

## Division D6

### Planning Permit Procedures

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## Chapter I - Permit Application Filing and Processing

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### Sections:

- D6-13 - Purpose
- D6-14 - Authority for Land Use and Zoning Decisions
- D6-15 - Multiple Permit Applications
- D6-16 - Application Preparation and Filing
- D6-17 - Application Fees
- D6-18 - Initial Application Review
- D6-19 - Environmental Assessment
- D6-20 - Project Evaluation and Staff Reports

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### D6-13 - Purpose

This Chapter provides procedures and requirements for the preparation, filing, and initial processing of the permit applications required by this Zoning Ordinance.

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### D6-14 - Authority for Land Use and Zoning Decisions

Table 6-1 (Review Authority), below identifies the review authority responsible for reviewing and making decisions on each type of application required by this Zoning Ordinance.

**TABLE 6-1 - REVIEW AUTHORITY**

Type of Decision	Procedure in Section	Role of Review Authority (1)			
		Architectural Review Board (ARB) (2)	Zoning Administrator	Planning Commission	City Council

**Administrative and Legislative**

Development Agreement	D6-IV	–	Recommend	Recommend	Decision
General Plan Amendment	D7-III	–	Recommend	Recommend	Decision
Interpretation	D1-5	–	Decision (3)	Appeal	Decision
Zoning Map Amendment	D7-III	–	Recommend	Recommend	Decision
Zoning Ordinance Amendment	D7-III	–	Recommend	Recommend	Decision
Specific Plan	–	–	Recommend	Recommend	Decision

**Planning Permit or Other Development Approval**

Architectural Review	D6-22	Recommend	Decision (3)	Appeal	Appeal
Development Plan and Amendments	D6-23	–	Decision (3)	Appeal	Appeal
Extensions	D6-34	–	Decision (3)	Appeal	Appeal
Fee Waiver	D6-17	–	Decision	–	Appeal
Home Occupation Permit	D4-33	–	Decision	Appeal	Appeal
Master Sign Program	D3-52	Recommend	Decision (3)	Appeal	Appeal
Master Sign Program Amendment	D3-52	–	Decision (4)	Appeal	Appeal
Minor Exception	D6-24	–	Decision (3)	Appeal	Appeal
Minor Use Permit	D6-28	–	Decision (3)	Appeal	Appeal
Modification to condition of approval	D6-35	–	Decision	Appeal	Appeal
Planned Development Permit	D6-25	–	Decision (3)	Decision	Appeal
Preliminary Plan Review	D6-26	–	Decision (3)	Decision	Appeal
Reasonable Accommodation	D4-75	–	Decision	Appeal	Appeal
Sign Permit	D3-56	Recommend	Decision (3)	Appeal	Appeal
Subdivision - Major	–	Recommend	Recommend	Decision	Appeal
Subdivision - Minor	–	Recommend	Decision (3)	Appeal	Appeal
Temporary Sign Permit	D3-56	–	Decision	Appeal	Appeal
Temporary Use Permit	D6-27	–	Decision	Appeal	Appeal
Tree Permit	D5-II	–	Decision (3) (4)	Appeal	Appeal
Use Permit	D6-28	–	Recommend	Decision	Appeal
Variance	D6-29	–	Decision (3)	Appeal	Appeal
Zoning Clearance	D6-30	–	Decision (5)	Appeal	Appeal

**[Notes on next page]**

**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 may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter D7-II (Appeals and Calls for Review).
- (2) The Architectural Review Board shall be hereafter referred to in this Zoning Ordinance as the ARB.
- (3) The Zoning Administrator may defer action and refer the request to the Commission, so that the Commission may instead make the decision.
- (4) If the Zoning Administrator determines that the proposal may have a significant impact the item may be referred to the ARB for review and a recommendation.
- (5) The Zoning Administrator may require a Minor Use Permit pursuant to Section D6-30(C)

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**D6-15 - Multiple Permit Applications**

- A. Concurrent filing.** When a single project incorporates different land uses or features so that this Zoning Ordinance requires multiple land use permit applications, the Zoning Administrator may determine that all of the applications shall be filed concurrently, and reviewed, and approved or disapproved, by the highest level review authority assigned by Table 6-1 to any of the required applications. (For example, a project that requires a Zoning Map amendment and a Use Permit may be reviewed, and approved or disapproved by the Council (after a recommendation from the Commission), where a Use Permit application by itself may be reviewed and acted upon by the Zoning Administrator.)
- B. Master application.** The Zoning Administrator may authorize use of a single application form and submittal materials for multiple land use applications required by this Zoning Ordinance.

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**D6-16 - Application Preparation and Filing**

- A. Pre-application conference.** A prospective applicant is strongly encouraged to request a pre-application conference with the Planning Division before completing and filing a planning permit application.
  1. The purpose of this conference is to generally:
    - a. Inform the applicant of City requirements as they apply to the proposed project;
    - b. Review the City's review process, possible project alternatives or modifications; and
    - c. Identify the information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project.
  2. Neither the pre-application review nor the provision of information and pertinent policies shall be construed as either a recommendation for approval or disapproval of the application or project by any City staff.
  3. A failure by City staff to identify all required studies or all applicable requirements shall not constitute a waiver of the requirements.

- B. Application contents.** Each application for a permit, amendment, or other matter pertaining to this Zoning Ordinance shall be filed with the Department on a City application form, together with required fees and/or deposits, and all other information and materials required by the City's list of required application contents, as identified in the Department handout for the specific type of application. Applicants are encouraged to contact the Planning Division before submitting an application to verify which materials are necessary for application filing.
- C. Eligibility for filing.** All land use permit and other applications required by this Zoning Ordinance shall be filed with the Department. Applications may be made by:
1. The owner of the subject property; or
  2. Any authorized agent or representative, with the written consent of the property owner.
- D. Zoning Administrator's determination.** If the Zoning Administrator determines that the application does not support a prima facie right to the granting of the application (e.g., a request for a Zoning Map amendment or Tentative Map that could not be granted in absence of a required General Plan amendment application, or a request for an Use Permit allowing a use that is not allowable in the subject zone, etc.), the City shall not accept the application.

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### D6-17 - Application Fees

- A. Fee schedule.** The Council shall establish a schedule of fees for the processing of the applications required by this Zoning Ordinance, hereafter referred to as the City's Fee Schedule.
- B. Multiple applications.** The City's processing fees are cumulative. For example, if a proposed project requires the approval of both a Use Permit and a Variance, both fees will be charged. Large or complex projects may be subject to an hourly rate in addition to the basic application fees, at the discretion of the Zoning Administrator.
- C. Timing of payment.** No application shall be deemed complete, and processing shall not commence on any application until all required fees/deposits have been paid.
- D. Refunds and withdrawals.**
1. The required application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications.
  2. No refund due to a disapproval shall be allowed.
  3. In the case of a withdrawal, the Zoning Administrator shall have the discretion to authorize a partial refund based upon the pro-rated costs to-date and the status of the application at the time of withdrawal.

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### D6-18 - Initial Application Review

- A. Review for completeness.** The Department shall review each application for completeness and accuracy before it is accepted as being complete and officially filed. The Department's determination of completeness shall be based on the City's list of required application contents (see Section D6-16.B - Application contents, above) and any additional instructions provided the applicant in any pre-application conference.

1. **Notification of applicant.** As required by State law (Government Code Section 65943), within 30 calendar days of application filing, the applicant shall be informed in writing, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the Department letter, shall be provided.
2. **Appeal of determination.** Where the Department has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Department is not required, the applicant may appeal the Department's determination in compliance with Chapter D7-IIh (Appeals and Calls for Review).
3. **Time for submittal of additional information.** When 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 shall occur. The time available to an applicant for submittal of additional information is limited by following Subsection A.4.
4. **Expiration of application.**
  - a. If an applicant fails to provide the additional information specified in the Department letter within 30 days following the date of the letter regarding the incomplete application, the application shall expire and be deemed withdrawn, without any further action by the City.
  - b. The Department may grant one or more 30-day extensions if the Department determines that circumstances unique to the project justify each extension.
  - c. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated fees.
5. **Environmental information.** After an application has been accepted as complete, the Department may require the applicant to submit additional information needed for the environmental review of the project in compliance with Section D6-19 (Environmental Assessment), below.
6. **Violation on the site.**
  - a. The Department shall not find an application complete, and shall not process or approve the application, if conditions exist on the site in violation of this Zoning Ordinance or any permit or other approval granted in compliance with this Zoning Ordinance, except for an application for a permit, if any, needed to correct the violation.
  - b. The Department authority under this Subsection shall apply whether:
    - (1) The current applicant was the owner of the subject property at the time the violation occurred; or
    - (2) The applicant is the current owner of the subject property with or without actual or constructive knowledge of the violation at the time of acquisition of the subject property.
  - c. The Department's decision may be appealed in compliance with Chapter D7-II (Appeals and Calls for Review).

- B. Filing date.** The filing date of an application shall be the date on which the Department receives the last submission, map, plan, or other material required as a part of that application by Section D6-16.B. (Application contents), above, and deemed complete by the Department in compliance with this Section.
- C. Revised materials.**
1. Whenever an applicant desires/needs to file revised materials, the materials shall be submitted at least 15 days before the scheduled public hearing on the application.
  2. The Department may choose to accept revised materials after that time, upon determining that there is sufficient time to review them before the scheduled hearing date.
  3. The review authority may continue an application until the next available meeting date in order to adequately evaluate materials received after the date of receipt of the application package.
- D. Referral of application.** At the discretion of the Department, or where otherwise required by this Zoning Ordinance or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed project.
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## **D6-19 - Environmental Assessment**

After acceptance of a complete application, the project shall be reviewed as required by the California Environmental Quality Act (CEQA) and the City's Environmental Guidelines.

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## **D6-20 - Project Evaluation and Staff Reports**

- A. Staff evaluation.** The Department shall review all discretionary applications filed in compliance with this Division to determine whether they comply and are consistent with the provisions of this Zoning Ordinance, other applicable provisions of the Municipal Code, the General Plan, and any applicable specific plan.
- B. Staff report.** The Department shall provide a written recommendation to the Zoning Administrator, Commission and/or Council (as applicable) on whether the application should be approved, approved subject to conditions, or disapproved.
- C. Report distribution.** Each staff report shall be furnished to the applicant, after being provided to the review authority, before the scheduled hearing on the application.



## Chapter II – Permit Review and Decisions

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### Sections:

- D6-21 - Purpose
- D6-22 - Architectural Reviews
- D6-23 - Development Plans
- D6-24 - Minor Exceptions
- D6-25 - Planned Development Permits
- D6-26 - Preliminary Plan Review
- D6-27 - Temporary Use Permits
- D6-28 - Use Permits and Minor Use Permits
- D6-29 - Variances
- D6-30 - Zoning Clearance Clearances

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### D6-21 - Purpose

- A. Permit review procedures.** This Chapter provides procedures for the final review, and approval or disapproval of the planning permit applications established by this Zoning Ordinance.
- B. Subdivision review procedures.** Procedures and standards for the review and approval of subdivision maps are found in Division C5 of the Municipal Code (Subdivision Regulations and Procedures).
- C. Application filing and initial processing.** Where applicable, the procedures of this Chapter are carried out after those described in Division D6, Chapter I (Permit Application Filing and Processing), for each application.

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### D6-22 - Architectural Review

- A. Purpose and applicability.**
  - 1. Purpose.** The purpose of Architectural Review is to recognize the interdependence of land values and aesthetics and to provide a method to promote sound land use development.
  - 2. Objectives.** Architectural Review is intended to accomplish the following objectives:
    - a. Ensure that siting and architectural design of structures, their materials, and colors are visually harmonious with surrounding development and with the natural landforms and vegetation of the areas in which they are proposed to be located;
    - b. Ensure that plans for the landscaped areas conform with the requirements of this Zoning Ordinance and Ordinance No. 218 (Landscape Design Guidelines) and that they provide a visually pleasing setting for structures on the site and on adjoining and nearby sites, and blend harmoniously with the natural landscape; and
    - c. Prevent excessive and unsightly grading, including hillsides, and preserve natural landforms and existing vegetation, where feasible.
  - 3. Applicability.** All building and site plans shall be subject to Architectural Review and Zoning Administrator approval before issuance of a Zoning Clearance and a Building Permit in compliance with this Section.

**B. Improvements subject to Architectural Review.**

1. **Zoning Administrator responsibilities.** The Zoning Administrator and his/her designee shall review and approve the design of each improvement for which a Building Permit, Zoning Clearance, certificate, or other approval is required in compliance with Subsection C. (Zoning Administrator responsibilities), below.
2. **Architectural Review Board (ARB) responsibilities.** The ARB shall review the design of each improvement for which a Building Permit, Zoning Clearance, certificate, and provide recommendation to the Zoning Administrator in compliance with Subsection D. (ARB responsibilities), below.
3. **Improvements exempt from Architectural Review.** The following improvements are exempt from Architectural Review:
  - a. Additions or repairs to any existing improvement if the exterior is not to be altered;
  - b. Appurtenances and accessory improvements, and repairs to detached single-family residences;
  - c. Exempt signs, as identified in Section D3-45; and
  - d. Individual signs conforming to a Master Sign Program approved in compliance with Section D3-52.
4. **Improvement defined.** The term "improvement" as used in this Section shall be liberally interpreted, and shall include the alteration, construction, and repair of all structures and facilities permanently affixed to real property and all appurtenances to these structures and facilities.
5. **Compliance with Architectural Review approval required.** No improvement subject to Architectural Review shall hereafter be altered, constructed, located, repaired, or thereafter maintained, except in compliance with an Architectural Review approval granted in compliance with this Section.

**C. Zoning Administrator responsibilities.** The following improvements shall be subject to Architectural Review by the Zoning Administrator. All other residential and nonresidential improvements shall be subject to the review and recommendation to the Zoning Administrator by the ARB.

1. **Residential.** The following minor residential improvements and modifications to an existing structure can be reviewed in association with a Building Permit plan check. If new construction, improvements, or modifications are determined to result in a major change/modification, the Zoning Administrator may require an administrative Architectural Review application and/or refer the application to the ARB for review and a recommendation.
  - a. Additions to existing single-family dwellings.
    - (1) Single-story and second-story additions to existing single-story single-family dwellings; and
    - (2) Second story additions to existing two-story single-family dwellings.
  - b. Architectural projections into yards (e.g., bay windows, fireplace chimneys, stairs or landings, etc.);

- c. Accessory structures (e.g., arbors, balconies, carports, decks, gazebos, greenhouses, patio covers and enclosures, storage sheds, trellises, etc.);
- d. Decorative mail boxes and columns located in front yards;
- e. Exterior structure modifications and repairs (e.g., balconies, doors, exterior siding, skylights, solar panels, windows, etc.);
- f. Retaining walls; and
- g. Good neighbor fence that is taller than six feet.

**2. Nonresidential.** An administrative Architectural Review application is required for the following nonresidential new construction improvements or major changes/modifications to an existing structure, unless, in the opinion of the Zoning Administrator, the item may have a significant impact, in which case the item may be referred to the ARB for review and a recommendation. If the improvement/structure is determined to be minor in nature and would not, in the opinion of the Zoning Administrator, cause a significant impact, the review and decision may be conducted by the Zoning Administrator in association with a Building Permit plan check.

- a. Accessory structures;
- b. Exterior structure and parking lot lighting;
- c. Exterior structure modifications and storefront changes (e.g., doors, exterior siding, windows, exterior paint change, etc.);
- d. Fences and walls;
- e. Landscape improvements or modification;
- f. Master Sign Program Amendments;
- g. Parking lot restriping and minor parking lot modifications;
- h. Retaining walls;
- i. Signs in compliance with an approved Master Sign Program;
- j. Signs not regulated with an approved Master Sign Program;
- k. Sign face copy changes; and
- l. Trash and storage areas.

**D. Architectural Review Board (ARB) responsibilities.** The ARB shall be responsible for the review and recommendation to the Zoning Administrator and/or the Commission on all other residential and nonresidential improvements, as that term is defined in Subparagraph B.4. (Improvement defined) above.

**E. Initiation of Architectural Review.**

- 1. Architectural Review shall be initiated by the property owner or an authorized agent by filing the number of copies of all plans and materials identified in Subsection F. (Application requirements), below, as required by the Department.

2. Preliminary consultation between the project applicant and the Department to discuss applicable standards and design guidelines may be initiated by requesting an appointment with the Zoning Administrator.

**F. Application requirements.** An Architectural Review shall be filed in compliance with Division D6, Chapter I (Permit Application Filing and Processing). The Architectural Review shall be accompanied by the information identified in the Department handout for Architectural Reviews. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection I. (Required findings), below.

**G. Factors to be considered during Architectural Review.**

1. **Advisory capacity.** The ARB shall function in an advisory capacity to the Zoning Administrator or Commission in compliance with this Section.
2. **Factors to be considered.** The review authority (e.g., the Zoning Administrator) shall review the design of all improvements subject to the requirements of this Section in relation to the following factors:
  - a. Area, bulk, and height of structures;
  - b. Colors and types of structures and installations;
  - c. The architectural and physical relationship with existing and proposed structures in the area and to the site's location within the City;
  - d. Location, orientation, and site layout of the structures, and their relationship with open space areas, topography, and solar/energy efficiency;
  - e. Colors, height, materials, and variations in boundary fences, walls, or screen planting;
  - f. Location and type of landscaping including setback areas and the project's off-street parking areas;
  - g. Appropriateness of sign design and exterior lighting, and other building graphics; and
  - h. Second story additions to existing single-story homes.
3. **Recommendations/actions of the ARB.** Following review, the Summary of Action shall be kept on file with the Department which duly note the ARB's recommendations/actions and conditions pertaining to the subject improvement.
4. **Department to ensure conformance with approved plans.**
  - a. Following plan approval, the Department shall review all final plans before issuance of a Building Permit to ensure their conformance to the plans approved by the review authority, and any conditions that were a part of that approval.
  - b. Procedures for this review are identified in Section D6-30 (Zoning Clearances).

**H. Architectural Review and approval.****1. Time periods for review.**

- a. The review authority shall conduct a review of the plans and specifications submitted for review within 45 days following the submittal of a complete application, unless the applicant agrees to an alternative time schedule.
- b. In the case of plans and specifications which are associated with an approved Development Plan, Sign Permit, or subdivision previously reviewed and approved by the Commission, the review authority shall conduct the review within 45 days of the Commission's decision, unless the applicant agrees to an alternative time schedule.
- c. Following the decision of the review authority's review, the Department shall mail notice of the decision to the applicant.

**2. Action required.**

- a. All decisions shall be consistent with the findings identified in Subsection I. (Required findings), below.
- b. Any conditions imposed shall be deemed reasonable and necessary and designed to ensure attainment of the purposes and standards established by this Zoning Ordinance.

**3. Appeals.** All decisions of the review authority shall be appealable in compliance with Chapter D7-II (Appeals and Calls for Review).**I. Required findings.** The review authority may approve or disapprove an Architectural Review only after first making all of the following findings:

1. The project's design would be:
  - a. Consistent with the goals and objectives of the General Plan;
  - b. Consistent with the purposes of this Zoning Ordinance;
  - c. In compliance with Subparagraph G. 2. (Factors to be considered), above; and
  - d. In the best interest of the public health, safety, and general welfare of the community.
2. General site considerations, including site layout, open space and topography, orientation and location of structures, circulation and parking, height, fences and walls, public safety, setbacks, vehicular access, and similar elements have been designed to provide a desirable environment for the subject development;
3. General architectural considerations, including the character, scale and quality of the design, the architectural relationship with the site and other structures, building materials, colors, exterior lighting and signs, screening of exterior appurtenances, and similar elements have been incorporated into the design of the subject development in order to ensure the compatibility of the development with its design concept and the character of adjacent structures; and
4. General landscape considerations, including the location, color, coverage, size, texture, and type of plant materials, provisions for irrigation, maintenance, and protection of landscaped areas and similar elements have been considered to ensure visual relief, to complement structures, and to provide an attractive environment for the enjoyment of the public.

- J. Post decision procedures.** The procedures and requirements relating to changes to approved plans, effective dates, lapse of approval and extensions, and transferability located in Division D6, Chapter III (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation/ modification located in Division D7, Chapter V (Enforcement), shall apply following the decision on an Architectural Review.

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## D6-23 - Development Plans

- A. Purpose.** This Section provides the flexibility in application of land use and development regulations necessary to achieve the purposes of this Zoning Ordinance by establishing procedures for approval, conditional approval, or disapproval of Development Plan or Development Plan Amendment applications.
- B. Applicability.**
1. Development Plans or Development Plan Amendments are required for all new development and additions to existing structures, unless the Zoning Administrator finds that the addition is non-controversial, minor, and does not involve a substantial alteration to the existing structure.
  2. Development Plans or Development Plan Amendments are not required for the construction or alteration of a single-family dwelling unit.
- C. Review authority – Zoning Administrator.** The Zoning Administrator shall approve, conditionally approve, or disapprove applications for Development Plans and Development Plan Amendments. The Zoning Administrator may defer action and refer the request to the Commission, so that the Commission may instead make the decision.
- D. Consistency with the General Plan required.** All approvals or conditional approvals shall be consistent with the General Plan and subject to the general purposes of this Zoning Ordinance, the specific purposes of the base or overlay zone in which a development site is located, and the provisions of this Section.
- E. Application requirements.**
1. An application for a planning permit approval shall be filed in compliance with Division D6, Chapter I (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for the specific permit.
  2. For applicants for a housing development project as defined by Government Code Section 65598.5, the application shall be deemed to have been submitted upon submittal of an application form, providing all of the information required by Government Code Section 65941.1, and upon payment of the permit processing fee. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection H. (Required findings), below.
- F. Project Review, notice and public hearing.** Each application shall be reviewed by the Zoning Administrator to ensure that the proposal complies with all applicable requirements of this Zoning Ordinance. Before a decision on a Development Plan or Development Plan Amendment, the City shall provide notice as follows:

### Development Plan

1. A public hearing shall be required for the Zoning Administrator's consideration of a Development Plan application.
2. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter D7-IV (Public Hearings).

3. When an application for a Development Plan is submitted concurrently with a Use Permit or Variance application on the same site, the Zoning Administrator shall schedule a combined public hearing.

#### **Development Plan Amendment**

1. A public notice shall be required prior to the Zoning Administrator's decision. The public notice shall state that the Zoning Administrator will decide whether to approve or disapprove the Development Plan Amendment application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.
2. When a public hearing is requested, notice of the hearing shall be provided in compliance with Chapter D7-IV, and the Zoning Administrator shall conduct the public hearing before a decision on the application in compliance with Chapter D7-IV (Public Hearings).

#### **G. Duties of the Review Authority.**

1. The Zoning Administrator shall conduct a public hearing, if required in subsection F above, and hear testimony for and against the application.
2. Within 30 working days of the conclusion of the public hearing, the Review Authority shall approve, conditionally approve, or disapprove the application.
3. Notice of the decision shall be mailed to the applicant, and any other party requesting notice, after the decision is rendered.

#### **H. Required findings.** The Zoning Administrator shall approve an application for a Development Plan or Development Plan Amendment as it was applied for, or in modified form as required by the Zoning Administrator if, on the basis of the application, materials, plans, and testimony submitted, the Zoning Administrator first finds that the proposed development:

1. Will not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the proposed development;
2. Will not be injurious or detrimental to property or improvements in the neighborhood;
3. Will not be injurious or detrimental to the general welfare of the City;
4. Will not be inconsistent with the policies and goals of the General Plan or any applicable specific plan; and
5. Is architecturally compatible with other developments in the same vicinity, both inside and outside of the subject zone.

#### **I. Conditions of approval.**

1. In approving a Development Plan or Development Plan Amendment the Zoning Administrator may impose conditions that are deemed reasonable and necessary to:
  - a. Achieve the general purposes of this Zoning Ordinance or the specific purposes of the subject zone, or to make it consistent with the General Plan or any applicable specific plan;
  - b. Protect the public health, safety, and general welfare; or

- c. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.
  - 2. The conditions of approval shall not include bulk, density, height, loading, open space, parking, sign, or use requirements that are less restrictive than those identified by the applicable zone regulations, unless a variance to these regulations is granted.
- J. Post decision procedures.** The procedures and requirements relating to changes to approved plans, effective dates, lapse of approval and extensions, and transferability located in Division D6, Chapter III (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation/ modification located in Division D7, Chapter V (Enforcement), shall apply following the decision on an application for a Development Plan or Development Plan Amendment.

### Development Plan Concept Review – Planning Commission Review

**Purpose:** The Conceptual Review process is intended to serve as an initial screening of a project concept and not a detailed review of a development proposal. The value of the process is in the feedback provided by the Planning Commission and Staff that allows the applicant to make an informed decision regarding potential revisions to their project based on the comments received. The Planning Commission's feedback is non-binding and no formal or final decisions are issued for a Conceptual Review.

**Submittal Requirements:** An application for a Concept Review shall be filed in compliance with Division D6, Chapter I (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for the specific permit. The specific submittal requirements will be based on the nature of the project for which a Concept Review is being sought.

**Public Notice:** Notice of the Planning Commission's consideration of a Concept Review Application will be sent to property owners within 300 feet of the subject property. The purpose of providing public notice on a non-action item is to solicit public input in advance of formal applications and give the potential project applicant a better understanding of public opinion regarding their potential project.

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## D6-24 - Minor Exceptions

The Zoning Administrator may grant a Minor Exception from specified regulations contained in this Zoning Ordinance in compliance with this Section.

- A. Purpose.** The purposes of this Chapter are to:
- 1. Allow the Zoning Administrator to grant a Minor Exception from specified zone or development standards required by this Zoning Ordinance.
  - 2. Provide an appropriate process to enable the Zoning Administrator to grant a requested Minor Exception.
  - 3. Provide appropriate and reasonable findings to allow the Zoning Administrator to grant a requested Minor Exception.
- B. Applicability.** A Minor Exception application shall be approved for any item identified in Table 6-2, below, if in the opinion of the Zoning Administrator the findings identified in Subsection E. (Required findings), below can be made.



**TABLE 6-2 - ALLOWABLE MINOR EXCEPTIONS**

Types of Minor Exceptions Allowed	Maximum Adjustment
1. <b>Area requirements.</b> A decrease in the minimum area requirements. (Not including minimum parcel area requirements - See number 6. below.)	15 percent
2. <b>Fence or wall height.</b> An increase in the maximum allowable height of a fence or wall, in compliance with Section D3-4 (Fences, Hedges, and Walls).	Up to a 1 foot increase
3. <b>Floor Area Ratio (FAR).</b> An increase in the maximum allowable FAR.	10 percent
4. <b>Landscaping area.</b> A decrease in the minimum landscaping area requirements.	20 percent
5. <b>Loading.</b> A decrease in the number of required loading spaces, but not exceeding two spaces.	30 percent
6. <b>Parcel area.</b> A decrease in the minimum required parcel area.	10 percent
7. <b>Parcel coverage.</b> An increase in the maximum allowable parcel coverage.	10 percent
8. <b>Parcel depth or width.</b> A decrease in the minimum required parcel depth or width, only when the total parcel area requirements are met.	10 percent
9. <b>Parking.</b> A decrease in the number of required parking spaces.	15 percent
10. <b>Projections.</b> An increase in the allowable projection of canopies, cornices, eaves, fireplaces, landings, masonry chimneys, overhangs, raised porches, stairways, and steps into a required setback areas, but no closer than 3 feet to any property line.	25 percent
11. <b>Setback areas.</b> A decrease in the required setbacks.  Front setback: But no closer to the front property line than 15 feet.  Side setbacks: But no closer to the side property lines than 3 feet.  Rear setback: But no closer to the rear property line than 5 feet.	25 percent 25 percent 25 percent
12. <b>Signs.</b> An increase in the maximum allowable sign area or height.	25 percent
13. <b>Structure height.</b> An increase in the maximum allowable structure height, but not to exceed an increase of five feet.	25 percent
14. <b>10-year parking restriction.</b> 10-Year Restriction on Off-Site Parking Facility	Case by case
15. <b>Eating areas.</b> Employee Eating Areas	Case by case
16. <b>Satellite antennas.</b> Rear Roof Mounting of Satellite Antennas	Case by case
17. <b>Screening Requirements.</b> Screening Requirement for refuse storage areas in the IG zone	Case by case
18. <b>Wall requirements.</b> Wall requirement - residential abutting nonresidential	Case by case
19. <b>Other standards.</b> The Zoning Administrator shall also be allowed to vary other standards including minor operational/performance standards relating to dust, glare, hours of operation, landscaping, light, noise, etc.	Case by case
20. <b>Required Variance.</b> A request that exceeds the limitations identified in this Section shall require the approval of a Variance in compliance with Section D6-29.	

- C. Application requirements.** An application for a Minor Exception shall be filed in compliance with Division D6, Chapter I (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Minor Exception applications. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection E. (Required findings), below.
- D. Project review, notice, and hearing.** Each application shall be reviewed by the Zoning Administrator to ensure that the proposal complies with all applicable requirements of this Zoning Ordinance. Before a decision on a Minor Exception, the City shall provide notice in compliance with Chapter D7-IV (Public Hearings).
- 1. Public notice.** The notice shall state that the Zoning Administrator will decide whether to approve or disapprove the Minor Exception application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.
  - 2. Requested hearing.** When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter D7-IV, and the Zoning Administrator shall conduct the public hearing before a decision on the application in compliance with Chapter D7-IV (Public Hearings).
- E. Required findings.**
- 1. General findings.** The Zoning Administrator may approve a Minor Exception application, with or without conditions, only after first finding that:
    - a. No practical alternative exists;
    - b. The purpose of the subject zone would not be compromised;
    - c. No detrimental impact would result aesthetically; and
    - d. The proposed construction project would otherwise be in compliance with all applicable Zoning Ordinance standards and requirements.

In the event the Zoning Administrator cannot make the above findings, the Minor Exception shall be denied and the applicant may instead apply for a variance.
- F. Letter to the applicant required.** Any Minor Exception granted shall be in writing, with a letter sent to the applicant stating the reasons for the Minor Exception along with the supporting findings and any necessary conditions of approval in compliance with Subsection E. (Required findings), above.
- G. Post decision procedures.** The procedures and requirements relating to changes to approved plans, effective dates, lapse of approval and extensions, and transferability located in Division D6, Chapter III (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation/ modification located in Division D7, Chapter V (Enforcement), shall apply following the decision on an application for a Minor Exception.

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## D6-25 - Planned Development Permits

- A. Purpose.** Planned Development Permits are intended to promote and encourage quality development within the City's residential, commercial, industrial, and other zones, while protecting the public health, safety, general welfare, integrity, and character of the City, and ensuring conformance with the General Plan and any applicable specific plan.
- 1. Comprehensive development.** Planned Development Permits are encouraged and expected to produce comprehensive development incorporating more enhanced environmental and architectural excellence than would normally be possible under more standard zone development requirements.
  - 2. Project review.** The Review Authority shall determine whether the Planned Development Permit should be approved by weighing the public need for, and the positive benefits to be derived from, the proposed project against any of the potential unavoidable negative effects it may cause.
- B. Applicability.** An application for a Planned Development Permit shall be required before the issuance of any nondiscretionary building, grading, or other required permits. For a major project that also requires other discretionary permits, these permits shall be processed concurrently.
- 1. Minimum site area.** A Planned Development Permit application may be approved only for a site of 10 acres or larger.
  - 2. Allowable land use.** A Planned Development Permit may only authorize a land use that is allowed in the applicable zone by Division D2 (Allowable Land Uses and Zoning Standards).
  - 3. General Plan conformance required.** Conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan shall be required.
  - 4. Modify standards.**
    - a. A Planned Development Permit may adjust or modify, where necessary and justifiable, all applicable development standards (e.g., building envelope [coverage, height, and setbacks], fence and wall heights, landscaping, off-street parking and loading [design and ratios], open space, street layout, etc.) identified in this Zoning Ordinance, with the exception of an increase in the applicable density or intensity provisions.
    - b. A Planned Development Permit may allow for the density to be averaged on parcels divided by two or more zones.
    - c. Residential development projects with increased density standards may only be approved in compliance with the City's density bonus procedure in the Municipal Code.
- C. Application filing and processing.** An application for a Planned Development Permit shall be completed, filed, and processed in compliance with Division D6, Chapter I (Permit Application Filing and Processing), and any requirements of the applicable zone. The application shall be accompanied by the information identified in the Department handout for Planned Development Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection G. (Findings and decision), below.
- D. Review authority.** Planned Development Permits may be granted by the Commission.

- E. Criteria for approval.** The review authority may approve a Planned Development Permit only when the following criteria are met:
1. The site shall be a minimum of 10 acres, unless the Commission reduces this requirement in lieu of a substantial public benefit received.
  2. The proposed development shall be in conformance with the General Plan and any applicable specific plan, and shall result in a comprehensive development incorporating a more enhanced environment and architectural excellence than would normally be possible under more standard zone development requirements.
  3. The various elements of the proposed plan, including structures, grounds, and open space, shall relate to one another in a manner that forms a comprehensive plan of sufficient unity to justify exceptions, if any, to the standard zone development requirements identified in this Zoning Ordinance.
  4. The proposed development shall not adversely affect adjacent properties.
- F. Project review, notice, and hearing.** Each application shall be reviewed by the Zoning Administrator to ensure that the proposal is consistent with the purpose and intent of this Section.
1. **(Major) Planned Development Permit.** The Commission shall conduct a public hearing on an application for a (Major) Planned Development Permit before a decision on the application. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter D7-IV (Public Hearings).
  2. **(Minor) Planned Development Permit.** Before a decision on a (Minor) Planned Development Permit, the City shall provide notice in compliance with Chapter D7-IV (Public Hearings).
    - a. **Public notice.** The notice shall state that the Zoning Administrator will decide whether to approve or disapprove the (Minor) Planned Development Permit application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.
    - b. **If hearing is requested.** If a public hearing is requested, the Zoning Administrator shall refer the application to the Commission for a hearing and decision to be conducted in compliance with Chapter D7-IV (Public Hearings).
    - c. **If no hearing is requested.** If no public hearing is requested, the Zoning Administrator shall render a decision on the date specified in the notice referred to in Subparagraph 2.a, above.
- G. Findings and decision.** The review authority may approve or disapprove an application for a Planned Development Permit only after first making all of the following findings:
1. The proposed development is:
    - a. Allowed within the subject zone;
    - b. In conformance with the:
      - (1) Criteria identified in Subsection E. (Review authority criteria), above;
      - (2) General Plan and any applicable specific plan; and

- (3) Applicable provisions of this Zoning Ordinance relating to both on and off site improvements that are necessary to accommodate flexibility in site planning and property development and to carry out the purpose and intent of the subject zone.
2. The proposed project would produce a comprehensive development incorporating a more enhanced environment and architectural excellence (e.g., appropriate variety of structure placement and orientation opportunities, appropriate mix of structure sizes, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than would normally be possible under more standard zone development requirements;
3. The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities (e.g., drainage, fire protection, sewers, water, etc.), would ensure that the proposed development would not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or injurious to the property or improvements in the vicinity and zone in which the property is located;
4. The site is:
  - a. Physically suitable for the type and density/intensity of development being proposed;
  - b. Adequate in shape and size to accommodate the proposed development; and
  - c. Served by streets of adequate capacity to carry the quantity and type of traffic expected to be generated by the proposed development.
5. The public need for, and the positive benefits to be derived from, the proposed project clearly outweigh any of the potential unavoidable negative effects it may cause.

**H. Conditions of approval.** In approving a Planned Development Permit, the review authority may impose any conditions deemed reasonable and necessary to:

1. Ensure that the approval will comply with the findings required by Subsection G. (Findings and decision), above;
2. Ensure compliance with applicable requirements of this Zoning Ordinance (e.g., allowable land uses and density/intensity) to ensure compatibility with surrounding properties);
3. Accommodate flexibility in site planning and property development;
4. Mitigate all project related adverse effects, unless a statement of overriding considerations is adopted in compliance with Public Resources Code Section 15093; and
5. Protect the public health, safety, and general welfare.

**I. Post decision procedures.** The procedures and requirements relating to changes to approved plans, effective dates, lapse of approval and extensions, and transferability located in Division D6, Chapter III (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation/modification located in Division D7, Chapter V (Enforcement), shall apply following the decision on an application for a Planned Development Permit.

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## D6-26 - Preliminary Plan Review

### A. **Purposes.** The purposes of Preliminary Plan Review are to:

1. Familiarize project applicants, not exempt from CEQA, with City regulations and the concerns of City departments before expenditure for the preparation of the required application materials.
2. Familiarize City department representatives with proposed projects and provide an opportunity for an exchange of views on project characteristics that may be of mutual concern.
3. Enable the Zoning Administrator to discuss project impacts with representatives of other City departments before making an environmental determination and determining responsible trustee agencies in compliance with CEQA.
4. Allow City departmental representatives to discuss potentially significant environmental impacts, the nature of mitigation measures, and the need for background studies to be submitted with the project application.

### B. **Applicability.**

#### 1. **When required.** Preliminary Plan Review shall be required for:

- a. Projects requiring a General Plan amendment, specific plan approval, or Zoning Map amendment;
- b. Projects involving construction and/or modification of 50,000 square feet or more of gross floor area and not considered a housing development as defined by Government Code Section 65598.5. For housing developments, see Section D6-23 E (Development Plan), above; and
- c. Projects deemed necessary by the Zoning Administrator.

#### 2. **Waiver of Preliminary Plan Review.** The Zoning Administrator may waive Preliminary Plan Review upon determining that neither the applicant nor the City staff would benefit from the review due to the minimal impact of the proposed project.

#### 3. **Changing requirements and procedures.** Information and comments provided to an applicant through the Preliminary Plan Review process are subject to change in the event that environmental conditions, applicable laws, or other requirements change prior to a formal permit application being deemed complete.

### C. **Initiation of Preliminary Plan Review.** Preliminary Plan Review shall be initiated by filing the following items with the Department.

1. A completed "pre-application" request for Preliminary Plan Review, stating that the applicant is the property owner or the authorized agent of the owner.
2. A completed Environmental Questionnaire.
3. Five copies of all required plans and materials identified in Subsection D. (Application requirements), below.
4. The required application fee in compliance with the City's Fee Schedule.

**D. Application requirements.** An application for a Preliminary Plan Review shall be filed in compliance with Division D6, Chapter I (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Preliminary Plan Review applications.

**E. Duties of the Zoning Administrator.**

1. The Zoning Administrator shall:
  - a. Make a preliminary determination as to whether the project requires a Negative Declaration (ND), Mitigated Negative Declaration (MND), or an Environmental Impact Report (EIR) and, if so, shall recommend the appropriate lead agency;
  - b. State identified concerns based on the preliminary review of the project plans and materials.
  - c. Ask questions of the applicant to clarify understanding of the applicant's intent.
  - d. Discuss potentially significant impacts, the nature of any mitigation measures, and any background studies that may be required with the application.
2. Following Preliminary Plan Review, the Zoning Administrator shall mail the comments to the applicant and a statement outlining the type and sequence of approvals necessary before the issuance of a Zoning Clearance and any other permits or approvals required by this Zoning Ordinance.

**F. Post review procedures.**

1. **Related procedures.** The procedures and requirements relating to changes to approved plans, effective dates, lapse of approval and extensions, and transferability located in Division D6, Chapter III (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation/modification located in Division D7, Chapter V (Enforcement), shall apply following the decision on an application for a Preliminary Plan Review.
2. **Duration.** Administrative decisions on the approval process made during the Preliminary Plan Review process shall be valid for a period of 180 days from their effective date.
3. **Application for a Zoning Clearance.** An application for Zoning Clearance review shall be submitted before expiration of this 180-day period.

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## D6-27 - Temporary Use Permits

- A. Purpose.** This Section establishes procedures for the granting of Temporary Use Permits that allow short-term activities to be conducted on private property and that may not meet the normal development or use standards of the applicable zone, but may be acceptable because of their temporary nature.
- B. Applicability.** Temporary land uses shall not be established, operated, or conducted in any manner without the approval and maintenance of a valid Temporary Use Permit granted in compliance with this Section. The following two categories of temporary uses identify the level of permit required, if any, based on the proposed duration, size, and type of use:
1. Exempt temporary uses are identified in Subsection C. (Exempt temporary uses), below; or
  2. Temporary Use Permits are identified in Subsection D. (Allowed temporary uses), below.
- C. Exempt temporary uses.** The following minor and limited duration temporary uses are exempt from the requirement for a Temporary Use Permit. Uses that do not fall within the categories defined below shall comply with Subsection D. (Allowed temporary uses), below.
1. **Construction yards – On-site.** On-site contractors' construction yards, including temporary trailers and storage of equipment, in conjunction with an approved construction project on the same site. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit authorizing the construction project, whichever first occurs.
  2. **Emergency facilities.** Emergency public health and safety needs/land use activities.
  3. **Garage sales.** Garage sales are exempt from the requirement for a Temporary Use Permit; provided, the sales occur no more often than three (3) times per year per residence, for a maximum of two (2) consecutive days each. Garage sales or community garage sales are allowed on Saturday, Sunday, and any National Holidays.  
  
Conduct of garage sales shall require registration with the Planning Services Division.  
  
Community garage sales requesting public street closure are subject to a Special Event Permit, which is managed by the Parks and Community Services Department.
  4. **Temporary model home.** Temporary model homes and related facilities within the area of an approved residential subdivision project, solely for the first sale of homes, approved as part of the overall project.
  5. **Temporary real estate sales office.** A temporary real estate sales office within the area of an approved development project, solely for the first sale of homes, approved as part of the overall project.
- D. Allowed temporary uses.** The following temporary uses may be allowed, subject to the issuance of a Temporary Use Permit by the Zoning Administrator. Uses that do not fall within the categories defined below shall comply with the use and development regulations and land use permit review provisions that otherwise apply to the property.
1. **Commercial filming.** The temporary use of an approved site for the filming of commercials, movies, videos, etc. The Zoning Administrator shall make an additional finding: the approval would not result in a frequency of uses likely to create incompatibility between the temporary filming activity and the surrounding neighborhood.



2. **Construction yards – Off-site.** Off-site contractors' construction yards, in conjunction with an approved construction project. The permit shall expire and the construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit authorizing the construction project, whichever first occurs. (See also Subsection D.8, below, regarding temporary work trailers.)
3. **Events.** Events on nonresidential property including the following:
  - a. Amusement rides, arts and crafts shows, auctions, carnivals, circuses, civic and community events, concerts, fairs, farmers' markets, festivals, flea markets, food events, live entertainment, outdoor entertainment/sporting events, recreation events, rodeos, rummage sales, second hand sales, street fairs, swap meets, and tent revivals for no more than 15 days total within a 12-month period. On-going/annual events may be permitted through a Minor Use Permit/Use Permit based on the allowable land use tables in Division D2 for the specific zone applicable to the site.
  - b. Outdoor meetings or group activities for seven consecutive days or less, within a 90-day period.
4. **Outdoor display/sales.** The temporary outdoor display/sales of merchandise (e.g., parking lot and sidewalk sales), in compliance with Section D4-35 (Outdoor Display, Storage, and Vending) shall be allowed only if the merchandise displayed is otherwise sold within a building on the same site. These activities shall be located immediately adjacent to the structure, and their duration shall not exceed five consecutive days within a 90-day period. On-going/annual events may be permitted through a Minor Use Permit/Use Permit based on the allowable land use tables in Division D2 for the specific zone applicable to the site. Any sales activity proposed within a public right-of-way shall require a Special Events Permit in compliance with the Municipal Code.
5. **Residence.** A mobile home as a temporary residence of the property owner when a valid Building Permit for a new single-family dwelling is in force, or for temporary caretaker quarters during the construction of a subdivision, multi-family, or nonresidential project. The permit may be approved for a specified duration, or upon expiration of the Building Permit, whichever first occurs.
6. **Seasonal sales lot.** Halloween pumpkin sales and Christmas tree sale lots by businesses holding a valid Business License; provided, the activity may only be held from October 1st through October 31st, of the same year for the Halloween pumpkin sales, and from the day after Thanksgiving through December 26th, of the same year for Christmas tree sales. A five day period before and after the event may be used for set-up and clean-up.
7. **Searchlights.** The use of outdoor searchlights when used for advertising or “attention-getting” purposes.
8. **Temporary structure.** A temporary classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved, for a maximum time period of 12 months, as an accessory use or as the first phase of a development project, in the commercial and industrial zones.
9. **Temporary work trailer.**
  - a. A trailer or mobile home may be used as a temporary work site for employees of a business:
    - (1) During construction of a subdivision or other development project when a valid Building Permit is in force; or

- (2) Upon demonstration by the applicant that the temporary work site is a short-term necessity, while a permanent work site is being obtained.

- b. A permit for temporary work trailers may be granted for up to 12 months.

**10. Similar temporary use.** Similar temporary uses which, in the opinion of the Zoning Administrator, are compatible with the zone and surrounding land uses, and are necessary because of unusual or unique circumstances beyond the control of the applicant.

**E. Application filing, processing, and review.** An application for a Temporary Use Permit shall be filed with the Department and processed in the following manner.

- 1. Application contents.** An application for a Temporary Use Permit shall be completed, filed, and processed in compliance with Division D6, Chapter I (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Temporary Use Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection G. (Findings and decision), below.

- 2. Time for filing.** An application for a Temporary Use Permit shall be submitted for approval at least 10 days before the date that the proposed use is scheduled to take place.

- 3. Public hearing not required.** A public hearing shall not be required for the Zoning Administrator's decision on a Temporary Use Permit unless determined by the Zoning Administrator.

- 4. Effective date.** An approved Temporary Use Permit shall be effective on the date of its approval.

**F. Standards.** Standards for floor areas, heights, landscaping, parking, setbacks, and other structure and property development standards that apply to the category of use or the zone of the subject site shall be used as a guide for determining the appropriate development standards for temporary uses.

- 1. Adjustment of standards.** The Zoning Administrator may authorize an adjustment from the specific standards deemed necessary or appropriate consistent with the temporary nature of the use.

- 2. Removal of materials and structures associated with the temporary use.** All materials and structures associated with the temporary use shall be removed within 10 days from the actual termination of operations, or after the expiration of the Temporary Use Permit, whichever first occurs.

- 3. 30-day interval before new permit.** A minimum of 30 days shall pass between the issuance of a new Temporary Use Permit and the expiration of a similar Temporary Use Permit for the same property, or the actual removal of the materials and structures associated with the former use, whichever last occurs.

- 4. Other permits required.** Temporary uses may be subject to additional licenses, inspections, or permits required by applicable local, State, or Federal requirements.

- 5. Issue only four times per year for the same activity (rug sales).**

**G. Findings and decision.**

1. A Temporary Use Permit may be approved, modified, conditioned, or disapproved by the Zoning Administrator.

2. The Zoning Administrator may defer action and refer the application to the Commission for review and decision at a scheduled public hearing.
  3. The review authority may approve or conditionally approve a Temporary Use Permit application, only after first finding that:
    - a. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
    - b. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
    - c. Approved measures for the removal of the use and site restoration have been required to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this Zoning Ordinance.
- H. Conditions of approval.** In approving a Temporary Use Permit, the Zoning Administrator may impose conditions (e.g., buffers, hours of operation, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, time limits, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection G. (Findings and decision), above.
- I. Condition of site following temporary use.** Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the applicable provisions of this Zoning Ordinance. The Zoning Administrator may require appropriate security before initiation of the use to ensure proper cleanup after the use is finished.
- J. Post decision procedures.**
1. **Related procedures.** The procedures and requirements relating to changes to approved plans, effective dates, lapse of approval and extensions, and transferability located in Division D6, Chapter III (Permit Implementation, Time Limits, and Extensions), and those related to appeals located in Division D7, Chapter V (Enforcement) shall apply following the decision on an application for a Temporary Use Permit.
  2. **Revocation/modification.** A Temporary Use Permit may be revoked or modified by the Zoning Administrator effective immediately upon verbal or written notice for violation of the terms of the permit.

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## D6-28 - Use Permits and Minor Use Permits

- A. Purpose.** A Use Permit or Minor Use Permit provides a process for reviewing uses and activities that may be appropriate in the applicable zone, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site.
- B. Applicability.** A Use Permit or Minor Use Permit is required to authorize proposed land uses identified by Division D2 (Allowable Land Uses and Zoning Standards) as being allowable in the applicable zone subject to the approval of a Use Permit or Minor Use Permit, respectively.
- C. Review authority.**
- 1. Use Permit – By the Commission.** The Commission may approve, conditionally approve, or disapprove applications for Use Permits in compliance with Division D2 (Allowable Land Uses and Zoning Standards) and other applicable sections of this Zoning Ordinance.
  - 2. Minor Use Permits – By the Zoning Administrator.**
    - a. The Zoning Administrator may approve, conditionally approve, or disapprove applications for Minor Use Permits in compliance with Division D2 (Allowable Land Uses and Zoning Standards) and other applicable sections of this Zoning Ordinance.
    - b. The Zoning Administrator may instead refer any Minor Use Permit application to the Commission for a public hearing and decision.
- D. Application filing and processing.** An application for a Use Permit or Minor Use Permit shall be filed and processed in compliance with Division D6, Chapter I (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Use Permits. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.
- E. Project review, notice, and hearing.** Each application shall be reviewed by the Zoning Administrator to ensure that the proposal complies with all applicable requirements of this Zoning Ordinance.
- 1. Use Permits.**
    - a. Public hearing required.** A Use Permit application shall be reviewed, and approved or disapproved by the Commission at a public hearing.
    - b. Notice and conduct of hearing.** Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter D7-IV (Public Hearings).
  - 2. Minor Use Permits.** Before a decision on a Minor Use Permit, the City shall provide notice in compliance with Chapter D7-IV (Public Hearings).
    - a. Public notice.** The notice shall state that the Zoning Administrator will decide whether to approve or disapprove the Minor Use Permit application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.
    - b. Requested hearing.** When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter D7-IV, and the Zoning Administrator shall conduct the public hearing before a decision on the application in compliance with Chapter D7-IV.

- F. Findings and decision.** The review authority may approve a Use Permit or Minor Use Permit application only after first making all of the following findings:
1. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code;
  2. The proposed use is consistent with the General Plan and any applicable specific plan;
  3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
  4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and
  5. Granting the permit would not be detrimental to the public health, safety, or welfare of the persons residing or working in the subject neighborhood, or materially detrimental or injurious to property or improvements in the vicinity and zone in which the property is located.
- G. Conditions of approval.** In approving a Use Permit or Minor Use Permit, the review authority may impose conditions (e.g., the placement, height, nature and extent of the use; buffers, landscaping and maintenance, off-site improvements, performance guarantees, screening, surfacing, time limits, etc.), including conditions which establish standards for development that are more restrictive than the applicable requirements of this Zoning Ordinance, deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection F. (Findings and decision), above.
- H. Post decision procedures.** The procedures and requirements relating to changes to approved plans, effective dates, lapse of approval and extensions, and transferability located in Division D6, Chapter III (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation/ modification located in Division D7, Chapter V (Enforcement), shall apply following the decision on an application for a Use Permit or Minor Use Permit.

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## D6-29 - Variances

- A. Purpose.** This Section allows Variances from the development standards of this Zoning Ordinance only when, because of special circumstances applicable to the subject property, including location, shape, size, surroundings, topography, or other physical conditions, the strict application of the standards denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zone.
- B. Applicability.**
- 1. Waive or modify development standards.** A Variance may be granted to waive or modify any development standard of this Zoning Ordinance except for those requirements identified in Subparagraphs 2, 3, and 4, immediately below.
  - 2. No special privileges.** A Variance shall not be granted that would have the effect of granting a special privilege not shared by other property owners in the vicinity and in the same zone.
  - 3. Does not extend to uses.** The power to grant Variances does not extend to allowable land uses. In no case shall a Variance be granted to allow a use of land or structure not otherwise allowed in the zone in which the subject property is located.
  - 4. Does not extend to procedures.** A Variance shall not be granted to allow an adjustment to the procedural requirements of this Zoning Ordinance.
- C. Review authority.**
- 1.** A Variance application shall be reviewed, and approved or disapproved by the Zoning Administrator.
  - 2.** The Zoning Administrator may instead refer any Variance application to the Commission for a hearing and decision.
- D. Application filing and processing.** An application for a Variance shall be completed, filed, and processed in compliance with Division D6, Chapter I (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Variance applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection F. (Findings and decision), below.
- E. Project review, notice, and hearing.** Each application shall be reviewed by the Zoning Administrator to ensure that the proposal complies with all applicable requirements of this Zoning Ordinance.
- 1. Public notice.** Before a decision on a Variance, the City shall provide notice in compliance with Chapter D7-IV (Public Hearings). The notice shall state that the Zoning Administrator will decide whether to approve or disapprove the Variance application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.
  - 2. Requested hearing.** When a hearing is requested, a notice of the hearing shall be provided in compliance with Chapter D7-IV, and the Zoning Administrator shall conduct the hearing before a decision on the application in compliance with Chapter D7-IV.

**F. Findings and decision.** The Zoning Administrator may approve a Variance application only after first making all of the following findings, as applicable to the application.

**1. General findings.**

- a. There are special circumstances applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of this Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and within the same zone;
- b. Granting the application is necessary for the preservation and enjoyment of substantial property rights enjoyed by other property owners in the same vicinity and zone and denied to the property owner for which the application is sought; and
- c. The application is consistent with the General Plan and any applicable specific plan.

**2. Findings for off-street parking Variance.** For a nonresidential development proposing to locate a portion of the required off-street parking on a different site, or to provide fees or facilities in lieu of the required parking spaces, the Zoning Administrator shall first make both of the following findings, as required by Government Code Section 65906.5, instead of those required by Subparagraph F.1., above.

- a. The Variance would be an incentive to, and a benefit for, the subject nonresidential development; and
- b. The Variance would facilitate access to the subject nonresidential development by patrons of public transit facilities.

**G. Conditions of approval.** In approving a Variance, the Zoning Administrator:

1. Shall impose conditions to ensure that the Variance does not grant special privileges inconsistent with the limitations on other properties in the vicinity and zone in which the subject property is located; and
2. May impose conditions (e.g., the placement, height, nature and extent of the use; buffers, landscaping and maintenance, off-site improvements, performance guarantees, screening, surfacing, etc.) deemed reasonable and necessary to ensure that the approval complies with the findings required by Subsection F. (Findings and decision), above.

**H. Post decision procedures.** The procedures and requirements relating to changes to approved plans, effective dates, lapse of approval and extensions, and transferability located in Division D6, Chapter III (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation/ modification located in Division D7, Chapter V (Enforcement), shall apply following the decision on an application for a Variance.

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## D6-30 - Zoning Clearances

**A. Purpose.** Zoning Clearance is the procedure used by the City to verify that a proposed structure or land use complies with the allowed list of activities allowed in the applicable zone, and the development and performance standards applicable to the use.

**B. Applicability.**

1. Where Division D2 (Allowable Land Uses and Zoning Standards) or other provisions of this Zoning Ordinance requires a Zoning Clearance as a prerequisite to establishing a new or modified land use or structure.
2. A Zoning Clearance shall be required where a land use is determined to be consistent with a (P) permitted use in Division D2 (Allowable Land Uses and Zoning Standards), but the proposed business operation or activity is not clearly associated with the definition of such land use.
3. A Zoning Clearance shall be required before any structure may be altered, constructed, erected, moved, or repaired or before any vacant land may be used or changed in use.
4. A Zoning Clearance shall be required at the time of Department review of any building, grading or other construction permit required by this Zoning Ordinance for the proposed land use or structure.
5. A new Zoning Clearance shall be required if changes are proposed to a land use for which a Zoning Clearance has been previously issued.

**C. Applicable authority.** The Zoning Administrator shall be the applicable authority for issuing Zoning Clearances.

In the event that a proposed use that is subject to the Zone Clearance process and which may be generally consistent with a zone, but whose effects on a site and surrounding properties cannot be readily determined, the Zoning Administrator may require a Minor Use Permit pursuant to section D6-28. Additionally, the Zoning Administrator may refer any Minor Use Permit application to the Planning Commission for a public hearing and decision.

**D. Review and form of approval.**

1. **Zoning Administrator review.** The Zoning Administrator shall issue the Zoning Clearance only after first determining that the request complies with all Zoning Ordinance provisions applicable to the proposed use or structure.
2. **Form of approval.** A Zoning Clearance may be a stamp, City staff signature, or other official notation on approved plans, a letter to the applicant, or other certification, at the discretion of the Zoning Administrator.

**E. Post decision procedures.** The procedures and requirements relating to changes to approved plans, effective dates, lapse of approval and extensions, and transferability located in Division D6, Chapter III (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation/ modification located in Division D7, Chapter V (Enforcement), shall apply following the decision on an application for a Zoning Clearance.



## Chapter III – Permit Implementation, Time Limits, and Extensions

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### Sections:

- D6-31 - Purpose
- D6-32 - Effective Dates of Permits
- D6-33 - Performance Guarantees
- D6-34 - Time Limits and Extensions
- D6-35 - Changes to an Approved Project
- D6-36 - Permits to Run with the Land
- D6-37 - Resubmittals
- D6-38 - Covenants for Easement

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### D6-31 - Purpose

This Chapter provides requirements for the implementation or “exercising” of the permits required by this Zoning Ordinance, including time limits, and procedures for extensions of time.

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### D6-32 - Effective Dates

The approval of a land use permit (e.g., Architectural Review, Development Plan, Planned Development Permit, Temporary Use Permit, Use Permit, or Variance) shall become effective on the 11th calendar day following the date of application approval by the appropriate review authority, where no appeal of the review authority's action has been filed in compliance with Chapter D7-II (Appeals and Calls for Review).

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### D6-33 - Performance Guarantees

A permit applicant may be required by conditions of approval or by action of the Zoning Administrator to provide adequate security to guarantee the faithful performance and proper completion of any approved work, and/or compliance with conditions of approval imposed by the review authority. The provisions of this Section apply to performance guarantees for projects authorized by any land use permits required by this Zoning Ordinance.

- A. Form and amount of security.** The required security shall be in a form approved by the Zoning Administrator, upon recommendation of the City Attorney. The amount of security shall be as determined by the Zoning Administrator to be necessary to ensure proper completion of the work and/or compliance with conditions of approval.
- B. Security for maintenance.** In addition to any improvement security required to guarantee proper completion of work, the Zoning Administrator may require security for maintenance of the work, in an amount determined by the Zoning Administrator to be sufficient to ensure the proper maintenance and functioning of the improvements.
- C. Duration of security.**
  - 1. Improvement security.** Required improvement security shall remain in effect until final inspections have been made and all work has been accepted by the Zoning Administrator, or until any warranty period required by the Zoning Administrator has lapsed.

2. **Maintenance security.** Maintenance security shall remain in effect for at least 12 months after the date of final inspection.

**D. Release or forfeit of security.**

1. Upon satisfactory completion of work and the approval of a final inspection (or after the end of the required time for maintenance security), the improvement and/or maintenance deposits or bonds shall be released.
2. Upon a determination by the Zoning Administrator that the responsible parties have failed, within a required time or an otherwise reasonable time period, to complete the work, to comply with all of the terms of any applicable permit, or in the event of a failure of the completed improvements to function properly, the City may do the required work or cause it to be done, and collect from the permittee or surety all the costs incurred by the City, including the costs of the work, and all administrative and inspection costs.
3. Any unused portion of the security shall be refunded to the funding source after deduction of the cost of the work by the City.

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## **D6-34 - Time Limits and Extensions**

**A. Time limits.**

1. Any planning permit or approval granted in compliance with Division D6, Chapter II (Permit Review and Decisions) that is not exercised within 12 months of its approval shall expire and become void, after being given notice and a hearing unless one of the following are met: a) the conditions of approval or other provisions of this Zoning Ordinance establish a different time limit; b) the property owner or applicant applied for all permits relating to project improvements and is working diligently to complete such improvements; or c) the property owner or applicant provided substantial evidence of use in progress to the satisfaction of the Community Development Director demonstrating that the property owner or applicant is working diligently and in good faith to complete any necessary improvements and commence upon the proposed use. The property owner or applicant may apply for an extension of time in compliance with Subsection B. (Extensions), below.
2. The planning permit shall not be deemed "exercised" until:
  - a. A Building Permit has been issued and actual construction diligently commenced thereon and has not expired; or
  - b. A Certificate of Occupancy has been issued; or
  - c. The use is established (in operation on the site).
3. For the purposes of this Zoning Ordinance, actual construction shall mean the placing of construction materials in a permanent manner or demolition of existing structures preparatory to rebuilding; provided, that in all cases construction work shall be diligently pursued until completion of the subject structures.
4. The planning permit or approval shall remain valid after it has been exercised as long as a Building Permit is active for the project, or a final building inspection or Certificate of Occupancy has been issued.
5. If a project is to be developed in pre-approved phases, each subsequent phase shall be exercised within 12 months from the date that the previous phase was exercised, unless otherwise specified in the planning permit, or the planning permit shall expire and be deemed void. If the project also involves the approval of a Tentative Map, the phasing shall be

consistent with the Tentative Map and the planning permit or approval shall be exercised before the expiration of the Tentative Map, or the planning permit or approval shall expire and be deemed void.

**B. Extensions.** Upon request by the applicant, the Zoning Administrator may extend the time for an approved planning permit to be exercised in the following manner.

1. The permittee shall file a written request for each extension of time with the Planning Services Division at least 10 days before the expiration of the permit, together with the filing fee required by the City's Fee Schedule.
2. The burden of proof is on the permittee to establish with substantial evidence that the permit should not expire. If the Zoning Administrator determines that the permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the Zoning Administrator may grant a time extension to extend the permit, provided that the Zoning Administrator first finds that:
  - a. The requested extension is consistent with the General Plan, and any applicable specific plan, and the overall project remains consistent with those plans as they exist at the time the extension request is being considered;
  - b. The findings required by the original approval remain valid; and
  - c. There are adequate provisions for public services and utilities (e.g., access, drainage, fire protection, sewers, water, etc.), to ensure that the requested extension would not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and applicable zone.
3. Upon making the findings in subsection B.2., above, the Zoning Administrator may grant a maximum of three, 12-month time extensions from the effective date of an approved planning permit.

**C. Hearing on expiration.** The review authority shall hold a noticed hearing on any proposed expiration of a planning permit, in compliance with Chapter D7-IV (Public Hearings).

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## D6-35 - Changes to an Approved Project

A new development project or land use authorized through a permit granted in compliance with this Zoning Ordinance shall be established only as approved by the review authority and subject to any conditions of approval, except where changes to the project, including conditions of approval, are approved in compliance with this Section.

**A. Request for change.**

1. An applicant shall request desired changes in writing, and shall also furnish 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.

**B. Minor changes.** The Zoning Administrator may approve changes to an approved site plan, architecture, or the nature of the approved use if the changes:

1. Are consistent with all applicable provisions of this Zoning Ordinance;

2. Do not involve a feature of the project that was specifically addressed in, or was a basis for findings in a Negative Declaration (ND), Mitigated Negative Declaration (MND), or Environmental Impact Report (EIR) for the project;
  3. Do not involve a feature of the project that was specifically addressed in, or was a basis for conditions of approval for the project or that was a specific consideration by the review authority in the original approval of the permit; and
  4. Do not expand the approved floor area or any outdoor activity area by 10 percent or more over the life of the project.
- C. Other changes.** Changes to the project that are not included in Subsection B. (Minor changes), above, shall be reviewed by the Zoning Administrator to determine the appropriate process of review.

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### D6-36 - Permits to Run with the Land

A land use permit (e.g., Architectural Review, Development Plan, Minor Use Permit, Planned Development Permit, Temporary Use Permit, Use Permit, or Variance) granted in compliance with Division D6, Chapter II (Permit Review and Decisions) shall continue to be valid upon a change of ownership (e.g., of the site, structure, or use that was the subject of the permit application), provided that the use remains in compliance with all applicable provisions of this Zoning Ordinance and any conditions of approval.

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### D6-37 - Resubmittals

- A. Resubmittals prohibited within 12 months.** For a period of 12 months following the disapproval or revocation/modification of a discretionary land use permit, entitlement, or amendment decided in compliance with this Zoning Ordinance, no application for the same or substantially similar discretionary permit, entitlement, or amendment for the same site shall be submitted, unless the disapproval is 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 discretionary land use permit or other approval which is the same or substantially similar to the previously disapproved or revoked permit, entitlement, or amendment.
- C. Appeal.** The determination of the Zoning Administrator may be appealed to the Commission, in compliance with Chapter D7-II (Appeals and Calls for Review).
- D. Council waiver.** The Council may waive the prohibition in Subsection A., above if the Council first finds that by reason of changed legal, physical, or sociological circumstances, reconsideration would be in the best interests of the City.

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### D6-38 - Covenants of Easements

- A. Applicability.** When necessary to achieve the land use goals of the City, the City may require a property owner holding property in common ownership to execute and record a Covenant of Easement in favor of the City, in compliance with State law (Government Code Sections 65870 et seq.)
  1. A Covenant of Easement may be required to provide for emergency access, access to an on-site public art feature for maintenance, landscaping, light and air access, ingress and egress, parking, solar access, or for open space.
  2. The Covenant of Easement may be imposed as a condition of approval by the review authority.

- B. Form of covenant.** The form of the Covenant shall be approved by the City Attorney, and the Covenant of Easement shall:
1. Describe the real property to be subject to the easement;
  2. Describe the real property to be benefitted by the easement;
  3. Identify the City approval or permit granted which relied on or required the Covenant; and
  4. Identify the purposes of the easement.
- C. Recordation.** The Covenant of Easement shall be recorded in the County Recorder's Office.
- D. Effect of covenant.** From and after the time of its recordation, the Covenant of Easement shall:
1. Act as an easement in compliance with Civil Code Section 801 et seq., except that it shall not merge into any other interest in the real property. Civil Code Section 1104 shall be applicable to the conveyance of the affected real property; and
  2. Impart notice to all persons to the extent afforded by the recording laws of the State. Upon recordation, the burdens of the Covenant shall be binding on, and the Covenant shall benefit, all successors-in-interest to the real property.
- E. Enforceability of covenant.** The Covenant of Easement shall be enforceable by the successors-in-interest to the real property benefitted by the Covenant and the City. Nothing in this Section creates standing in any person, other than the City, and any owner of the real property burdened or benefitted by the Covenant, to enforce or to challenge the Covenant or any requested amendment or release.
- F. Release of covenant.** The release of the Covenant of Easement may be effected by the Commission, or the Council on appeal, following a noticed public hearing in compliance with Chapter D7-IV (Public Hearings).
1. The Covenant of Easement may be released by the City, at the request of any person, including the City or an affected property owner, on a finding that the Covenant, on the subject property, is no longer necessary to achieve the land use goals of the City.
  2. A notice of the release of the Covenant of Easement shall be recorded by the Zoning Administrator with the County Recorder's Office.
- G. Fees.** The City shall impose fees to recover the City's reasonable cost of processing a request for a release. Fees for the processing shall be established by the City's Fee Schedule.

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## Chapter IV – Development Agreements

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### Sections:

- D6-39 - Purpose
- D6-40 - Application Requirements
- D6-41 - Pre-Application Process
- D6-42 - Department Review and Recommendation
- D6-43 - Public Hearing Required
- D6-44 - Commission Action
- D6-45 - Council Action
- D6-46 - Annual Review
- D6-47 - Application of Existing Rules, Regulations, and Policies
- D6-48 - Modification and Termination
- D6-49 - Zoning Administrator Responsibilities

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### D6-39 - Purpose

- A. Authorization of development agreements.** In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic cost of development, the Legislature of the State of California adopted Government Code Section 65864 et seq., authorizing local governments to enter into development agreements with applicants for development projects.
- B. Objective.** The objective of an agreement is to provide assurances that, upon approval of the project, the applicant may proceed with the project in compliance with existing policies, rules, and regulations, subject to the conditions of approval, thus vesting certain development rights in the subject property.
- C. Purpose.** The purpose of this Chapter is to establish procedures and requirements for consideration of development agreements by the City consistent with State law.

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### D6-40 - Application Requirements

- A. Compliance with State law required.** An applicant may propose that the City consider entering into a development agreement in compliance with Government Code Section 65864 et seq., by filing an application with the Department.
- B. Application requirements.** An application for a development agreement shall be filed in compliance with Division D6, Chapter I (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for development agreement applications. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection D6-45 E. (Required findings), below.

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### D6-41 - Pre-Application Process

- A. Authorization by the Council following pre-application process.** Unless otherwise directed by the Zoning Administrator, City staff shall not begin to negotiate with the applicant until the Council has so authorized staff, following completion of the pre-application process identified below.
- B. Review and preparation of Council recommendation.** The Zoning Administrator shall review the proposal, consult with all City departments, obtain the additional information from the applicant as may be deemed necessary by the Zoning Administrator, and shall, within 45 calendar days of receipt of the proposal, prepare a report containing the Zoning Administrator's recommendation to the Council.
- C. The written recommendation shall consist of the following:**
1. A statement of the potential public benefits accruing to the City if the agreement were entered into, as identified by the Zoning Administrator;
  2. A recommendation whether the City should negotiate further with the applicant, with supporting arguments;
  3. A statement of issues for further research and investigation, and issues that should be addressed in the development agreement;
  4. A statement of those documents, applications, and other items required by the Zoning Administrator in order to further process the application or negotiate with the applicant.
- D. The Council shall either:**
1. Direct City staff to continue negotiating with the applicant, and to prepare a proposed development agreement for Commission review; or
  2. Determine that no further negotiations are desirable and reject the application.

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### D6-42 - Department Review and Recommendation

Unless the project is categorically exempt, the Department shall, at the applicant's expense and in compliance with City procedures for implementation of CEQA, undertake environmental review and, upon completion of the review, transmit the application, together with the Zoning Administrator's recommendations to the Commission.

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### D6-43 - Public Hearing Required

- A. Determination of compliance with the General Plan.** Upon receipt of an application, the results of the environmental review, and the recommendations of the Department, the Commission shall schedule a public hearing to determine whether the proposal conforms to the General Plan.
- B. Scheduling of Commission hearing.** The Commission hearing shall be scheduled within 180 days following Council authorization to staff to negotiate with the applicant, unless the City and the applicant mutually agree to a later date.
- C. Compliance with State law.** Notice of intention to consider the application shall be given in compliance with State law (Government Code Sections 65090 and 65091) and Chapter D7-IV (Public Hearings).



- D. Compliance with notice for companion development project.** If the development agreement application is being processed together with the development project, notice of the intention shall be given as required for consideration of the companion development project.

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### D6-44 - Commission Action

- A. Commission's recommendation.** After the public hearing is closed, the Commission shall recommend either approval, modification, or disapproval of the proposed development agreement.
- B. Transmittal of recommendation within 30 days.** The Commission shall transmit its recommendation to the Council and applicant within 30 calendar days following the Commission's date of action.

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### D6-45 - Council Action

- A. Scheduling of Council hearing.** Upon receipt of the application, the results of the environmental review, and the recommendations of the Department and the Commission, the Council shall schedule a public hearing on the application.
- B. Notice in compliance with State law.** Notice of intention to consider the application shall be given in compliance with Subsection D6-43 C. (Compliance with State law), above.
- C. Hearing may be held concurrently with companion project.** If the application is being processed together with the development project, the public hearing on the application may be held concurrently with the hearing on the companion development project.
- D. Council's action.** After the public hearing is closed, the Council shall approve, modify, or disapprove the proposed development agreement.
- E. Required findings.** An agreement shall not be approved unless the Council makes the following findings:
1. The agreement is consistent with the General Plan and with any applicable specific plan;
  2. The agreement is consistent with all provisions of this Zoning Ordinance, the Municipal Code, and the State Subdivision Map Act;
  3. The agreement will not be detrimental to the health, safety, and general welfare and will not adversely affect the orderly development of property or the preservation of property values;
  4. The Council has considered the effect of the development agreement on the housing needs of the region in which the City is situated and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources.
- F. Approval by ordinance.** Any approval of a proposed agreement shall be made by ordinance, which shall authorize the Mayor and the City Manager to sign the agreement on behalf of the City, and shall become effective after 30 calendar days following the second reading, unless a referendum is filed within that time in compliance with State law.
- G. Signatures of owner and applicant required.** The agreement shall not be signed by the Mayor and the City Manager until it has been duly signed by the applicant and owner, if the applicant is not the owner.

- H. **Failure to sign within 30 days – withdrawal of application.** If the applicant has not signed and returned the approved agreement to the Mayor and the City Manager for signing within 30 calendar days of Council approval, the application shall be deemed withdrawn by applicant.
- I. **Recordation of agreement.** Within 10 calendar days after the Mayor and the City Manager sign a development agreement and the ordinance becomes effective, the City Clerk shall cause a copy thereof to be recorded.
- J. **Modification or suspension in compliance with State law.** All agreement provisions are subject to modification or suspension in compliance with State law (Government Code Section 65864 et seq.)

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## D6-46 - Annual Review

Each development agreement shall be reviewed by the Planning Director at least once every 12 months, unless the agreement provides for more frequent review, in which case the agreement shall prevail.

- A. **Maximum term of agreement.** A development agreement shall be limited in its term to a maximum of 15 years from the effective date of the adopted ordinance.
- B. **Extension of term of agreement.** The City may specify in the agreement options to extend the agreement.
- C. **Purpose of the review.** The purpose of the review shall be to inquire into the good faith compliance of the applicant with the terms and conditions of the agreement and for any other purpose specified in the agreement.
- D. **Preparation of report.** Before each review, the Department shall prepare a report relative to all development that has occurred under the agreement subsequent to the last past review and any other matters the Department wishes to bring to the City Manager's attention.
- E. **Compliance with all terms and conditions – no further review required.** If the Department review determines that all terms and conditions of the agreement have been met, and the Planning Director concurs in writing, no further review shall be required.
- F. **Recommendation for modification or termination – Commission hearing first required.** If the Department report recommends modification or termination of the agreement, or if the Zoning Administrator proposes to make a recommendation to the Council, a public hearing before the Commission shall first be scheduled and conducted.
- G. **Notice in compliance with State law.** Notice of the Commission's intention to modify or terminate the agreement shall be given in compliance with Subsection D6-43 C. (Compliance with State law), above.
- H. **Applicant's responsibility during hearing.** At the hearing the applicant shall have the burden of demonstrating good faith compliance with the terms and conditions of the agreement.
- I. **Commission's recommendation.** After closing the public hearing, the Commission shall determine whether to recommend that the agreement be terminated, modified, or confirmed as is.
- J. **Scheduling of Council hearing.** Upon receipt of the Zoning Administrator's or Commission's recommendation, the Council shall schedule a public hearing.
- K. **Notice in compliance with State law.** Notice of the Council's intention to modify or terminate the agreement shall be given in compliance with Subsection D6-43 C. (Compliance with State law), above.

- L. Council's action to modify or terminate the agreement.** If, after the public hearing is closed, the Council finds and determines on the basis of substantial evidence that the applicant or its successor-in-interest has not complied in good faith with the terms and conditions of the agreement, the Council may modify or terminate the agreement.
- M. Compliance with Section D6-48 required.** Any modification or termination shall be in compliance with Section D6-48 (Modification and Termination), below.

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### **D6-47 - Application of Existing Rules, Regulations, and Policies**

- A. Applicable policies, regulations, and rules.** Unless otherwise provided by the development agreement, the official policies, regulations, and rules applicable to development of the property subject to a development agreement, shall be those official policies, regulations, and rules in force at the time of execution of the agreement.
- B. Vesting only in compliance with agreement.** No rights shall be deemed to vest in the applicant, or any other person, under any development agreement, except as expressly identified in the development agreement.

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### **D6-48 - Modification and Termination**

- A. Amendment, cancellation, modification, or termination of agreement.** Any development agreement may be amended, or canceled in whole or in part, by mutual consent of the applicant (or its successor-in-interest) and the City, or it may be modified or terminated in compliance with this Section and Section D6-46 (Annual Review), above.
- B. Notice of intention to take action.**
  - 1. Notice of intention to take any action shall be given in compliance with Subsection D6-43 C. (Compliance with State law), above.
  - 2. The parties may identify an alternative notice procedure in the agreement for processing insubstantial amendments.
- C. Compliance with State law required.** Any significant amendment shall be subject to the provisions of State law (Government Code Section 65867.5).

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### **D6-49 - Zoning Administrator Responsibilities**

The Zoning Administrator shall prepare and adopt application forms, check-lists, and other documents as considered necessary and desirable to implement the procedures and requirements identified in this Chapter.

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