



## City of Arcata Community Development Department

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[www.cityofarcata.org](http://www.cityofarcata.org)

# VARIANCE

## OVERVIEW

A Variance provides for modifications of development standards, such as building setbacks, building heights, lot area, building coverage and/or parking. Variances are granted only when there are special circumstances applicable to the property including size, shape, topography, location or surroundings, or other physical conditions which make it difficult or impossible to develop using standard regulations in compliance with the Land Use Code. For example, a variance may be warranted for a building setback where the lot size and/or shape would not allow development if standard setbacks were applied.

A Variance can be granted if the strict application of the standards denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district. This is a hardship provision and will only be granted when it can be demonstrated that all attempts to comply with Land Use Code standards have been exhausted.

## HOW TO APPLY

Variance applications are available at the Community Development Department, or on the Department's website at [www.cityofarcata.org](http://www.cityofarcata.org). Staff can assist you with the materials needed for a complete application packet. Submit the completed application packet along with the application fee to the Department for processing.

## THE PROCESS

### Step 1: Application Filing and Initial Review

Once your application has been submitted and fees collected, Staff will perform an initial application review. Please follow the attached checklist carefully when preparing your application as this is what staff relies on to determine completeness. Should your application be found incomplete, you or your designated agent will be contacted and advised what items must be submitted before processing can continue.

**Preliminary Review Option:** Applicants can pay a fee to get the review process started rather than waiting until all required items are submitted for staff to begin review of your project. This will provide you with an assessment of how the proposed use complies with applicable standards. The application must be complete to proceed beyond that.

### Step 2: Environmental Review

The assigned planner will review the project in accordance with the California Environmental Quality Act (CEQA) to determine if the project is statutorily or categorically exempt from CEQA, or if it is subject to CEQA and further environmental review is required. If the project is exempt from CEQA, then Step 2 is complete. If the project is not exempt from CEQA, then an initial study will be prepared, which determines

the required environmental document that must be prepared and circulated for agency and public comment.

### **Step 3: Department and Agency Referrals**

Once your application has been accepted as complete, the assigned planner will send copies of your application materials to other City departments and public agencies having jurisdiction or authority over your project. If the responding Departments or agencies identify issues to be resolved prior to the continued processing of your application, or if additional information is required by those Departments or agencies, you or your designated agent will be advised as to what is needed. These Department and agency comments may affect the form and content of the environmental document.

### **Step 4: Required Findings**

The review authority may approve a Variance only after first making all of the following general findings (Land Use Code § 9.72.090.F):

- a. There are special circumstances applicable to the property (e.g. location, shape, size, surroundings, topography, or other conditions) so that the strict application of the Land Use Code denies the property owner privileges enjoyed by other property owners in the vicinity in the same zoning district;
- b. Granting the Variance is necessary for the preservation and enjoyment of substantial property rights enjoyed by other property owners in the same vicinity and zoning district and denied to the property owner for which the Variance is sought; and
- c. The Variance is consistent with the City's General Plan, Local Coastal Program, or any applicable specific plan.

In addition to the findings listed above, specific findings for off-street parking or for reasonable accommodation in compliance with Americans with Disabilities Act may be required (Land Use Code § 9.72.090.F.2 and 3).

### **Step 5: Zoning Administrator / Planning Commission Staff Report**

Each application for a Variance will be reviewed by the Zoning Administrator to ensure the proposal complies with all applicable requirements of the Land Use Code. Staff will prepare a written report that describes the proposed project, discusses the legal findings, presents staff's recommendations, and lists conditions for approval. A copy of the staff report will be sent to you prior to the public hearing.

### **Step 6: Conditions of Approval**

In approving a Variance, the review authority may impose any conditions to ensure that the Variance does not grant special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located; and may impose any other conditions (e.g. the placement, height, nature and extent of use, buffers, landscaping and maintenance, off-site improvements, hours of operation etc.) deemed reasonable and necessary for Land Use Code compliance and ensure that the proposed use meets required findings. The violation of any required condition may constitute grounds for revocation.

**Step 7: Public Notice and Hearing**

The appropriate review authority will conduct a public hearing on the application before a decision is made. A Notice of Public Hearing will be sent to all property owners within 300 feet of your property if the project is exempt from CEQA. For projects not exempt from CEQA, notice will be sent to all property owners within 500 feet of your property. The notice, which must be mailed at least 10 calendar days prior to the hearing will state the date, time, and place for the public hearing. You and/or your agent should attend the public hearing in case there are project specific questions. At the public hearing, any person may present verbal and/or written testimony for or against the project. The review authority will take into account the whole record, including all of the public testimony before making their decision. The review authority may make a decision at the hearing, or may continue the matter if more information is needed.

**Step 8: Appeals**

Zoning Administrator actions are appealable to the Planning Commission and Planning Commission actions are appealable to the City Council by you as the applicant, or any other adversely affected person. Appeals to the Planning Commission must be filed with the Community Development Department; appeals to the City Council must be filed with the City Clerk both within 10 calendar days of the actual date of the final decision. Appeals must be submitted in writing and be accompanied by the required fees.

**VARIANCE EXPIRATION**

Any Variance granted, but not exercised within 12 months will expire and become void, unless a condition of approval or other Land Use Code provision establishes a different time limit, or where an extension of time is approved in compliance with Land Use Code § 9.79.070.

## Variance Application Checklist

Visit the Community Development Department page at [www.cityofarcata.org](http://www.cityofarcata.org). Select the Land Use Code from the menu and then see § 9.72.090 for complete Variance permit regulations.

- Preliminary Review Option: Applicants can pay a fee to get the permit review process started rather than waiting until all required items are submitted for staff to begin review of your project.

Talk with Arcata Community Development Department Planning Staff to determine which of the following items must be submitted along with a completed and signed application form. **Incomplete or inaccurate information will cause a delay in permit processing.**

- Application form with signatures of all owners of the affected parcels.
- Application fee as indicated on the application form.
- Eight (8) copies of a plot (site) plan containing the information shown on the plot plan checklist. Additional copies may be required for agency distribution.
- To request an exemption from the California Environmental Quality Act (CEQA), submit justification and evidence to support a CEQA exemption; or
- For projects not exempt from CEQA, submit a CEQA checklist. See staff for a Negative Declaration or Environmental Impact Report determination.
- An explanation of the special circumstances applicable to the property (including location, shape, size, surroundings, topography, or other physical conditions) that necessitate a variance from a specific development standard.
- Information showing that the strict application of the development standard denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.
- Written responses for each Variance Finding found in the Land Use Code, §9.72.090.F. One paper copy and one electronic copy compatible with MS WORD.
- Cultural Resource Review from North Coastal Information Center (NCIC) - Refer to the latest fee schedule and make checks payable to: The City of Arcata.

Subject to changes or additions at any time. Applications may require additional information for continued processing.