CHAPTER 10.68 VARIANCES

10.68.010 Purpose

The Variance process provides for Zoning Administrator or Planning Commission review of requests for relief from the strict application of the requirements of this Title and may be requested and granted as provided by this chapter. In addition to the general purposes of this Title, the specific purposes of establishing procedures for Variances are as follows:

A. To provide relief from the strict application of the zoning ordinance when special circumstances apply to the property, including size, shape, topography, location or surroundings and the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning district; and

B. To ensure conditions are applied so that the adjustment authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which such property is situated.

10.68.020 Authority and Applicability

The Zoning Administrator may approve, conditionally approve, or deny a Variance application for projects for which the Zoning Administrator is the granting authority, as specified by Section 10.80.040 (Zoning Administrator), unless otherwise restricted by State law. The Planning Commission may approve, conditionally approve or deny a Variance application for all other projects. Project must comply with all other provisions of this Title.

A Variance shall not be used to:

A. Reduce the minimum lot area required for a new land division by Chapters 10.20 through 10.28 (Zoning District Regulations) of this Title such that the project would increase densities above those specified by the General Plan; or

B. Waive any other requirement of this Title or Title 9 of this code (Subdivisions) related to General Plan consistency and other subdivision map requirements; or

C. Authorize land uses other than those identified as allowed in the particular zoning district by Chapters 10.20 through 10.28 (Zoning District Regulations), as required by California Government Code §65906.

10.68.030 Application Contents and Submittal

Applications for Variances shall include all information specified by resolution of the Planning Commission. Submittal shall include a site plan drawn to scale showing location of all existing and proposed buildings, yards, driveways, and parking areas; an explanation of how the findings specified by Section 10.68.050 (Findings) may be made; and the required fee. Application procedures and processing timeframes shall be consistent with Chapter 10.50 (Land

Use Permit Procedures), this chapter, State law and additional procedural guidelines established by the Community Development Director. Acceptance of an application does not constitute any indication of approval.

10.68.040 Public Notice and Hearing

The Zoning Administrator or Planning Commission shall hold a public hearing on an application for a Variance, as applicable, following completion of a staff report pursuant to Section 10.50.090 (Staff Reports and Recommendations). Public hearing shall be noticed and held in accordance with Chapter 10.82 (Public Hearings).

10.68.050 Findings

The granting authority (Zoning Administrator or Planning Commission, as applicable) may approve or conditionally approve a variance only if the following findings can be made, as established by California Government Code §65906:

A. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property, that do not apply generally to other property or uses in the same district.

B. Owing to such exceptional or extraordinary circumstances the literal enforcement of the provisions of the Title would result in practical difficulty or unnecessary hardship.

C. Such Variance is necessary for the preservation of a substantial property right of the petitioner, possessed by other property in the same district.

D. The granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity or in the district in which the subject property is located.

E. The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

F. The granting of such Variance will be in harmony with the general purpose and intent of this Title and the General Plan.

10.68.060 Conditions of Approval

The Zoning Administrator or Planning Commission may apply reasonable conditions of approval deemed necessary to protect the public health, safety and general welfare and secure the objectives of this Title and the General Plan.

10.68.070 Notice of Decision

Zoning Administrator or Planning Commission decision shall be in the form of a written resolution, which shall include findings on which the decision was based, applicable conditions of approval and a summary of the appeal process. Written decision shall be mailed to the applicant.

10.68.080 Appeals

All decisions of the Zoning Administrator may be appealed to the Planning Commission within ten (10) days of the decision date. All decisions of the Planning Commission may be appealed to the City Council within ten (10) days of the decision date. All appeals shall be in writing and shall be submitted and processed in accordance with Chapter 10.84 (Appeals) of this Title.

10.68.090 Effective Date

Variance shall become effective for the purposes of construction permit issuance ten (10) days after the decision is rendered.

10.68.100 Expiration

Variances are valid for one year unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, or the permit is renewed and extended. If more than one phase of a development is approved in a single action and later phases remain outstanding, approval shall lapse at the end of the authorized time frame.