

**CHAPTER 19.58  
MINOR EXCEPTIONS**

<u>Section</u>	<u>Page</u>
19.58.010 Purpose .....	IV-19.58-1
19.58.020 Application .....	IV-19.58-1
19.58.030 Applicability .....	IV-19.58-1
19.58.040 Hearings and Notice .....	IV-19.58-2
19.58.050 Findings .....	IV-19.58-2
19.58.060 Precedents .....	IV-19.58-2
19.58.070 Burden of Proof .....	IV-19.58-2
19.58.080 Minor Exception Expiration .....	IV-19.58-3
19.58.090 Time Extension .....	IV-19.58-3
19.58.100 Use of Property Before Final Decision .....	IV-19.58-3
19.58.110 Revocation .....	IV-19.58-3

**19.58.010 PURPOSE**

These provisions shall ensure the following: (MC 1393 12/2/13)

1. Minor adjustments from the standards contained in this Development Code shall be granted only when, because of special circumstances applicable to the property, the strict application of this Development Code deprives such property of privileges enjoyed by other property in the vicinity and under identical zones.
2. Any Minor Exception granted shall be subject to such conditions as will ensure that the minor adjustment thereby authorized shall not constitute a grant of special privilege(s) inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

**19.58.020 APPLICATION**

An application for a Minor Exception shall be filed in a manner consistent with the requirements contained in Chapter 19.32 (Applications and Fees).

**19.58.030 APPLICABILITY**

The Director may grant Minor Exception up to a maximum of 10% governing only the following measurable design/site considerations:

1. Distance between structures
2. Lot Dimensions
3. On-site parking, loading and landscaping
4. Setbacks
5. Structure Heights

Any minor exception request which exceeds the prescribed limitations outlined in this Section shall require the filing of a Variance application, pursuant to Chapter 19.72. Minor exceptions may be approved by the Director only if no other entitlements are required. If other approvals are necessary, the minor exception shall be filed concurrently.

### **19.58.040 HEARINGS AND NOTICE**

Upon receipt in proper form of a Minor Exception application, a public hearing shall be set and notice of such hearing given in a manner consistent with Chapter 19.52 (Hearings and Appeals).

### **19.58.050 FINDINGS**

Following a public hearing, the Director shall record the decision in writing and shall recite therein the findings upon which such decision is based, pursuant to Section 65906 of the Government Code. The Director 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: (MC 1393 12/2/13)

1. That there are special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Development Code deprives such property of privileges enjoyed by other property in the vicinity and under identical zone classification;
2. That granting the Minor Exception is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property for which the Minor Exception is sought;
3. That granting the Minor Exception will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and zone in which the property is located;
4. That granting the Minor Exception does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;
5. That granting the Minor Exception does not exceed 10% of the standard(s) being modified, or allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel; and
6. That granting the Minor Exception will not be inconsistent with the General Plan.

### **19.58.060 PRECEDENTS**

The granting of a prior Minor Exception is not admissible evidence for the granting of a new Minor Exception.

### **19.58.070 BURDEN OF PROOF**

The burden of proof to establish the evidence in support of the findings, as required by Section 19.58.050, is the responsibility of the applicant.

**19.58.080 MINOR EXCEPTION EXPIRATION**

A Minor Exception shall be exercised within one year from the date of approval, or the Minor Exception shall become null and void.

**19.58.090 TIME EXTENSION**

The Director may, upon an application being filed 30 days prior to expiration and for good cause, grant a time extension not to exceed 12 months. Upon granting of an extension, the Director shall ensure that the Minor Exception complies with all current Development Code provisions.

**19.58.100 USE OF PROPERTY BEFORE FINAL DECISION**

No permit shall be issued for any use involved in an application for approval of a Minor Exception until, and unless, the same shall have become final, pursuant to Section 19.52.080 (Effective Date).

**19.58.110 REVOCATION**

The Director may hold a public hearing to revoke or modify a Minor Exception granted pursuant to the provisions of this Chapter. Fifteen days prior to the public hearing, notice shall be delivered in writing to the applicant and/or owner of the property for which such Minor Exception was granted. Notice shall be deemed delivered 2 days after being mailed, first class postage paid, to the owner as shown on the current tax rolls of the County of San Bernardino, and/or the project applicant.

A Minor Exception may be revoked or modified by the Director if any one of the following findings can be made:

1. That circumstances have changed so that one or more of the findings contained in Section 19.58.050 can no longer be made, and the grantee has not substantially exercised the rights granted by the Minor Exception;
2. That the Minor Exception was obtained by misrepresentation or fraud;
3. That the improvement authorized pursuant to the Minor Exception had ceased or was suspended for six or more consecutive calendar months;
4. That one or more of the conditions of the Minor Exception have not been met, and the grantee has not substantially exercised the rights granted by the Minor Exception;
5. That the improvement authorized pursuant to the Minor Exception is in violation of any statute, ordinance, law, or regulation; or
6. That the improvement permitted by the Minor Exception is detrimental to the public health, safety, or welfare or constitutes a nuisance.

Intentionally Blank