

## Chapter 20.68 - PERMIT REQUIREMENTS

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### 20.68.010 Purpose

This chapter identifies the purpose, thresholds for review, and findings for approval for each planning permit required by the Zoning Ordinance.

### 20.68.020 Conditional Use and Minor Use Permits

- A. Purpose.** A Conditional Use or Minor Use Permit is required for uses that are generally appropriate within a zoning district but potentially unsuitable in a particular location or in large numbers. A Conditional Use or Minor Use Permit is a discretionary action that enables the City to ensure that a proposed use is consistent with all General Plan goals and policies and will not create negative impacts to adjacent properties or the general public.
- B. Application Submittal and Review.** Application for a Conditional Use or Minor Use Permit shall be filed and reviewed in compliance with Chapter 20.66 (Permit Application and Review).
- C. Review Authority.**
1. **Conditional Use Permits.** The Planning Commission shall take action on all Conditional Use Permit applications. At least four (4) members of the Planning Commission shall be required to vote to approve a Conditional Use Permit; otherwise, the Permit is deemed denied.
  2. **Minor Use Permits.**
    - a. The Director of Development Services shall take action on all Minor Use Permit applications.
    - b. The Director of Development Services may refer any Minor Use Permit application to the Planning Commission for review and final decision.

**D. Public Notice and Hearing.**

1. Public notice and hearing for a Conditional Use Permit shall be provided in compliance with Chapter 20.70 (Public Notice and Hearing).
2. No public notice or hearing is required for a Minor Use Permit although all records relating to the permit shall be public records and shall be available for review upon request.

**E. Findings for Approval.** The review authority may approve an application for a Conditional Use or Minor Use Permit application only if all of the following findings can be made:

1. The proposed use is consistent with the purpose and standards of the zoning district, the General Plan, and any adopted area or neighborhood plan, specific plan, or community plan.
2. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the subject property.
3. The proposed use will not be detrimental to the public health, safety, and welfare of the City.
4. The proposed use is properly located within the City and adequately served by existing or planned services and infrastructure.

**F. Conditions of Approval.** The review authority may attach conditions to the approval of a Conditional Use or Minor Use Permit as needed to ensure compliance with the General Plan, Zoning Ordinance, Merced Municipal Code, City Design Standards, or any applicable specific plan, community plan, or area plan, policy, or ordinance adopted by the City.**G. Appeals.** Decisions on Conditional Use and Minor Use Permits may be appealed as provided for in Chapter 20.74 (Appeals).**H. Post-Decision Procedures.** Procedures and requirements relating to effective dates, time limits, changes to approved projects, resubmittals, and permit revocation shall apply to Conditional and Minor Use Permits as provided in Chapter 20.72 (Post-Decision Procedures).**I. Time Limits.** If not exercised within 5 years of approval, the Conditional Use Permit shall expire. Time extensions of up to 2 years may be approved by the Director of Development Services. (Refer to Section 20.72.060(B) and (C) for definition of "exercised" and time extension procedures.)



**C. Review Authority.**

1. **Planning Commission.** The Planning Commission shall take action on all Design Review Permit applications except as specified in Sections 2 and 3 below. At least four (4) members of the Planning Commission shall be required to vote to approve a Design Review Permit; otherwise, the Permit is deemed denied.
2. **Development Services Department.** Development Services Department staff shall take action on Design Review Permit applications for the following projects:
  - a. Change in exterior wall paint color.
  - b. Installation of new signage and maintenance of existing signage, including new copy, painting, repair, and replacement of defective sign parts that does not alter the basic copy, design, or structure of the sign.
  - c. Any items referred to staff following Planning Commission review.
  - d. Minor modifications to Design Review Permits approved by the Planning Commission or Site Plan Review Committee which do not alter the basic design or structure of the project.
  - e. Façade improvements to existing structures which do not increase the floor area of the structure by more than 5 percent.
  - f. New structures less than 10,000 square feet that are deemed by the Director of Development Services to be minor in nature.
3. **Staff Referral.** The Director of Development Services may choose to refer any Design Review Permit application for review and final action by the Planning Commission.



**D. Application Submittal and Review.** Application for a Design Review Permit shall be filed and reviewed in compliance with Chapter 20.66 (Permit Application and Review).

**E. Public Notice and Hearing.** Public Notice and hearing for a Design Review Permit shall be provided in compliance with Chapter 20.70 (Public Notice and Hearing). Public hearings are only required for those Design Review Permits which go to the Planning Commission for approval, not staff-level reviews.

**F. Features to Consider.** When reviewing a Design Review Permit application, the City may consider, but is not limited to, the following features of the project design:

1. The location of all structures on the property and compatibility with surrounding uses.
2. Proposed and existing landscaping, fencing, and other screening materials.

3. Design of all circulation, parking and loading facilities for vehicles, bicycles, pedestrians, and transit.
4. Screening of refuse facilities, utility meters, and mechanical equipment.
5. Building and site design, including exterior colors and architecture style.



6. Design and location of public infrastructure including curb cuts, curbs, gutters, sidewalks, sidewalk design, drainage, and fire hydrants.
7. Location, design, and intensity of all onsite exterior lighting.
8. Location and design of address system and graphics for mail delivery system.
9. Design of all open space areas.
10. Design, placement, dimension, and color of all signs and exterior graphics, including sign materials, lighting, sign intensity, and temporary signs.
11. Review of design and placement of facilities for physically handicapped or persons with disabilities.

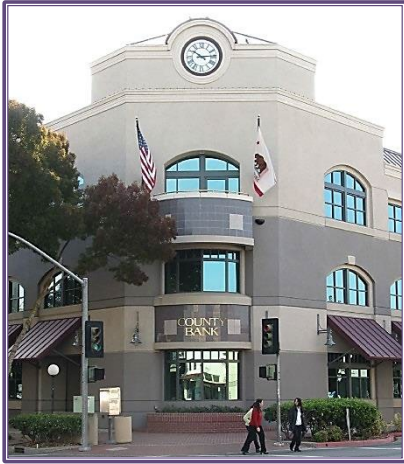
**G. Design Review Principles.** When reviewing Design Review Permit applications, the Planning Commission or City staff may consider the following Design Review principles:

1. Review of architectural character shall not be so restrictive that individual initiative is stifled in the design of any particular building or site. Rather, review exercised shall be the amount necessary to achieve the overall purpose and objective of the Design Review process.
2. Good architectural character is based upon the suitability of a building and site for its purposes; upon the appropriate use of sound materials, good relationship with other structures, and the character of the City; and upon the principles of harmony, preparation and design in the elements of the building and site.
3. Review of sign graphics shall be based upon suitability of the sign colors, placement, design to overall building design, and adjacent sign themes. The Planning Commission or City staff shall consider the extent, design and location of all temporary signs as well as permanent signs in the review of sign graphics.





**H. Findings.** The review authority may approve an application for a Design Review Permit application only if all of the following findings can be made:



1. The proposed project is consistent with the General Plan, and any adopted area, community, specific, or neighborhood plan.

2. The proposed project complies with all applicable provisions of the Zoning Code and Municipal Code.

3. The design and layout of the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.

4. The proposed building design makes use of appropriate materials, texture and color, and will remain aesthetically appealing and appropriately maintained.

5. The proposed design will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity of the proposed project.



**I. Conditions of Approval.** The review authority may attach conditions to the approval of a Design Review Permit as needed to ensure compliance with the General Plan, Zoning Ordinance, Merced Municipal Code, City Design Standards, or any applicable specific plan, community plan, or area plan, policy, or ordinance, adopted by the City.

**J. Appeals.** Decisions on Design Review Permits may be appealed as provided for in Chapter 20.74 (Appeals).

**K. Post-Decision Procedures.** Procedures and requirements relating to effective dates, time limits, changes to approved projects, resubmittals, and permit revocation shall apply to Design Review Permits as provided in Chapter 20.72 (Post-Decision Procedures). ▬



**20.68.040 Minor Modification**

**A. Purpose.** A Minor Modification allows for small deviations from development standards to accommodate projects which meet the needs of property owners, are consistent with the purpose of the Zoning Ordinance and General Plan, and do not negatively impact neighboring properties or the community at large.

**B. Applicability.**

1. **Permitted Modifications.** A Minor Modification may be granted to allow for a maximum 10 percent deviation from a physical development standard that applies to the subject property. Types of physical development standards eligible for a Minor Modification include:

- a. Maximum height of buildings, fences, walls, and other structures;
- b. Minimum and maximum setbacks from property lines;
- c. Maximum lot coverage;
- d. Dimensional standards for parking spaces, driveways, parking lots, and loading areas; and,
- e. Other similar dimensional standards as determined by the Director of Development Services.



2. **Excluded Modifications.** Minor Modifications shall not be granted for:

- a. Lot area, width, or depth; or,
- b. Minimum number of off-street parking spaces; or,
- c. Maximum residential density.

**C. Review Authority.**

1. The Director of Development Services shall take action on requested Minor Modifications.
2. The Director of Development Services may choose to refer any Minor Modification application to the Planning Commission for review and final decision.

**D. Application Submittal and Review.** An application for a Minor Modification shall be filed and reviewed in compliance with Chapter 20.66 (Permit Application and Review). The application shall include the information and materials specified by the Development Services Department, together with all required application fees.

**E. No Public Notice and Hearing.** No public notice and hearing shall be required for a Minor Modification application although all records relating to the modification shall be public records and shall be available for review upon request.

**F. Findings for Approval.** To approve a Minor Modification application, the Director of Development Services shall make all of the following findings:



1. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.

2. The modification will not adversely impact neighboring properties or the community at large.

3. The modification is necessary due to unique characteristics of the subject property, structure, or use.

4. Unique characteristics necessitating the modification generally do not apply to other properties in the vicinity or in the same zoning district as the subject property.

5. There are no feasible design alternatives that meet the project objectives while eliminating the need for the requested modification.

6. The modification will be consistent with the purpose of the zoning district, the General Plan, and any adopted area, community, or neighborhood plan.

7. The modification will not establish an undesirable precedent.

**G. Conditions of Approval.** The granting of a Minor Modification for approval by the Director of Development Services may include such conditions as deemed reasonable and necessary to carry out the intent of this chapter, the Zoning Code, Merced Municipal Code, and the General Plan.

#### 20.68.050 Site Plan Review Permit

**A. Purpose.** A Site Plan Review Permit is a discretionary action that enables the City to determine a project's compliance with the Zoning Ordinance and ensure that it will not create negative impacts to adjacent properties or the general public.



**B. Applicability.** The following uses and structures require a Site Plan Review Permit:

1. All uses as shown in Part 2 (Zoning District Standards), and,
2. All proposed uses and structures within the Light Industrial (I-L) and Heavy Industrial (I-H) zoning districts.

**C. Review Authority.**

1. The Site Plan Review Committee shall take action on all Site Plan Review Permits.
2. The Site Plan Review Committee may refer any Site Plan Review Permit application to the Planning Commission for review and final decision.



**D. Application Submittal and Review.** Application for a Site Plan Review Permit shall be filed and reviewed in compliance with Chapter 20.66 (Permit Application and Review).

**E. Public Notice and Hearing.** No public notice and hearing for a Site Plan Review Permit shall be provided in compliance with Chapter 20.70 (Public Notice and Hearing), except for:

Those properties that are directly adjacent to any residentially zoned property in the City; In those cases, public notice shall be given to those directly adjacent properties at least 10 days prior to the Site Plan Review Meeting.

**F. Findings for Approval.** The Site Plan Review Committee may approve an application for a Site Plan Review Permit only if all of the following findings can be made:



1. The proposed project is consistent with the General Plan, and any adopted area, specific, community, or neighborhood plan.

2. The proposed project complies with all applicable provisions of the Zoning Ordinance and Municipal Code.

3. The design and layout of the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.

4. The proposed architectural design makes use of appropriate materials, texture and color, and will remain aesthetically appealing and appropriately maintained.

5. Any proposed landscaping design, including color, location, size, texture, type, and coverage of plant materials, as well as provisions for irrigation, maintenance, and protection landscaping elements, will complement structures and provide an attractive environment.

6. The proposed design will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity of the proposed project.

**G. Appeals.** Decisions on Site Plan Review Permits may be appealed as provided for in Chapter 20.74 (Appeals).

**H. Post-Decisions Procedures.** Procedures and requirements relating to effective dates, time limits, changes to approved projects, resubmittals, and permit revocation shall apply to Site Plan Review Permits as provided in Chapter 20.72 (Post-Decision Procedures).

**20.68.060 Special Project Permit**

- A. Purpose.** The Special Project Permit allows for high quality development that deviates from development standards required by the applicable zoning district. The Special Project Permit is intended to promote creativity in building design and innovation in development concepts in a manner consistent with the General Plan. The Special Project Permit provides applicants with enhanced flexibility to take advantage of unique site characteristics to develop projects that will provide public benefits and enhance the quality of life in Merced.
- B. Applicability.** A Special Project Permit may be granted in any zoning district provided that:
1. The proposed project is located on a minimum 3-acre parcel; and,
  2. The proposed land uses are consistent with the applicable General Plan land use designation.
- C. Review Authority.** The City Council shall take action on all Special Project Permits with a recommendation from the Planning Commission.
- D. Adjustment of Standards.** With approval of a Special Project Permit, the City may allow for adjustment, up to 50 percent unless otherwise provided for in the Code, to all physical development standards that apply to the subject property, with the exception of an increase to the allowable residential density or intensity. Examples of physical development standards include height, setbacks, open space, lot coverage, and off-street parking requirements.
- E. Application Submittal and Review.** Application for a Special Project Permit shall be filed and reviewed in compliance with Chapter 20.66 (Permit Application and Review).
- F. Public Notice and Hearing.** Public Notice and hearing for a Special Project Permit shall be provided in compliance with Chapter 20.70 (Public Notice and Hearing).
- G. Findings for Approval.** The City may approve an application for a Special Project Permit only if all of the following findings can be made:
1. The proposed project is consistent with the purpose of the zoning district, the General Plan, Zoning Ordinance, Merced Municipal Code, and any adopted area, specific, community, or neighborhood plan.
  2. The proposed project will produce a development with greater public benefits than what might otherwise result from using the standard development regulations.



3. Public benefits provided by the proposed project are commensurate with the requested deviation from the standard development regulations.
4. The subject property is adequate in terms of size, shape, topography, and circumstances to accommodate the proposed development.
5. The proposed project will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity of the subject property.

**H. Post-Decision Procedures.** Procedures and requirements relating to effective dates, time limits, changes to approved projects, resubmittals, and permit revocation shall apply to Special Project Permits as provided in Chapter 20.72 (Post-Decision Procedures).

#### 20.68.070 Variance



**A. Purpose.** A Variance is a discretionary permit that allows for deviation from physical development standards contained in the Zoning Ordinance. A Variance may be granted only when the strict application of development standards creates a unique hardship due to an extraordinary situation or circumstance associated with the property.

**B. Applicability.**

1. **Allowable Variances.** A Variance may be granted to allow for deviation from any physical development standard that applies to the subject property. Examples of physical development standards include height, setbacks, open space, lot coverage, and off-street parking requirements.
2. **Variances Not Allowed.** A Variance shall not be granted to allow:
  - a. A land use that is prohibited in the applicable zoning district;
  - b. Deviation in excess of 50 percent of a measurable requirement of the Zoning Ordinance;
  - c. Deviation from General Plan policies; or,
  - d. Deviation from Sign requirements in Chapter 17.36 (Signs) or Section 20.62 (Signs).

**C. Review Authority.** The Planning Commission, acting as the Board of Zoning Adjustment, shall take action on all Variance applications. At least four (4) members of the Planning Commission shall be required to vote to approve a Variance; otherwise, the Variance is deemed denied.

**D. Application Submittal and Review.** Application for a Variance shall be filed and reviewed in compliance with Chapter 20.66 (Permit Application and Review).

- E. Public Notice and Hearing.** Public Notice and hearing for a Variance shall be provided in compliance with Chapter 20.70 (Public Notice and Hearing).
- F. Findings for Approval.** The Planning Commission may approve an application for a Variance only if all of the following findings can be made:
1. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zoning district as the subject property. Unique circumstances required for approval of a Variance shall not include conditions created by any act of the property owner or occupant; personal, family, or financial conditions; loss of prospective profits; or neighboring violations.
  2. The strict application of the Zoning Ordinance requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zoning district as the subject property.
  3. The Variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zoning district as the subject property.
  4. The Variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity or in the same zoning district as the subject property.
  5. The Variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zoning district as the subject property.
  6. The Variance complies with applicable standards in the Zoning Ordinance, other City ordinances, the General Plan and any other applicable community, neighborhood, specific, or area plan adopted by the City.
- G. Precedent.** The approval of a Variance shall not set the precedent for the granting of any future Variances. Each application shall be considered only on its individual merits.
- H. Appeals.** Decisions on Variances, as quasi-judicial permits, may only be appealed to a Court of Law.
- I. Post-Decision Procedures.** Procedures and requirements relating to effective dates, time limits, changes, resubmittals, and permit revocation shall apply to Variances as provided in Chapter 20.72 (Post-Decision Procedures).

