

# **CITY OF LAKEPORT GUIDE TO VARIANCE APPLICATION PROCEDURES FACTS AND INFORMATION**

The City of Lakeport Zoning Ordinance contains certain standards that have been established to control the development of property. These standards include: lot sizes, building setbacks, property lines, allowable building heights, and the amount of off-street parking required for a particular use. A variance is a permit issued by the Planning Commission which would allow the development of property in a manner which does not strictly conform to the regulations or standards contained in either the Zoning Ordinance or Sign Ordinance. A variance is intended to provide relief to a property owner when the strict application of the ordinance would result in a unique or unusual hardship.

It should be pointed out that the actual use or development of land not in conformance with the regulations specified in the zoning district in which such land or buildings are located may not be allowed by the granting of a variance. If there is a particular need which requires or necessitates an application for a variance, you must make said application in writing using the forms provided by the City of Lakeport.

The property owner, lessee, purchaser in escrow, optionee with the consent of the owners, or a public utility company or other agency with the power of eminent domain may make an application for a variance.

The application must be accompanied by the fee, which will be set by the City Council, a plan which details the variance being requested, and a burden of proof statement which addresses compliance with the variance criteria that is set forth in the City Zoning Ordinance. Fourteen (14) copies of all of the material required must be submitted before the application is considered complete and the item is placed on an upcoming City Planning Commission agenda.

Before the Planning Commission can approve a variance application, it must make the following findings based on compliance with the variance criteria and the factual evidence that is presented to the City or made available during the course of the review of the proposal:

1. The strict application of this code deprives the property of privileges enjoyed by other properties in the vicinity, and under identical land use district classification, due to special circumstances applicable to the property including size, shape, topography, location, or surroundings;
2. That granting the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity and land use district and denied to the property for which the variance is sought;
3. That granting the variance will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located;
4. That granting the variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which such property is located;
5. That granting the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel; and
6. That granting the variance will not be inconsistent with the Lakeport general plan. **(Lakeport Municipal Code Section 17.26.050)**

California State Law prohibits financial considerations to form the basis of a variance request.

The following is the procedure used to process a variance request/application:

1. The applicant prepares and submits to the Community Development Department 14 copies of the following: application form(s); variance justification statement and related findings; and site plan and/or other plans/details illustrating the proposed variance request. Application fees must be paid at that time.
2. The Community Development Department evaluates the application package to determine if there is a possibility of a significant environmental impact. If such impact is identified, an Environmental Impact Report may be required.
3. The application is circulated to other City departments and to affected agencies for their review and comment.
4. The application is scheduled for a public hearing before the Planning Commission. A notice of the hearing is published in the newspaper, and property owners within a 300' radius of the project site are notified by mail.

5. The City Community Development Department reviews the application, determines the appropriate level of environmental clearance, writes a staff report and, and recommends either conditional approval or denial to the Planning Commission. The staff report and recommendation are sent to the applicant prior to the Planning Commission hearing.
6. The Planning Commission, at the public hearing, considers the application, the staff report recommendation, the public testimony, and any other input that is received. At the conclusion of the hearing, the Planning Commission may deny, approve, or conditionally approve the application.
7. If the variance application is denied, the applicant may appeal the Planning Commission's action to the City Council. An appeal must be filed with the Community Development Department within five working days of the Planning Commission's decision, or the action of the Planning Commission is final.
8. A project authorized by a variance must be initiated within one year from the date of approval, unless an application requesting an extension is approved by the Commission.

### **Timing:**

A typical variance application is considered by the Planning Commission within four to eight weeks of its submittal date. However, the Community Development Department has 30 days in which to find an application complete and must act on the project within one year. When a public hearing is necessary, it must be held at least 60 days before the expiration of the one-year time limit.

### **Special Considerations:**

1. The applicant, or a representative of the applicant, should attend the Planning Commission meeting and should be prepared to address the Commission regarding the application and to answer any questions or comments that may arise.
2. When considering a variance application, the Planning Commission will typically approve only the minimum variance necessary to eliminate the particular hardship which exists on the property.
3. In approving a variance permit, the Planning Commission may impose conditions of approval which assure that the authorized action will not adversely affect adjacent properties.

### **Variance Application Checklist:**

1. Complete the application for a variance (and environmental review if applicable). Application(s) to be signed by the property owner and the applicant. Submit 14 copies.
2. Submit a project description and justification statement which addresses compliance with the variance criteria (findings) set forth in Municipal Code Chapter 17.26. Submit 14 copies.
3. Prepare and submit 14 copies of a site plan showing the following characteristics of the subject property:
  - A. Dimensions of the property and its location relative to the streets, alleys, waterways, and adjacent properties.
  - B. The dimensions and locations of existing and proposed buildings or other improvements and their distance from property lines and other structures.
  - C. Existing and proposed off-street parking.
  - D. Existing and proposed street improvements (curbs, gutters, sidewalks, driveways, etc.).
  - E. Scale of the drawing and north arrow.
  - F. Location of surrounding streets.
  - G. Any other details which may be relevant to the application, including slopes, rock outcrops, major physical features existing on the property, etc.
4. Submit the required fees.

For more information, contact:

**City of Lakeport**  
**Community Development Department**  
**225 Park Street**  
**Lakeport, CA 95453**  
**Phone: (707) 263-5613 x20 / Fax: (707) 263-8584**  
[www.cityoflakeport.com](http://www.cityoflakeport.com)

# VARIANCE JUSTIFICATION STATEMENT

An application for a variance must be supported by a written statement which justifies conformance with Section 17.26.050 of the City's Municipal Code (Variance Findings).

## **17.26.050 Findings:**

Following the public hearing, the planning commission shall record their decision in writing and shall recite the findings upon which such decision is based, pursuant to Section [65906](#) of the Government Code. The commission may approve and/or modify an application in whole or in part, with or without conditions, only if all of the following findings are made:

- A. The strict application of this code deprives the property of privileges enjoyed by other properties in the vicinity, and under identical land use district classification, due to special circumstances applicable to the property including size, shape, topography, location, or surroundings;
- B. That granting the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity and land use district and denied to the property for which the variance is sought;
- C. That granting the variance will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located;
- D. That granting the variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which such property is located;
- E. That granting the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel; and
- F. That granting the variance will not be inconsistent with the Lakeport general plan. (Ord. 796 Att. A(part), 1999

According to Municipal Code Section 17.26.070, it is the applicant's responsibility to provide the required findings in support of the variance request:

## **17.26.070 Burden of proof:**

The burden of proof to establish the evidence in support of the findings is the responsibility of the applicant. (Ord. 796 Att. A(part), 1999)

The justification statement should include a detailed description of the proposed variance request and the reasons for the request. Plans, renderings or other details should be provided to illustrate the variance request.