

## PART 5

# Land Use and Development Approval Procedures

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## Article 27. PERMIT APPLICATION AND REVIEW

**Sections:**

- 24-185 – Purpose
- 24-186 – Review and Decision-Making Authority
- 24-187 – Application Preparation and Filing
- 24-188 – Application Fees
- 24-189 – Initial Review of Application
- 24-190 – Project Evaluation and Staff Reports
- 24-191 – Environmental Review
- 24-192 – Applications Deemed Withdrawn

**24-185 Purpose**

This article establishes procedures and requirements for the preparation, filing, and initial processing of permit applications required by the Zoning Ordinance.

**24-186 Review and Decision-Making Authority**

Table 24-186-1 (Review and Decision-Making Authority) identifies the roles of each decision-making authority on each type of permit and approval required by the Zoning Ordinance.

TABLE 24-186-1 REVIEW AND DECISION-MAKING AUTHORITY

Type of Action	Applicable Ordinance Article	Role of Authority[1]		
		Zoning Administrator [2]	Planning Commission	Board of Supervisors
<b>Legislative Actions</b>				
Development Agreements	41	Recommend	Recommend	Decision
Zoning Ordinance/Zoning Map Amendments	39	Recommend	Recommend	Decision
General Plan Amendments	40	-	Recommend	Decision
<b>Permits and Approvals</b>				
Conditional Use Permits	31	-	Decision	Appeal
Minor Use Permits	31	Decision	Appeal	Appeal
Variances	32	-	Decision	Appeal
Minor Variances	32	Decision	Appeal	Appeal

Type of Action	Applicable Ordinance Article	Role of Authority[1]		
		Zoning Administrator [2]	Planning Commission	Board of Supervisors
Exceptions	33	Decision	Appeal	Appeal
Density Bonuses	23	Recommend	Decision	Appeal
Reasonable Accommodations	34	Decision	Appeal	Appeal
Interpretation of Zoning Ordinance	2	Decision	Appeal	Appeal
Zoning Clearance	28	Decision	Appeal	Appeal
Administrative Permits	29	Decision	Appeal	Appeal
Site Development Permits	30	Decision	Appeal	Appeal

Notes:

[1] "Recommend" means that the review authority makes a recommendation to a higher decision making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority shall consider and decide upon appeals to the decision of an earlier decision making body, in compliance with Article 37 (Appeals and Calls for Review).

[2] The Zoning Administrator may refer to the Planning Commission for review and final decision any action which the Zoning Administrator believes warrants the scrutiny and discretion of the Planning Commission.

**24-187 Application Preparation and Filing**

**A. Pre-Application Conference.**

1. The County encourages prospective applicants to request a pre-application conference with the Department of Development Services before completing and filing a permit application.
2. The purpose of a pre-application conference is to:
  - a. Inform the applicant of County requirements as they apply to the proposed project;
  - b. Review the County's review process, possible project alternatives, or modifications; and
  - c. Identify information and materials the County will require with the application, and any necessary technical studies and information relating to the environmental review of the project.
3. Information and materials provided by County staff to the applicant at the pre-application conference shall not be construed as a recommendation for either approval or denial of the proposed project.
4. Failure by County staff to identify at a pre-application conference all studies or application requirements shall not constitute a waiver of those studies or requirements.

**B. Application Contents.**

1. All applications for a permit required by the Zoning Ordinance shall be filed with the Department of Development Services on an official County application form.
2. The application shall be filed with all required fees, deposits, information, and materials as specified by the Department of Development Services.
3. The County encourages applicants to contact the Department of Development Services before submitting an application to verify which materials are necessary for application filing.

**C. Eligibility for Filing.**

1. An application may only be filed by the owner of the subject property or a lessee or authorized agent of the owner with the written consent of the property owner.
2. The application shall be signed by the owner of the subject property or a lessee or authorized agent of the owner if written authorization from the owner is filed concurrently with the application.

**D. Rejection of Application.** If the Zoning Administrator determines that an application requests permission for an action not allowed in the applicable zone or that cannot lawfully be approved by the County, the Zoning Administrator shall not accept the application for processing.

**24-188 Application Fees**

Application fees required for any permit application shall be paid as required by Butte County Code Chapter 3, Article IV (Development Services Department Processing Fees).

**24-189 Initial Review of Application****A. Review for Completeness.**

1. The Department of Development Services shall review each application for completeness and accuracy before it is accepted.
2. The Department of Development Services acceptance shall be based on the County's list of required application contents and any additional written instructions provided to the applicant in a pre-application conference or during the initial application review period.
3. Within 30 calendar days of application acceptance, the applicant shall be informed in writing that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information is required.

4. When the Department of Development Services determines that an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness for resubmitted materials shall occur.
  5. When the Department of Development Services determines that an application is incomplete, and the applicant believes that the application is complete or that the information requested by the Department of Development Services is not required, the applicant may appeal the determination in compliance with Article 37 (Appeals and Calls for Review).
  6. After the County has accepted an application as complete, the Department of Development Services may require the applicant to submit additional information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA).
- B. Referral of Application.** At the discretion of the Department of Development Services, or where otherwise required by the Zoning Ordinance or State or federal law, an application may be referred to any public agency that may have an interest in the proposed project.
- C. Multiple Applications.** If more than one permit application is submitted for a single proposed project, the entire proposal shall be acted upon by the highest applicable review authority. For example, if a proposal involves both a Site Development Permit and a Conditional Use Permit, the Planning Commission shall act upon both permits.

#### **24-190 Project Evaluation and Staff Reports**

- A. Staff Evaluation.** Department of Development Services staff shall review all applications to determine if they comply with all applicable requirements, including the Zoning Ordinance, other applicable provisions of the Butte County Code, the General Plan, and any applicable specific plan or community plan.
- B. Staff Report.** Department of Development Services staff shall provide a written recommendation to the Planning Commission or Board of Supervisors (as applicable) as to whether the application should be approved, approved with conditions, or denied.
- C. Report Distribution.** Each staff report shall be furnished to the applicant at the same time it is provided to the review authority before action on the application.

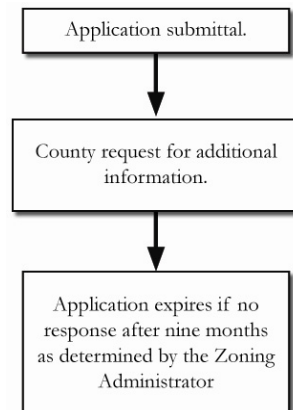
**24-191 Environmental Review**

- A. **CEQA Review.** After acceptance of a complete application, Department of Development Services staff shall review the project in compliance with CEQA to determine whether:
  - 1. The proposed project is not a project as defined by CEQA;
  - 2. The proposed project is exempt from the requirements of CEQA;
  - 3. A Negative Declaration may be issued;
  - 4. A Mitigated Negative Declaration may be issued; or
  - 5. An Environmental Impact Report (EIR) is required.
- B. **Compliance with CEQA.** These determinations and, where required, the preparation of appropriate environmental documents, shall be in compliance with CEQA and any adopted Butte County Environmental Review Guidelines.
- C. **Special Studies Required.** Special studies, paid for in advance by the applicant, may be required to supplement the County’s CEQA compliance review.

FIGURE 24-192-1 APPLICATIONS DEEMED WITHDRAWN

**24-192 Applications Deemed Withdrawn**

- A. **Response Required.** If an applicant does not provide information specified in Section 24-187.B or 24-188 as requested in writing by the Department of Development Services within nine months following the date of the certified letter, the application shall expire upon a hearing by the Zoning Administrator. See Figure 24-192-1 (Applications Deemed Withdrawn).
- B. **Refund of Fees.** Any remaining fees submitted with the project application shall be returned to the applicant in the event that an application is deemed withdrawn.
- C. **Resubmittal.** After the expiration of an application, future County consideration shall require the submittal of a new complete application and associated filing fees.



## Article 28. ZONING CLEARANCES

### Sections:

24-193 – Purpose

24-194 – Applicability

24-195 – Review Authority

24-196 – Review and Action

24-197 – Public Notice and Hearing

24-198 – Conditions of Approval

### 24-193 Purpose

This article identifies the process for obtaining a Zoning Clearance. A Zoning Clearance is a ministerial procedure used by the County to verify that a proposed use or structure complies with the Zoning Ordinance. Zoning Clearances are processed as part of a building permit application and do not require the submittal of a separate permit application. A Zoning Clearance does not determine whether a parcel is a legal parcel pursuant to the State Subdivision Map Act (see Butte County Code Section 20-165 Certificate of Compliance)

### 24-194 Applicability

A Zoning Clearance is required prior to the issuance of any building or grading permit.

### 24-195 Review Authority

The Zoning Administrator shall take action on all Zoning Clearances..

### 24-196 Review and Action

- A. An applicant requesting approval of a building or grading permit is not required to submit a separate application for a Zoning Clearance. However, any person eligible for filing a permit application as specified by Section 24-187 (Application Preparation and Filing) may voluntarily submit a zoning clearance request to the Department of Development Services.
- B. Department of Development Services staff shall review building or grading permit applications, or voluntary Zoning Clearance requests, to verify compliance with the Zoning Ordinance. If the project complies with the Zoning Ordinance, the Zoning Administrator shall approve the Zoning Clearance. Department of Development Services shall attach a record of the approved Zoning Clearance to the approved building or grading permit application.

**24-197 Public Notice and Hearing**

No public notice or hearing is required for a Zoning Clearance.

**24-198 Conditions of Approval**

No conditions of approval shall be attached to the approval of a Zoning Clearance. Conditions from previous land use entitlements would still apply regardless of Zoning Clearance.

## Article 29. ADMINISTRATIVE PERMITS

### Sections:

- 24-199 – Purpose
- 24-200 – Applicability
- 24-201 – Review Authority
- 24-202 – Application Submittal, Review, and Action
- 24-203 – Public Notice and Hearing
- 24-204 – Conditions of Approval
- 24-205 – Post-Decision Procedures

### 24-199 Purpose

This article identifies the process for obtaining an Administrative Permit. An Administrative Permit is required for uses permitted as-of-right yet subject to specific Zoning Ordinance standards. An Administrative Permit is a ministerial procedure for the County to verify that a proposed use complies with all applicable standards. An Administrative Permit also enables the County to ensure that the applicant understands and accepts these standards. Figure 24-199-1 illustrates the typical process for Administrative Permit approval.

### 24-200 Applicability

Uses that require an Administrative Permit are specified in the land use regulation tables for each zone found in Part 2 (Zoning Districts, Land Uses, and Development Standards).

### 24-201 Review Authority

The Zoning Administrator shall take action on all Administrative Permit applications.

### 24-202 Application Submittal, Review, and Action

- A. An application for an Administrative Permit shall be filed on an official County form approved by the Zoning Administrator.
- B. The Administrative Permit application form shall contain applicable Zoning Ordinance standards and a place for the applicant's signature acknowledging agreement to comply with these standards.

C. The Department of Development Services staff shall review the application to verify compliance with the Zoning Ordinance. If the proposal complies with the Zoning Ordinance and the applicant agrees to comply with all special standards, the Zoning Administrator shall approve the application.

**24-203 Public Notice and Hearing**

No public notice or hearing is required for an Administrative Permit.

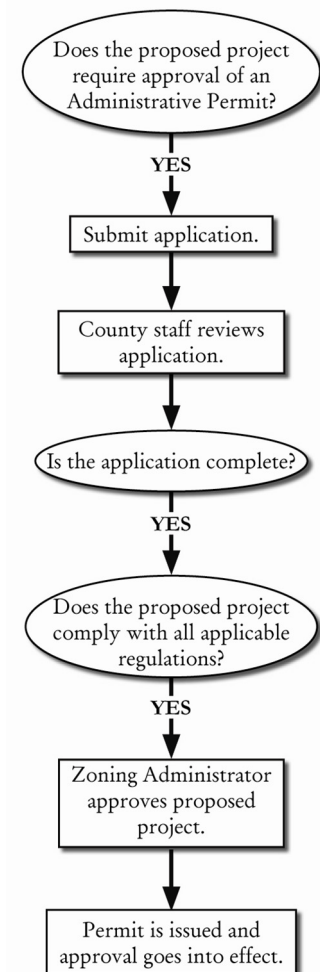
**24-204 Conditions of Approval**

No conditions of approval shall be attached to the approval of an Administrative Permit.

**24-205 Post-Decision Procedures**

The procedures and requirements relating to effective dates, permit expiration, and changed plans apply to Administrative Permits as provided in Article 34 (Post-Decision Procedures).

FIGURE 24-199-1 TYPICAL PROCESS FOR ADMINISTRATIVE PERMIT APPROVAL



## Article 30. SITE DEVELOPMENT PERMITS

### Sections:

- 24-206 – Purpose
- 24-207 – Applicability
- 24-208 – Review Authority
- 24-209 – Application Submittal and Review
- 24-210 – Public Notice and Hearing
- 24-211 – Findings
- 24-212 – Conditions of Approval
- 24-213 – Post-Decision Procedures

### 24-206 Purpose

This article identifies the process for obtaining a Site Development Permit. Site Development Permits are required for certain types of development to ensure that the development is well designed and compatible with its surroundings. Site Development Permits are discretionary actions that enable the County to attach necessary conditions to the approval of new development and to ensure that a proposed project is consistent with all goals and policies in the General Plan. Figure 24-206-1 illustrates the typical process for Site Development Permit approval.

### 24-207 Applicability

Site Development Permits shall be required for the following projects:

- A. New Multiple Family Dwellings.
- B. Renovations to existing Multiple Family Dwellings that increase the floor area by more than 10 percent.
- C. New non-residential structures.
- D. Renovations to existing non-residential structures that increase the floor area by more than 10 percent.
- E. New parking facilities with more than 10 parking spaces.
- F. Improvements to existing parking facilities with more than 10 parking spaces.

**24-208 Review Authority**

- A. The Zoning Administrator shall take action on all Site Development Permit applications.
- B. The Zoning Administrator may choose to refer any Site Development application to the Planning Commission for review and final decision.

**24-209 Application Submittal and Review**

An application for a Site Development Permit shall be filed and reviewed in compliance with Article 27 (Permit Application and Review). The application shall include the information and materials specified in the Department of Development Services handout for Site Development Permit applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 24-211 (Findings).

**24-210 Public Notice and Hearing**

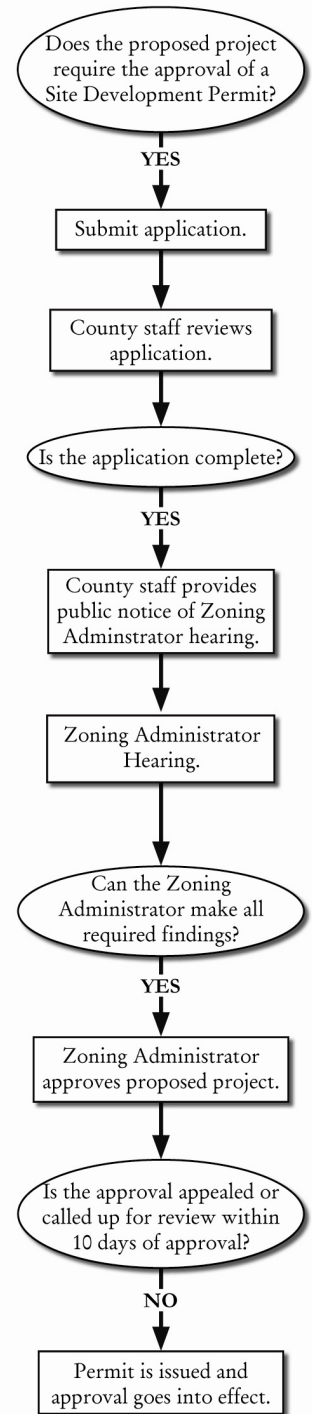
Public notice and hearing for a Site Development Permit shall be provided in full compliance with Article 36 (Public Notice and Hearings).

**24-211 Findings**

The review and decision-making authority may approve an application for a Site Development Permit only if the proposed project complies with applicable standards in the Zoning Ordinance, other County ordinances, the General Plan, any other applicable community or specific plan, and the County Improvement Standards, and as supported by all of the following findings:

- A. The design and layout of the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.
- B. The proposed architectural design makes use of appropriate materials, texture and color, and will remain aesthetically appealing and appropriately maintained.

FIGURE 24-206-1 TYPICAL PROCESS FOR SITE DEVELOPMENT PERMIT APPROVAL



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

#### **24-212 Conditions of Approval**

The review and decision-making authority may attach conditions to the approval of a Site Development Permit as needed to ensure compliance with the Zoning Ordinance, other County ordinances, the General Plan, any other applicable community or specific plan, previously approved subdivision and parcel map conditions, easements, and the Improvement Standards.

#### **24-213 Post-Decision Procedures**

The procedures and requirements relating to effective dates, permit expiration, permit revocation, and changed plans shall apply to Site Development Permits as provided in Article 34 (Post-Decision Requirements). The procedures and requirements relating to notices of decision shall apply to Site Development Permits as provided in Article 36 (Public Notice and Hearings).

## Article 31. CONDITIONAL USE AND MINOR USE PERMITS

### Sections:

- 24-214 – Purpose
- 24-215 – Applicability
- 24-216 – Review Authority
- 24-217 – Application Submittal and Review
- 24-218 – Public Notice and Hearing
- 24-219 – Findings
- 24-220 – Conditions of Approval
- 24-221 – Post-Decision Procedures
- 24-222 – Expiration of Permit
- 24-223 – Annual Inspection

### 24-214 Purpose

This article identifies the process for obtaining a Conditional Use or Minor Use Permit. A Conditional Use or Minor Use Permit is required for uses that are generally appropriate within a zone but potentially undesirable on a particular parcel or in large numbers. A Conditional Use or Minor Use Permit is a discretionary action that enables the County 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. Figure 24-214-1 illustrates the typical process for Conditional Use Permit approval, and Figure 24-214-2 illustrates the typical process for Minor Use Permit approval.

### 24-215 Applicability

Uses that require a Conditional Use or Minor Use Permit are specified in the land use regulation tables for each zone found in Part 2 (Zoning Districts, Land Uses, and Development Standards).

### 24-216 Review Authority

- A. **Conditional Use Permits.** The Planning Commission shall take action on all Conditional Use Permit applications.
- B. **Minor Use Permits.**
  - 1. The Zoning Administrator shall take action on all Minor Use Permit applications.
  - 2. The Zoning Administrator may choose to refer any Minor Use Permit application to the Planning Commission for review and final decision.

**24-217 Application Submittal and Review**

An application for a Conditional Use or Minor Use Permit shall be filed and reviewed in compliance with Article 27 (Permit Application and Review). The application shall include the information and materials specified in the Department of Development Services handout for Conditional Use and Minor Use Permit applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 24-219 (Findings).

**24-218 Public Notice and Hearing**

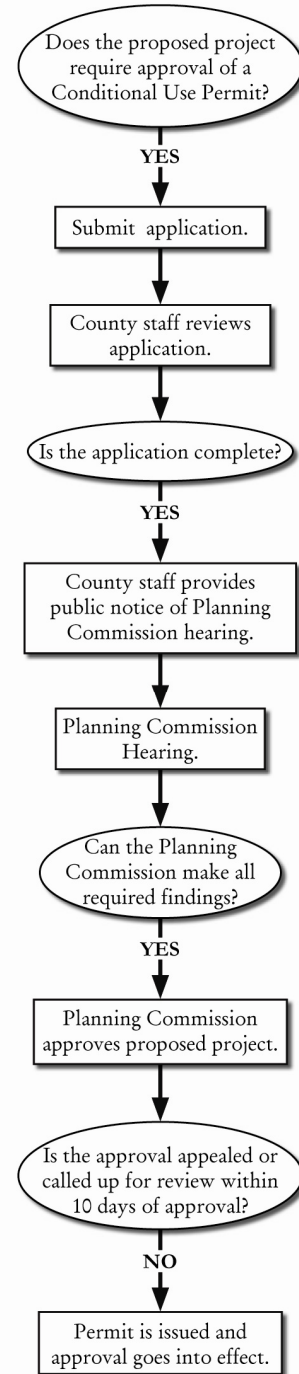
Public notice and hearing for a Conditional Use or Minor Use Permit application shall be provided in full compliance with Article 36 (Public Notice and Hearings).

**24-219 Findings**

The review and decision-making authority may approve an application for a Conditional Use or Minor Use Permit only if the proposed project complies with applicable standards in the Zoning Ordinance, other County ordinances, the General Plan, any other applicable community or specific plan, and the County Improvement Standards, and as supported by all of the following findings:

- A. The proposed use is allowed in the applicable zone or meets the criteria for the reconstruction or intensification of a nonconforming use per Article 22 (Nonconforming Uses and Structures).
- B. 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.
- C. The proposed use will not be detrimental to the public health, safety, and welfare of the County.
- D. The proposed use is properly located within the County and adequately served by existing or planned services and infrastructure.
- E. The size, shape, and other physical characteristics of the subject property are adequate to ensure compatibility of the proposed use

FIGURE 24-214-1 TYPICAL PROCESS FOR CONDITIONAL USE PERMIT APPROVAL



with the existing and future land uses in the vicinity of the subject property.

**24-220 Conditions of Approval**

- A. The review authority may attach conditions to the approval of a Minor Use or Conditional Use Permit as needed to ensure compliance with the Zoning Ordinance, other County ordinances, the General Plan, any other applicable community or specific plan, and the County Improvement Standards.
- B. The review authority may consider alternative improvement standards from those cited in Subsection A, which protect the public’s health, safety, and welfare that are different from the County Improvement Standards.

**24-221 Post-Decision Procedures**

The procedures and requirements relating to notices of decision, effective dates, permit expiration, permit revocation, and changed plans shall apply to Minor Use and Conditional Use Permits as provided in Article 34 (Post-Decision Procedures). The procedures and requirements relating to notices of decision shall apply to Conditional Use Permits and Minor Use Permits as provided in Article 36 (Public Notice and Hearings).

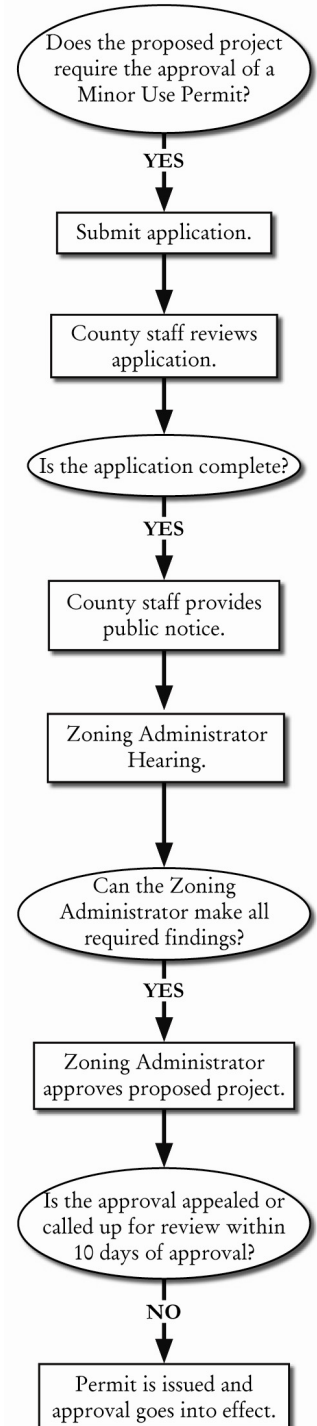
**24-222 Expiration of Permit**

A Minor Use Permit or Conditional Use Permit shall expire for any use that is suspended (i.e., not in operation) for a continuous two-year period.

**24-223 Annual Inspection**

The Code Enforcement Officer may inspect any property subject to a Conditional Use or Minor Use Permit on an annual basis to verify compliance with applicable standards and conditions of approval. The County shall be reimbursed by the property owner or operator, as established by the County’s adopted Fee Schedule.. Any code enforcement proceedings resulting from this inspection shall be conducted in compliance with County Code Chapter 41 (Code Enforcement Policies and Procedures) and Chapter 32A (Property

FIGURE 24-214-2 TYPICAL PROCESS FOR MINOR USE PERMIT APPROVAL



Maintenance and Abatement of Nuisances) and all other applicable sections of the Butte County Code.

## Article 32. VARIANCES AND MINOR VARIANCES

### Sections:

- 24-224 – Purpose
- 24-225 – Applicability
- 24-226 – Review Authority
- 24-227 – Application Submittal and Review
- 24-228 – Public Notice and Hearing
- 24-229 – Findings
- 24-230 – Conditions of Approval
- 24-231 – Precedent
- 24-232 – Post-Decision Procedures

### 24-224 Purpose

This article identifies the process for obtaining a Variance or a Minor Variance. A Variance or Minor Variance is a discretionary permit that allows for deviation from physical development standards contained in the Zoning Ordinance. A Variance or Minor Variance may be granted only when the strict application of development standards creates a unique hardship due to unusual circumstances associated with the property. Figure 24-224-1 illustrates the typical process for Variance approval, and Figure 24-224-2 illustrates the typical process for Minor Variance approval.

### 24-225 Applicability

- A. Allowable Variances.** A Variance or Minor 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, floor-area ratio, and off-street parking requirements.
- B. Variances Not Allowed.** A Variance or Minor Variance shall not be granted to authorize a land use that is prohibited in the applicable zone or to allow deviation from a requirement of the General Plan.
- C. Variance and Minor Variance Defined.**
  - 1. A Variance is required to approve a deviation from a standard by more than 10 percent.
  - 2. A Minor Variance is required to approve a deviation from a standard by 10 percent or less.

**24-226 Review Authority**

- A. Variance.** The Planning Commission shall take action on all Variance applications.
- B. Minor Variance.**
  1. The Zoning Administrator shall take action on all Minor Variance applications.
  2. The Zoning Administrator may choose to refer any Minor Variance application to the Planning Commission for review and final decision.

**24-227 Application Submittal and Review**

An application for a Variance or Minor Variance shall be filed and reviewed in compliance with Article 27 (Permit Application and Review). The application shall include the information and materials specified in the Department of Development Services handout for Variance and Minor Variance applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 24-229 (Findings).

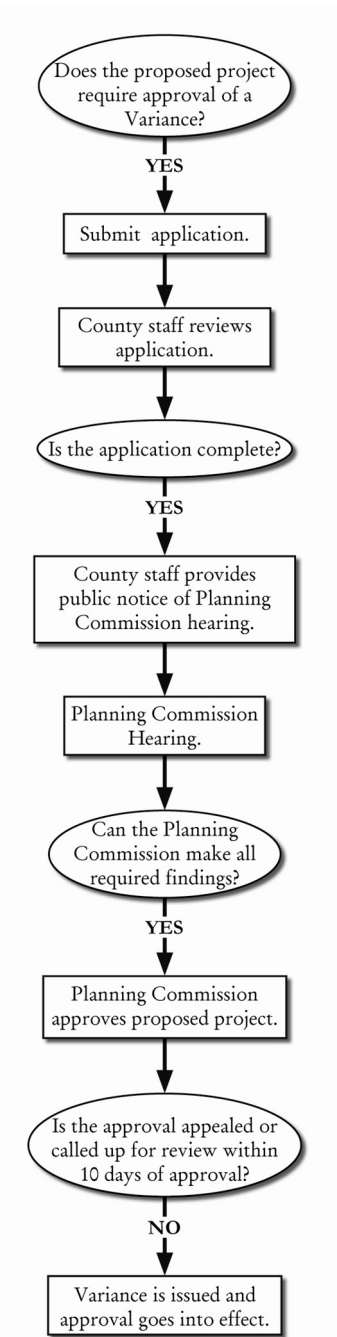
**24-228 Public Notice and Hearing**

Public notice and hearing for a Variance or Minor Variance application shall be provided in full compliance with Article 36 (Public Notice and Hearings).

**24-229 Findings**

The review and decision-making authority may approve an application for a Variance or Minor Variance only if the proposed project complies with applicable standards in the Zoning Ordinance, other County ordinances, the General Plan, any other applicable community or specific plan, and the County Improvement Standards, and as supported by all of the following findings:

FIGURE 24-224-1 TYPICAL PROCESS FOR VARIANCE APPROVAL

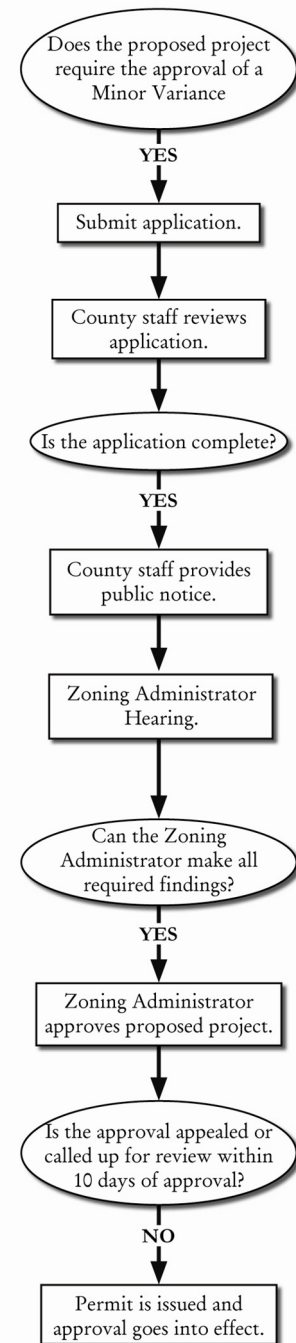


- A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.
- B. The strict application of the Zoning Ordinance requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.
- C. The Variance or Minor Variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.
- D. The Variance or Minor 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 zone as the subject property.
- E. The Variance or Minor Variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.
- F. The Variance or Minor Variance does not allow a use or activity which is prohibited by the Zoning Ordinance in the applicable zone.
- G. The Variance or Minor Variance complies with applicable standards in the Zoning Ordinance, other County ordinances, the General Plan and any other applicable community or specific plan.

**24-230 Conditions of Approval**

The review authority may attach conditions to the approval of a Variance or Minor Variance as needed, except as otherwise being applied for in the Variance or Minor Variance, to ensure compliance with the Zoning Ordinance, other County ordinances, the General Plan, any other applicable community or specific plan, and the Improvement Standards.

FIGURE 24-224-2 TYPICAL PROCESS FOR MINOR VARIANCE APPROVAL



**24-231 Precedent**

The approval of a Variance or Minor Variance shall not set the precedent for the granting of any future Variance or Minor Variance. Each application shall be considered only on its individual merits.

**24-232 Post-Decision Procedures**

The procedures and requirements relating to notices of decision, effective dates, permit expiration, permit revocation, and changed plans shall apply to Variances and Minor Variances as provided in Article 34 (Post-Decision Procedures). The procedures and requirements relating to notices of decision shall apply to Site Development Permits as provided in Article 36 (Public Notice and Hearings).

## Article 33. REASONABLE ACCOMMODATIONS

### Sections:

- 24-233– Purpose
- 24-234 Applicability
- 24-235– Review Authority
- 24-236– Application Submittal and Review
- 24-237– Criteria for Decision
- 24-238– Conditions of Approval
- 24-239– Post-Decision Procedures

### 24-233 Purpose

This article establishes a procedure for requesting reasonable accommodation for persons with disabilities seeking equal access to housing in the application of the Zoning Ordinance and other land use regulations, policies, and procedures. A Reasonable Accommodation is typically an adjustment to physical design standards to accommodate ministerial permit processes such as a building permit for the placement of wheelchair ramps or other exterior modifications to a dwelling in response to the needs of a disabled resident. Figure 24-233-1 illustrates the typical process for Reasonable Accommodation approval.

### 24-234 Applicability

- A. Eligible Applicants.** A request for reasonable accommodation may be made by any person with a disability, their representative, or any entity, when the application of the Zoning Ordinance or other land use regulation, policy, or practice acts as a barrier to fair housing opportunities.
- B. Definition.** A “person with a disability” as defined by the Americans with Disability Act (ADA) is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment.
- C. Eligible Requests.** A request for Reasonable Accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities under the Zoning Ordinance that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

**24-235 Review Authority**

- A. The Zoning Administrator shall take action on all Reasonable Accommodation applications.
- B. The Zoning Administrator may choose to refer any Reasonable Accommodation application to the Planning Commission for review and final decision.

**24-236 Application Submittal and Review**

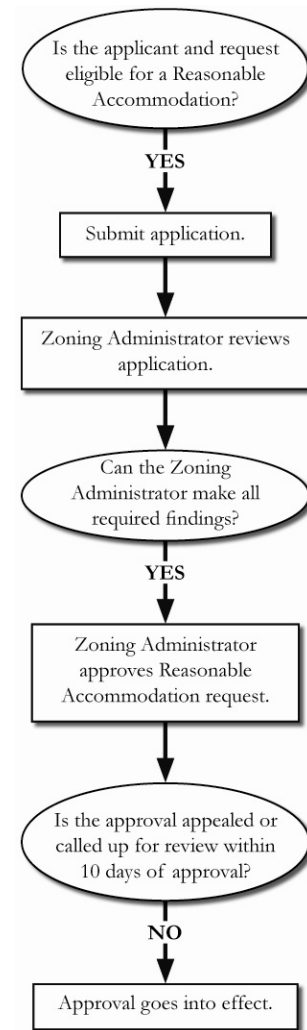
An application for a Reasonable Accommodation shall be filed and processed in compliance with Article 27 (Permit Application and Review). The application shall include the information and materials specified in the Department of Development Services handout for Reasonable Accommodation applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the criteria described in Section 24-237 (Criteria for Decision).

**24-237 Criteria for Decision**

The Zoning Administrator shall make a written decision and either approve, approve with modifications, or deny a request for Reasonable Accommodation based on consideration of all of the following factors:

- A. Whether the housing which is the subject of the request will be used by an individual defined as disabled under the Americans with Disabilities Act;
- B. Whether the request for Reasonable Accommodation is necessary to make specific housing available to an individual with a disability under the Americans with Disabilities Act;
- C. Whether the requested Reasonable Accommodation would impose an undue financial or administrative burden on the County;
- D. Whether the requested Reasonable Accommodation would require a fundamental alteration in the nature of a County program or law, including but not limited to land use and zoning;
- E. Potential impact on surrounding uses;
- F. Physical attributes of the property and structures; and
- G. Other Reasonable Accommodations that may provide an equivalent level of benefit.

FIGURE 24-233-1 TYPICAL PROCESS FOR REASONABLE ACCOMMODATION APPROVAL



**24-238 Conditions of Approval**

In approving a request for Reasonable Accommodation, the review authority may impose conditions of approval deemed reasonable and necessary to ensure that the Reasonable Accommodation will comply with the criteria required by Section 24-237 (Criteria for Decision).

**24-239 Post-Decision Procedures**

The procedures and requirements relating to notices of decision, effective dates, permit expiration, permit revocation, and changed plans shall apply to Reasonable Accommodations as provided in Article 34 (Post-Decision Procedures).

## Article 34. POST-DECISION PROCEDURES

### Sections:

- 24-240 – Purpose
- 24-241 – Effective Date of Permits, Approvals, and Legislative Actions
- 24-242 – Signature Required
- 24-243 – Performance Guarantees
- 24-244 – Changes to an Approved Project
- 24-245 – Time Limits and Extensions
- 24-246 – Resubmittals
- 24-247– Certificate of Occupancy
- 24-248 – Permits to Run with the Land
- 24-249 – Permit Revocation or Modification

### 24-240 Purpose

This article establishes procedures and requirements that apply following a County decision on permit applications and requested approvals required by the Zoning Ordinance.

### 24-241 Effective Date of Permits, Approvals, and Legislative Actions

#### A. Permits and Approvals.

1. A Zoning Clearance becomes effective immediately upon issuance.
2. An Administrative Permit, Site Development Permit, Minor Use Permit, Conditional Use Permit, Variance, Minor Variance, Exception, or Reasonable Accommodation approval becomes effective ten days following approval by the review authority, unless appealed or called up for review (Article 37).

**B. Legislative Actions.** Board of Supervisors actions to adopt or amend a development agreement or to amend the Zoning Ordinance or General Plan becomes effective 30 days following adoption by the Board of Supervisors.

**C. Issuance.** The County may issue permits and other approvals only upon the effective date, provided no appeal of the review authority's decision has been filed in compliance with Article 37 (Appeals and Calls for Review).

**24-242 Signature Required**

Within 15 days of approval, the applicant or property owner shall submit to the Department of Development Services a signed copy of any conditions attached to an approved project. If the County does not receive the signed conditions within 15 days of project approval, a certified letter shall be mailed to the applicant or property owner providing an additional 15 days to submit the signed copy of any conditions to Development Services. If no action is taken by the applicant after this second notification and additional 15-day period, the permit shall expire and become void. The Zoning Administrator shall issue a letter of expiration.

**24-243 Performance Guarantees**

- A. Security Required.** The County may require an applicant to provide adequate security to guarantee the proper completion of any approved work or compliance with any conditions of approval authorized by the Zoning Ordinance.
- B. Form of Security.** The security shall be in the form of cash, a certified or cashier's check, an irrevocable letter of credit, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the County.
- C. Amount of Security.** The Zoning Administrator shall determine the amount of the security necessary to ensure proper completion of the approved work or compliance with applicable conditions of approval.
- D. Duration of Security.** The security shall remain in effect until all work has been completed and conditions fulfilled to the satisfaction of the Zoning Administrator or until a specified warranty period has elapsed.
- E. Release of Security.** The security deposit shall be released upon completion of the approved work or compliance with applicable conditions of approval or the specified warranty period has elapsed.
- F. Failure to Comply.**
  - 1. Upon failure to complete any work or comply with conditions, the County may complete the work or fulfill the condition, and may collect from the applicant or surety all costs incurred, including administrative, engineering, legal, and inspection costs.
  - 2. If additional costs in excess of the deposit amount are incurred, it shall be the responsibility of the property owner to bear such additional costs
  - 3. Any unused portion of the security shall be refunded to the funding source.

**24-244 Changes to an Approved Project**

An approved project authorized by the Zoning Ordinance shall be established only as approved by the review authority, except when changes to the project are approved in compliance with this section.

**A. Request for a Change.**

1. An applicant shall request desired changes in writing, and shall also submit appropriate supporting materials and an explanation of the reasons for the request.
2. Changes may be requested either before or after construction or establishment and operation of the approved use.
3. Changes shall be approved before implementation of the changes.

**B. Notice and Hearing.** If the matter originally required a noticed public hearing, the review authority that originally heard the matter shall hold a public hearing for the requested change, except as allowed by Subsection C (Minor Changes) and shall give notice in compliance with Article 36 (Public Notice and Hearings).

**C. Minor Changes.** The Zoning Administrator may authorize minor changes to an approved project if the changes comply with all of the following criteria:

1. The requested changes are consistent with all applicable requirements of the Zoning Ordinance;
2. The requested changes are consistent with the spirit and intent of the original approval;
3. The requested changes do not alter a mitigation measure or cause an additional significant impact pursuant to an approved Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report for the project;
4. The requested changes do not involve a feature of the project that was a basis for conditions of approval for the project;
5. The requested changes do not involve a feature of the project that was a specific consideration by the review authority in granting the approval; and
6. The requested changes do not involve any expansion or intensification of the use or structure.

**24-245 Time Limits and Extensions**

**A. Expiration of Permit.** A permit or approval not exercised within two years after the date of approval shall expire and become void, except where an extension of time is approved as allowed

by Subsection C (Extension of Time). A permit or approval shall also expire and become void if the permitted use is abandoned for one year. The Zoning Administrator shall issue a letter prior to determination.

**B. Exercised Defined.** A permit or approval shall be considered exercised when:

1. A building permit is issued and construction has commenced;
2. A certificate of occupancy is issued; or
3. The permittee notifies the County in writing when the use is established.

**C. Extension of Time.** The Zoning Administrator may approve an extension to a permit or approval in the following manner:

1. The applicant shall submit to the Department of Development Services a written request for an extension of time no later than 10 days before the expiration of the permit or approval.
2. The Zoning Administrator may extend the permit or approval for an additional one year period if the applicant has proceeded in good faith and has exercised due diligence in efforts to exercise the permit or approval in a timely manner.
3. The burden of proof is on the applicant to demonstrate that the permit should be extended.
4. The Zoning Administrator may choose to refer any extension of time requests to the Planning Commission for review and final decision.

#### 24-246 Resubmittals

**A. Resubmittals Prohibited Within 12 Months.** For a period of 12 months following the denial or revocation of a discretionary permit or approval, no application for the same or substantially similar use or entitlement for the same site shall be submitted, unless the denial or revocation was made without prejudice, and so stated in the record.

**B. Zoning Administrator's Determination.** The Zoning Administrator shall determine whether the new application is for a permit or approval which is the same or substantially similar to the previously denied or revoked permit.

**C. Appeal.** The determination of the Zoning Administrator may be appealed to the Planning Commission, in compliance with Article 37 (Appeals and Calls for Review).

**24-247 Certificates of Occupancy**

A Certificate of Occupancy shall not be issued until the Zoning Administrator approves all applicable permits such as a Zoning Clearance or Minor Use Permit, and determines that all applicable standards and conditions of approval have been met.

**24-248 Permits to Run with the Land**

Permits and approvals issued in compliance with the Zoning Ordinance remain valid upon change of ownership of the site, structure, or use that was the subject of the permit application, provided the use has not been abandoned

**24-249 Permit Revocation or Modification**

Any discretionary permit may be revoked, or conditions of approval modified, as provided for in this section.

**A. Review Authority.**

1. A permit may be revoked or modified by the review authority which originally approved the permit or approval.
2. In instances where the Zoning Administrator was the approval authority, the Zoning Administrator may choose to refer any action to revoke or modify a permit to the Planning Commission for review and final decision.

**B. Public Notice and Hearing.** Public notice and hearing for any action to revoke or modify a permit shall be provided in full compliance with Article 36 (Public Notice and Hearings).

**C. Findings.** The review authority may revoke or modify a permit only if one or more of the following findings can be made:

1. The applicant or property owner has altered the circumstances under which the permit was granted to a degree that one or more of the findings required to grant the original permit can no longer be made.
2. Permit issuance was based on misrepresentation by the applicant, either through the omission of a material statement in the application, or in public hearing testimony.
3. One or more conditions of approval have been violated, or have not been complied with or fulfilled.
4. The use or structure for which the permit was granted no longer exists or has been discontinued for a continuous period of at least 12 months.

5. The applicant or property owner has failed or refused to allow inspections for compliance.
  6. Improvements authorized by the permit are in violation of the Zoning Ordinance or any law, ordinance, regulation, or statute.
  7. The use or structure is being operated or maintained in a manner which constitutes a nuisance.
- D. Effect of Revocation.** The revocation of a permit shall have the effect of terminating the approval and denying the privileges granted by the permit.