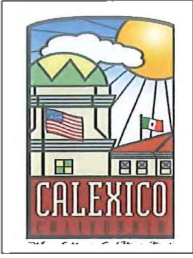


**AGENDA  
ITEM**

**8**



# CITY COUNCIL AGENDA STAFF REPORT

**DATE:** December 15, 2021

**TO:** Mayor and City Council

**APPROVED BY:** Miguel Figueroa, City Manager *MF*

**PREPARED BY:** Lisa Tylenda, Planning and Building Services Director

**SUBJECT:** Second Reading and Adoption of Ordinance No. 1222 - An Ordinance Adding Section 17.20 to Chapter 17 of the Calexico Municipal Code; Creating an Administrative Variance Permitting Process

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## Recommendation

Conduct Second Reading and Adoption of Ordinance No. 1222 - An Ordinance Adding Section 17.20 to Chapter 17 of the Calexico Municipal Code; Creating an Administrative Variance Permitting Process

## Background:

The City of Calexico’s General Plan has not been updated for almost thirty (30) years. That has created internal constraints in regards to developments and both Public and Federal Policies that have been adopted since the last update of the General Plan.

Staff has identified these constraints and has taken a proactive approach to creating a remedy while funding factors continue to play a role in the pending update of the General Plan.

## Discussion and Analysis

The proposed Administrative Variance Ordinance is an attempt alleviate impacts that the current zoning ordinances performance and development standards impose on mostly on residential projects. The proposed ordinance will also apply to Commercial and Industrial development projects as well.

The Administrative Variance would also expedite certain projects and processes for the residents and business community of the City of Calexico. There is a need for administrative flexibility, in the essence of creating a process that is tailored for residents and the small business community. The proposed ordinance gives staff flexibility, while still keeping and promoting transparency at an administrative level.



There will be a fee associated with the proposed Administrative Variance Permit Process. Tentatively the approximate fee is: \$765.00. The processing time of an Administrative Permit Application is 30 days from the time the application is deemed complete and the application fee is paid.

Ordinance was introduced, public hearing and first reading were conducted and approved by City Council at the regular meeting of December 1, 2021.

**Fiscal Impact:**

None.

**Coordinated With:**

Planning and Building Services Department.

**Attachment(s):**

1. Ordinance No. 1222 – An Ordinance Adding Section 17.20 to Chapter 17 of the Calexico Municipal Code; Creating an Administrative Variance Permitting Process.

## ORDINANCE NO. 1222

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO ADDING SECTION 17.20 TO CHAPTER 17 OF THE CALEXICO MUNICIPAL CODE CREATING AN ADMINISTRATIVE VARIANCE PERMITTING PROCESS

THE CITY COUNCIL OF THE CITY OF CALEXICO DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Chapter 17.20 is added to Chapter 17 of the Calexico Municipal Code to read as follows:

#### CHAPTER 17.20 Administrative Variance

17.20.010 - Title.

17.20.020- Purpose and Intent.

17.20.030- Authority.

17.20.040- Limitations on Administrative Variances.

17.20.050- Notification.

17.20.060- Required Findings.

17.20.070- Effective Date of Administrative Variance.

17.20.080- Lapse of Administrative Variance.

#### **Section 17.20.010-Title.**

This chapter shall be known as the "Administrative Variance Ordinance."

#### **Section 17.20.020-Purpose and Intent.**

The purpose of administrative variances is to allow for an administrative procedure for limited adjustments to the provisions in order to prevent unnecessary hardships that might result from a strict or literal interpretation and enforcement of certain regulations prescribed by this title. It is also intended that, with respect to accessory structures for existing single-family residential uses, certain adjustments shall be subject to the director's review procedures, rather than an administrative variance.

#### **Section 17.20.030-Authority.**

The Planning and Building Services Director may grant administrative variances where there is a justifiable cause or reason; provided, however, that it does not constitute a

grant of special privilege inconsistent with the provisions and intentions of this title. A public hearing shall not be required for granting of an administrative variance.

#### **Section 17.20.040-Limitations on Administrative Variances.**

Only the following variances may be granted by the Planning and Building Services Director or designee, subject to the following limitations:

1. Fence Height. In any district, the maximum height of any fence, wall or equivalent screening may be increased by a maximum of two feet where either the use or adjoining sites warrant an increase in height to maintain a level of privacy, or to maintain the effectiveness of screening, as would generally be provided by such fence, wall or screening.

2. Setbacks. In any residential district, the Planning and Building Services Director may decrease minimum setbacks by not more than five (5) feet where the proposed setback area or yard is in character with the surrounding neighborhood, and where such decrease will not unreasonably affect contiguous sites.

3. Lot Coverage. In any zoning district, the Planning and Building Services Director may increase the maximum allowable lot coverage by not more than twenty-five (25) percent where such increase is necessary for significantly improved site planning or architectural design, creation or maintenance of views or would otherwise facilitate highly desirable features or amenities, and where such increase will not unreasonably affect contiguous sites.

4. Height. In any district, the Planning and Building Services Director may authorize a twenty-five (25) percent increase in the maximum allowable building height. Such increases may be approved only where necessary to accommodate architectural design, where scenic views or solar access on surrounding properties are not affected and where there is no increase in useable square footage of the proposed structure.

5. Carports. The Planning and Building Services Director may authorize an administrative variance for any carport structure within the required front and side setbacks and may impose design standards for the carport structure in character with the surrounding neighborhood.

#### **Section 17.20.050-Notification.**

The Planning and Building Services Director shall notify contiguous property owners and other such interested parties as he or she deems necessary of the application and pending decision. The notification shall state the following:

1. Requested action;
2. Location of requested action (parcel and lot number);

3. Name and address of applicant; and
4. Date after which a decision will be made on application.

If a protest of the proposed administrative variance is received by the community development director from an affected party prior to its effective date, the community development director shall forward the administrative variance to the planning commission for review and action.

**Section 17.20.060-Required Findings.**

The Planning and Building Services Director, when acting on an administrative variance, shall make all of the following findings prior to approving an application for an administrative variance:

1. That the strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship;
2. That there are exceptional circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same district;
3. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by other property owners in the same district;
4. That the granting of the administrative variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same district, and will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity; and
5. That the granting of an administrative variance is consistent with the objectives and policies of the general plan and the intent of this title.
6. A variance shall not be granted if the property has any open code violations or unpaid code enforcement fines, except that the granting of a variance whose purpose is to cure or assist in curing a code violation shall be permitted.

**Section 17.20.070-Effective Date of Administrative Variance.**

1. A decision of the Planning and Building Services Director on an administrative variance shall be effective within ten calendar days unless an appeal of the decision is filed within the ten calendar days.

**Section 170.20.080-Lapse of Administrative Variance.**

1. Authorization of an administrative variance shall be void after a period of one year unless the use is begun within that time or a building permit has been obtained and substantial construction or action pursuant thereto has taken place. However, the city may, at the discretion of the Planning and Building Services Director or designee, extend authorization for six additional months upon request, provided such request is submitted in writing at least 30 days but not more than 60 days prior to expiration of the permit with payment of appropriate fees as listed in the current fee schedule.

**SECTION 2. Effective Date.** This Ordinance shall take effect thirty (30) days after its adoption.

**SECTION 3. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Ordinance shall not be affected.

**SECTION 4. Certification and Publication.** The City Clerk of the City of Calexico shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

**SECTION 5. CEQA.** The City Council finds that pursuant to CEQA and the State CEQA Guidelines, no further environmental review is required prior to the adoption of the proposed addition to Chapter 17 Section 17.20 of the Calexico Municipal Code; Creating an Administrative Variance Permitting Process. Specifically, the City Council finds that the subject Municipal Code Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA.

**THIS ORDINANCE IS PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Calexico this 15<sup>th</sup> day of December, 2021.

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Javier Moreno, Mayor

**ATTEST:**

\_\_\_\_\_  
Gabriela T. Garcia, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Carlos Campos, City Attorney

State of California )  
County of Imperial ) ss.  
City of Calexico )

I, Gabriela T. Garcia, City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. 1222, introduced at a regular meeting held on the 1<sup>st</sup> day of December, 2021, and duly adopted by the City Council of the City of Calexico, California at a regular meeting thereof held the 15<sup>th</sup> day of December, 2021.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Gabriela T. Garcia, City Clerk