

DIVISION 12 – APPLICATIONS AND PERMITS

CHAPTER 17.120 – ZONING CLEARANCE

Sections.

- 17.120.010 – Purpose.
- 17.120.020 – Applicability.
- 17.120.030 – Exempt Projects.
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17.120.010 – Purpose. (RENUMBERED)

Zoning Clearance review is a ministerial act that ensures development is consistent with the General Plan and this Title. The Zoning Clearance is intended to implement architectural standards, site planning, circulation, landscaping and other zoning and planning policies.

17.120.020 – Applicability. (UPDATED)

All buildings and structures hereafter, altered or modified shall have an approved Zoning Clearance prior to obtaining any other planning or building permit or prior to commencing work. Additional improvements subject to Zoning Clearance are as follows:

- A. Automated Teller Machine (ATM);
- B. Building murals;
- C. Buildings and structures, this includes new construction, additions or conversions;
- D. Collection containers subject to Section 17.110.220 (Collection Containers) of this Title;
- E. Decks that are more than two (2) feet above the adjacent grade at any point, gazebos, trellises, windscreens and similar improvements;
- F. Exterior mounted security bars, for existing buildings only (constructed prior to January 1, 2022) and when there is no option to locate them in the interior of the building. The bars shall be retractable during business hours and they shall be decorative in style;
- G. Exterior spas, hot tubs, or swimming pools, provided they shall be setback a minimum ten (10) feet from the street side yard. In addition, they shall be setback a minimum 50 feet from the front yard setback, or located within the rear 50 percent of the depth of the lot, whichever is less;
- H. Occupancy of an existing tenant space in a nonconforming multi-tenant commercial or industrial building, with vacancies of up to 50 percent of the total gross floor area of the multi-tenant building, if the vacancy has been in place for more than one (1) year;

- I. Patio covers, patio enclosures, gazebos, porch or trellis covers, breezeways and similar structures;
- J. Property line fences and walls that are more than two (2) feet above the adjacent grade;
- K. Self-service (i.e. reverse vending machines) or small recycling facilities, subject to Section 17.110.460 (Recycling Facilities) of this Title;
- L. Storage structures and tool sheds in excess of 120 square feet in area; and
- M. Vending machines.

17.120.030 – Exempt Projects. (RENUMBERED)

The following projects shall be exempt from a Zoning Clearance:

- A. Repainting of buildings or structures provided the color is not fluorescent, luminescent or bright and provided the building colors were not specified under a previously approved land use entitlement;
- B. Landscaping improvement or restoration; and
- C. Concrete flatwork that does not cover more than 40 percent of the front or street side yard of any residentially zoned or used property.

17.120.040 – General Procedures. (FULLY UPDATED)

The rules and procedures for applications, records and investigations applicable to Zoning Clearance shall be as follows:

- A. Application. Applications for a Zoning Clearance shall be made on the appropriate form. The Community Development Director shall determine the minimum filing procedures, content and form of materials which must be submitted before the Planning Division can review and take action on the request. The filing procedures and applications shall be published and made available to the public. No petition shall be received unless it complies with all filing requirements.
- B. Records. Applications filed pursuant to this Chapter shall be numbered consecutively in the order of their filing and shall be part of the permanent official records of the Planning Division.
- C. Decisions. The Planning Division shall issue a Decision Letter within 30 days of deeming the application complete.

17.120.050 – Guidelines. (RENUMBERED)

In order to grant Zoning Clearance approval, the Planning Division shall review the applicable guidelines outlined below, to determine if the request is appropriate:

- A. The orientation and location of the buildings or structures are appropriate for the property;
- B. The vehicular and pedestrian circulation on the property allow for the safe movement of people regardless of their mode of travel;

- C. The scale, character and quality of design of the improvements are consistent with the City's Comprehensive Guidelines;
- D. The functionality of floor plans is superior; and
- E. The proposed improvement is harmonious with the adjacent area.

17.120.060 – Time Period. (FULLY UPDATED)

- A. The Zoning Clearance shall be valid for 12 months after the date of approval by Planning Division.
- B. If the applicant has proceeded in good faith toward the implementation of the permit granted as determined by the Community Development Director, then the applicant may request a 12-month extension of the Zoning Clearance. The extension shall be considered by the Community Development Director within 30 days of the request. No additional extensions shall be permitted.

17.120.070 – Appeals. (FULLY UPDATED)

Planning Division decisions regarding this Chapter are appealable to the Planning Commission. The Planning Commission's decision shall be final. Refer to Section 17.10.100 (General Regulations – Ability to Appeal) of this Title for additional information.

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CHAPTER 17.121 – INITIAL PLAN REVIEW (NEW)

Sections.

- 17.121.010 – Purpose.
- 17.121.020 – Applicability.
- 17.121.030 – General Procedures.
- 17.121.040 – Time Period.

17.121.010 Purpose. (NEW)

Projects should use sound design principles to establish buildings of high quality design consistent with the City's General Plan and Comprehensive Design Guidelines. In order to achieve this, the Initial Plan Review process has been established. Through this process, the applicant submits a preliminary site plan, elevations and other items for review by the Planning Division, other City Divisions and outside agencies for comments relevant to the proposed project. These comments may then be incorporated as part of the formal application submittal.

17.121.020 – Applicability. (NEW)

- A. The Planning Division shall review and provide comments on the site configuration, architectural design, signage and landscaping for the following:
 - 1. New nonresidential buildings greater than 5,000 square feet in gross floor area;
 - 2. New drive-through facilities;
 - 3. Automobile car wash facilities, automobile service and repair businesses and automobile service stations;
 - 4. New mixed-use projects with multiple-family residential units;
 - 5. Housing development projects with two (2) units;
 - 6. Housing development projects with three (3) or more units that do not meet the eligibility requirements under Section 17.112.020(C)(8) (Design Review – Applicability) of this Title.
- B. The Community Development Director may, at his or her discretion, have the Initial Plan Review requirement waived, provided all the following apply:
 - 1. The project was approved and expired within the past two (2) years;
 - 2. The same or a substantially similar project went through the IPR process within the past three (3) years; and
 - 3. A General Plan or Zoning Amendment, as defined in Section 17.127.020 (General Plan and Zoning Amendment – Applicability) of this Title, has not occurred where the proposed use and/or the proposed site plan and elevations would no longer be permitted.

- C. The Community Development Director may, at his or her discretion, have the Initial Plan Review and entitlement review run concurrently. This shall only occur when the Planning Division and the applicant have had extensive preliminary discussions on the development project prior to the typical submittal period of an Initial Plan Review. In addition, the Community Development Director must find that the site configuration and architectural design are consistent with the City's Comprehensive Design Guidelines.

17.121.030 – General Procedures. (NEW)

The rules and procedures for applications, records and investigations applicable to an Initial Plan Review shall be as follows:

- A. Application. Applications for an Initial Plan Review shall be made on the appropriate form. The Community Development Director shall determine the minimum filing procedures, content and form of materials which must be submitted before Planning Division and other City Departments for review and comments. The filing procedures and applications shall be published and made available to the public. No petition shall be received unless it complies with all filing requirements.
- B. Records. Applications filed pursuant to this Chapter shall be numbered consecutively in the order of their filing and shall be part of the permanent official records of the Planning Division.
- C. Decisions. The Planning Division shall issue a Comment Letter within 90 days after a complete application is filed.

17.121.040 – Time Period. (NEW)

- A. Comments provided by the Planning Division are advisory and shall not be binding. If a General Plan Amendment or Zoning Amendment have been approved by the City Council after the Initial Plan Review comments have been provided, the development project shall comply with the new regulations. In addition, if new fees have been adopted after the Initial Plan Review comments have been provided, the development project shall be subject to the new fees.
- B. An entitlement application should be submitted within 365 days from the date Planning Division comments were provided. After that period, a new Initial Plan Review should be required unless the IPR can be waived or run concurrent with other entitlements, subject to Sections 17.121.020(B) and 17.121.020(C) (Initial Plan Review – Applicability) of this Title.

CHAPTER 17.122 – DESIGN REVIEW

Sections.

- 17.122.010 – Purpose.
- 17.122.020 – Applicability.
- 17.122.030 – General Procedures.
- 17.122.040 – Necessary Findings.
- 17.122.050 – Time Period.
- 17.122.060 – Appeals.

17.122.010 - Purpose. (RENUMBERED)

New construction needs to be compatible and harmonious with the design and uses of surrounding properties. In order to achieve this, the Planning Commission or Community Development Director may grant Design Review approval for new buildings and additions or remodels to existing buildings, provided the architecture, building materials and landscaping are of high quality and are consistent with the City's Comprehensive Design Guidelines. Conditions of approval may be added to ensure that the spirit and purpose of this Title will be observed and that public health, safety and welfare are protected.

17.122.020 - Applicability. (UPDATED)

- A. The Planning Commission shall review and approve, conditionally approve, or deny the site configuration, architectural design, signage and landscaping for the following:
 - 1. Nonresidential uses:
 - a. New buildings greater than 5,000 square feet in gross floor area;
 - b. New drive-through facilities;
 - c. New automobile car wash facilities, automobile service and repair businesses and automobile service stations;
 - d. Additions that are greater than 25 percent of the current building's gross floor area;
 - e. Changes to more than 50 percent of a building's elevations;
 - f. Additional height covering more than 25 percent of the existing roof area, to provide improved architectural design (e.g. towers or other architectural features) that are visible from a street;
 - g. New billboards or the rehabilitation of existing billboards within the Billboard Overlay Zone (BOZ);
 - h. Housing development projects with four (4) or more units.
 - 2. Mixed-use and residential uses:
 - a. Any new mixed-use with multiple-family residential units in the Downtown Transit-Oriented District Specific Plan and MMU zone; and

- b. Housing development projects with three (3) or more units that do not meet the eligibility requirements under Section 17.112.020(C)(8) (Design Review – Applicability) of this Chapter.
- B. The Community Development Director shall review and approve, conditionally approve, deny or refer to the Planning Commission, the architectural design for new developments or additions in the RHOD that result in more than one story. Refer to Chapter 17.22 (Rurban Homesteads Overlay District) of this Title for additional standards and requirements.
- C. The Community Development Director shall review and approve, conditionally approve, deny or refer to the Planning Commission the site configuration, architectural design, signage and landscaping for the following:
 - 1. New nonresidential buildings 5,000 square feet or less in gross floor area;
 - 2. Nonresidential additions that are between ten (10) percent and 25 percent of the current building's gross floor area and visible from the street;
 - 3. Changes between 25 percent and 50 percent of a nonresidential building's elevations;
 - 4. Conversion of a building from a residential use to any other nonresidential use;
 - 5. Additional height covering between 15 percent and 25 percent of the existing roof area, to provide improved architectural design (e.g. towers or other architectural features) that are visible from a street;
 - 6. Any new or remodeled structures that will be occupied by a Commercial Cannabis Business Licensee, pursuant of Chapter 5.18 (Commercial Cannabis Activities) of the EMMC, regardless of square footage;
 - 7. Housing development projects with two (2) or three (3) units; and
 - 8. Housing development projects with two (2) or more units that are defined as a "Housing Development Project" by the Housing Accountability Act (California Government Code Section 65589.5(h)(2)).
- D. The thresholds identified in this Section shall be cumulative over a three (3) year period. The starting point for the three (3) years shall be when the Certificate of Occupancy has been issued.

17.122.030 – General Procedures. (FULLY UPDATED)

- A. Application. Applications for a Design Review permit shall be made on the appropriate form. The Community Development Director shall determine the minimum filing procedures, content and form of materials which must be submitted before the Planning Commission can review and take action on the request. The filing procedures and applications shall be published and made available to the public. No petition shall be received unless it complies with all filing requirements. Refer to Section 17.10.080 (Introduction – Projects with Multiple Permits or Actions) of this Title if more than one (1) permit or action is necessary for the project.

- B. Records. Applications filed pursuant to this Chapter shall be numbered consecutively in the order of their filing and shall be part of the permanent official records of the Planning Commission.
- C. Public Notices:
1. Planning Commission and Director level reviews as listed in Sections 17.122.020(A) and 17.122.020(B) (Design Review – Applicability), respectively, of this Chapter. Public notices shall be provided and processed in a manner consistent with the provisions of California Government Code Section 65090 and/or 65091 as required, and shall be given by the method specified as follows:
 - a. Publish a notice once in a newspaper of general circulation in the City a minimum ten (10) days prior to each public hearing. The notice shall include the date, time, place of hearing and location of the property and the nature of the request;
 - b. Mail a notice, postage prepaid, to the applicant and to owners of all properties within a specified radius. Such notice shall be mailed a minimum ten (10) days prior to each public hearing or director-level decision. The applicant shall use the last known name and address of such owners as shown upon the last assessment roll of the City:
 - i. For Planning Commission level reviews, the mailing radius shall be 500 feet of the exterior boundaries of the subject property. The Community Development Director may direct the applicant to increase the mailing radius, but in no event shall it be greater than 700 feet.
 - ii. For Director level reviews, the mailing radius shall be 300 feet of the exterior boundaries of the subject property.
 - c. Post the property. A minimum of one (1) notice shall be posted along each street frontage. The posting shall be placed in the ground or on a fence, wall or building façade that is set back no more than ten (10) feet from the street property line.
 2. Director level reviews as listed in Section 17.122.020(C) (Design Review – Applicability) of this Chapter. Public notices shall not be required.
- D. Public Hearings and Decisions:
1. Planning Commission reviews as listed in Section 17.122.020(A) (Design Review – Applicability) of this Chapter. Public hearings as provided for in this Chapter shall be held before the Planning Commission at the time and place for which public notice has been given as before required in this Chapter. The Planning Commission shall make its decision by Resolution.
 2. Director level reviews as listed in Section 17.122.020(B) (Design Review – Applicability) of this Chapter. Public hearings shall not be required. However, the public shall be given an opportunity to provide comments a minimum of ten (10) days prior to the Community Development Director making a decision. The Community Development

Director shall issue a Decision Letter within 30 days of deeming the application complete.

3. Director level reviews as listed in Section 17.122.020(C) (Design Review – Applicability) of this Chapter. Public hearings shall not be required. The Community Development Director shall issue a Decision Letter within 30 days of deeming the application complete.

17.122.040 – Necessary Findings. (FULLY UPDATED)

Before a Design Review approval may be granted, the Planning Commission or Community Development Director shall make all of the following findings, unless otherwise noted:

- A. The Design Review will not be detrimental to the public health, safety or welfare or injurious to the subject property or other improvements in the vicinity;
- B. The architectural design provides a desirable environment for its occupants, neighbors and visitors through its careful placement of building mass and its use of materials, textures and colors and will remain appealing through ongoing maintenance;
- C. The site plan and layout incorporate measures to encourage and protect alternative modes of transportation such as pedestrians, bicyclists and transit riders (only required when the proposed project includes a new site plan or revisions to an existing site plan);
- D. The landscaping, including the location, type, size and maintenance, complies with Chapter 17.72 (Landscaping Requirements) and Chapter 17.74 (Landscaping – Water Efficiency) of this Title (only required when landscaping is proposed or required);
- E. The Design Review is consistent with purpose, goals and policies of the City’s General Plan, Zoning Code, any applicable Specific Plan and its Comprehensive Design Guidelines.
- F. For a project that is defined as a “Housing Development Project” by the Housing Accountability Act (California Government Code Section 65589.5(h)(2)), the reviewing body must approve or conditionally approve Design Review unless it makes one of the following findings supported by a preponderance of the evidence in the record:
 1. The project does not comply with all applicable objective general plan, zoning, subdivision and development standards including objective design review standards.
 2. The project would result in a specific adverse impact to public health and safety that cannot be feasibly mitigated without denying the project or reducing its density.

As used in this Subsection (F), a “specific, adverse impact” is defined by California Government Code Section 65589.5(j) and means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

17.122.050 - Time Period. (RENUMBERED)

- A. The Design Review shall be valid for 12 months after the date of approval by the Community Development Director or Planning Commission. Projects approved with a

subdivision shall be valid for a minimum of two (2) years, or the life of the subdivision map, whichever is greater.

- B. If the applicant has proceeded in good faith toward the implementation of the Design Review permit granted as determined by the Community Development Director, then the applicant may request a 12-month extension of the Design Review. The extension shall be considered by the Community Development Director within 30 days of the request. The applicant may request additional extensions for Planning Commission level reviews, which shall be considered by the Planning Commission. For Director level reviews, no additional extensions shall be permitted.

17.122.060 - Appeals. (FULLY UPDATED)

Planning Commission decisions regarding this Chapter are appealable to the City Council. Community Development Director decisions regarding this Chapter are appealable to the Planning Commission and ultimately, the City Council. Refer to Section 17.10.100 (General Regulations – Ability to Appeal) of this Title for additional information.

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CHAPTER 17.123 – CONDITIONAL AND MINOR USE PERMITS

Sections.

- 17.123.010 – Purpose.
- 17.123.020 – Applicability.
- 17.123.030 – General Procedures.
- 17.123.040 – Necessary Findings.
- 17.123.050 – Time Period.
- 17.123.060 – Abandonment.
- 17.123.070 – Appeals.

17.123.010 – Purpose. (FULLY UPDATED)

When certain uses of this Title may have potential negative impacts or need to be looked at on a case-by-case basis, the Planning Commission or Zoning Review Committee may grant a Conditional Use Permit or Minor Use Permit, respectively. Conditions of approval may be added to ensure that the spirit and purpose of this Title will be observed and that public health, safety and welfare are protected.

17.123.020 – Applicability. (FULLY UPDATED)

Refer to Division 2, Chapters 17.20 through 17.40 (Zones and Overlays) for comprehensive lists of uses that require the approval of a Conditional Use Permit and Minor Use Permit. Conditional Use Permits shall be reviewed by the Planning Commission and Minor Use Permits shall be reviewed by the Zoning Review Committee.

17.88.030 – General Procedures. (UPDATED)

The rules and procedures for applications, records, investigations, notices and public hearings applicable to Conditional Use Permits and Minor Use Permits shall be as follows:

- A. **Application.** Applications for Conditional Use Permits and Minor Use Permits shall be made on the appropriate form. The Community Development Director shall determine the minimum filing procedures, content and form of materials which must be submitted before the Planning Commission or Zoning Review Committee can review and take action on the request. The filing procedures and applications shall be published and made available to the public. No petition shall be received unless it complies with all filing requirements. Refer to Section 17.10.080 (Introduction – Projects with Multiple Permits or Actions) of this Title if more than one (1) permit or action is necessary for the project.
- B. **Records.** Applications filed pursuant to this Chapter shall be numbered consecutively in the order of their filing and shall be part of the permanent official records of the Planning Commission.
- C. **Public Notices.** Public notices shall be provided and processed in a manner consistent with the provisions of California Government Code Section 65090 and/or 65091 as required, and shall be given by the methods specified as follows:

1. Publish a notice once in a newspaper of general circulation in the City a minimum ten (10) days prior to each public hearing. The notice shall include the date, time, place of hearing and location of the property and the nature of the request.
 2. Mail a notice, postage prepaid, to the applicant and to owners of all properties within a specified radius. Such notice shall be mailed a minimum ten (10) days prior to each public hearing. The applicant shall use the last known name and address of such owners as shown upon the last assessment roll of the City.
 - a. For Planning Commission reviews for the following uses, the mailing radius shall be 700 feet of the exterior boundaries of the subject property:
 - i. Boarding or rooming houses with seven (7) or more residents;
 - ii. Community care facility with seven (7) or more residents;
 - iii. Correctional facilities in accordance with Section 17.110.240 (Correctional Facilities) of this Title;
 - iv. Emergency shelter (more than 30 occupants) in accordance with Section 17.110.280 (Emergency Shelters) of this Title; and
 - v. Massage establishments.
 - b. For all other Planning Commission reviews, the mailing radius shall be 500 feet of the exterior boundaries of the subject property. The Community Development Director may direct the applicant to increase the mailing radius, but in no event shall it be greater than 700 feet.
 - c. For Zoning Review Committee reviews, the mailing radius shall be 300 feet of the exterior boundaries of the subject property.
 3. Post the property. A minimum of one (1) notice shall be posted along each street frontage a minimum ten (10) days prior to the public hearing. The posting shall be placed in the ground or on a fence, wall or building façade that is set back no more than ten (10) feet from the street property line.
- D. Public Hearings. Public hearings, as provided for in this Chapter, shall be held before the Planning Commission for Conditional Use Permits and the Zoning Review Committee for Minor Use Permits.
- E. Decisions. The Planning Commission shall make its decision by Resolution. The Zoning Review Committee shall make its decision through a Decision Letter.

17.123.040 – Necessary Findings. (UPDATED)

Before a Conditional Use Permit or Minor Use Permit may be granted, the Planning Commission or Zoning Review Committee shall make all of the following findings:

- A. The Conditional Use Permit or Minor Use Permit will not be detrimental to the public health, safety or welfare or injurious to the subject property or other improvements in the vicinity;

- B. The proposed use applied for at the location indicated is one (1) for which a Conditional Use Permit or Minor Use Permit is authorized;
- C. The subject property for the proposed use is adequate in size and shape to accommodate such use; and that all yards, spaces, walls, fences, parking, loading, landscaping, and other features required for the proposed use are provided;
- D. The subject property abuts streets and highways adequate in width and pavement type to carry the kind of traffic which will be generated by the proposed use; and
- E. The Conditional Use Permit or Minor Use Permit is consistent with the purpose, goals and policies of the City's General Plan, Zoning Code and any applicable Specific Plan.

17.123.050 – Time Period. (RENUMBERED)

- A. The Conditional Use Permit or Minor Use Permit shall be valid for 12 months after the date of approval by the Planning Commission or Zoning Review Committee. Projects approved with a subdivision shall be valid for the life of the entitlement or subdivision map, whichever is greater.
- B. If the applicant has proceeded in good faith toward the implementation of the Conditional Use Permit or Minor Use Permit granted as determined by the Community Development Director, then the applicant may request a 12-month extension of the Conditional Use Permit or Minor Use Permit. The extensions shall be considered by the Community Development Director within 30 days of the request. The applicant may request additional extensions for the Conditional Use Permit, which shall be considered by the Planning Commission. For Minor Use Permits, no additional extensions shall be permitted.

17.123.060 – Abandonment. (RENUMBERED)

If the use authorized by any Conditional Use Permit or Minor Use Permit is, or has been, unused, abandoned or discontinued for a period of 12 months, such Conditional Use Permit or Minor Use Permit shall become null and void.

17.123.070 – Appeals. (FULLY UPDATED)

Planning Commission decisions regarding this Chapter are appealable to the City Council. Zoning Review Committee decisions regarding this Chapter are appealable to the Planning Commission, and ultimately to the City Council. Refer to Section 17.10.100 (General Regulations – Ability to Appeal) of this Title for additional information.

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CHAPTER 17.124 – VARIANCE AND MINOR VARIANCE

Sections.

- 17.124.010 – Purpose.
- 17.124.020 – Applicability.
- 17.124.030 – General Procedures.
- 17.124.040 – Necessary Findings.
- 17.124.050 – Time Period.
- 17.124.060 – Appeals.

17.124.010 – Purpose. (FULLY UPDATED)

When the strict interpretation of any provision of this Title creates practical difficulties or unnecessary hardships, the Planning Commission or Zoning Review Committee may grant a Variance or Minor Variance, respectively. Such approvals allow an applicant to deviate from a specific requirement of this Title. Conditions of approval may be added to ensure that the spirit and purpose of this Title will be observed and that public health, safety and welfare are protected.

17.124.020 – Applicability. (FULLY UPDATED)

- A. The Zoning Review Committee shall have the authority to grant a Minor Variance for relief from the following development standards:
 - 1. Waiver of up to 25 percent of automobile parking space or waiver of loading space requirements;
 - 2. Square footage, location, dimensions, quantity and other requirements for signs, provided it does not permit a prohibited sign as stated in Chapter 17.80 (Sign Standards) of this Title. In addition, pylon signs greater than 25 feet high shall require the approval of a Conditional Use Permit from the Planning Commission;
 - 3. Yard setbacks requirements;
 - 4. Building separation requirements;
 - 5. The location, setbacks, materials, height and other requirements for fences, walls and hedges;
 - 6. The height of nonresidential structures, provided it will not exceed the maximum height by five (5) feet or ten (10) percent, whichever is less; and
 - 7. Satellite dish antenna regulations. The term "satellite dish antenna" shall have the same meaning as set forth under Chapter 17.150 (Definitions – Uses) of this Title.
- B. The Planning Commission shall have the authority to grant a Variance for relief from all other development standards of this Title, unless otherwise noted.

17.124.030 – General Procedures. (FULLY UPDATED)

The rules and procedures for applications, records, investigations, notices and public hearings applicable to Variances and Minor Variances shall be as follows:

- A. Application. Applications for a Variance and Minor Variance shall be made on the appropriate form. The Community Development Director shall determine the minimum filing procedures, content and form of materials which must be submitted before the Planning Commission or Zoning Review Committee can review and take action on the request. The filing procedures and applications shall be published and made available to the public. No petition shall be received unless it complies with all filing requirements. Refer to Section 17.10.080 (Introduction – Projects with Multiple Permits or Actions) of this Title if more than one (1) permit or action is necessary for the project.
- B. Records. Applications filed pursuant to this Chapter shall be numbered consecutively in the order of their filing and shall be part of the permanent official records of the Planning Commission.
- C. Public Notices. Public notices shall be provided and processed in a manner consistent with the provisions of California Government Code Section 65090 and/or 65091 as required, and shall be given by the methods specified as follows:
 - 1. Publish a notice once in a newspaper of general circulation in the City a minimum ten (10) days prior to each public hearing. The notice shall include the date, time, place of hearing and location of the property and the nature of the request.
 - 2. Mail a notice, postage prepaid, to the applicant and to owners of all properties within a specified radius. Such notice shall be mailed a minimum ten (10) days prior to each public hearing. The applicant shall use the last known name and address of such owners as shown upon the last assessment roll of the City.
 - a. For Planning Commission reviews, the mailing radius shall be 500 feet of the exterior boundaries of the subject property. The Community Development Director may direct the applicant to increase the mailing radius, but in no event shall it be greater than 700 feet.
 - b. For Zoning Review Committee reviews, the mailing radius shall be 300 feet of the exterior boundaries of the subject property.
 - 3. Post the property. A minimum of one (1) notice shall be posted along each street frontage a minimum ten (10) days prior to the public hearing. The posting shall be placed in the ground or on a fence, wall or building façade that is set back no more than ten (10) feet from the street property line.
- D. Public Hearings. Public hearings as provided for in this Chapter shall be held before the Planning Commission or Zoning Review Committee at the time and place for which public notice has been given as before required in this Chapter.
- E. Decisions. The Planning Commission shall make its decision by Resolution. The Zoning Review Committee shall make its decision through a Decision Letter.

17.124.040 - Necessary Findings. (FULLY UPDATED)

Before a Variance or Minor Variance may be granted, the Planning Commission or Zoning Review Committee shall make all of the following findings:

- A. The Variance or Minor Variance will not be detrimental to the public health, safety or welfare or injurious to the subject property or other improvements in the vicinity;
- B. The Variance or Minor Variance will not authorize a use or activity that is not otherwise expressly authorized in the subject property's zoning classification;
- C. There are exceptional or extraordinary circumstances applicable to the property involved (e.g. location, shape, size, surroundings and topography), so that the strict application of this Title denies the property owner privileges enjoyed by others in the vicinity and under identical zoning classifications;
- D. The Variance or Minor Variance will not provide special privileges for the property involved, which are inconsistent with other properties in the vicinity and within the same zoning classification; and
- E. The Variance or Minor Variance will not adversely affect the purpose, goals and policies of the General Plan, the Zoning Code and any applicable Specific Plan.

17.124.050 - Time Period. (RENUMBERED)

- A. The Variance or Minor Variance shall be valid for 12 months after the date of approval by the Planning Commission or Zoning Review Committee. Projects approved with a subdivision shall be valid for the life of the entitlement or subdivision map, whichever is greater.
- B. If the applicant has proceeded in good faith toward the implementation of the Variance or Minor Variance granted as determined by the Community Development Director, then the applicant may request a 12-month extension of the Variance or Minor Variance. The extensions shall be considered by the Community Development Director within 30 days of the request. The applicant may request additional extensions for the Variance, which shall be considered by the Planning Commission. For a Minor Variance approved by the Zoning Review Committee, no additional extensions shall be permitted.

17.124.060 - Appeals. (FULLY UPDATED)

Planning Commission decisions regarding this Chapter are appealable to the City Council. Zoning Review Committee decisions regarding this Chapter are appealable to the Planning Commission and ultimately, the City Council. Refer to Section 17.10.100 (General Regulations – Ability to Appeal) of this Title for additional information.

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17.125 – MODIFICATIONS FOR INDIVIDUALS WITH DISABILITIES

Sections.

- 17.125.010 – Purpose.
- 17.125.020 – Applicability.
- 17.125.030 – General Procedures.
- 17.125.040 – Necessary Findings.
- 17.125.050 – Time Period.
- 17.125.060 – Appeals.

17.125.010 – Purpose. (NEW)

A Modification for an individual with a disability provides a mechanism for the City, in compliance with State and Federal law, to grant relief from the strict requirements of this Title, as necessary to provide individuals with disabilities reasonable accommodations to avoid discrimination against, eliminate barriers and ensure equal access to housing for individuals with disabilities. Conditions of approval may be added to ensure that the spirit and purpose of this Title will be observed and that public health, safety and welfare are protected.

17.125.020 – Applicability. (NEW)

- A. A request for a Modification for an individual with a disability may be made by any disabled person, his or her representative, a developer providing housing for disabled persons, or a provider of housing for disabled persons. The applicant may request any applicable development standard be modified or waived, with exception to density, FAR and lot coverage, to eliminate barriers to housing opportunities and prevent discrimination against the individual on the basis of the individual's disability.
- B. The Community Development Director shall have the authority to grant a reasonable accommodation Modification for an individual with a disability for relief from all development standards of this Title.

17.125.030 – General Procedures. (FULLY UPDATED)

- A. Application. Applications for a Modification for an individual with a disability shall be made on the appropriate form. The Community Development Director shall determine the minimum filing procedures, content and form of materials which must be submitted before the Director can review and take action on the request. The filing procedures and applications shall be published and made available to the public. No petition shall be received unless it complies with all filing requirements. Refer to Section 17.10.080 (Introduction – Projects with Multiple Permits or Actions) of this Title if more than one (1) permit or action is necessary for the project.
- B. Records. Applications filed pursuant to this Chapter shall be numbered consecutively in the order of their filing and shall be part of the permanent official records of the Planning Division.

- C. Confidential information. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. Assistance. If an individual needs assistance in making the request for a Modification, the City will provide assistance to ensure that the process is accessible.
- E. Decisions. The Community Development Director shall issue a Decision Letter within 30 days of deeming the application complete and may either grant, grant with modifications or deny a request for reasonable accommodations in accordance with the required findings.

17.125.040 – Necessary Findings. (FULLY UPDATED)

Before a Modification for an individual with a disability may be granted, the Community Development Director shall make all of the following findings:

- A. The person that will live in the housing which is the subject of the Modification request is a qualified individual with a disability protected under the fair housing laws;
- B. The Modification is necessary to make housing available to disabled persons protected under the fair housing laws; and
- C. The Modification will not adversely affect the purpose, goals and policies of the General Plan, the Zoning Code and any applicable Specific Plan.

17.125.050 – Time Period. (NEW)

- A. A Modification for an individual with a disability shall be valid for 12 months after the date of approval by the Community Development Director.
- B. If the applicant has proceeded in good faith toward the implementation of the Modification granted as determined by the Community Development Director, then the applicant may request a 12-month extension of the Modification. The extensions shall be considered by the Community Development Director within 30 days of the request. No additional extensions shall be permitted.
- C. The Community Development Director may, at his or her discretion, require the improvements be removed upon the future sale of the property and/or the disabled person no longer resides on the property. This shall be limited to site improvements such as excess paving or a second driveway.

17.125.060 – Appeals. (FULLY UPDATED)

Community Development Director decisions regarding this Chapter are appealable to the Planning Commission. The Planning Commission’s decision shall be final. Refer to Section 17.10.100 (General Regulations – Ability to Appeal) of this Title for additional information.

CHAPTER 17.126 – PLANNED RESIDENTIAL DEVELOPMENTS

Sections.

- 17.126.010 – Purpose.
- 17.126.020 – Applicability.
- 17.126.030 – General Procedures.
- 17.126.040 – Permitted Exceptions.
- 17.126.050 – Necessary Findings.
- 17.126.060 – Time Period.
- 17.126.070 – Appeals.

17.126.010 – Purpose. (FULLY UPDATED)

While the strict application of zoning regulations may result in larger multiple-family housing projects, the Planned Residential Development (PRD) process is intended to encourage more creative designs and a better environment through more flexible standards. The PRD process is further intended to facilitate development that provides a harmonious variety of housing choices, a higher level of residential amenities, and preservation of natural resources and open space. Through the PRD process, projects should include a variety of dwelling unit types, site arrangement plans and greater amounts of open space for recreational and visual uses. In return, the applicant can receive flexibility in numerous development standards such as building placement, building separation, building setbacks and open space dimensions.

17.126.020 – Applicability. (FULLY UPDATED)

- A. Zoning. Planned Residential Developments shall only be permitted on property zoned R-1B, R-2, R-3, R-4, C-O and C-2 zones or within one-quarter ($\frac{1}{4}$) mile of a Major Transit Intersection and zoned C-3.
- B. Land area. A Planned Residential Development shall be located on a property with a minimum area of 20,000 square feet for property in the R-1B, R-2, R-3 and R-4. A minimum area of 30,000 square feet shall be required for property in the C-O and C-2 zones or within one-quarter ($\frac{1}{4}$) mile of a Major Transit Intersection and zoned C-3. A Variance shall not be permissible to deviate from this requirement.
- C. Open space:
 - 1. A minimum 40 percent of the units shall have their entrances face directly onto a street or one (1) or more main common open space area(s).
 - 2. Main common open space areas:
 - a. Shall have a minimum dimension of 20 linear feet horizontally in each direction (compared to 15 feet for a regular multiple-family project) with an unobstructed vertical height of seven (7) feet.
 - b. For projects in the R-1B, R-2, R-3 and R-4 zone, main common open space areas shall have a minimum size of 500 square feet. For projects in the C-O and C-2

zones or within one-quarter (¼) mile of a Major Transit Intersection and zoned C-3, main common open space area shall be a minimum size of 800 square feet.

3. A Variance shall not be permissible to deviate from the requirements in this Subsection.
- D. Dwelling unit type. All units shall be developed and sold for individual ownership.

17.126.030 – General Procedures. (FULLY UPDATED)

The rules and procedures for applications, records, investigations, notices and public hearings applicable to Planned Residential Developments shall be as follows:

- A. Application. Applications for Planned Residential Developments shall be made on the appropriate form. The Community Development Director shall determine the minimum filing procedures, content and form of materials which must be submitted before the Planning Commission can review and take action on the request. The filing procedures and applications shall be published and made available to the public. No petition shall be received unless it complies with all filing requirements. Refer to Section 17.10.080 (Introduction – Projects with Multiple Permits or Actions) of this Title if more than one (1) permit or action is necessary for the project.
- B. Records. Applications filed pursuant to this Chapter shall be numbered consecutively in the order of their filing and shall be part of the permanent official records of the Planning Commission.
- C. Public Notices. Public notices shall be provided and processed in a manner consistent with the provisions of California Government Code Section 65090 and/or 65091 as required, and shall be given by the methods specified as follows:
 1. Publish a notice once in a newspaper of general circulation in the City a minimum ten (10) days prior to each public hearing. The notice shall include the date, time, place of hearing and location of the property and the nature of the request; and
 2. Mail a notice, postage prepaid, to the applicant and to owners of all properties within a specified radius:
 - a. The notice shall be mailed a minimum ten (10) days prior to each public hearing. The applicant shall use the last known name and address of such owners as shown upon the last assessment roll of the City.
 - b. The mailing radius shall be 500 feet of the exterior boundaries of the subject property. The Community Development Director may direct the applicant to increase the mailing radius, but in no event shall it be greater than 700 feet.
 3. Post the property. A minimum of one (1) notice shall be posted along each street frontage. The posting shall be placed in the ground or on a fence, wall or building façade that is set back no more than ten (10) feet from the street property line.

- D. Public Hearings. Public hearings as provided for in this Chapter shall be held before the Planning Commission at the time and place for which public notice has been given as before required in this Chapter.
- E. Decisions. The Planning Commission shall make its decision by Resolution.

17.126.040 – Permitted Exceptions. (FULLY UPDATED)

- A. Exceptions of zoning regulations:
 - 1. Reduce yard setbacks, with exception to the front yard and any street side yard;
 - 2. Reduce second and third floor building setbacks with exception to the front yard and any street side yard;
 - 3. Reduce building separation requirements;
 - 4. Increase the lot coverage by up to five (5) percent;
 - 5. Reduce private open space dimensions;
 - 6. Adjust the open space allocation between private open space and common open space;
 - 7. Increase the density to what is permitted for the underlying zone in the General Plan. If the property is split zoned, the density may be spread across the entire property; and
 - 8. Increase the FAR to the maximum of what is permitted for the underlying zone. If the property is split zoned, the FAR may be spread across the entire property.
- C. Additional exceptions to open space. Failure to meet the minimum open space requirements of the underlying zone shall not be permitted through the Planned Residential Development process. Rather, approval of a Variance shall be required.
- D. Parking. Failure to meet the minimum parking requirements shall not be permitted through the Planned Residential Development process. Rather, approval of a Minor Variance or Variance shall be required.
- E. Additional standards. Any development standards not identified in this Chapter shall follow the standards of the underlying zone.
- F. Additional regulations. After reviewing an application for a Planned Residential Development, the Planning Commission may, in its approval thereof, impose conditions or requirements in addition to or in excess of those specified in this Chapter if it finds that such additional requirements or conditions are necessary for the protection of the public health, safety or welfare.

17.126.050 – Necessary Findings. (FULLY UPDATED)

Before a Planned Residential Development may be granted, the Planning Commission shall make all of the following findings:

- A. The Planned Residential Development will not be detrimental to the public health, safety or welfare or injurious to the subject property or other improvements in the vicinity;

- B. The Planned Residential Development is centered around common open space, recreational areas and/or the public streets;
- C. The Planned Residential Development will provide for a comprehensive and harmonious arrangement of buildings, housing types, open spaces, off-street parking, and development amenities. The internal street and walkway system is designed for the efficient and safe movement of vehicles, bicyclists and pedestrians;
- D. The Planned Residential Development is demonstratively superior to the development that could have occurred under the standards applicable to the underlying zone, and will achieve superior community design, environmental preservation and/or substantial public benefit; and
- E. The Planned Residential Development is consistent with the purpose, goals and policies of the City's General Plan, Zoning Code and any applicable Specific Plan.

17.126.060 – Time Period. (FULLY UPDATED)

- A. The Planned Residential Development shall be valid for 12 months after the date of approval by the Planning Commission Resolution. Projects approved with a subdivision shall be valid for a minimum of two (2) years, or the life of the subdivision map, whichever is greater.
- B. If the applicant has proceeded in good faith toward the implementation of the Planned Residential Development granted as determined by the Community Development Director, then the applicant may request a 12-month extension of the Planned Residential Development. The extensions shall be considered by the Community Development Director within 30 days of the request. The applicant may request additional extensions, which shall be considered by the Planning Commission.

17.126.070 – Appeals. (FULLY UPDATED)

Planning Commission decisions regarding this Chapter are appealable to the City Council. Refer to Section 17.10.100 (General Regulations – Ability to Appeal) of this Title for additional information.

17.127 – GENERAL PLAN AND ZONING AMENDMENTS

Sections.

- 17.127.010 – Purpose.
- 17.127.020 – Applicability.
- 17.127.030 – General Procedures.
- 17.127.040 – Necessary Findings.
- 17.127.050 – Time Period.
- 17.127.060 – Appeals.

17.127.010 – Purpose. (NEW)

This Chapter establishes provisions for amending the General Plan or this Title whenever deemed necessary. This includes amending, supplementing or changing standards, districts or regulations of the General Plan or this Title. In addition, this Chapter outlines the process for the Planning Commission to make General Plan Conformity findings for street and alleyway vacations.

17.127.020 – Applicability. (NEW)

- A. General Plan Amendments:
 - 1. Revise any text;
 - 2. Revise any map, table, graphic illustration, other than the Land Use Policy Plan (or the Land Use Map) located in the Land Use Element; or
 - 3. Revise the General Plan Land Use Policy Plan (or the Land Use Map) located in the Land Use Element. This has the effect of changing the land use from one category to another.
- B. Zoning Amendments:
 - 1. Revise any text, table, graphic or illustration of this Title (or a Zoning Code Amendment); or
 - 2. Revise the Zoning Map (or a Zone Change). This has the effect of rezoning property from one zoning district to another.
- C. General Plan Conformity Applications. Vacate a public street or alleyway.

17.127.030 – General Procedures. (NEW)

- A. Application.
 - 1. Applications for a General Plan Amendment, General Plan Conformity or Zoning Amendment shall be made on the appropriate form. The Community Development Director shall determine the minimum filing procedures, content and form of materials which must be submitted before the Planning Commission and City Council can review and take action on the request. The filing procedures and applications shall be

published and made available to the public. No petition shall be received unless it complies with all filing requirements. Refer to Section 17.10.080 (Introduction – Projects with Multiple Permits or Actions) of this Title if more than one (1) permit or action is necessary for the project.

2. The following may submit or initiate an application for a General Plan Amendment, General Plan Conformity or Zoning Amendment:
 - a. A majority of the City Council;
 - b. A majority of the City Council may adopt an urgency measure or an interim Zoning Code Amendment in compliance with State law (California Government Code Section 65858);
 - c. The Community Development Director; or
 - d. An owner or authorized applicant of property for which the amendment is sought. If the property is under more than one ownership, all of the owners or their authorized agents shall join in filing the application. The Community Development Director shall also have the authority to initiate expanding the boundaries.
- B. Records. Applications filed pursuant to this Chapter shall be numbered consecutively in the order of their filing and shall be part of the permanent official records of the Planning Commission and City Clerk.
- C. Public Notices. Public notices shall be provided and processed in a manner consistent with the provisions of California Government Code Section 65090 and/or 65091 as required, and shall be given by the methods specified as follows:
 1. Public notice for a General Plan or Zoning Amendment that includes one (1) or more properties:
 - a. Publish a notice once in a newspaper of general circulation in the City a minimum ten (10) days prior to each public hearing. The notice shall include the date, time, place of hearing and location of the property and the nature of the request.
 - b. Mail a notice, postage prepaid, to the applicant and to owners of all properties within a specified radius. Such notice shall be mailed a minimum ten (10) days prior to each public hearing. The applicant shall use the last known name and address of such owners as shown upon the last assessment roll of the City.
 - i. The mailing radius shall be 500 feet of the exterior boundaries of the subject property. The Community Development Director may direct the applicant to increase the mailing radius, but in no event shall it be greater than 700 feet.
 - ii. If the number of effected properties exceed 1,000, the Community Development Director or City Clerk may, in lieu of a mailed or written notice, provide notice by placing a display advertisement of at least one-eight (1/8) page in at least one newspaper of general circulation.

- c. Post the property. A minimum of one (1) notice shall be posted along each street frontage a minimum ten (10) days prior to the public hearing. The posting shall be placed in the ground or on a fence, wall or building façade that is set back no more than ten (10) feet from the street property line. If the number of effected properties exceeds five (5), the Community Development Director or City clerk may remove this requirement.
 - 2. Public notice for a General Plan or Zoning Amendment that does not include a specific property as the subject of the application. Publish a notice once in a newspaper of general circulation in the City a minimum ten (10) days prior to each public hearing. The notice shall include the date, time, place of hearing and the nature of the request.
 - 3. Public notice shall not be required for a General Plan Conformity.
- E. Public Hearings for a General Plan or Zoning Amendment:
- 1. At the conclusion of a Planning Commission public hearing on a proposed General Plan or Zoning Amendment, the Planning Commission may recommend the City Council approve the Amendment, approve the Amendment with revisions or deny the Amendment. If evidence received shows facts which the provisions of this Chapter would entitle a person to a Variance or Conditional Use Permit, the Planning Commission may concurrently recommend the City Council entitle the applicant to a Variance or Conditional Use Permit.
 - 2. At the conclusion of a City Council public hearing on a proposed General Plan or Zoning Amendment, the City Council may approve or deny the Amendment, or it may refer the Amendment back to the Planning Commission for further consideration. If the Planning Commission concurrently recommends the City Council approve a Variance or Conditional Use Permit, the City Council may approve, deny or refer the recommendation back to the Planning Commission for further consideration.
 - 3. The Planning Commission shall not review an urgency measure or an interim Zoning Code Amendment in compliance with State law (California Government Code Section 65858).
- E. Public Meetings for a Conformity Application. The Planning Commission shall make or deny the Conformity findings. The findings shall then be forwarded to the City Council to complete the street or alleyway vacation process.
- F. Decisions. The Planning Commission shall make its recommendation or decision on a General Plan or Zoning Amendment or Conformity by Resolution. The City Council shall make its decision on a General Plan Amendment by Resolution and its decision on a Zoning Amendment by Ordinance.

17.127.040 – Necessary Findings. (NEW)

- A. Before a General Plan or Zoning Amendment may be granted, the Planning Commission (on recommendation) and City Council shall make all of the following findings:

1. The Amendment will not be detrimental to the public health, safety or welfare or injurious to the City;
 2. The subject property is physically suitable (including absence of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for the requested/anticipated land uses/developments (only required when the Amendment is for a map or illustration); and
 3. The Amendment is consistent with the purpose, goals and policies of the City's General Plan, Zoning Code and any applicable Specific Plan.
- B. Before a General Plan Conformity may be granted, the Planning Commission shall make all of the following findings:
1. The proposed Vacation is anticipated to serve the public interest and be a public benefit; and
 2. The proposed Vacation is consistent with the purpose, goals and policies of the City's General Plan.

17.127.050 – Time Period. (NEW)

- A. A General Plan Amendment shall become effective immediately upon the adoption of a Resolution by the City Council.
- B. A General Plan Conformity shall become effective immediately upon the adoption of a Resolution by the Planning Commission.
- C. A Zoning Amendment shall become effective 30 days following the second reading of an Ordinance. However, an urgency measure or an interim Zoning Code Amendment in compliance with State law (California Government Code Section 65858) shall take effect immediately.

17.127.060 – Appeals. (NEW)

Planning Commission denials regarding this Chapter are appealable to the City Council. Refer to Section 17.10.100 (General Regulations – Ability to Appeal) of this Title for additional information.

CHAPTER 17.128 – DEVELOPMENT AGREEMENTS

Sections.

- 17.128.010 – Purpose.
- 17.128.020 – Applicability.
- 17.128.030 – General Procedures – Submittal.
- 17.128.040 – General Procedures – Application Contents.
- 17.128.050 – General Procedures – Agreement Contents.
- 17.128.060 – General Procedures – Public Notices.
- 17.128.070 – Planning Commission Public Hearing.
- 17.128.080 – City Council Public Hearing.
- 17.128.090 – Necessary Findings.
- 17.128.100 – Development Agreement Reviews.
- 17.128.110 – Good Faith Compliance.
- 17.128.120 – Initiation of Amendment or Cancellation.
- 17.128.130 – Irregularity in Proceeding.
- 17.128.140 – Severability Clause.
- 17.128.150 – Subsequently Adopted State and Federal Laws.
- 17.128.160 – Effect of Rules, Regulations and Policies on a Development Agreement.
- 17.128.170 – Enforcement of Development Agreements.
- 17.128.180 – Condemnation.
- 17.128.190 – Judicial Review – Time Limitation.

17.128.010 – Purpose. (NEW)

Development Agreements are contracts approved by the City Council, where the City and a developer expressly define a development project's rules, regulations, commitments, and policies for a specific period of time. The purpose is to strengthen the public planning process by encouraging private participation in the achievement of comprehensive planning goals and reducing the economic costs of development. A Development Agreement reduces the risks associated with development, thereby enhancing the City's ability to obtain public benefits beyond those achievable through existing ordinances and regulations.

17.128.020 – Applicability. (NEW)

There are no specific minimum requirements for a proposed project to include a Development Agreement. An applicant is able to request an application for a Development Agreement on any proposed development. While a majority of the City Council may initiate a Development Agreement, it cannot be sanctioned on a developer.

17.128.030 – General Procedures – Submittal. (FULLY UPDATED)

- A. Application. An application for a Development Agreement may be made to the Community Development Director in accordance with the procedures set forth herein.

1. Applications may be made by any qualified applicant. In addition, applications may be initiated by a majority of the City Council by resolution. If an application is made for a Development Agreement by the City Council, the City shall obtain and attach a notarized statement of consent to proceed with the proposed agreement executed by the owner of the subject property. Refer to Section 17.10.080 (Introduction – Projects with Multiple Permits or Actions) of this Title if more than one (1) permit or action is necessary for the project.
 2. The Community Development Director shall determine the minimum filing procedures, content and form of materials which must be submitted before the Planning Commission and City Council can review and take action on the request. The filing procedures and applications shall be published and made available to the public.
 3. For applications made by a qualified applicant, no petition shall be received unless it complies with all filing requirements.
- B. Records. Applications filed pursuant to this Chapter shall be numbered consecutively in the order of their filing and shall be part of the permanent official records of the Planning Commission and City Council.
- C. Investigation. For applications made by a qualified applicant, the applicant shall bear the burden of providing sufficient documents and exhibits that allow the Planning Commission and City Council to render a decision upon the application under consideration. The Planning Commission and City Council may request additional information before rendering a decision.

Further, it is the responsibility of the applicant to certify the information contained therein. The filing of an application also grants the Planning Division the right to enter the property to make any inspections necessary to render a decision on the application. All inspections shall be conducted with the applicant's knowledge and advance notice.

- D. Qualifications of the Applicant. A qualified applicant includes an authorized agent of a qualified applicant. The Community Development Director may require an applicant to submit proof of his/her interest in the real property and of the authority of the agent to act for the qualified applicant. Such proof may include a title report, policy or guarantees issued by a title insurance company licensed to do business in the State of California evidencing the requisite interest of the applicant in the real property.

If the application is made by the holder of an equitable interest, the application shall be accompanied by a title guarantee issued by a title insurance company report and by a notarized statement of consent to proceed with the proposed Development Agreement executed by the holder of the legal interest. Before processing the application, the Community Development Director shall obtain the opinion of the City Attorney as to the sufficiency of the qualified applicant's interest in the real property to enter into the Development Agreement as a qualified applicant hereunder.

17.128.040 – General Procedures – Application Contents. (RENUMBERED)

The submitted application shall include, at minimum, the following items in order to proceed forward through the public hearing process:

- A. The parties to the Development Agreement;
- B. The nature of the qualified applicant's legal or equitable interest in the real property constituting such person as a qualified applicant hereunder;
- C. A description of the development project sufficient to permit the Development Agreement to be reviewed under the applicable criteria of this chapter. Such description may include, but is not limited to, references to site and building plans, elevations sufficient to determine heights and areas, relationships to adjacent properties and operational data. Where appropriate, such description may distinguish between elements of the development project which are proposed to be fixed under the Development Agreement, those which may vary and the standards and criteria pursuant to which the same may be reviewed;
- D. An identification of the approvals and permits for the development project enacted to the date of or contemplated by the Development Agreement;
- E. The proposed duration of the Development Agreement;
- F. The proposed site improvements, building improvements and design standards;
- G. The proposed phasing of the construction, and any public improvements to be required;
- H. A program and criteria for regular periodic review under this Chapter;
- I. Proposed provisions providing security for the performance of the qualified applicant under the Development Agreement; and
- J. Any other relevant provisions which may be deemed necessary by the Community Development Director under this Chapter.

17.128.050 – General Procedures – Agreement Contents. (RENUMBERED)

- A. A Development Agreement shall specify its duration, the permitted uses of the property thereunder, the density and/or intensity of use, the maximum height and size of proposed buildings and improvements, and provisions for reservation or dedication of land for public purposes.
- B. A Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions; provided, that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the property for the uses and to the density or intensity, height, and size of development set forth in the Development Agreement and phasing if and to the extent the Development Agreement so provides. Without limitation as to types of conditions, terms, and restrictions, the Development Agreement may provide for the phasing of construction of development projects and any improvements with respect thereto, and the Development Agreement may also provide that the construction shall be commenced and completed

within specified times and that the development project, public improvements, or any phase thereof be commenced and completed within specified times.

- C. A Development Agreement shall include all conditions imposed by the City, and may also include conditions imposed by other agencies, and all obligations agreed to by the City and other parties to the Development Agreement with respect to the development project thereunder including those conditions authorized by law and/or required pursuant to the California Environmental Quality Act, or the National Environmental Protection Act, and the City's regulations with respect thereto in order to eliminate or mitigate environmental and traffic impacts caused by or aggravated as a result of the development project proposed under the Development Agreement.
- D. A Development Agreement shall contain an indemnity and insurance clause in form and substance acceptable to the City Attorney, requiring the qualified applicant to protect, defend, indemnify and hold harmless the City against claims arising out of the development process; provided, that such a provision does not violate applicable law or constitute a joint venture, partnership or other participation in the business affairs of qualified applicant by the City.
- E. A Development Agreement shall include appropriate provisions acceptable to the City Attorney providing security for the performance under the Development Agreement.

17.128.060 – General Procedures – Public Notices. (FULLY UPDATED)

Public notices shall be provided and processed in a manner consistent with the provisions of California Government Code Section 65090 and/or 65091 as required, and shall be given by the methods specified as follows:

- A. Publish a notice once in a newspaper of general circulation in the City a minimum ten (10) days prior to each public hearing. The notice shall include the date, time, place of hearing and location of the property and the nature of the request.
- B. Mail a notice, postage prepaid, to the applicant and to owners of all properties within a specified radius:
 - 1. The notice shall be mailed a minimum ten (10) days prior to each public hearing. The applicant shall use the last known name and address of such owners as shown upon the last assessment roll of the City.
 - 2. The mailing radius shall be 500 feet of the exterior boundaries of the subject property. The Community Development Director may direct the applicant to increase the mailing radius, but in no event shall it be greater than 700 feet.
- C. Post the property. A minimum of one (1) notice shall be posted along each street frontage. The posting shall be placed in the ground or on a fence, wall or building façade that is set back no more than ten (10) feet from the street property line.

17.128.070 – Planning Commission Public Hearing. (RENUMBERED)

- A. The Planning Commission may recommend adoption of a Development Agreement as a method of implementing or providing standards and criteria for any approval of the

Planning Commission or permits or approvals issued or made by any other agency, including but not limited to:

1. Rezoning and/or conditions imposed upon approval of rezoning;
 2. Issuance of a Conditional Use Permit;
 3. Conditions imposed upon approval of a permit after discretionary review;
 4. Conditions imposed in connection with the adoption of any General Plan Amendment or Specific Plan;
 5. Site-specific conditions imposed in any other district;
 6. Approval of and/or conditions imposed upon approval of a subdivision map;
 7. The separate review and approval by the City Attorney of conditions, covenants and restrictions (CC&Rs) affecting the subject property where the development project affects, or is proposed to affect, more than one legal parcel, which CC&Rs shall include enforcement provisions acceptable to the City including without limitation the grant of power to the City by the applicant to enforce the property maintenance standards set forth in such CC&Rs as if the City was a property owner party to such CC&Rs. Such CC&Rs shall be recorded against the lands included in the development project prior to issuance by the City of any Certificate of Occupancy;
 8. The formation of any assessment district, benefit district, maintenance district or special benefit district or any other procedure, for the installation of required or necessary on-site or off-site improvements or infrastructure; and/or
 9. Mitigation measures imposed upon a development project pursuant to the California Environmental Quality Act (CEQA).
- B. The Planning Commission shall make a recommendation in writing to the City Council as follows:
1. That the Development Agreement be adopted as proposed;
 2. That the Development Agreement be adopted with revisions, as proposed by the Planning Commission; or
 3. That the Development Agreement be denied.
- C. Any action taken by the Planning Commission shall occur at a noticed public hearing as outlined in Section 17.128.060 (Development Agreements – Public Notice) of this Chapter.
- D. The Planning Commission shall make all recommendations by Resolution.

17.128.080 – City Council Public Hearing. (FULLY UPDATED)

- A. A Development Agreement is a legislative act and it shall be enacted or amended by Ordinance. The Ordinance shall be subject to a referendum and shall incorporate by reference the text of the Development Agreement.

- B. The Development Agreement shall not be binding or enforceable prior to the effective date of the Ordinance approving the Development Agreement and execution of the Development Agreement by all parties thereto.
- C. Because a Development Agreement is also a contract which requires the consent of each party in order to become binding, the City Council reserves the right to disapprove entering into any Development Agreement, regardless of the provisions hereof, and the Ordinance shall be advisory only and shall not require the acceptance of any Development Agreement.
- D. The City Council may do any of the following:
 1. Refer the issue back to the Planning Commission for further hearing and recommendation whereupon Planning Commission shall reconsider the referral from the City Council within 30 days thereafter;
 2. Act on all or any such issue without reference back to the Planning Commission;
 3. Approve the Development Agreement as recommended by the Planning Commission;
 4. Approve the Development Agreement with revisions; or
 5. Reject the Development Agreement, in whole or in part.
- E. Any action taken by the Planning Commission shall occur at a noticed public hearing as outlined in Section 17.128.060 (Development Agreements – Public Notices) of this Chapter.
- F. The City Clerk shall record a fully executed copy of the Development Agreement and ordinance within ten (10) days of the effective date of the ordinance. The Development Agreement shall be binding upon, and the benefits of the Development Agreement shall inure to the parties and all successors in interest to the parties to the Development Agreement.

17.128.090 – Necessary Findings. (NEW)

Before a Development Agreement may be granted, the Planning Commission (on recommendation) and City Council shall make all of the following findings:

- A. The Development Agreement will not be detrimental to the public health, safety or welfare or injurious to the City;
- B. The Development Agreement will be just, reasonable, fair and equitable under the circumstances facing the City;
- C. The Development Agreement will have a positive effect on the orderly development of property or the preservation of neighboring property values;
- D. The Development Agreement will provide sufficient benefits to the community to justify entering into the agreement; and
- E. The Development Agreement is consistent with the purpose, goals and policies of the City’s General Plan, and any applicable Specific Plan.

17.128.100 – Development Agreement Reviews. (FULLY UPDATED)

A. Community Development Director Periodic Review:

1. The City shall review the performance of the developer under a Development Agreement periodically on a regular basis as determined in the Development Agreement or at least once every 12 months for the term of the Development Agreement.
2. The anniversary of the effective date of the Development Agreement shall be 90 days prior to the "established date or dates for regular periodic review," or such other substitute date or dates, mutually agreed to by the developer and City in writing. The developer shall submit evidence to the Community Development Director showing good faith compliance with the Development Agreement.
3. If the Community Development Director determines that such evidence is insufficient for the regular periodic review, or if the developer fails to submit any evidence, the Community Development Director shall deliver or mail written notice to the developer prior to 75 days of the established date or dates of the regular periodic review. The notice shall state the developer's failure to submit any evidence or additional information reasonably required to review whether the developer has shown good faith compliance with the Development Agreement.
4. The developer shall have 30 days after the mailing or delivery of such written notice by the Community Development Director in which to respond. If the developer fails to provide such information to the Community Development Director within the 30 day period, the Community Development Director shall find that the developer has not complied in good faith with the terms of the Development Agreement.

B. Community Development Director Special Review:

1. Reviews which are not periodic reviews are defined as special reviews and may occur either by agreement between the developer and City or by initiation of the City by the affirmative vote of the City Council, but in any event shall not be held more frequently than three (3) times a year.
2. The Community Development Director shall deliver or mail to the developer a 30 day notice of intent for the City to undertake a special review to determine if the developer has complied in good faith with the terms of the Development Agreement. The developer shall provide the City with any evidence supporting good faith compliance with the terms of the Development Agreement.
3. If the Community Development Director determines that such evidence is insufficient for the special review, or if the developer fails to submit any evidence within the 30 day period, the Community Development Director shall deliver or mail written notice to the developer within 45 days of the delivery or mailing date of the notice of intent. The notice shall outline the developer's failure to submit any evidence or additional information reasonably needed in order to review the developer's good faith compliance with the terms of the Development Agreement.

4. The developer shall have 30 days after mailing or delivery of such written notice by the Community Development Director in which to respond. If the developer fails to provide such information to the Community Development Director within the 30 days period, the Community Development Director shall find that the developer has not complied in good faith with the terms of the Development Agreement.

17.128.110 – Good Faith Compliance. (FULLY UPDATED)

- A. Finding of Good Faith Compliance. If the Community Development Director finds good faith compliance by the developer with the terms of the Development Agreement for the period or special review, the Community Development Director, upon request of developer, shall issue a certificate of compliance for such period reviewed. The certificate of compliance shall be in a recordable form and may be recorded by the developer in the official records of Los Angeles County. The issuance of a certificate of compliance by the Community Development Director shall conclude the review for the applicable period for which the finding was made and such determination shall be final in the absence of fraud.
- B. Failure to Find Good Faith Compliance:
 1. If the Community Development Director does not find, on the basis of substantial evidence, that the developer has complied in good faith with the terms of the Development Agreement, he or she shall so notify the City Council and the developer. The Community Development Director shall specify the reasons for the determination, the information relied upon in making such decision and any findings made with respect thereto.
 2. The Community Development Director's findings shall be presented to the City Council. The City Council may do any of the following:
 - a. Compliance. Determine on the basis of evidence presented that there has been good faith compliance by the developer with the terms of the Development Agreement, in which event the Community Development Director, upon request of the developer, shall issue a certificate of compliance in accordance with Section 17.128.110 (Development Agreements – Good Faith Compliance) of this Chapter.
 - b. Failure to Find Good Faith Compliance. If the City Council is unable to determine on the basis of the evidence presented that there has been good faith compliance by the developer with the terms of the Development Agreement, the City Council shall do one or both of the following:
 - i. Additional Time. Upon receipt of sufficient justification to City Council, grant the developer additional time in which to establish good faith compliance with the terms of the Development Agreement at a subsequent duly called council meeting; or
 - ii. Hearing. Set a date for a public hearing on the issue of compliance by the developer with the terms of the Development Agreement and the possible conditioning and/or termination or revision of the Development Agreement.

The public hearing shall follow the procedures outlined in Section 17.128.060 (Development Agreements – Public Notices) of this Chapter.

- c. Necessary City Council Finding. Based upon substantial evidence, the developer has or has not complied in good faith with the terms and conditions of the Development Agreement.
3. City Council Public Hearing to Determine Good Faith Compliance:
 - a. Compliance. If the City Council finds good faith compliance by the developer with the terms of the Development Agreement, the Community Development Director upon request of the developer and subject to the written concerns of the City Attorney shall issue a certificate of compliance, which shall be in recordable form and may be recorded by the developer in the official records of the Los Angeles County.
 - b. Noncompliance. If the City Council does not find good faith compliance by the developer with the terms of the Development Agreement, it may do any of the following:
 - i. Determine, on the basis of substantial evidence, that the developer has not complied in good faith with the terms and conditions of the Development Agreement during the period under review, the City Council may allow the Development Agreement to be continued by imposing new terms and conditions intended to remedy such noncompliance or to be otherwise modified.
 - ii. Mutually with the developer, or unilaterally, terminate the Development Agreement or take the action authorized by California Government Code Section 65865.1.
 - iii. Impose such terms and conditions to the Development Agreement as it considers necessary to protect the interests of the City.
 - iv. The decision of the City Council shall be final. The rights of the parties after termination shall be as set forth in Section 17.128.120 (Development Agreements – Initiation of Amendment or Cancellation) of this Chapter.
 - c. Necessary City Council Finding. Based upon substantial evidence, the developer has or has not complied in good faith with the terms and conditions of the Development Agreement.
- C. Ordinance. Any termination, revision or imposition of new terms and conditions pursuant to this Section shall be by Ordinance. The ordinance shall recite the facts, findings, information relied on and/or the lack thereof, and the reasons which, in the opinion of the City Council, make the termination, revision or imposition of new terms and conditions of the Development Agreement necessary. The enactment of such an ordinance by the City Council shall be final and conclusive as to its effect on the subject Development Agreement. Not later than ten (10) days following the adoption of the ordinance, one copy thereof shall be forwarded to the developer. The Development Agreement shall be

terminated, or the amendments to the Development Agreement shall become effective, on the effective date of the ordinance or as otherwise provided in such ordinance.

17.128.120 – Initiation of Amendment or Cancellation. (FULLY UPDATED)

A Development Agreement may be amended or canceled, in whole or in part, by mutual consent of the parties to the Development Agreement or their successors in interest. Any such person may propose an amendment to or cancellation in whole or in part of the Development Agreement previously entered into.

A. The procedure for amendment or cancellation in whole or in part of a Development Agreement by mutual consent shall be as follows:

1. A request for an amendment to or cancellation in whole or in part of the Development Agreement shall be submitted to the Community Development Director. A public hearing before the City Council shall be held within 90 days of receipt of the request. The public hearing shall follow the procedures outlined in Section 17.128.060 (Development Agreements – Public Notices) of this Chapter.
2. Any amendment, cancellation or imposition of new terms and conditions pursuant to this Section shall be by ordinance. The ordinance shall recite the facts, findings, information relied on, and reasons which, in the opinion of the City Council, make the amendments or cancellation of the Development Agreement necessary. Not later than ten (10) days following the adoption of the ordinance, one copy thereof shall be forwarded to the developer. The amendment to or cancellation of a Development Agreement shall become effective on the effective date of such ordinance unless otherwise indicated therein.
3. Although approved by the City Council, an amendment to or cancellation of a Development Agreement shall not be binding or enforceable prior to the effective date of the ordinance approving the amendment or cancellation of the Development Agreement and the execution of such amendment or a written consent to such cancellation by all parties to the Development Agreement or by their successors in interest.

B. Rights of the Parties after Cancellation or Termination:

1. In the event that a Development Agreement is canceled, or otherwise terminated, unless otherwise agreed to in writing by City, all rights of the developer, property owner or successors in interest under the Development Agreement shall terminate and any and all benefits, including money or land, received by the City shall be retained by the City.
2. Notwithstanding the above provision, any termination of the Development Agreement shall not prevent the developer from completing a building or other improvements authorized to be constructed pursuant to a valid operative building permit previously approved by the City and under construction at the time of termination.
3. The City may take any action permitted by law to prevent, stop, or correct any violation of law occurring during and after construction, and neither the developer nor any

tenant shall occupy any portion of the project or any building not authorized by an occupancy permit.

4. As used herein: (a) "construction" shall mean work on site under a valid building permit; (b) "completing" shall mean completion of construction for beneficial occupancy for developer's use, or if a portion of the project is intended for use by a lessee or tenant; and (c) "completion" shall mean completion of construction except for interior improvements such as partitions, duct and electrical run outs, floor coverings, wall coverings, lighting, furniture, trade fixtures, finished ceilings, and other improvements typically constructed by or for tenants of similar buildings. All such uses shall, to the extent applicable, be deemed nonconforming uses and shall be subject to the nonconforming use provisions of EMMC.

17.128.130 – Irregularity in Proceeding. (RENUMBERED)

Formal rules of evidence or procedure which must be followed in a court of law shall not be applied in the consideration of a proposed Development Agreement, its revision, cancellation, or termination. Rather, the provisions of this Chapter shall apply. The qualified applicant or developer has the burden of presenting substantial evidence at each of the public hearings on the proposal and shall be given an opportunity to present evidence in support of the qualified applicant's or developer's position.

No action, inaction, or recommendation regarding the proposed Development Agreement, its revision, cancellation, or termination shall be held void or invalid or be set aside by a court on the ground of the improper admission or rejection of evidence or by reason of any error, irregularity, informality, neglect, or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever unless after an examination of the entire case, including the evidence, the court finds that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury resulted if error is shown.

17.128.140 – Subsequently Adopted State and Federal Laws. (RENUMBERED)

All Development Agreements shall be subject to the regulations and requirements of the laws of the State of California, the Constitution of the United States and any codes, statutes or executive mandates and any court decisions, state or federal, thereunder. In the event that any such law, code, statute, or decision made or enacted after a Development Agreement has been entered into prevents or precludes compliance with one or more provisions of the Development Agreement then such provisions of the Development Agreement shall be modified or suspended as may be necessary to comply with such law, code, statute, mandate or decision, and every such Development Agreement shall so provide.

17.128.150 – Effect of Rules, Regulations and Policies on a Development Agreement. (RENUMBERED)

- A. Unless otherwise provided by the Development Agreement, or imposed for reasons of health or safety during the term of the Development Agreement, rules, regulations and

official policies of the City governing permitted uses of the land, governing density and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a Development Agreement, shall be those rules, regulations, and official policies in force at the time of execution of the agreement.

- B. A Development Agreement shall not prevent the City, in subsequent actions applicable to the property or to the City in general, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property at the time of execution of the Development Agreement, nor shall a Development Agreement prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.
- C. Each Development Agreement shall provide, and it is provided in this Section, that this Section and the provisions thereof do not apply to taxes, imposts, assessments, fees, charges or other exactions imposed by or payable to City unless specifically and to the extent otherwise expressly agreed to by City in the Development Agreement, and that all of such shall be in amounts fixed at the time they are payable.

17.128.160 – Enforcement of Development Agreements. (RENUMBERED)

- A. Except as provided herein below, a Development Agreement shall be enforceable by any party thereto notwithstanding any change in any applicable General Plan, Zoning Code, Specific Plan, subdivision map, or building regulation adopted by the City which alters or amends the rules, regulations, or policies specified in Section 17.128.160 (Development Agreements – Effect of Rules, Regulations and Policies on a Development Agreement) of this Chapter or in the Development Agreement itself.
- B. An exception to the certainty intended by execution of a Development Agreement as expressed in Sections 17.128.010 and 17.128.020 (Development Agreements – Purpose and Applicability), respectively, shall be when a change to the Development Agreement is imposed or required not by a City initiated action, but rather by City response to (i) federal or state court or administrative agency determination or (ii) federal or state legislative or administrative agency regulation requirement.

17.128.170 – Severability Clause. (RENUMBERED)

Should any provision of this Chapter or of a subsequent Development Agreement be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Chapter and Development Agreement shall remain in full force and effect unimpaired by the holding, except as may otherwise be provided in a Development Agreement. The City Council hereby declares that it would have adopted and enacted this Chapter and each provision thereof irrespective of the fact that any one or more of the provisions, or the applications thereof to any person or place, be declared invalid or unconstitutional. For the purpose of this Section, a "provision" is a section, subsection, paragraph, sentence, clause, phrase or portion of any thereof.

17.98.180 – Condemnation. (RENUMBERED)

All and every part of a Development Agreement is subject to condemnation proceedings and entering into such agreement is not intended to restrict the exercise of eminent domain by the City or any other public agency."

17.128.190 – Judicial Review – Time Limitation. (RENUMBERED)

- A. Any judicial review of the initial approval by the City of a Development Agreement shall be by writ of mandate pursuant to Section 1085 of the Code of Civil Procedure; and judicial review of any City action taken pursuant to this Chapter, other than the initial approval of a Development Agreement, shall be by writ of mandate pursuant to Section 1094.5 of the Code of Civil Procedure.
- B. Any action or proceeding to attack, review, set aside, void, or annul any decision of the City taken pursuant to this Chapter shall not be maintained by any person unless the action or proceeding is commenced within 90 days after the date of a City Council decision.

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