of such denial except upon proof of changed conditions or by permission of the Director of Community Development.

30.43.100 – Duration of Variance

For duration of variances, see Chapter 30.41.