

**Division 7: ADMINISTRATION AND PERMITS**

## **Chapter 22.112 Planning Agency**

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Sections:

- 22.112.010 Purpose
- 22.112.020 Board of Supervisors
- 22.112.030 Regional Planning Commission
- 22.112.040 Director of Planning
- 22.112.050 Hearing Officer
- 22.112.060 Hearing Examiner

### **22.112.010 Purpose**

This Chapter identifies the powers and duties of the officials responsible for administering this Ordinance.

### **22.112.020 Board of Supervisors**

The Los Angeles County Board of Supervisors (Board) has the following powers and duties:

- A. Initiate, adopt, deny, or modify amendments to the Los Angeles County General Plan, Zoning Ordinance, Zoning Map, and amendments, and other similar plans and policies.
- B. Consider and certify environmental documents and hear appeals on environmental determinations by the Director, Hearing Officer or the Regional Planning Commission (Commission) as provided for by the California Environmental Quality Act (CEQA).
- C. Affirm, deny, or modify decisions of the Commission through appeals or calls for review pursuant to the provisions of Chapter 22.140 (Appeals) and the State Government Code.
- D. Establish fees for filing applications and services provided by the Department.

- E. Appoint commissioners to the Commission as provided for in Chapter 2.108 (Department of Chief Administrative Officer) in Title 2 (Administration) of the County Code.
- F. Appoint the Director of the Department of Regional Planning as provided for in Chapter 2.106 (Department of Regional Planning) in Title 2 (Administration) of the County Code.
- G. Confirm the appointment of Hearing Officers and Hearing Examiners.

### **22.112.030 Regional Planning Commission**

The Commission is established pursuant to the County Code and the California Government Code and has the following powers and duties:

- A. Recommend to the Board amendments to the General Plan, Zoning Ordinance or Zoning Map.
- B. Conduct public hearings pursuant to Table 22.114.020: Review Authority and approve or deny applications.
- C. Consider and adopt, deny, modify, or certify environmental documents for applications other than for legislative items.
- D. Affirm, deny, or modify decisions of the Director or the Hearing Officer pursuant to Chapter 22.140 (Appeals) and the State Government Code.
- E. Hear and decide appeals from the Director's decisions on Types II, III and IV applications as described in Table 22.114.020: Review Authority.

### **22.112.040 Director of Planning**

The Director of Planning (Director) is appointed by the Board pursuant to Chapter 2.106 (Department of Regional Planning) in Title 2 (Administration) of the County Code and has the following powers and duties, which the Director may delegate to staff of the Department who are supervised by and report to the Director:

- A. Approve or deny applications pursuant to Table 22.114.020: Review Authority.
- B. Review discretionary applications subject to CEQA and the County's environmental review requirements and determine whether the discretionary application is exempt from review under the CEQA and the County's environmental review.

- C. Review applications and notify the applicant if any additional information is necessary to conduct review in compliance with this Ordinance.
- D. Issue interpretations of this Ordinance pursuant to Chapter 22.116 (Interpretations).
- E. Recommend appointment of Hearing Officers and Hearing Examiners to the Board.

#### **22.112.050 Hearing Officer**

A Hearing Officer is an employee of or under contract to the Department appointed by the Director and confirmed by the Board who has the following powers and duties:

- A. Conduct public hearings and approve or deny applications pursuant to Table 22.114.020: Review Authority, and approve or certify environmental documents.
- B. Affirm, rescind or modify zoning enforcement orders issued per Chapter 22.144 (Enforcement Provisions).

#### **22.112.060 Hearing Examiner**

A Hearing Examiner is an employee of or under contract to the Department appointed by the Director and confirmed by the Board who has the following powers and duties:

- A. Conduct public hearings on discretionary applications when requested by the Director.
- B. Prepare and transmit recommendations to the Commission on Types IV and V applications for its consideration prior to the public hearing at the Commission, when requested by the Director. Recommendations may include findings, conditions and associated environmental determinations.

## Chapter 22.114 Common Procedures

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### Sections:

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- 22.114.020 Authority
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- 22.114.040 Multiple Applications
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- 22.114.210 Time Limits and Extensions
- 22.114.220 Resubmission of Application

### 22.114.010 Purpose

This Chapter establishes zoning application and processing procedures.

### 22.114.020 Authority

Table 22.114.020: Review Authority identifies the authority body responsible for making decisions on each type of application. The following authority bodies are listed within this Table:

- A. **Advisory Body.** The Advisory Body makes recommendations to a higher level Review Authority.

- B. **Review Authority.** The Review Authority is the decision maker that approves or denies an application. The Review Authority may refer an application to a higher level Review Authority for a decision on the application.
- C. **Appeal Body.** The Appeal Body makes decisions on an appeal to a decision of a lower level Review Authority.
- D. **California Coastal Commission.** Final decisions on the following actions are within the jurisdiction of the California Coastal Commission (CCC) pursuant to State law.
  - 1. Appeals of decisions on Coastal Development Permits pursuant to Chapter 22.130 (Coastal Development Permits).
  - 2. Final decision on Coastal Development Permits issued within their retained jurisdiction.
  - 3. Final decision on the certification of local coastal programs (LCPs)
  - 4. Amendments to the County’s certified Local Coastal Programs.
- E. **Review Authority Levels.** The levels of review authorities, from highest to lowest is:
  - 1. Board of Supervisors;
  - 2. Regional Planning Commission;
  - 3. Hearing Officer; and
  - 4. Director.

<i>Application Type</i>	<i>Chapter</i>	<i>Noticing Required</i>	<i>Public Hearing Required</i>	<i>Advisory Body</i>	<i>Review Authority</i>	<i>Appeal Body</i>
Type I (Ministerial)	22.118	No	No	N/A	Director	Commission if applicable
Type II (Discretionary)	22.120	No	No	N/A	Director	Commission
Type III (Discretionary)	22.122	Yes	No	DRP Biologist, Environmental Review Board (ERB), Significant Ecological Areas Technical	Director	Commission/Board

				Advisory Committee (SEATAC)		
Type IV (Discretionary)	22.124	Yes	Yes	Director, DRP Biologist, ERB, SEATAC, Hearing Officer, Hearing Examiner	Hearing Officer/ Commission/ Board/ CCC	Commission/ Board/CCC
Type V (Discretionary)	22.126	Yes	Yes	Commission, Director, DRP Biologist, ERB, SEATAC, Hearing Officer, Hearing Examiner	Board/CCC	

**22.114.030 Application Types**

This Ordinance establishes the application type required for a specific permit request. Application types include Types I, II, III, IV and V applications.

**22.114.040 Multiple Applications**

- A. **Review Authority in Multiple Applications.** When a project requires two or more applications to be considered by different Review Authorities, all applications for the project shall be subject to jurisdiction by the highest Review Authority.
- B. **Concurrent Ministerial and Discretionary Applications.** If concurrent related uses and/or structures on a property require both ministerial and discretionary applications, a separate ministerial application may not be required. The discretionary application may include authorization for the ministerial uses and/or structures, unless otherwise noted within this Ordinance.
- C. **Concurrent Uses on a Site Requiring Different Discretionary Application Types.** If two uses are concurrently proposed on the same site, one use requiring a Type IV application and the other use requiring a lesser discretionary application (Type II or III), then a separate application for the lesser use may not be required if the Type IV application includes authorization for the lesser use, unless otherwise noted within this Ordinance.
- D. **Applications and Other Permits.** Applications for other permits (Oak Tree Permit, Housing Permit, etc.) listed in this Ordinance shall be processed in compliance with the application type listed and any additional requirements or review criteria related to the permit.

- E. **Advisory Recommendation by Commission.** If the Commission is reviewing a discretionary application that requires associated legislative approvals, the Commission shall make recommendations to the Board on both the environmental documentation and the discretionary and legislative applications. The Board takes final action on all such environmental documentation and discretionary and legislative applications.

## 22.114.050 Application Filing and Withdrawal

### A. Application Forms and Information for Submitted Materials.

1. The Director shall prepare application forms, including checklists that specify the information and materials necessary for processing each type of application.
2. The applicant shall submit an application, all information and materials listed for the specific type of application on the checklist, and the filing fee, as listed in Section 22.114.060 (Fees and Deposits).
3. The accuracy of all applications, information and materials submitted shall be the responsibility of the applicant.
4. Any materials submitted by an applicant for an application becomes County property and shall be available for public review.

### B. Applicants. The following persons may file applications:

1. The owner(s) of the subject property;
2. An agent for the applicant with written authorization by the owner(s) of the property;
3. The plaintiff in an action in eminent domain to acquire the subject property, or any portion thereof; or
4. A public agency in negotiation to acquire a portion of the subject property or any portion thereof.

- C. **Withdrawal.** An applicant may withdraw an application at any time before a decision is made by the responsible Review Authority by filing a written request with the Director. Refunds shall comply with Section 22.114.060.D (Fee Refunds).

## 22.114.060 Fees and Deposits

- A. **Schedule of Fees and Deposits.** The Board shall establish a schedule of fees and deposits for application processing. This shall be referred to as the Filing Fee Schedule. Fees are subject to change according to annual updates to the Consumer Price Index or adjusted by the County-Auditor-Controller.
- B. **Filing Fee(s).** No application shall be accepted without payment of the required fee or deposit per Subsection A, above, unless a fee waiver has been granted per Subsection C, below.
- C. **Fee Waivers.** No fee shall be required where, through an adopted resolution, the Board has determined that it is in the public interest to waive the required fee or deposit for an application.
- D. **Fee Refunds.** If any application is withdrawn as provided in Section 22.114.050.C (Withdrawal), the Director shall refund the following fraction of the filing fee:
1. One-half of the payment shall be refunded if the application is withdrawn prior to publication of the required notice or prior to the mailing of the first correction letter for an incomplete application.
  2. There shall be no refund of any portion of the payment after:
    - a. Publication of the required notice;
    - b. After an action has been taken by the Review Authority; or
    - c. Mailing of the first correction letter for a Type I application.
- E. **Deposit Refunds.** The Director may approve a refund of deposits after all fees and expenses incurred have been paid.

## 22.114.070 Initial Application Review

- A. **Review of Applications Filed.** Within 30 days from the date the Department accepts an application for processing, the Director shall review the application to determine whether any additional information or detail is required to take action on the application. The Director shall also determine if the project is subject to review as determined by CEQA Guidelines.
- B. **Determining Completeness.** An application filing shall be complete when:

1. All required application materials have been submitted as specified in the Department's filing instructions per Section 22.114.050.A (Application Forms and Information for Submitted Materials); and
  2. Fees have been submitted as required by Section 22.114.060.B (Filing Fees).
- C. **Additional Information.**
1. The Director may request additional information to clarify, correct or otherwise supplement information required after the application has been accepted by the Department for processing. The Department may suspend application processing if the additional information is not submitted.
  2. If an application is subject to environmental review, the Director may require the applicant to submit additional information needed to conduct an initial study to determine if the project may have a significant effect on the environment.
- D. **Consultation.** The Director may consult with any local, state, or federal agency after the application has been accepted by the Department for processing. The applicant shall pay any required fee as listed in the Filing Fee Schedule for such consultation. Application processing may be suspended if any required fee is not paid.
- E. **Incomplete Application.** If an application is deemed incomplete, the Director shall provide written notification or correction letter to the applicant listing the applications, exhibits, revisions to plans, information, additional fees or any other materials that are necessary to complete the application. If the applicant does not provide the items required by the Director within 30 days of notification, the application shall become inactive. The Director may extend the time limit for a maximum of 30 days upon written request from the applicant.
- F. **Denial of Inactive Application.** The Hearing Officer may deny, without a public hearing, an application for a discretionary permit if such application does not contain the information required by Subsections B through D, above. The Hearing Officer may permit the applicant to amend such application without the filing of additional permit fees if the amendments are made before the application is denied. In all other cases, the Hearing Officer's denial of an inactive application closes the application file. Once an application is denied, the applicant shall submit a new application and fees in compliance with

Section 22.114.050 (Application Filing and Withdrawal) in order to proceed with the request.

- G. **Pre-Approval Inspections.** Every applicant seeking a permit in compliance with this Ordinance shall allow any County official participating in review of the application access to any premises or property that is the subject of the application. Failure to cooperate with the official shall result in the suspension of application processing until the inspection is completed.

### 22.114.080 Project Evaluation and Staff Reports

When a staff report is required, the Director shall make a report in writing to the Review Authority based on consideration of information in the record at the time the Director prepares the report. The report shall include:

- A. A recommendation based on:
1. Evaluation of the project's conformance with the applicable goals, objectives, policies, and proposals of the General Plan and any other applicable adopted plans and policies;
  2. Determination of compliance with all applicable development standards and requirements for the base zone in which the subject property is located;
  3. Determination of the provision of adequate essential services for the subject property. The Director may consult with local agencies that provide essential facilities or services to determine if the project will be adequately served. Essential facilities and services include, but are not limited to Fire, Sheriff, schools, water, and roads; and
  4. Information in the record including, but not limited to, the application, exhibits, maps, site plan, initial study, environmental determination or CEQA statutory exemption, agency comments, and review comments received prior to the hearing.
- B. A recommendation on the environmental determination:
1. If the project is subject to environmental review, a recommendation to adopt a Negative Declaration, Mitigated Negative Declaration or certify an Environmental Impact Report.
  2. If the project is found to meet the standards for a categorical exemption under CEQA Guidelines, a statement that the project is

exempt from environmental review and the class of exemption in which the project qualifies for.

## 22.114.090 Public Hearing Notice

When this Ordinance requires a public hearing, notice of the hearing shall be provided in compliance with this Section and the State Government Code.

A. **Notice Content.** Notice of a public hearing shall include the following information:

1. **Hearing Information.**

- a. The date, time, and place of the hearing and the name of the Review Authority;
- b. A general description of the County's procedure concerning the conduct of the public hearing;
- c. A statement that written comments may be submitted to the Director prior to the hearing and that comments may be made or written material may be submitted at the public hearing;
- d. A statement that any interested person or authorized agent may appear and be heard at the public hearing; and
- e. The phone number, street address, and website of the County, where an interested person can call or visit to obtain additional information.

2. **Project Information.**

- a. The name of the applicant;
- b. The application number(s);
- c. A general description of the project and location of the subject property; and
- d. A statement that the Review Authority will also consider the project's environmental document, if applicable.

B. **Distribution.** Notice shall be provided as follows:

1. **Publication.** Notice shall be published once in a newspaper of general circulation in the County of Los Angeles available in the community in

which the project is proposed. The publication shall be at least 30 calendar days before the scheduled hearing, unless stated otherwise in this Ordinance.

2. **Mailing.** Notice shall be mailed or delivered at least 30 calendar days before the scheduled hearing to the following, unless stated otherwise in this Ordinance.
  - a. *Owner(s) and Applicant.* The owner(s) of the subject property, the applicant and the applicant's agent, if one has been provided.
  - b. *Surrounding Properties.*
    - i. Type III Applications. Unless otherwise indicated in this Ordinance, all owners of property located within a 300-foot radius of the exterior boundaries of the subject property, as shown on the County's last equalized assessment roll.
    - ii. Type IV and V Applications. Unless otherwise indicated in this Ordinance, all owners of property located within a 500-foot radius of the exterior boundaries of the subject property, as shown on the County's last equalized assessment roll.
    - iii. Additional Notification Radius. All owners of property located within a 1,000-foot radius of the exterior boundaries of the subject site, as shown on the County's last equalized assessment roll, unless a Community Standards District requires a different radius, for properties in the following areas:
      - (1) Fifth Supervisorial District;
      - (2) The Community of Avocado Heights, within the Puente Zoned District;
      - (3) Workman Mill Zoned District; and
      - (4) South San Gabriel Zoned District.
    - iv. Multi-Unit Housing. In the case of where multi-unit housing (a structure containing more than one dwelling unit) exists within the required noticing radius, a notice

addressed to “Occupant” shall be mailed to each dwelling unit in addition to those mailed to the owner when the dwelling unit’s address is different than the owner’s address.

- c. *Persons Requesting Notice.* A person who has filed a written request for notice with the Director within one year prior to the public hearing.
3. **Notice Sign Posting.** Where required by the application type, notice shall be posted on the subject property at least 30 days before the scheduled public hearing in the following manner, unless otherwise stated in this Ordinance.
    - a. *Dimensions, Materials, and Content.* The size, height, materials, colors, content and lettering of the notice sign shall adhere to the specifications described in the checklist by the Department.
    - b. *Location.* One sign shall be erected on each public road frontage adjoining the subject property, legible and accessible by foot from said public road(s). The sign(s) shall not create sight distance problems along the adjacent rights-of-way. If the subject property is not visible from an existing public road, the sign posting requirement may be modified by the Director.
    - c. *Additional Posting Requirements.* The Director may require sign(s) to be larger and/or constructed of stronger weather-proof materials to improve visibility and legibility at the posted location(s) as the Director deems appropriate.
    - d. *Verification.* The applicant shall provide the Director with a photograph showing the sign(s) erected on the subject property. The applicant shall also sign an affidavit stating that the sign(s) have been placed on the subject property in compliance with this Subsection B.3.
    - e. *Maintenance and Display.* The applicant shall be responsible for maintaining the sign(s) in a satisfactory condition and continuously displaying the sign during the 30 days prior to the public hearing.

- f. *Removal.* The sign(s) shall be removed from the subject property within one week following the close of the final public hearing.
  - g. *Failure to Comply.* Failure of the applicant to comply with this Subsection B.3 shall result in postponement of the public hearing.
  - h. *Exception.* The sign posting provisions of this Subsection B.3 shall not apply to public hearings on matters initiated by the Commission or Board. The Director may post signs for such public hearings at locations he or she deems appropriate.
- C. **Failure to Receive Notice.** The failure of any person or entity to receive notice provided in compliance with this Section or with the State Government Code shall not invalidate the actions of the Review Authority.

#### 22.114.100 Public Hearing Procedure

When this Ordinance requires a public hearing, it shall be conducted in compliance with this Chapter.

- A. **Time and Location.** A hearing shall be held at the date, time, and location for which notice was given.
- B. **Continued Hearing.**
  - 1. A hearing may be continued without further notice, provided that the Review Authority announces for the record the date, time, and location where the hearing will be continued before the adjournment of the hearing.
  - 2. If the public hearing is continued to an undetermined date or taken off the public hearing calendar, the applicant shall pay the rehearing fee per the Filing Fee Schedule before the public hearing is rescheduled. Notice of the continued public hearing shall be provided in accordance with Section 22.114.090 (Public Hearing Notice).

#### 22.114.110 Findings and Decision

- A. **Authorized Actions.** The Review Authority may approve, conditionally approve, or deny the application.
- B. **Required Findings.** The Review Authority shall approve the application only after the applicant substantiates the following required findings:

1. The proposal is consistent with the General Plan;
  2. The proposal is allowed within the applicable base zone and complies with all other applicable provisions of this Ordinance;
  3. The design, location, size, and operating characteristics of the proposal are compatible with the existing land uses and zoning in the vicinity; and
  4. The proposal is physically suitable for the site. The factors related to the proposal's physical suitability for the site shall include, but are not limited to, the following:
    - a. The design, location, shape, size, and operating characteristics are suitable for the proposed use;
    - b. The highways or streets that provide access to the site are of sufficient width and are improved as necessary to carry the kind and quantity of traffic such proposal would generate;
    - c. Public protection services (e.g., fire protection, Sheriff protection, etc.) are readily available; and
    - d. The provision of utilities (e.g., potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.) are adequate to serve the site.
  5. The proposal will not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare, or be materially detrimental or injurious to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.
- C. **Additional Findings.** In addition to the findings stated in Subsection B, above, additional findings may be required for a proposed use, as required by the Review Authority, this Division 7 (Administration and Permits), Division 6 (Standards for Specific Uses) or elsewhere in this Ordinance.

**Failure to Substantiate Findings.** The Review Authority shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to substantiate all of the required findings to the satisfaction of the Review Authority.

### 22.114.120 Recommendations after Public Hearing

- A. **Hearing Examiner.** If the Director requests a Hearing Examiner to conduct a public hearing on a specific application the following shall apply:
1. After the Hearing Examiner's public hearing, the Hearing Examiner shall prepare recommendations and findings based on the testimony received and analysis of the application.
  2. The recommendations and findings shall be transmitted to the Commission for its consideration prior to the Commission's public hearing on the same application.
- B. **Commission.**
1. After the Commission's public hearing on a legislative action, the recommendation and findings of the Commission shall be forwarded to the Board.
  2. After the Commission's public hearing on a discretionary application, which is heard concurrently with a legislative action, the recommendation and findings of the Commission on the legislative and quasi-judicial matters shall be forwarded to the Board concurrently.
- C. **Copy of Recommendation to Applicant.** A copy of the recommendations shall be mailed to the applicant at the mailing address stated in the application.
- D. **Copy of Recommendation to Testifiers.** A copy of the recommendations shall be delivered to every member of the public who testifies at the public hearing, and to any other person or entity who has filed a written request for notification with the Director.

### 22.114.130 Decision after Public Hearing

- A. **Hearing Officer.** At the conclusion of a public hearing, the Hearing Officer shall take action on the application. The decision is final unless the decision is appealed to the Commission.
- B. **Commission.** At the conclusion of a public hearing, the Commission shall take action on the application. The decision is final, unless the decision is appealed to the Board of Supervisors.

- C. **Board of Supervisors.** At the conclusion of a public hearing, the Board shall take action on the application.. The decision of the Board shall be final on any matter except a Local Coastal Program amendment or a Coastal Development Permit, or a Coastal Development Permit located in an area without a certified Local Coastal Program.

#### 22.114.140 Notice of Action and Findings

- A. Once the Review Authority takes action on a discretionary application, it shall issue a Notice of Action. The Notice of Action shall describe the action taken, list the findings that were the basis for the decision, and include any applicable conditions.
- B. Findings, where required by State law or this Ordinance, shall be based upon consideration of the application, plans, testimony, reports and other materials that constitute the administrative record and shall be stated in writing.
- C. The Review Authority shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to substantiate all of the required findings to the satisfaction of the Review Authority.
- D. The Director shall mail the Notice of Action to the applicant and testifiers in compliance with Sections 22.114.120.C (Copy of Recommendation to Applicant) and 22.114.120.D (Copy of Recommendation to Testifiers).

#### 22.114.150 Effective Date of Decision

- A. The decision of the Review Authority shall be effective on the 15th calendar day following the date of the decision, except when the decision is appealed or called for review by the Appeal Body, according to Table 22.114.020: Review Authority before the effective date of the decision.
- B. If the last day to file an appeal or call for review falls on a non-business day for the appellate body, then the deadline is extended to the next business day and the effective date of the decision is also extended to the following business day.
- C. In all cases in which a project has received approvals issued concurrently pursuant to this Ordinance and Title 21 (Subdivisions), the decision shall become effective on the first calendar day after expiration of the time limit established by Section 66452.5 of the State Government Code as set forth in

Section 21.56.010 (Procedures – Submittal and Determination) of Title 21 (Subdivisions) of the County Code.

- D. Appeals or calls for review shall be filed pursuant to Chapter 22.140 (Appeals).

#### **22.114.160 Scope of Approvals**

- A. Only legally established uses and development, authorized by a permit issued from the Department, may be used on a property. All other uses and activities are not permitted unless they are permitted by the Base Zone.
- B. Unless otherwise specified by the Review Authority, the approved site plan, floor plans, building elevations and any additional information submitted during the approval process shall be deemed conditions of approval.
- C. For a Type I application, an approval or denial may be in the form of a stamp, signature, or other official notation or documentation on the site plan and/or in the form of a letter.
- D. For Type II, Type III and Type IV applications, the plans, upon approval by the Director, shall be stamped and referred to as “Exhibit A”. Unless otherwise indicated in the approval, the Exhibit “A” shall not be stamped approved until the permit has become effective in compliance with Section 22.114.150 (Effective Date of Decision), all performance guarantees and covenants in compliance with Section 22.114.200 (Performance Guarantees and Covenants) and any applicable conditions of approval have been completed.
- E. If the use or structure is contrary to the description in the application, so as to either violate this Ordinance and/or the conditions of approval, or require additional permits, then the approval shall be deemed null and void. Enforcement measurements will be taken until the violation is corrected.
- F. All permits may be subject to periodic review to determine compliance. If a condition specifies that uses allowed under the permit are subject to periodic reporting, monitoring or assessments, or a time limitation, it shall be the responsibility of the property owner and their successors to comply with these conditions.

#### **22.114.170 Conditions of Approval**

In approving any discretionary application, the Review Authority may impose conditions deemed reasonable and necessary to ensure that the permit will be in

compliance with the findings required by Section 22.114.140 (Notice of Action and Findings).

### **22.114.180 Use of Property Before Final Action**

Any property involved in a discretionary application shall not be used for the use requested in an application until and unless the permit has become effective, in compliance with Section 22.114.150 (Effective Date of Decision) and an approved Exhibit "A" has been issued by the Department in compliance with Section 22.114.160 (Scope of Approvals).

### **22.114.190 Approvals Run with the Land**

Any approval granted pursuant to the provisions of this Ordinance and that is valid and in effect shall adhere to the land. The approval, including any applicable conditions or requirements, shall continue to be valid upon change of ownership of the subject land or any lawfully existing structure from the effective date of the permit, except when a permit expires and becomes void in compliance with this Chapter or as otherwise specified in the conditions of approval.

### **22.114.200 Performance Guarantees and Covenants**

Approval of an application may require that the permittee guarantee, warrant or ensure compliance with the provisions of this Ordinance, approved plans or conditions. To ensure compliance, the County may require the permittee to:

- A. Record the terms and conditions of the approval with the Registrar-Recorder/County Clerk. Upon any transfer or lease of the property during the term of this grant, the permittee shall provide a copy of the permit approval and its conditions to the transferee or lessee;
- B. Deposit a financial assurance or bond or other mechanism in a reasonable amount, as determined by the Director, to ensure the faithful performance of one or more of the conditions of approval;
- C. Record a covenant restricting the use of the subject property (e.g., limitations on occupancy or maintenance of affordability) with the Registrar-Recorder/County Clerk; or
- D. Record a covenant guaranteeing use and maintenance on a separate property necessary to comply with requirements (e.g. adequate access) with the Registrar-Recorder/County Clerk.

**22.114.210 Time Limits and Extensions**

- A. A permit shall be used within the time limit specified in the permit, or, if no time limit is specified, two years after the date the decision is made by the Review Authority. If the permit is not used within the applicable time limit, the approval becomes null and void.
- B. The Review Authority may extend the time limit in which to use a permit for a maximum of one year. An application requesting the extension shall be filed prior to the expiration date.
- C. In the case of applications heard concurrently with a land division, the limits and extensions shall be concurrent and consistent with those of the land division.
- D. In the case of a nonprofit corporation organized to provide low-income housing for the poor or the elderly, the Review Authority may grant an additional one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension.
- E. In the case of an application requiring approval by the Coastal Commission, the permit shall be used within two years after the Coastal Commission approval, unless otherwise specified in the permit. If the application is denied by the Coastal Commission, the permit becomes null and void.
- F. In the case of a permit for a publicly owned use, no time limit shall apply to use the approval provided that the public agency:
  - 1. Acquires the property involved or commences legal proceedings for its acquisition, within one year of the effective date of the approval; and
  - 2. Immediately after the acquisition of, or the commencement of legal proceedings for the acquisition of the property, posts the subject property with signs, having an area of not less than 20 square feet nor more than 40 square feet in area per face indicating the agency and the purpose for which it is to be developed. One sign shall be placed facing and located within 50 feet of each street, highway or parkway bordering the property. Where the property in question is not bounded by a street, highway or parkway the agency shall erect one sign facing the street, highway or parkway nearest the property.
- G. A permit shall be considered used when activity authorized by the permit has commenced that would otherwise be prohibited in the base zone if no permit had been granted. For this Subsection G, activity shall include grading with

required grading permits, construction with required building permits, or the commencement or initiation of the permitted use.

- H. A discretionary permit shall automatically cease to be of any force and effect if the use for which the permit was granted has ceased or has been suspended for a consecutive period of two or more years.

#### **22.114.220 Resubmission of Application**

No discretionary application shall be filed or accepted if a final action (approval or denial) has been taken within one year on an application requesting the same, or substantially the same application.

## Chapter 22.116 Interpretations

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Sections:

- 22.116.010 Intent
- 22.116.020 Request for Interpretation
- 22.116.030 Additional Requirements for Unlisted Uses
- 22.116.040 Record of Interpretation

### 22.116.010 Intent

- A. **Authority.** The Director has the authority to interpret any provision of this Ordinance. Whenever the Director determines that the meaning or applicability of any Zoning Ordinance requirement is subject to interpretation, the Director may issue an official interpretation.
- B. **Types of Interpretations.** Interpretations made by the Director include the following:
  - 1. Unlisted uses;
  - 2. Determining the location of boundaries on the Zoning Map;
  - 3. Applicability of development standards;
  - 4. Definitions, terms or phrasing, and language construction;
  - 5. Determining measurement; and
  - 6. Interpretation of how any of the Subsections B.1 through B.5, above, apply to a specific site.

### 22.116.020 Request for Interpretation

The request for an interpretation or determination shall be made in writing to the Department, shall include all information required by the Department, and the established processing fee, where applicable.

### 22.116.030 Additional Requirements for Unlisted Uses

- A. **Similar and Compatible Uses.** The Director may determine that a proposed but unlisted use in this Ordinance is allowed in compliance with this Section.

- B. **Required Findings.** The Director may determine that a proposed but unlisted use is similar to and compatible with a listed use and may be allowed, only after making the following findings:
1. The characteristics of, and activities associated with the use are similar to one or more of the listed uses, and will not involve a greater intensity than the uses listed in the zone;
  2. The use will be consistent with the purposes of the applicable base zone;
  3. The use will be consistent with the General Plan;
  4. The use will be compatible with the other uses allowed in the base zone; and
  5. The use is not listed as allowed in another base zone than where proposed.
- C. **Applicable Standards and Permit Requirements.** When the Director determines that a proposed, but unlisted, use is similar and compatible to a listed use, the proposed use will be treated in the same manner as the listed use in determining where it is allowed, what permits are required, and what other standards and requirements of this Ordinance apply.

#### 22.116.040 Record of Interpretation

The findings supporting the determination of an interpretation made by the Director shall be in writing and kept on file in the Department and available to the public.

## **Chapter 22.118 Type I Applications—Ministerial**

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### Sections:

- 22.118.010 Purpose
- 22.118.020 Applicability
- 22.118.030 Application Filing, Fees and Initial Review
- 22.118.040 Decision
- 22.118.050 Notice of Action
- 22.118.060 Effective Date of Decision
- 22.118.070 Time Limits and Extensions
- 22.118.080 Procedures for Revisions to a Site Plan
- 22.118.090 Revisions to a Site Plan—Revised Exhibit A
- 22.118.100 Procedures for Revisions to a Site Plan—Revised Exhibit A

### **22.118.010 Purpose**

The Type I application is a ministerial process to verify that a proposed use or structure is allowed in the applicable base zone, and complies with all of the applicable requirements and development standards.

### **22.118.020 Applicability**

- A. **Base Zones.** A Type I application is required to authorize uses identified by Division 2 (Base Zones) as being permitted in the applicable base zone, subject to the approval of a Type I application.
- B. **Site Plan as Part of Application.** Where a site plan is required in an application for a Type II, III, or IV application, the site plan shall be considered a part of the application and shall not require separate Type I approval in compliance with this Chapter.
- C. **Additional Requirements.** The Director may require a site plan for any development of land, structure, use, or modification of standards that involves the approval of the Director and supplemental information or material as may be necessary, including revised or corrected copies of any site plan or other document previously submitted.

### 22.118.030 **Application Filing, Fees and Initial Review**

Applications for a Type I application shall be in compliance with Sections 22.114.040 (Multiple Applications), 22.114.050 (Application Filing and Withdrawal), 22.114.060 (Fees and Deposits), and 22.114.070 (Initial Application Review).

### 22.118.040 **Decision**

The Director shall approve or deny the proposed use, development or modification as requested in the Type I application and as indicated in the required site plan based on an assessment that the use, development of land and development standards are or are not in compliance with all applicable provisions of this Ordinance.

### 22.118.050 **Notice of Action**

- A. **Notification Requirements.** The Director shall notify the applicant of the action taken on the application by first class mail, or other means deemed appropriate by the Director. Such notification may also be hand delivered to the applicant.
- B. **Time Limit for Decision.** If the Director takes no action on a Type I application within 90 days from the date of filing, it shall constitute a denial of such application.
- C. **Scope of Approvals.** Only legally established uses and development, authorized by an approved permit from the Department, may be used on a property per Section 22.114.160 (Scope of Approvals).

### 22.118.060 **Effective Date of Decision**

- A. The decision of the Director on a Type I application is effective the date the site plan or letter is stamped or signed.
- B. Appeals shall be filed pursuant to Chapter 22.140 (Appeals).

### 22.118.070 **Post-Decision Procedures**

Type I application post-decision procedures shall be in compliance with Sections 22.114.180 (Use of Property Before Final Action), 22.114.190 (Approvals Run with the Land), 22.114.200 (Performance Guarantees and Covenants), and 22.114.210 (Time Limits and Extensions).

**22.118.080 Procedures for Revisions to a Site Plan**

Procedures for application filing, review, decision, notice of action, post-decision procedures and time limits for revisions to a site plan shall be the same as for the original site plan approved. The revised site plan shall comply with Sections 22.118.030 through 22.118.070.

## **Chapter 22.120    Type II Applications—Discretionary**

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### Sections:

- 22.120.010 Purpose
- 22.120.020 Applicability
- 22.120.030 Review Authority and Related Procedures
- 22.120.040 Application Filing, Fees and Initial Review
- 22.120.050 Decision
- 22.120.060 Post-Decision Procedures
- 22.120.070 Revisions to a Site Plan – Revised Exhibit A

### **22.120.010 Purpose**

The Type II application is a discretionary process for reviewing uses that may be appropriate in the applicable base zone, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site. Type II applications do not require noticing nor a public hearing.

### **22.120.020 Applicability**

- A.    **Base Zones.** A Type II application is required to authorize uses identified by Division 2 (Base Zones) as being permitted in the applicable base zone, subject to the approval of a Type II application.
- B.    **Other Specific Uses.** A Type II application may also be required for use types having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located and operated compatible with uses on adjacent properties and in the surrounding area.

### **22.120.030 Review Authority and Related Procedures**

- A.    **Decision.** A Type II application shall be approved or denied by the Review Authority in compliance with Table 22.114.020: Review Authority, and any additional requirements or review criteria for a Type II application established in this Ordinance.
- B.    **Referral.** The Review Authority may refer a Type II application to the next higher Review Authority for consideration and decision.

### 22.120.040 **Application Filing, Fees and Initial Review**

Applications for a Type II application shall be in compliance with Sections 22.114.040 (Multiple Applications), 22.114.050 (Application Filing and Withdrawal), 22.114.060 (Fees and Deposits), and 22.114.070 (Initial Application Review).

### 22.120.050 **Decision**

The Director shall either approve or deny the application for a proposed use, modification or development based on the following:

- A. That the use, development of land or application of development standards is in compliance with all applicable provisions of this Ordinance;
- B. That the use, development of land or application of development standards, when considered on the basis of the suitability of the site for the particular use or development intended, is so arranged as to avoid traffic congestion, insure the protection of public health, safety and general welfare, prevent adverse effects on neighboring property and is in conformity with good zoning practice;
- C. That the use, development of land or application of development standards is suitable from the standpoint of functional developmental design; and
- D. That the use will be consistent with the General Plan.

### 22.120.060 **Post-Decision Procedures**

Type II application post-decision procedures shall be in compliance with Sections 22.114.140 (Notice of Action and Findings), 22.114.150 (Effective Date of Decision), 22.114.160 (Scope of Approvals), 22.114.170 (Conditions of Approval), 22.114.180 (Use of Property before Final Action), 22.114.190 (Approvals Run with the Land), 22.114.200 (Performance Guarantees and Covenants), 22.114.210 (Time Limits and Extensions) and 22.114.220 (Resubmission of Application).

### 22.120.070 **Revisions to a Site Plan—Revised Exhibit A**

- A. **Director May Approve Revisions.** The Director may approve revisions to a site plan for an approved Type II, Type III or IV application, provided that the revisions to the site plan:
  - 1. Are consistent with the findings made when the permit was originally approved;
  - 2. Comply with all existing conditions of approval;

3. Maintains the required number of parking spaces; and
  4. Shall comply with Base Zone requirements.
- B. Allowable Revisions.** Allowable revisions are limited to the following:
1. Relocation of the proposed buildings or structures, provided that the relocation does not encroach into the required yard setbacks or where there are no required yard setbacks, any portion of a building is not relocated closer to a property line than in the original approval, except for projects that were approved under Title 21 (Subdivisions) of the County Code;
  2. Revisions to interior spaces, increasing the number of employees, rooms or entrances, as long as the occupancy load of the building is not increased;
  3. Change of uses that do not increase parking requirements;
  4. Reduction in size or intensity of approved uses;
  5. Establishing a new product line, activity, function, or service that does not substantially change the character of the use;
  6. Minor changes to grading on an approved tentative map + 3'0" pad elevation with smaller or the same size footprint;
  7. Retaining walls and associated grading; or
  8. Modifications to the site plan or Revised Exhibit "A" if required by an approved Type IV permit.
- C. Changes to an Approved Permit.** Any changes to an approved permit that are not in compliance with Subsection B, above, shall require approval of the original Review Authority for modification, in compliance with Chapter 22.136 (Minor Permit Modifications). Proposals that don't qualify for a Minor Permit Modification will require a new Type II, Type III or Type IV application.

## **Chapter 22.122    Type III Applications— Discretionary**

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### Sections:

- 22.122.010 Purpose
- 22.122.020 Applicability
- 22.122.030 Review Authority and Related Procedures
- 22.122.040 Application Filing, Fees and Project Review
- 22.122.050 Project Notice and Required Actions
- 22.122.060 Post-Decision Procedures
- 22.122.070 Revisions to a Site Plan – Revised Exhibit A

### **22.122.010 Purpose**

The Type III application is a discretionary process for reviewing uses that may be appropriate in the applicable base zone, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site. Type III applications require public notification, but do not require public hearings.

### **22.122.020 Applicability**

- A.    **Base Zones.** A Type III application is required to authorize uses identified by Division 2 (Base Zones) as being permitted in the applicable base zone, subject to the approval of a Type III application.
- B.    **Other Specific Uses.** A Type III application may also be required for use types having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located and operated compatible with uses on adjacent properties and in the surrounding area.

### **22.122.030 Review Authority and Related Procedures**

- A.    **General Requirements.** A Type III application shall be approved, conditionally approved, or denied by the Review Authority in compliance with Table 22.114.020: Review Authority, and any additional requirements or review criteria for a Type III review established in this Ordinance.
- B.    **Referral.** The Review Authority may refer a Type III application to the next higher Review Authority for consideration and decision.

### 22.122.040 Application Filing, Fees and Project Review

Applications for a Type III application shall be in compliance with Sections 22.114.040 (Multiple Applications), 22.114.050 (Application Filing and Withdrawal), 22.114.060 (Fees and Deposits), 22.114.070 (Initial Application Review) and 22.114.080 (Project Evaluation and Staff Reports).

### 22.122.050 Project Notice and Required Actions

The Department shall provide notice and make a decision as follows:

- A. **Notice.** The notice shall:
1. Describe the project in compliance with Section 22.114.090.A.2 (Project Information);
  2. Indicate that any individual may request a public hearing on the application by filing a written request with the Director within 15 days of the date on the notice;
  3. Indicate that a request for a public hearing shall include a statement of why a public hearing should be held; and
  4. Include the phone number, street address, and website of the County, where an interested person can call or visit to obtain additional information.
- B. **Distribution.** Notice shall be distributed in compliance with Section 22.114.090.B (Distribution).
- C. **Approval.** The Review Authority may approve a Type III application if:
1. Not more than two valid written requests for a public hearing, pursuant to Subsection E, below, are received within the period specified in Subsection A, above; and
  2. That the findings, principles, and standards of Section 22.114.110 (Findings and Decision), are established.
- D. **Denial.** The Review Authority shall deny the Type III application if:
1. Three or more separate, written requests for a public hearing, pursuant to Subsection E, below, are received within the period specified in Subsection A, above; or

2. Where the findings, principles, or standards of Section 22.114.110 (Findings and Decision), are not established.

**E. Written Requests.**

1. The written requests for a public hearing shall be based on issues of significance directly related to the application; provision of evidence that the request cannot meet one or more of the findings, principles, or standards identified in Section 22.114.110 (Findings and Decisions) in order to be considered valid;
2. Requests received from both an owner and an occupant of the same property shall be considered to be only one request for the purposes of this Subsection E;
3. All requests from more than one member of a homeowners association shall be considered as only one request; and
4. All requests for a public hearing shall be initiated by individuals who live within the required notification radius.

**F. Notice of Action.**

1. The Review Authority shall notify the applicant and all persons specified in Section 22.114.140 (Notice of Action and Findings) in writing of the action taken on the application within 24 hours of the action; and
2. The notification shall indicate that non-applicants may file an appeal with the Commission, in compliance with Chapter 22.140 (Appeals).

**G. Required Actions.**

1. When the Review Authority denies an application, the Review Authority shall inform the applicant that a Type IV application and a request to schedule a public hearing before the Commission must be filed within 14 days of the date of the Review Authority's decision in order for application processing to continue.
2. The applicant shall pay the fee per the Filing Fee Schedule. The fee shall be the difference already paid by the applicant for a Type III application and a Type IV application.
3. The Director shall provide a new application number and associated application file for the new Type IV application for the subject project.

4. If the applicant does not file a Type IV application and fee as specified in Subsections G.1 and G.2, above, The Type III application shall be denied and will not be subject to appeal.

#### **22.122.060 Post-Decision Procedures**

Type III application post-decision procedures shall be in compliance with Sections 22.114.140 (Notice of Action and Findings), 22.114.150 (Effective Date of Decision), 22.114.160 (Scope of Approvals), 22.114.170 (Conditions of Approval), 22.114.180 (Use of Property before Final Action), 22.114.190 (Approvals Run with the Land), 22.114.200 (Performance Guarantees and Covenants), 22.114.210 (Time Limits and Extensions) and 22.114.220 (Resubmission of Application).

#### **22.122.070 Revisions to a Site Plan – Revised Exhibit A.**

The Director may approve revisions to a site plan for an approved Type III application in accordance with Section 22.120.070 (Revisions to a Site Plan – Revised Exhibit A).

## **Chapter 22.124    Type IV Applications—Discretionary**

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### Sections:

- 22.124.010 Purpose
- 22.124.020 Applicability
- 22.124.030 Review Authority and Related Procedures
- 22.124.040 Application Filing, Fees and Project Review
- 22.124.050 Project Notice and Required Actions
- 22.124.060 Public Hearing, Findings and Decision
- 22.124.070 Post-Decision Procedures
- 22.124.080 Adequate Water Supply
- 22.124.090 Zone Regulations
- 22.124.100 Revisions to Site Plan – Revised Exhibit A

### **22.124.010 Purpose**

The Type IV application is a discretionary process for reviewing uses that may be appropriate in the applicable base zone, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site. Type IV applications require public notification and a public hearing.

### **22.124.020 Applicability**

- A.    **Base Zones.** A Type IV application is required to authorize uses identified by Division 2 (Base Zones) as being permitted in the applicable base zone, subject to the approval of a Type IV application.
  
- B.    **Other Specific Uses.** A Type IV application may also be required for use types having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located and operated compatible with uses on adjacent properties and in the surrounding area.

### **22.124.030 Review Authority and Related Procedures**

- A.    **General Requirements.** A Type IV application shall be approved, conditionally approved, or denied by the Review Authority in compliance with Table 22.114.020: Review Authority, and any additional requirements or review criteria for a Type IV application established in this Ordinance.

- B. **Assignment.** The Director shall assign a Type IV application to the Hearing Officer or the Commission for a public hearing and decision. The Director may assign the Hearing Examiner to conduct a public hearing per Section 22.112.060 (Hearing Examiner).
- C. **Referral.** The Review Authority may refer a Type IV application to the next higher Review Authority for consideration and decision.

#### **22.124.040 Application Filing, Fees and Project Review**

Applications for a Type IV application shall be in compliance with Sections 22.114.040 (Multiple Applications), 22.114.050 (Application Filing and Withdrawal), 22.114.060 (Fees and Deposits), 22.114.070 (Initial Application Review) and 22.114.080 (Project Evaluation and Staff Reports).

#### **22.124.050 Project Notice and Required Actions**

The Department shall provide notice of the hearing in compliance with Section 22.114.090 (Public Hearing Notice) on a Type IV application before taking any action.

#### **22.124.060 Public Hearing, Findings and Decision**

Type IV application public hearing, findings and decision shall be in compliance with Sections 22.114.100 (Public Hearing Procedure), 22.114.110 (Findings and Decision), and 22.114.130 (Decision after Public Hearing).

#### **22.124.070 Post-Decision Procedures**

Type IV application post-decision procedures shall be in compliance with Sections 22.114.140 (Notice of Action and Findings), 22.114.150 (Effective Date of Decision), 22.114.160 (Scope of Approvals), 22.114.170 (Conditions of Approval), 22.114.180 (Use of Property before Final Action), 22.114.190 (Approvals Run with the Land), 22.114.200 (Performance Guarantees and Covenants), 22.114.210 (Time Limits and Extensions) and 22.114.220 (Resubmission of Application).

#### **22.124.080 Adequate Water Supply**

If the use requested will require a greater water supply for adequate fire protection than does either the existing use or any use permitted without a Type IV permit in the same base zone, and will not comply with the provisions of Division 1 (Water) of Title 20 (Utilities) of the County Code, such facts shall be prima facie evidence that such requested use will adversely affect and be materially detrimental to adjacent uses, buildings and structures and will not comply with the required findings

according to Section 22.124.070 (Findings, Decision and Post-Decision Procedures). If the water appeals board grants a variance pursuant to any provision of Chapter 20.12 of Title 20 (Utilities) of the County Code, permitting the proposed use with the existing or proposed water supply, this Section shall not apply.

### **22.124.090 Zone Regulations**

Unless specifically modified by an approved Type IV application, all regulations prescribed in the base zone in which such permit is granted shall apply. This shall not apply to Type IV applications for Animal Permits, Oak Tree Permits, Parking Permits, Coastal Development Permits, Surface Mining or Cemeteries.

### **22.124.100 Revisions to a Site Plan – Revised Exhibit A**

The Director may approve revisions to a site plan for an approved Type IV application in accordance with Section 22.120.070 (Revisions to a Site Plan – Revised Exhibit A).

## **Chapter 22.126 Type V Applications—Discretionary**

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Sections:

- 22.126.010 Purpose
- 22.126.020 Applicability
- 22.126.030 Review Authority and Related Procedures
- 22.126.040 Application Filing, Fees and Project Review
- 22.126.050 Project Notice and Required Actions
- 22.126.060 Findings, Decision and Post-Decision Procedures

### **22.126.010 Purpose**

The Type V application is a discretionary process for reviewing uses that are legislative and require Board approval. Type V applications require public notification and public hearings.

### **22.126.020 Applicability**

A Type V application is required to authorize legislative actions. Zone changes and amendments shall be processed as Type V applications. Zone changes and amendments shall also be in compliance with Chapter 22.146 (Zone Changes and Amendments).

### **22.126.030 Review Authority and Related Procedures**

- A. **General Requirements.** Type V applications shall be approved, conditionally approved, or denied by the Review Authority in compliance with Table 22.114.020: Review Authority, and any additional requirements or review criteria for a Type V review established in this Ordinance.
- B. **Assignment.** The Director shall assign a Type V application to the Commission for a public hearing and recommendation. The Director may assign the Hearing Examiner to conduct a public hearing per Section 22.112.060 (Hearing Examiner).

### **22.126.040 Application Filing, Fees and Project Review**

Applications for a Type V application shall be in compliance with Sections 22.114.040 (Multiple Applications), 22.114.050 (Application Filing and Withdrawal),

22.114.060 (Fees and Deposits), 22.114.070 (Initial Application Review) and 22.114.080 (Project Evaluation and Staff Reports).

### **22.126.050 Project Notice and Required Actions**

The Department shall provide notice of the hearing in compliance with Section 22.114.090 (Public Hearing Notice) on a Type V application before taking any action.

### **22.126.060 Public Hearing**

The Department shall conduct a public hearing in compliance with Sections 22.114.100 (Public Hearing Procedure) and 22.114.120 (Recommendations after Public Hearing) and forward their recommendation to the Board.

### **22.126.070 Findings, Decision and Post-Decision Procedures**

Type V application findings, decision and post-decision procedures shall be in compliance with Chapter 22.146 (Zone Changes and Amendments).

## Chapter 22.128 Parking Permit

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### Sections:

- 22.128.010 Purpose
- 22.128.020 Applicability
- 22.128.030 Findings and Decision
- 22.128.040 Conditions of Approval
- 22.128.050 Termination

### 22.128.010 Purpose

This Chapter provides an alternative to the parking requirements of Chapter 22.80 (Parking and Loading) to provide greater flexibility in the design of particular uses that have special parking needs and characteristics, conserve land and promote efficient land use, or reduce the amount or required parking in the event that a particular use does not have the need for such requirements.

### 22.128.020 Applicability

#### A. Applications.

1. ***Type III Applications.*** Applications for a parking permit shall be the same as a Type III application, in compliance with Chapter 22.122 (Type III Applications – Discretionary), for a reduction of less than 30 percent in the number of vehicle parking spaces required by this Ordinance is proposed; or
2. ***Type IV Applications.*** Applications for a parking permit shall be the same as a Type IV application, in compliance with Chapter 22.124 (Type IV Applications – Discretionary) for all other requests for a reduction in the number of vehicle parking spaces required by this Ordinance. A request for a reduction in required parking spaces for any use shall not be reduced to less than 50 percent, except that housing developments for senior citizens and persons with disabilities may request a reduction of more than 50 percent.

#### B. Uses. A parking permit may be filed for such uses including:

1. Housing developments for senior citizens and persons with disabilities, where few of the residents will own their own automobiles;

2. Certain uses where parking requirements are based upon floor area of a structure, but bear no relationship to the number of employees, customers, etc., on the premises or the trade conducted;
3. Businesses which provide their employees, customers, or others with positive incentives to use means of transportation other than the automobile;
4. The dual or shared use of parking facilities by two or more uses;
5. Tandem parking for nonresidential uses;
6. Compact parking spaces for apartment houses;
7. Off-site parking facilities;
8. The short-term leasing of required parking spaces;
9. Transitional parking for parcels with rear lot lines abutting commercial or industrial zones; or
10. Uncovered parking for low and moderate income housing.

### **22.128.030 Findings and Decision**

The Review Authority shall approve a parking permit only after the applicant substantiates all of the following required findings:

- A. The findings for a Type III application per Section 22.122.050 (Project Notice and Required Actions) or the Type IV application per Section 22.124.060 (Public Hearing, Findings and Decision), as applicable;
- B. That there will be no need for the number of parking spaces required by Chapter 22.80 (Parking and Loading) because:
  1. The age and/or physical condition of the residents is such that the use of automobiles is unlikely, or
  2. The nature of the use is such that there is a reduced occupancy, or
  3. The business or use has established a viable transportation program for its employees and/or customers to use transportation modes other than the single-occupant automobile. Such a program shall include positive incentives such as van pools, transit fare subsidies, commuter travel allowances, car pools or bicycle commuter facilities. Where appropriate, proximity to freeways with high-occupancy vehicle (HOV)

lanes, bus routes, park-and-ride facilities, people-movers, rapid transit stations, bikeways, or other similar facilities shall be a factor in this consideration, or

4. Sufficient land area is reserved or an alternative arrangement is approved to ensure that the parking requirements may be complied with should the use, occupancy, or transportation program change. Such reservation or alternative may be waived for certain housing developments for senior citizens and persons with disabilities where the Director finds that it is unnecessary because of the anticipated permanent nature of such use. If required, the reserved land area shall be so located and developed in such a manner that it can be feasibly converted to parking if needed;
- C. That there will be no conflicts arising from special parking arrangements allowing shared facilities, tandem spaces or compact spaces because:
1. Uses sharing parking facilities operate at different times of the day or days of the week, or
  2. Parking facilities using tandem spaces will employ valets or will utilize other means to ensure a workable parking plan, or
  3. Apartment houses using compact spaces for a portion of the required parking have a management program or homeowners' association to assure an efficient distribution of all parking spaces;
- D. That off-site facilities, leases of less than 20 years, rear lot transitional parking lots and uncovered residential parking spaces will provide the required parking for uses because:
1. Such off-site facilities are controlled through ownership, leasing or other arrangement by the owner of the use for which the site serves and are conveniently accessible to the main use,
  2. Such leases are written in such a way as to prevent multiple leasing of the same spaces or cancellation without providing alternate spaces; such leases shall contain other guarantees assuring continued availability of the spaces,
  3. Such transitional lots are designed to minimize adverse effects on surrounding properties, or

4. Uncovered parking for low and moderate income residential developments will be appropriately screened and compatible with the surrounding neighborhood;
- E. That the requested parking permit at the location proposed will not result in traffic congestion, excessive off-site parking, or unauthorized use of parking facilities developed to serve surrounding property; and
- F. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in this Ordinance.

#### 22.128.040 Conditions of Approval

A. **Covenant.**

1. Where a parking permit is approved, the owner of the land shall furnish and record an agreement with the Registrar-Recorder/County Clerk as a covenant running with the land for the benefit of the County, providing that, should such parking permit terminate, the owner or his successor in interest will develop the parking spaces needed to bring the new use or occupancy into conformance with the requirements of Chapter 22.80 (Parking and Loading) at the time such new use or occupancy is established.
2. Where a parking permit is approved for off-site parking, the agreement shall be recorded on both the lot containing the principal use as well as the lot or developed for off-site parking.
3. All agreements shall be reviewed and approved by the Director and County Counsel prior to recordation.

B. **Modification to Chapter 22.80 (Parking and Loading).** Unless specifically modified by a parking permit, all regulations prescribed in Chapter 22.80 (Parking and Loading) shall apply.

C. **Additional Conditions.** The Review Authority may impose additional conditions as deemed necessary to ensure that the permit will be in accordance with the findings required by this Chapter. In addition, the following conditions shall be imposed, where applicable, unless specifically waived or modified:

1. The required parking spaces for housing developments for senior citizens and persons with disabilities may be reduced to not less than one space for each four dwelling units.
2. The required parking spaces for eating establishment selling food for off-site consumption may be reduced to no less than one space for each 250 square feet.
3. The required parking spaces for all other uses may be reduced to not less than 50 percent of the parking spaces required by Section 22.80.050 (Required Parking).
4. Where reduced occupancy is a primary consideration in the approval of a parking permit, the maximum occupant load for such use shall be established.
5. Where special programs are proposed to reduce the parking requirement, they shall be reviewed annually by the Director to determine their effectiveness. In the event that such programs are terminated or unsuccessful, the property owner shall supply the required parking.
6. Where land is required to be reserved to ensure that sufficient area is available to meet the parking requirements, restrictions shall be imposed on such land so that it can feasibly be converted to parking if needed.
7. Where shared parking facilities are approved, operating conditions such as hours or days of operation shall be established for each use sharing the facility.
8. Where tandem parking is proposed for nonresidential uses, there shall be valets or other persons employed to assist in the parking of automobiles. The ratio of valets to parking spaces shall be established. The parking of automobiles by valets on public streets shall be prohibited. Each tandem parking space shall be eight feet wide; the length of the space shall be 18 feet for each automobile parked in tandem. Parking bays shall contain only two parking spaces where access is available from only one end. Bays of four parking spaces may be permitted where access is available from both ends.
9. Where compact parking is proposed for apartments, no more than 40 percent of the required spaces shall be for compact automobiles. A program to manage the distribution of parking spaces shall be

- approved and operated by the apartment management or a homeowners' association.
10. If off-site automobile parking facilities are proposed, such facilities must be within 400 feet from any entrance of the use to which they are accessory. Parking for employees shall be located within 1,320 feet from the entrance to such use. Directions to such facilities shall be clearly posted at the principal use.
  11. Where leasing of parking facilities is proposed for any period less than 20 years, the applicant shall guarantee that the leased spaces are available for his sole use, the lease shall be recorded in the office of the Registrar-Recorder/County Clerk, and the applicant shall demonstrate that he has the ability to provide the required number of spaces should the lease be cancelled or terminated. Except for the term of the lease, the provisions of Subsection A of Section 22.80.040 (Ownership or Lease) relating to leases shall apply. A copy of such lease shall be submitted to the Director and County Counsel for review and approval. Other conditions including, but not limited to, requiring title reports, covenants and bonding may also be imposed where necessary to ensure the continued availability of leased parking spaces.
  12. Where transitional parking is proposed for lots whose rear lot line adjoins or is separated only by an alley from a commercial or industrial zone, no access is permitted from the parking facility to the street on which the lot fronts. The parking facility shall be developed in accordance with the standards of Chapter 22.80 (Parking and Loading) and Chapter 22.106.410 (Parking as a Transitional Use), unless specifically waived or modified by the parking permit. The hours and days of operation shall be established to prevent conflicts with adjoining less restrictive uses, and the facility shall be secured to prevent unauthorized use during times when the facility is closed.
  13. Where uncovered parking is proposed for low and moderate income housing, the following setback and screening provisions, shall be complied with:
    - a. Uncovered parking spaces shall not be located in the required front, side, corner side or rear yards except in those places where garages or carports are permitted in accordance with Chapter 22.84 (General Site Regulations).

- b. Uncovered parking spaces shall be screened by a six-foot high solid fence or wall or by a three-foot wide planting strip along the sides of the parking space if the space is located within 10 feet of any property line.
    - i. Landscaping material in the planting strip shall consist of evergreen trees and/or shrubs of such size, spacing and character that they form an opaque screen five to six feet high within two years of planting. This landscaping must be continuously maintained.
    - ii. Such buffering by walls, fences or landscaping is optional where the lots or parcels of land adjoining the uncovered parking area are developed with parking facilities, either covered or uncovered.
  - c. Uncovered parking spaces will be permitted only for those units actually designated for low or moderate income housing.
14. In the event that any applicant and/or property owner is unable to comply with the provisions of the parking permit, the use for which permit has been granted shall be terminated, reduced, or removed unless some other alternative method to provide the required parking is approved by the Director.
15. The parking permit shall be granted for a specified term where deemed appropriate.

#### **22.128.050 Termination**

- A. A parking permit that is valid and in effect, and was granted pursuant to the provisions of this Ordinance, shall adhere to the land and continue to be valid upon change of ownership of the land or any lawfully existing building or structure on said land.
- B. An approved parking permit shall terminate and cease to be in effect at the same time the principal use or occupancy for which such permit is granted terminates.

## Chapter 22.130 Housing Permits

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### Sections:

- 22.130.010 Purpose and Applicability
- 22.130.020 General Application Requirements
- 22.130.030 Covenant and Agreement
- 22.130.040 Monitoring
- 22.130.050 Enforcement and Noncompliance
- 22.130.060 All Zone and District Regulations Apply Unless Permit is Granted
- 22.130.070 Development Standards Prescribed by Permit
- 22.130.080 Administrative Housing Permit
- 22.130.090 Discretionary Housing Permit

### 22.130.010 Purpose and Applicability

- A. **Purpose.** This permit is established to facilitate the increased production of affordable and senior citizen housing through the implementation of the provisions of Chapter 22.92 (Density Bonuses and Affordable Housing Incentives). The definitions contained in Chapter 22.92 (Density Bonuses and Affordable Housing Incentives) shall apply to this Chapter.
- B. **Applicability.** Any person desiring to obtain a Housing Permit pursuant to this Chapter that requires either an administrative review (Administrative Housing Permit) or a discretionary review (Discretionary Housing Permit) and that meets the applicable requirements of this Chapter shall file a written application with the Director, accompanied by the applicable required fee(s). All qualified projects with housing set-asides shall adhere to the applicable requirements of this Chapter.

### 22.130.020 General Application Requirements

An applicant for a Housing Permit shall submit an application with the information required in Chapter 22.114 (Common Procedures) and on the handout provided by the Department, and the following additional information:

- A. Project summary, which includes location, number, and type of dwelling units, including housing set-aside units, and the number of bedrooms in each unit;
- B. Total number of dwelling units proposed (before application of a density bonus);

- C. Amount of the density bonus (expressed as both a percentage of the total number of dwelling units proposed and as a whole number of additional units) and the types of incentives requested; and
- D. The total number of dwelling units, including bonus units after application of a density bonus.

### 22.130.030 **Covenant and Agreement**

A covenant and agreement, or other similar mechanism, acceptable to the Community Development Commission (CDC), shall be recorded with the Registrar-Recorder/County Clerk to ensure the continuing availability of housing set-aside units and child care facilities, as applicable, for the use restriction periods specified in this Chapter and Chapter 22.92 (Density Bonuses and Affordable Housing Incentives). The agreement shall contain remedies for violations of the covenant, including, but not limited to, monetary penalties. The covenant and agreement shall be recorded with the Registrar-Recorder/County Clerk prior to the issuance of a certificate of occupancy by the Department of Public Works.

- A. **Information Required.** The covenant and agreement shall include the following:
  - 1. A description of the total number of units, including the housing set-aside;
  - 2. A description of the household income group(s) to be accommodated by the qualified project;
  - 3. The location, sizes (in square feet), and number of bedrooms of the housing set-aside units, and market-rate units, if applicable; and
  - 4. A description of remedies, including monetary penalties, for breach of the agreement.
- B. **Rental Housing Developments.** When housing set-asides are rental units, the covenant and agreement shall also include the following:
  - 1. The rules and procedures for qualifying tenants, filling vacancies, and maintaining housing set-asides, and where applicable, establishing affordable rents; and
  - 2. Provisions requiring owners to comply with monitoring procedures, as described in Section 22.130.040 (Monitoring) below.

- C. **For-Sale Developments.** When housing set-asides are for-sale units, the covenant and agreement shall also include the following:
1. The rules and procedures for qualifying buyers, and where applicable, establishing affordable housing costs and affordable sales prices;
  2. Provisions restricting the housing set-aside units to be owner-occupied;
  3. Provisions requiring owners to comply with monitoring procedures, as described in Section 22.130.040 (Monitoring) below;
  4. For very low, lower, and moderate (single-family) income housing set-asides, provisions restricting the sale and resale of the housing set-aside units to eligible buyers during the applicable term of affordability, using a resale formula, as determined by the Executive Director of the CDC, to determine the resale price; and
  5. For moderate income housing set-asides (common interest development), provisions restricting the initial sale to eligible buyers, and requiring entering into an equity-sharing agreement with the County that states the following terms:
    - a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The County shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Section 33334.2(e) of the State Health and Safety Code.
    - b. The County's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.
    - c. The County's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale; and
- D. **Child Care Facilities.** When the qualified project includes a child care facility, the covenant and agreement shall also include the following:

1. The rules and procedures for qualifying children, filling vacancies, and maintaining a percentage of use by qualified households;
  2. The minimum amount of time in which a child care facility shall remain in operation; and
  3. The minimum required percentage of children of very low, lower, or moderate income households who attend the child care facility.
- E. **Release of the Covenant and Agreement.** Under certain circumstances, and after consultation with the Executive Director of the CDC, the covenant and agreement may be terminated by the Director of Planning after making written findings as to the need for releasing the covenant and/or agreement.

#### 22.130.040 Monitoring

The monitoring of affordable housing set-aside units shall be administered by the CDC. The CDC shall be responsible for verifying income eligibility, monitoring sales of affordable housing set-aside units to qualified buyers, conducting periodic site inspections and administering the annual registration/certification of affordable housing set-aside units approved pursuant to this Chapter for the duration of the required term as specified in Chapter 22.92 (Density Bonuses and Affordable Housing Incentives).

- A. **Registration/Certification.** Property owners shall register their affordable housing set-aside units with the CDC according to the following schedule:
1. **Rental Units.** Prior to the granting of a certificate of occupancy by Department of Public Works for any unit in the qualified project, the owner shall register each affordable set-aside unit and certify annually with the CDC thereafter, on or before January 1 of each year, that affordable housing set-aside unit(s) remain in conformance with the terms of the Housing Permit.
  2. **For-Sale Units.**
    - a. For very low, lower, and moderate (single-family) income housing set-asides, prior to the granting of a certificate of occupancy by Department of Public Works for any unit in the qualified project, the owner shall register each affordable housing set-aside unit, at the time of sale and certify annually with the CDC thereafter, on or before January 1 of each year, that the affordable housing set-aside unit(s) remain in conformance with the terms of the Housing Permit.

- b. For moderate income housing set-asides (common interest development), prior to the granting of a certificate of occupancy by Department of Public Works for any unit in the qualified project, the owner shall register each affordable housing set-aside unit, at the time of sale and certify annually with the CDC thereafter, on or before January 1 of each year, that the affordable housing set-aside unit(s) remain in conformance with the terms of the Housing Permit.
- B. **Fees.** In addition to the applicable review fee(s), the applicant for a Housing Permit that is granted approval by the County shall be required to deposit monitoring/inspection fees with the CDC at the time that the Housing Permit is accepted by the applicant and before a certificate of occupancy is issued by the Department of Public Works for any unit in the qualified project. The monitoring/inspection deposits shall be \$125 per affordable housing set-aside unit per year, and the applicant shall provide the total cumulative amount for the term of the grant, to be deposited into a trust fund from which actual costs are deducted by the CDC to defray the ongoing monitoring costs. On or before April 1 of each year, the CDC shall provide an annual report to the Director that describes the following:
1. The location and status of each affordable housing set-aside unit approved in accordance with this Chapter and Chapter 22.92 (Density Bonuses and Affordable Housing Incentives); and
  2. The results of the registration/certification of each affordable housing set-aside unit and a notification to the Director of any necessary zoning enforcement order or action to maintain the housing set-aside units consistent with this Chapter and Chapter 22.92 (Density Bonuses and Affordable Housing Incentives).
- C. **Enforcement and Noncompliance.** In the event of noncompliance, the owner of the housing set-aside units shall be subject to the enforcement procedures described in Chapter 22.144 (Enforcement Provisions).

### **22.130.050 All Zone and District Regulations Apply Unless Permit is Granted**

Unless specifically modified by a Housing Permit, all regulations prescribed in the zone or the community standards district in which such Housing Permit is granted shall apply.

### 22.130.060 Development Standards Prescribed by Permit

In granting a Housing Permit, the Review Authority shall prescribe the height limit, number of stories, yards, maximum lot coverage, gross structural area, parking, and other development standards for the use approved. Where the Review Authority fails to specify said height limit, stories, yards, maximum lot coverage, gross structural area, density, parking, or other development standards, those provisions applicable to principal permitted uses in the specific zone shall be deemed to be so specified.

### 22.130.070 Administrative Housing Permit

A. **Application.** In addition to a Type I application, an application for an Administrative Housing Permit shall contain the following information:

1. The information required by Section 22.130.020 (General Application Requirements).
2. A real estate development pro forma or other financial information satisfactory to the Review Authority, as applicable.
3. Environmental documentation, including:
  - a. Information that the proposed project has no specific, adverse impact upon health, safety, or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; and
  - b. Information that the proposed project has no adverse impact on any real property that is listed in the California Register of Historical Resources.
4. **On-Menu Incentives.** An applicant that requests an on-menu incentive in accordance with Table 22.92.050.A (Number of Incentives) shall also provide a statement that confirms that the proposed project is not in or on any of the following:
  - a. A Very High Fire Hazard Severity Zone as defined in Section 223-V of Title 32 (Fire Code) of the County Code;
  - b. An area that is not served by a public sewer system;
  - c. An area that is not served by a public water system;
  - d. A significant ecological area as defined in Division 8 (Definitions).

- e. An environmentally sensitive habitat area, as shown on the sensitive environmental resources map of the Malibu Land Use Plan; and
  - f. On land having a natural slope of 25 percent or more.
5. **Off-Menu Incentives.** An applicant that requests an off-menu incentive, in accordance with Subsection C or D.2 of Section 22.92.050 (Incentives), shall also provide the following:
- a. Maps in the number prescribed, and drawn to a scale specified by the Director, showing the location of all property included in the request, the location of all highways, streets, alleys, and the location and dimensions of all lots adjacent to the exterior boundaries of the subject lot(s). One copy of said map shall indicate the uses established on every lot adjacent to the exterior boundaries of the subject lot;
  - b. A list, certified to be correct by affidavit or by a statement under penalty of perjury pursuant to Section 2015.5 of the California Code of Civil Procedure, of the names and addresses of all persons who are shown on the latest available assessment roll of the County as owners of the subject lot and as owning property adjacent to the exterior boundaries of the lot to be occupied by the use. One copy of said map shall indicate where such ownerships are located;
  - c. A list of names and addresses of the local town council, and/or similar local community association(s) as applicable;
  - d. The Director may waive the filing of one or more of the above items; and
  - e. The accuracy of all information, maps and lists submitted shall be the responsibility of the applicant.
- B. **Multiple Applications.** When an application is filed for a discretionary land use entitlement concurrently with an application for an Administrative Housing Permit, the Review Authority may consider and approve such application for the Housing Permit concurrently with such Type IV application, variance, or other discretionary land use entitlement. The Review Authority shall make the required findings for each entitlement as if separately filed.
- C. **Fee and Deposit.**

1. When an application for an Administrative Housing Permit is filed, it shall be accompanied by the filing fee listed in the County Planning Fee Schedule for:
    - a. Administrative Housing Permit; or
    - b. Administrative Housing Permit with Off-Menu Incentives
  2. In addition, the Director shall refer an Administrative Housing Permit application to the CDC for review, pursuant to this Chapter, and the applicant shall pay directly to the CDC the fee for the Housing Permit as listed in the Filing Fee Schedule.
- D. **Denial for Lack of Information.** The Director may deny an application for an Administrative Housing Permit if such application does not contain the information required by Section 22.130.010.B and 22.130.020 (General Application Requirements), as applicable. The Director may permit the applicant to amend such application to provide the missing information.
- E. **Processing.** All reviews for an Administrative Housing Permit application will follow the procedures for case processing, review, decision, and appeals as outlined in Chapter 22.118 (Type I Applications—Ministerial) for a Type I application review except as provided in the subsections below.
- F. **Findings.** An application for an Administrative Housing Permit that meets all the requirements for qualified projects shall be approved unless the Director makes one or more of the following findings, as applicable:
1. When an incentive is requested:
    - a. That the incentive is not required in order to provide for affordable housing costs or affordable rents, or
    - b. That the incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low, lower, or moderate income households.
  2. When an additional density bonus or incentive for the provision of a childcare facility is requested:

- a. That the additional density bonus or incentive for a child care facility does not significantly contribute to the economic feasibility of the construction of the child care facility;
  - b. That the additional incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low, lower or moderate income households; or
  - c. That the community has adequate child care facilities.
- G. **Notification of Off-Menu Incentives.** Where applicable, when an applicant requests an off-menu incentive, the Director shall also notify the Commission, adjacent property owners, and the local town council, or similar local community association(s), of the action taken on the application, by first class mail, postage prepaid, or other means deemed appropriate by the Director. The notice shall specify that the project is subject to an Administrative Housing Permit and that the incentives are not subject to a discretionary review. The notice shall also specify that the bases for which an appeal can be filed by the applicant or any interested person or the matter called up for review by the Commission are limited to the criteria contained in Subsection F, above, and that the permissible grounds upon which the Commission may act in such appeal or call for review as described in Subsection I below are also limited to such criteria.
- H. **Effective Date.**
1. **Decision.** Unless otherwise stated, the decision of the Director shall become effective on the 15th calendar day following the date of the decision.
  2. **Off-Menu Incentives.** Where applicable, when an applicant requests an off-menu incentive, the decision of the Director shall become effective on the 21st calendar day following the date of the decision unless appealed by the applicant or any interested person, or called up for review by the Commission prior to that date.

I. **Appeals.**

1. **Off-Menu Incentives.**

- a. *Appeal Review.* When an off-menu incentive is requested, an appeal to the Commission may be made by any interested person dissatisfied with the action taken by the Director on an Administrative Housing Permit and/or the project may be called up for review by the Commission. Such appeal shall be filed with the Commission, or be called up for review by the Commission, within 20 calendar days following the date of the decision. The appeal shall be accompanied by the fee required by the County Planning Fee Schedule. Appeals that do not address the findings and determinations made by the Director, as described in Subsection F, above, shall not be accepted.
  - b. *Notice of Appeal.* A notice of appeal shall be sent to the Commission, adjacent property owners, local town council, and/or similar local community association(s). In the event that the matter is called up for review by the Commission, a notice of call for review shall be sent to the local town council, and/or similar local community association(s).
2. **Decision.** The Commission shall review the record of the decision and shall affirm, modify, or reverse the original decision. When a decision is modified or reversed, the Commission shall state the specific reasons for modification or reversal. In rendering its decision, the Commission shall not consider any argument or evidence of any kind other than the record of the matter received from the Director or appellants, which shall solely be based on the findings and determination of the Director, as described in Subsection F, above. The decision of the Commission shall be final.
3. **Time Limit for Decision and Notice.** Decisions on appeals or calls for review shall be rendered within 90 days of the end of the appeal period. The secretary of the Commission shall mail notice of the decision within five working days after the date of the decision to the applicant and other persons required to be notified pursuant to Subsection G, above.
4. **Failure to Act.** If the Commission fails to act upon an appeal or call for review within the time limits prescribed in this Section, the applicant's project shall be deemed approved, except that the applicant, at their

sole discretion, may elect to waive the time limit in order to obtain a written decision by the Commission.

- J. **Effective Date of Appeal.** Where an appeal is filed for an Administrative Housing Permit, the date of decision by the Commission on such appeal shall be deemed the date of grant in determining any applicable expiration date for the permit.
- K. **Time Expiration.** An Administrative Housing Permit that is not used within two years after the granting of the permit, becomes null, void, and of no effect, except that the Director may extend such time for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date. The Director may grant an additional (second) one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension.
- L. **Requirements Imposed by the Director.**
  - 1. **Covenant and Agreement.** The Director, in approving an application for an Administrative Housing Permit, shall require the applicant to enter into and record a covenant and agreement, as described in Section 22.130.030 (Covenant and Agreement), with the County to ensure the affordability and/or age restrictions, and where applicable, require a monitoring fee pursuant to Subsection B of Section 22.130.040 (Monitoring).
  - 2. **Affidavit.** The Administrative Housing Permit will not be effective for any purpose until the permittee and the owner of the property involved (if other than the permittee) have filed at the Department of Regional Planning their affidavit of acceptance stating that they are aware of, and agree to accept, all of the requirements of the permit.

## 22.130.080 Discretionary Housing Permit

- A. **Application and Fees.** In addition to a Type IV application, an application for a Discretionary Housing Permit shall contain the information required by Section 22.130.020 (General Application Requirements). The applicant shall also pay the required fee for the Discretionary Housing Permit.
- B. **Findings.** The Review Authority shall approve an application only after the applicant substantiates the following required findings:
  - 1. That all the findings for a Type IV application per Section 22.124.060 (Public Hearing, Findings and Decision) has been satisfied;

2. That the requested use at the location will not:
    - a. Adversely affect the health, peace, comfort, or welfare or persons residing or working in the surrounding area;
    - b. Be detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; or
    - c. Jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.
  3. That the site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Ordinance or as is otherwise required in order to integrate said use with the uses in the surrounding area.
  4. That the site is adequately served:
    - a. By highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate; and
    - b. By other public or private service facilities as are required.
  5. That the project at the location proposed has been designed to be complimentary to the surrounding area in terms of land use patterns and design.
  6. That the project will assist in satisfying housing needs, and is viable in terms of continuing availability to meet such housing needs.
  7. That the project will be consistent with the adopted general plan for the area.
- C. **Waivers or Modifications to Development Standards.** An applicant that requests waivers or modifications to development standards, in accordance with Section 22.92.060 (Waiver or Modification of Development Standards) shall also substantiate to the satisfaction of the Commission that any requests for waivers or modifications to development standards:
1. Are necessary to make the housing units economically feasible; and
  2. Do not have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, and for which there is no

feasible method to satisfactorily mitigate or avoid the specific adverse impact.

**D. Additional Conditions Imposed.**

1. The Review Authority, in approving an application for a Discretionary Housing Permit, may impose such conditions as it deems necessary to ensure that such use will be in accord with the findings required by Subsection B, above. Conditions imposed by the Review Authority may involve any pertinent factors affecting the establishment, operation, and maintenance of the requested use.
2. The Review Authority, in approving an application for a Discretionary Housing Permit, shall condition the applicant to enter into and record a covenant and agreement with the County, as described in Section 22.130.030 (Covenant and Agreement) to ensure the affordability and/or age restrictions of the housing set-asides, and where applicable, require a monitoring fee pursuant to Subsection B of Section 22.130.040 (Monitoring).
3. The Review Authority may also approve the requested Discretionary Housing Permit contingent upon compliance with applicable provisions of other ordinances.
4. The Discretionary Housing Permit will not be effective for any purpose until the permittee and the owner of the property involved (if other than the permittee) have filed with the Director their affidavit of acceptance stating that they are aware of, and agree to accept, all of the conditions of the Discretionary Housing Permit.

**E. Appeals.**

1. **Appellate.** An appeal may be made by any interested person dissatisfied with the action taken by the Commission, as described in Chapter 22.140 (Appeals).
2. **Waivers or Modification of Development Standards.** Reasons for which appeals for waivers or modifications of development standards are based shall be in accordance with Subsection C, above.
3. **Effective Date when an Appeal is Filed.** Where an appeal is filed for any Discretionary Housing Permit, the date of decision by the Board on such appeal shall be deemed the date of grant in determining any applicable expiration date for the permit.

- F. **Time Expiration.** Regardless of Section 22.118.070 (Post-Decision Procedures), a Discretionary Housing Permit that is not used within two years after the granting of the permit, becomes null, void, and of no effect, except that the Director may extend such time for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date. The Director may grant an additional (second) one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension.

## Chapter 22.132 Coastal Development Permits

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### Sections:

- 22.132.010 Purpose
- 22.132.020 Applicability
- 22.132.030 Application Filing and Fees
- 22.132.040 Initial Application Review
- 22.132.050 Application Processing
- 22.132.060 Public Hearings
- 22.132.070 Notice Requirements
- 22.132.080 Findings
- 22.132.090 Conditions of Approval
- 22.132.100 Notice of Decision
- 22.132.110 Notice of Final Decision
- 22.132.120 Appeals
- 22.132.130 Effect of Appeal by the Coastal Commission
- 22.132.140 De Novo Review by the Coastal Commission
- 22.132.150 Appeal by the Coastal Commission
- 22.132.160 Effective Date of Permit
- 22.132.170 Expiration of Permits
- 22.132.180 Amendments to Approved Coastal Development Permits
- 22.132.190 Revocation or Revision of Coastal Development Permits
- 22.132.200 Enforcement

### 22.132.010 Purpose

This Chapter establishes Coastal Development Permit procedures. The Coastal Development Permit is established to ensure that development within the Coastal Zone conforms with Division 20 (California Coastal Act) of the State Public Resources Code and to the policies of adopted Local Coastal Programs.

### 22.132.020 Applicability

- A. **Coastal Development Permit Required.** In addition to obtaining any other permits required by law, any person wishing to perform or undertake any development in the coastal zone shall obtain a Coastal Development Permit. The processing of a Coastal Development Permit shall be subject to the provisions of Chapter 4.5 (Section 65920 et seq.) in Division I, Title 7 of the State Government Code.
- B. **Exemptions.** A Coastal Development Permit shall not be required for:

1. Improvements to single-family residences consistent with the provisions of Section 13250 in Title 14 of the California Code of Regulations;
2. Improvements to any structure other than a single-family residence or public works facility consistent with the provisions of Section 13253 in Title 14 of the California Code of Regulations;
3. Repair or maintenance activities consistent with the provisions of Section 13252 in Title 14 of the California Code of Regulations;
4. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to Division 20 (California Coastal Act) of the State Public Resources Code; provided, however, that the Director may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources. All repair, maintenance and utility hookups shall be consistent with the provisions adopted by the California Coastal Commission on September 5, 1978, or as updated;
5. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements; shall be for the same use as the destroyed structure, shall not exceed either the floor area, height or bulk of the destroyed structure by more than 10 percent; and shall be sited in the same location on the affected property as the destroyed structure;
6. The conversion of any existing multi-unit residential structure to a time-share project, estate or use, as defined in Section 11212 of the State Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no Coastal Development Permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this Subsection. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the State Civil Code, shall not be considered a time-share project, estate or use for the purposes of this Subsection B.6;
7. Maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers;

8. An energy facility subject to the provisions of Section 30107 of the State Public Resources Code; or
  9. A development subject to the provisions of Section 30519(b) of the State Public Resources Code.
  10. A project subject to Coastal Commission jurisdiction, in compliance with Subsection D, below.
- C. **Definition of Disaster.** As used in this Section, “disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owners; “bulk” means total interior cubic volume as measured from the exterior surface of the structure; and “structure” includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.
- D. **Jurisdiction.**
1. **Determination of Jurisdiction.**
    - a. A determination on whether a Coastal Development Permit is in the County’s or Coastal Commission’s jurisdiction shall be made by the Director at the time of application submittal.
    - b. In making such determination, the Director may refer to the “Post-LCP Certification Permit and Appeals Jurisdictional Map” adopted by the Coastal Commission.
    - c. For a Coastal Development Permit within the County’s jurisdiction, the Director shall determine if such permit is appealable to the Coastal Commission, pursuant to Section 22.132.140.B (Appeal to the Coastal Commission) below.
  2. **Coastal Commission Jurisdiction.** In addition to other permit and appeal provisions of this Chapter, development proposals which are located on lands identified as tidelands, submerged lands, public trust lands, certain ports, state university or state college lands on the “Post-LCP Certification Permit and Appeal Jurisdiction Map”, adopted by the Coastal Commission, shall, pursuant to the requirements of Section 30519(b) of the State Public Resources Code, require a Coastal Development Permit from the Coastal Commission. Upon a determination that the proposed coastal development involves such lands, the Department shall refer the applicant to obtain a permit from

the Coastal Commission, and no further review by the Department shall be required.

3. ***Dispute of Determination of Jurisdiction or Exemption***

- a. If the determination of jurisdiction or exemption as listed in Subsections A, B, and D, above, is challenged by the applicant or interested person, or if the County wishes to have a Coastal Commission determination as to the appropriate determination, the Director shall notify the Coastal Commission by telephone of the dispute and shall request an opinion of the Executive Director of the Coastal Commission.
- b. Processing of such Coastal Development Permit shall be suspended pending a final determination of jurisdiction by the Executive Director of the Coastal Commission.

## 22.132.030 **Application Filing and Fees**

### A. **Application Filing and Withdrawal.**

1. Application filing and withdrawal for a Coastal Development Permit application shall be in compliance with this Chapter and the application type required by the Base Zone.
2. In addition to the requirements of Subsection A.1, above, the applicant shall file proof satisfactory to the Review Authority that water for fire protection is available in quantities and pressures required by Division 1 (Water Ordinance) of Title 20 (Utilities) of the County Code, or by a variance granted pursuant to said Division 1. The Director may accept as such proof a certificate from the person who is to supply water that water can be supplied as required by said Division 1, also stating the amount and pressure, which certificate also shall be signed by the Fire Department, or a certificate from the Department of Public Works that such water will be available.

B. **Fees and Deposits.** Fees and deposits for a Coastal Development Permit application shall be in compliance with Section 22.114.060 (Fees and Deposits).

C. **Resubmission of Application.** Application resubmissions shall comply with Section 22.114.210 (Resubmission of Application).

### 22.132.040 Initial Application Review

Initial application review for a Coastal Development Permit application shall be in compliance with Section 22.114.070 (Initial Application Review).

### 22.132.050 Application Processing

A Coastal Development Permit shall be processed in accordance with:

- A. The application type (Type I, Type II, Type III, Type IV, or Type IV application) required by the Base Zone;
- B. This Chapter; and
- C. The provisions of Chapter 4.5 in Division I, Title 7 of the State Government Code.

### 22.132.060 Public Hearings

A public hearing before the Review Authority shall be required for:

- A. A project that requires both a Coastal Development Permit and a discretionary application or subdivision;
- B. A Coastal Development Permit which may be appealed to the Coastal Commission pursuant to Section 22.132.060.B and 22.132.140; and
- C. A Coastal Development Permit that requires legislative approval.

### 22.132.070 Notice Requirements

- A. **Content of Notice.** When required for a public hearing, notices shall contain:
  - 1. The information required for public notices in compliance with Section 22.114.090.A (Notice Content);
  - 2. A statement that the development is within the coastal zone.
- B. **Distribution.** When required for a public hearing, distribution of notices shall contain:
  - 1. The publication, mailing, and posting of a notice for a Coastal Development Permit application shall be in compliance with Section 22.114.090.B; and
  - 2. Notice shall also be provided to:

- a. The Coastal Commission;
- b. Persons residing within 100 feet of the subject lot. If the names of the residents are not known, they shall be listed as "Occupants"; and
- c. All persons who have requested to be on the mailing list for the particular project or for decisions by the County within the coastal zone.

### **22.132.080 Findings**

- A. The Review Authority shall approve an application only after the applicant substantiates the following required findings:
  1. The proposed development conforms with the certified Local Coastal Plan or general plan, where applicable; and
  2. That any development located between the nearest public road and the sea or shoreline of any body of water located within the Coastal Zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 (California Coastal Act) of the State Public Resources Code;
- B. An application shall be denied where the information submitted by the applicant and/or presented at the public hearing fails to substantiate that the proposed development complies with Subsection A, above.

### **22.132.090 Conditions of Approval**

The Review Authority, in approving an application for a Coastal Development Permit, may impose such conditions as are deemed reasonable and necessary to ensure that such use will be in accordance with the findings required by Sections 22.132.080 (Findings). The property owner and applicant shall record with the Registrar-Recorder/County Clerk an affidavit accepting and agreeing to implement all conditions of permit approval.

### **22.132.100 Notice of Decision**

- A. Within seven calendar days, the Director shall notify by first class mail the applicant, any person who specifically required notice of such action of the decision made on an application for a Coastal Development Permit and any person who participated at the public hearing.

- B. The notice shall contain the following information:
1. That a non-discretionary coastal development may be appealed by filing an appeal with the Secretary of the Regional Planning Commission. The decision of the Commission shall be based on the findings of Section 22.132.080 and shall be final.
  2. That a discretionary Coastal Development Permit may be appealed or called for review by following the procedure contained in Chapter 22.140 (Appeals).
- C. An appeal may be filed by any interested person dissatisfied with a decision on a Coastal Development Permit within:
1. Fourteen calendar days following the date on the notice of action for a Coastal Development Permit that is not appealable to the Coastal Commission;
  2. Ten business days from the date of receipt by the Executive Director of the Coastal Commission of the notice of the county's final action for a Coastal Development Permit that is appealable to the Coastal Commission.

### **22.132.110 Notice of Final Decision**

Within seven calendar days of a final decision on a Coastal Development Permit, the Director shall provide notice of such decision by first class mail to the applicant, the Coastal Commission and to any persons who specifically requested notice of such decision in writing or at the public hearing. A decision shall be considered final when all local appeals have been exhausted and the effective dates contained in Section 22.114.140 (Effective Date of Decision) and Section 22.132.140 (Effective Date of Permit) have been reached. Such notice shall include written findings, conditions of approval and the procedures for appeal of the decision, if applicable pursuant to Chapter 22.140 (Appeals), to the Coastal Commission.

### **22.132.120 Appeals**

- A. A final action taken by the County on a Coastal Development Permit application, may be appealed to the Coastal Commission by an applicant, other aggrieved person, or two members of the Coastal Commission, in compliance with this Section and Section 30625 of the State Public Resources Code. As provided by Section 30801 of the State Public Resources Code, an aggrieved person is anyone who, in person or through an explicitly identified representative, appeared at a public hearing held

before the Review Authority in connection with the decision or appeal of any development project, or who by other appropriate means before a hearing, informed the County of the nature of their concerns, unless for good cause was unable to do either. This term shall include the applicant for a permit, and in the case of an approval of a local coastal program, the County.

- B. A Coastal Development Permit application may be appealed to the California Coastal Commission for only the following types of development:
1. Approvals of developments which are located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance. The appeal jurisdiction described in Section 30603 of the State Public Resources Code is shown on the "Post-LCP Certification Permit and Appeals Jurisdiction Map";
  2. Approvals of developments not included within Subsection A.1, above, that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream or within 300 feet of the top of the seaward face of any coastal bluff. The appeal jurisdiction described in Section 30603 of the State Public Resources Code is shown on the "Post-LCP Certification Permit and Appeals Jurisdiction Map";
  3. Approvals of developments that are not designated as principal permitted uses in this Ordinance; and
  4. Any development which constitutes a major public works project or a major energy facility. The phrase "major public works project or a major energy facility" shall mean facilities that cost more than \$100,000. An energy facility means any public or private processing, producing, generating, storing, transmitting or recovering facility for electricity, natural gas, petroleum, coal or other source of energy.
- C. The grounds for an appeal of a development described in Subsection B.1 above, shall be limited to one or more of the following allegations:
1. The development fails to provide adequate physical access or public or private commercial use or interferes with such uses.
  2. The development fails to protect public views from any public road or from a recreational area to and along the coast.

3. The development is not compatible with the established physical scale of the area.
  4. The development may significantly alter existing natural landforms.
  5. The development does not comply with shoreline erosion and geologic setback requirements.
- D. The grounds for an appeal of a development described in Subsections B.2, B.3 or B.4, above, shall be limited to an allegation that the development does not conform to the certified local program.
- E. An appeal of the County's decision on a Coastal Development Permit application may be filed by an applicant or any aggrieved person who exhausted local appeals or any two members of the Coastal Commission. The appeal must contain the following information:
1. The name and address of the permit applicant and appellant;
  2. The date of the local government action;
  3. A description of the development;
  4. The name of the governing body having jurisdiction over the project area;
  5. The names and addresses of all persons who submitted written comments or who spoke and left his or her name at any public hearing on the project, where such information is available;
  6. The names and address of all other persons known by the appellant to have an interest in the matter on appeal;
  7. The specific grounds for appeal;
  8. A statement of facts on which the appeal is based;
  9. A summary of the significant questions raised by the appeal.
- F. The appeal must be received in the Coastal Commission district office with jurisdiction over the local government on or before the tenth working day after receipt of the notice of the permit decision by the Executive Director.
- G. The appellant shall notify the applicant, any persons known to be interested in the application and the local government of the filing of the appeal. Notification shall be by delivering a copy of the completed notice of appeal to

the domicile, office or mailing address of said parties. In any event, such notification shall be by such means as may reasonably advise said parties of the pendency of the appeal. Unwarranted failure to perform such notification may be grounds for dismissal of the appeal by the Coastal Commission.

### **22.132.130 Effect of Appeal to the Coastal Commission**

Upon receipt in the Coastal Commission office of a timely appeal by a qualified appellant, the Executive Director of the Coastal Commission shall notify the permit applicant and the County that the operation and effect of the Coastal Development Permit has been stayed pending Coastal Commission action on the appeal. Upon receipt of a notice of appeal the County shall refrain from issuing a Coastal Development Permit for the proposed development and shall within five working days, deliver to the Executive Director all relevant documents and materials used by the County in its consideration of the Coastal Development Permit application. If the Coastal Commission fails to receive the documents and materials, they shall set the matter for public hearing and the hearing shall be left open until all relevant materials are received.

### **22.132.140 De Novo Review by the Coastal Commission**

Where the appellant has exhausted County appeals a de novo review of the project by the Coastal Commission shall occur only after the County decision has become final.

### **22.132.150 Appeal by the Coastal Commission**

- A. Where a Coastal Development Permit is appealed by two Coastal Commissioners, such appeal shall be transmitted to the appropriate county appellate body, either the Regional Planning Commission or Board of Supervisors, who shall follow the procedures of Chapter 22.140 (Appeals) and this Chapter. If the appellate body modifies or reverses the previous decision, the Coastal Commissioners shall file a new appeal from the decision if they are still dissatisfied. During the period of County appellate body review, the Coastal Commissioners' appeal will be suspended from the Coastal Commission appeal process pursuant to Section 13573 of the California Coastal Commission administrative regulations.
- B. Where review by all County appellate bodies has left the originally appealed action unchanged, the Coastal Commissioners' appeal will be no longer suspended and the appeal may then be brought before the Coastal Commission.

**22.132.160 Effective Date of Permit**

- A. A Coastal Development Permit which is not appealable to the Coastal Commission shall have the following effective dates:
1. The decision of the Director shall become effective on the 15th calendar day following the date on the notice of action taken, unless timely appealed to the Commission pursuant to the provisions of Chapter 22.140 (Appeals).
  2. The decision of the Commission is final and shall become effective on the date of its decision.
- B. A Coastal Development Permit which is appealable to the Coastal Commission shall become effective at the close of business on the tenth business day following the date of receipt of the notice of the County's final action on the permit by the Executive Director of the Coastal Commission, unless an appeal is filed prior to the effective date and time. If an appeal has been filed, the operation and effect of the Coastal Development Permit shall be stayed pending Coastal Commission action on the appeal. The effective date of the Coastal Commission decision will be the date of decision by the Coastal Commission.

**22.132.170 Expiration of Permits**

Unused Coastal Development Permits shall expire based on the time limits specified in Section 22.114.200 (Time Limits and Extensions).

**22.132.180 Amendments to Approved Coastal Development Permits**

- A. An amendment may be made to a Coastal Development Permit previously approved by the county by filing a written application with the Director.
1. **Type III Applications.** Applications for an amendment shall be the same as a Type III application, in compliance with Chapter 22.122 (Type III Applications – Discretionary), for:
    - a. A reduction of less than 30 percent in the number of vehicle parking spaces required by this Ordinance is proposed; or
    - b. In the case of an eating establishment selling food for off-site consumption, no less than one vehicle parking space for each 250 square feet is proposed;

2. ***Type IV Applications.*** Applications for an amendment shall be the same as a Type IV application, in compliance with Chapter 22.124 (Type IV Applications – Discretionary) for all other requests.
- B. An application for an amendment shall be rejected if, in the Director's opinion, the proposed amendment would lessen or void the effect of the permit unless the applicant presents newly discovered material information which could not, with reasonable diligence, have been discovered and produced before the permit was granted.
  - C. For those applications accepted, the Director shall determine whether the proposed amendment represents an immaterial or material change to the permit.
    1. For applications representing immaterial changes, the Director shall prepare a written notice which contains the information required by Section 22.132.070.A (Content and Notice), a description of the proposed amendment and a statement informing persons of the opportunity to submit written objection of the determination to the Director within 10 days of the date the notices were posted at the subject property and mailed to interested persons. The Director shall cause notices to be posted conspicuously along the exterior property line of the proposed development, not more than 300 feet apart and at each change of direction of the property line. The Director shall also mail notices to all persons who testified at a public hearing on the permit or who submitted written testimony on the permit, and such other persons as the Director has reason to know may be interested in the application. If no written objection is received by the Director within 10 days of posting and mailing, the Director's determination shall be conclusive and the proposed amendment approved.
    2. For applications representing material changes, applications which have objects to determinations of immateriality, or amendments to conditions affecting coastal resource protection or coastal access, the Director shall refer such applications to the Regional Planning Commission for a public hearing. The Director shall mail notices in accordance with the procedures of Section 22.132.070.B (Distribution) to all persons who testified at the public hearing on the permit, who submitted written testimony on the permit, who objected to the Director's determination of immateriality, or such other persons as the Director has reason to know may be interested in the application.

3. The Regional Planning Commission, unless the proposed amendment has been found to be immaterial, shall determine and make appropriate findings by a majority vote of the membership present whether the proposed development with the proposed amendment is consistent with the California Coastal Act and the certified local coastal program.

### **22.132.190 Revocation or Revision of Coastal Development Permits**

- A. Revocation or revision of a discretionary Coastal Development Permit by the County shall be processed in compliance with Chapter 22.142 (Revocations and Revisions).
- B. Grounds for revocation of a permit may also include:
  1. Intentional inclusion of inaccurate, erroneous or incomplete information where the County finds that accurate and complete information would have caused additional or different conditions to be required on a permit or denial of an application:
  2. Failure to comply with the notice provisions of Section 22.132.070 (Notice Requirements), where the views of the person not notified were not otherwise made known to the County and could have caused the County to require additional or different conditions on a permit or deny an application.
- C. Initiation of proceedings to revoke a permit may be made by any person who did not have an opportunity to fully participate in the original permit proceeding because of the reasons stated in Subsection B, above, and who applies to the Director specifying the particular grounds for revocation. The Director shall review the stated grounds for revocation and, unless the request is patently frivolous and without merit, shall initiate revocation proceedings. The Director may initiate revocation proceedings when the grounds for revocation have been established.
- D. Where the Director determines that grounds exist for revocation of a permit, the operation of the permit shall be automatically suspended until the denial of the request for revocation. The Director shall notify the permittee by mailing a copy of the request for revocation and a summary of the procedures contained in this Chapter and Chapter 22.142 (Revocations and Revisions), to the address shown in the permit application. The Director shall advise the applicant in writing that any development undertaken during suspension of

the permit may be in violation of the California Coastal Act and subject to the penalties contained therein.

### **22.132.200 Enforcement**

In addition to the enforcement provisions contained in this Ordinance, the provisions of Chapter 9 of Division 20 (California Coastal Act) of the State Public Resources Code shall also apply with respect to violations and enforcement.

## **Chapter 22.134 Variances**

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### Sections:

- 22.134.010 Purpose
- 22.134.020 Applicability
- 22.134.030 Findings and Decision
- 22.134.040 Conditions of Approval

### **22.134.010 Purpose**

This Chapter establishes procedures and requirements for granting variances, a form of relief from development standards within this Ordinance. A variance may be requested when practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this Ordinance develop through the strict literal interpretation and enforcement of such development standards provisions.

### **22.134.020 Applicability**

- A. Unless specifically modified by a variance, all regulations prescribed in the base zone in which such variance is granted shall apply. A variance shall be filed as a Type IV application, subject to Chapter 22.124 (Type IV Applications – Discretionary).
  - 1. A variance may be granted to allow the modification of any development standard.
  - 2. A variance shall not be granted to permit a use that is prohibited in a zone.
- B. If the variance requested will require a greater water supply for adequate fire protection than does either the existing use or any use permitted in the same zone without a variance, and will not comply with the provisions of Division 1 (Water Ordinance) of Title 20 (Utilities) of the County Code, such facts shall be evidence that such requested variance will adversely affect and be materially detrimental to adjacent uses, buildings and structures and will not comply with Section 22.134.030 (Findings and Decision), below.

**22.134.030 Findings and Decision**

The Review Authority shall approve an application only after the applicant substantiates the following required findings:

- A. That it satisfies all of the findings for a Type IV application per Section 22.124.060 (Public Hearing, Findings and Decision);
- B. That the variance does not authorize a use or activity that is not allowed in the zone;
- C. That because of special circumstances or exceptional characteristics applicable to the property, the strict application of the code deprives such property of privileges enjoyed by other properties in the vicinity and under identical zoning classification;
- D. That the adjustment authorized will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated;
- E. That strict application of zoning regulations as they apply to such property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations and standards; and
- F. That such adjustment will not be materially detrimental to the public health, safety or general welfare, or to the use, enjoyment or valuation of properties of other persons located in the vicinity.

**22.134.040 Conditions of Approval**

- A. In approving a Type IV permit application for a variance, the Review Authority may impose such conditions as deemed necessary to ensure that the adjustment will be in accordance with the findings required by Subsections A and B of Section 22.134.050 (Findings and Decision). Conditions imposed by the Review Authority may involve any pertinent factors affecting the establishment, operation and maintenance of the use for which such variance is requested.
- B. All development standards prescribed in the zone shall apply unless specifically modified by the variance.

## Chapter 22.136 Minor Permit Modifications

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### Sections:

- 22.136.010 Purpose
- 22.136.020 Applicability
- 22.136.030 Findings and Decision
- 22.136.040 Conditions of Approval

### 22.136.010 Purpose

This Chapter establishes procedures and requirements for minor modifications or elimination of certain condition(s) of a previously approved Type IV application without requiring a new Type IV application.

### 22.136.020 Applicability

#### A. Application.

1. Modification to or elimination of any condition(s) of a previously approved Type IV permit shall be filed as a Type III application, subject to Chapter 22.122 (Type III Applications – Discretionary).
2. In addition, Section 22.114.220 (Resubmission of Application) shall apply.

#### B. Prohibited Modifications. Minor permit modifications are prohibited for the following:

1. Type IV applications for Animal Permits, Oak Tree Permits, Parking Permits, Coastal Development Permits, Surface Mining or Cemeteries.
2. Upgrading an alcohol license from beer and wine to a full-line of alcohol;
3. Increasing the percentage of shelf space approved to display alcohol;
4. Where it is determined that the modification would require additional environmental review in compliance with the State CEQA Guidelines;  
or

5. A substantial alteration or material deviation from the terms and conditions of the previously approved discretionary permit.

### **22.136.030 Findings and Decision**

The Review Authority shall approve the minor permit modification where the applicant substantiates the following findings:

- A. That the required findings for the Type IV application have been satisfied as required by Section 22.122.060 (Public Hearing, Findings and Decision);
- B. That approval of the minor permit modification will not substantially alter or materially deviate from the terms and conditions imposed in the granting of the previously approved Type IV permit; and
- C. That approval of the minor permit modification is necessary to allow the reasonable operation and use granted in the previously approved Type IV permit.

### **22.136.040 Conditions of Approval**

- A. In approving an application for a minor permit modification, the Review Authority may impose new conditions deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required for the particular type of permit.
- B. In addition to Section 22.136.020.B (Prohibited Modifications) and Subsection A, above, the Review Authority shall not modify or eliminate a condition specified as mandatory in this Ordinance or a condition which may only be modified pursuant to the approval of a variance.

## Chapter 22.138 Special Event Permits

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### Sections:

- 22.138.010 Purpose
- 22.138.020 Applicability
- 22.138.030 Application Filing, Fees and Initial Review
- 22.138.040 Decision
- 22.138.050 Conditions of Approval
- 22.138.060 Parking Facilities—Conditions

### 22.138.010 Purpose

This Chapter establishes procedures and requirements for temporary activities and events that may not otherwise be allowed in the applicable zone, but may be acceptable because of their limited or temporary nature. This Chapter also establishes procedures for both short-term and extended-term special events.

### 22.138.020 Applicability

- A. **Short-Term Special Event Permit.** A Special Event Permit for a short-term temporary use or event shall be filed as a Type II application, subject to Chapter 22.120 (Type II Applications – Discretionary).
1. The following temporary uses may be established with a valid Special Event Permit:
    - a. Short-term events sponsored by a public agency or a religious, fraternal, educational or service organization directly engaged in civic, charitable or public service endeavors. This provision shall not include outdoor festivals and tent revival meetings.
      - i. Carnivals.
      - ii. Exhibitions.
      - iii. Fairs.
      - iv. Festivals with capacities of less than 500 persons.
      - v. Pageants and religious observances.



2. In addition to the requirements in Subsection A.1, above, the Review Authority shall approve an application where the information submitted by the applicant substantiates the findings in Subsection C, below.

**B. Extended-Term Special Event Permit.**

1. Findings and decision shall be in compliance with Section 22.122.050 (Project Notice and Required Action).
2. In addition to the requirements in Subsection A.1, above, the Review Authority shall approve an application where the information submitted by the applicant substantiates the findings in Subsection C, below.

**C. Findings:**

1. That all findings for a Type II application per Section 22.124.040 (Decision) or all findings for a Type III application per Section 22.124.050 (Project Notice and Required Actions), as applicable, have been satisfied;
2. That adequate temporary parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at alternate locations acceptable to the Director in any case where such temporary use is proposed for a period longer than one weekend or three consecutive days;
3. That approval of a Special Event Permit will not result in the use of a lot for a cumulative time period in excess of the maximum time period such temporary use may be authorized during any 12-month period, except where a longer period is specifically approved in accordance with the provisions of Section 22.138.020.B (Extended-Term Special Events Permits); and
4. With respect to an application for the outside display or sales of goods, equipment, merchandise or exhibits, not more than 20 percent of the area designated for parking required by Chapter 22.80 (Parking and Loading) for the established business shall be used in connection with the outside display or sales.

**22.138.040 Conditions of Approval**

- A. In approving an application for a Special Event Permit, the Director may impose such conditions as he or she deems necessary to ensure that the permit will be in accord with the findings required by Section 22.138.030

(Decisions). These conditions may involve any pertinent factors affecting the operation of such special event or use including but not limited to:

1. Requirement of temporary parking facilities including vehicular access and egress;
  2. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, garbage and heat;
  3. Regulation of temporary buildings, structures and facilities including placement, height and size, limitations on commercial rides or other equipment permitted, the location of open spaces including buffer areas and other yards, and signs;
  4. Regulation of operating hours and days including limitation of the duration of such temporary use to a shorter or longer time period than the maximum period authorized;
  5. Requirement of a performance bond or other surety device to assure that any temporary facilities or structures used for such proposed temporary use will be removed from the site within one week following such event and the property restored to a neat condition. The Director may designate a different time period and/or require clean up of additional surrounding property at his discretion;
  6. Requirement of a site plan indicating all details and data as prescribed in this Ordinance;
  7. Requirement that the approval of the requested Special Event Permit is contingent upon compliance with applicable provisions of other County ordinances;
  8. Such other conditions as will make possible the operation of the proposed temporary use in an orderly and efficient manner and in accord with the intent and purpose of this Ordinance.
- B. In addition to such other conditions as the Director may impose, it shall also be deemed a condition of every Special Event Permit, whether such condition is set forth in the Special Event Permit or not, that such approval shall not authorize the construction, establishment, alteration, moving onto or enlargement of any permanent building, structure or facility.
- C. Despite provisions in this Ordinance to the contrary, the Director in approving a Special Event Permit for the outside display or sales of goods, equipment,

merchandise or exhibits may permit a temporary banner limited in time for the duration granted in the permit at any location on the subject property deemed appropriate, but in no event shall the Director authorize a banner that exceeds 40 square feet of total sign area.

- D. An approval or denial may be in the form of a stamp, signature, or other official notation or documentation on the site plan or in the form of a letter.
- E. Where an appeal is filed on a Special Event Permit for an extended time period, and the permit is ultimately granted, the date of decision by the Commission on such appeal shall be deemed the date of grant in determining said expiration date.

#### **22.138.050 Additional Conditions - Parking Facilities**

- A. In the granting of a Special Event Permit, the Director may authorize temporary use of parking and related facilities established to serve permanent uses as follows, provided, that such temporary usage is specifically recognized in the permit:
  - 1. Joint usage of required automobile parking facilities established to serve a permanent use, provided the owner or occupant of the permanent use or his authorized legal representative submits written consent, and it is determined by the Director that such joint utilization will not have a substantially detrimental effect on the surrounding area;
  - 2. Temporary occupation by a temporary use of a portion of parking facilities or structures established to serve a permanent use provided the owner or occupant of such use or his or her authorized legal representative submits written consent, and it is determined that such joint utilization will not have a substantially detrimental effect on the surrounding area.
- B. The temporary reduction in required parking for such permanent use shall not be construed to require a variance with respect to parking requirements of this Ordinance.

## Chapter 22.140 Appeals

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### Sections:

- 22.140.010 Purpose
- 22.140.020 Authorization
- 22.140.030 Filing of Appeals
- 22.140.040 Initiation of Appeals
- 22.140.050 Initiation of Calls for Review
- 22.140.060 Fees for Appeal
- 22.140.070 Procedures for Appeals and Calls for Review
- 22.140.080 Additional Procedures of Appeals to the Board of Supervisors
- 22.140.090 Effective Dates

### 22.140.010 Purpose

The purpose of this Chapter is to provide procedures for the appeal and review of determinations and decisions of the Review Authority.

### 22.140.020 Authorization

- A. **Appeals.** To avoid results inconsistent with the purposes of this Ordinance, unless otherwise specified or limited by specific provisions of this Ordinance, decisions of the Director or Hearing Officer may be appealed to the Commission; and decisions of the Commission may be appealed to the Board.
- B. **Calls for Review.** To avoid results inconsistent with the purposes of this Ordinance, decisions of the Director or Hearing Officer may be called up for review by the Commission; and decisions of the Commission may be called up for review by the Board, unless otherwise more specifically stated regarding a specific permit or review.

### 22.140.030 Filing of Appeals

- A. **Eligibility.** Any interested person dissatisfied with the action of the Review Authority may file an appeal to the next higher Review Authority in compliance with this Chapter, unless otherwise specified or limited by this Ordinance.

- B. **Time Limits.** Appeals of decisions and calls for review shall be initiated prior to the effective date of the decision. However, if the deadline for initiation of an appeal or call for review falls on a non-business day for the relevant appellate body, then the deadline for an appeal or call for review is extended to the next business day and the effective date of the decision shall be the following day.

#### 22.140.040 Initiation of Appeals

- A. **Filing.** An appeal shall be filed with the secretary or clerk of the designated appellate body on the prescribed form, along with any accompanying appeal fee, and shall state specifically:
1. A determination or interpretation is not in accord with the purposes of this Ordinance; or
  2. It is claimed that there was an error or abuse of discretion; or
  3. The record includes inaccurate information; or
  4. A decision is not supported by the record.
- B. **Required Information.** An appeal shall contain the following information:
1. The file or case number identifying the matter which is being appealed; and
  2. The street address of the property included in the action being appealed or if no street address, the legal description of the property; and
  3. Whether the appeal is:
    - a. An appeal of the denial of such application; or
    - b. An appeal of the approval of such application; or
    - c. An appeal of a condition or conditions of an approval (specifying the particular condition(s)); and
  4. Any other information that is requested on the appellate body's appeal form.
- C. **Appeal Vacates Decision.** The filing of an appeal vacates the decision from which the appeal is taken. Such decision is only reinstated if the appellate body fails to act, or the Review Authority affirms the decision in its action.

**22.140.050 Initiation of Calls for Review**

- A. A call for review may be initiated for a decision on a discretionary application by the affirmative vote of the majority of the members present of the designated Review Authority. Decisions of the Director or Hearing Officer may be called for review by the Commission; and decisions of the Commission may be called for review by the Board. A call for review shall be made prior to the effective date of the decision being reviewed. No fee shall be required.
- B. When the Commission makes a recommendation to the Board on any Type V application, development agreement, any concurrent Type II, Type III, or Type IV application, or other non-legislative land use application, shall be deemed to be timely called up for review by the Board.

**22.140.060 Fee for Appeals****A. Processing Fee for Appeals to the Board.**

- 1. Only one appeal fee shall be charged for the appeal of any related concurrently acted upon entitlements under this Ordinance, which concerns, in whole or in part, the same project. Despite the provisions of Section 21.56.010.A of Title 21 (Subdivisions) of the County Code, when an appeal of a decision made under this Ordinance is filed with an appeal of any tentative map, parcel map, or request for waiver concurrently acted upon under Title 21 (Subdivisions) which concerns, in whole or in part, the same project, only the appeal set forth in Section 21.56.020 (Appeals) shall be paid for all such appeals.
- 2. If the appellant is an applicant, the appellant shall pay a processing fee as listed in the Filing Fee Schedule for an Appeal to the Board of Supervisors by an Applicant, to cover the cost incurred by the Department for the appeal.
- 3. If the appellant is the applicant or subdivider, or any representative thereof, and files an appeal of no more than a total of two conditions of the approved discretionary permit or tentative map, parcel map, or request for waiver or other entitlement concurrently acted upon under Title 21 (Subdivisions) of the County Code which concerns, in whole or in part, the same approved map, in any combination, the appellant shall pay a processing fee in an amount determined by the Executive Officer-Clerk of the Board to be ample to cover the cost of a hearing to be held by the Board. The appellant shall also pay a processing fee as listed in the Filing Fee Schedule for an Appeal to the Board of Supervisors by an Applicant

for One or Two Project Conditions. This fee shall be applied to the Department to cover the costs of the appeal.

4. If the appellant is not the applicant or subdivider, or any representative thereof, of an approved discretionary permit, map, or waiver or associated entitlement, the appellant shall pay a processing fee in an amount determined by the Executive Officer-Clerk of the Board to be ample to cover the cost of a hearing to be held by the Board. The appellant shall also pay a processing fee as listed in the Filing Fee Schedule for an Appeal to the Board of Supervisors by a Non-Applicant. This fee shall be applied to the Department to cover the costs of the appeal.

**B. Processing Fee for Appeals to the Commission.**

1. If the appellant is an applicant, the appellant shall pay a processing fee as listed in the Filing Fee Schedule for an Appeal to the Regional Planning Commission by an Applicant. The fee shall be applied in its entirety to the Department.
2. If the appellant is an applicant or a subdivider, or any representative thereof, and the appellant files an appeal of no more than a total of two conditions on the approved discretionary permit, tentative map, parcel map, or request for waiver or other entitlement concurrently acted upon under Title 21 (Subdivisions) of the County Code which concerns, in whole or in part, the same approved map, in any combination, the appellant shall pay a processing fee as listed in the Filing Fee Schedule for an Appeal to the Regional Planning Commission by an Applicant for One or Two Project Conditions. This fee shall be applied in its entirety to the Department.
3. If the appellant is not the applicant or subdivider, or any representative thereof, of an approved discretionary permit, map or waiver or associated entitlement, the appellant shall pay a processing fee as listed in the Filing Fee Schedule for an Appeal to the Regional Planning Commission by a Non-Applicant. This fee shall be applied in its entirety to the Department.
4. An appeal filed for a Type II Application for a large family child care home, the amount of the processing fee shall be as listed separately on the Filing Fee Schedule.

- C. Exception to Fees.** When the appellant is not the applicant, the preceding prescribed fees for appeals shall be reduced by 50 percent, except that this reduction shall not apply to the processing fee for an appeal from a Type II

application for a large family child care home, as prescribed in Subsection B.4, above.

### 22.140.070 Procedures for Appeals and Calls for Review

- A. **Hearing Dates.** The appellate body may delegate the setting of hearing dates to its secretary or clerk.
- B. **Notice and Public Hearing.**
  - 1. An appeal or review hearing shall be a public hearing if the decision being appealed or reviewed required a public hearing.
  - 2. A public hearing on an appeal from an action of the Director or a Hearing Officer is not subject to the Hearing Examiner procedure.
  - 3. The appellate body shall consider the matter directly at its public hearing. Notice of public hearings shall be given in the manner required for the decision being appealed or reviewed.
- C. **Plans and Materials.**
  - 1. At an appeal or review hearing, the appellate body shall consider only the same application, plans and materials that were the subject of the original decision. Compliance with this provision shall be verified prior to or during the hearing by a representative of the person or body that made the original decision.
  - 2. If new plans and materials which differ substantially from the original are submitted, the applicant shall file a new application. Changes to the original submittal made to meet objections by the staff, the decision-maker or the opposition below need not be the subject of a new application.
  - 3. As part of the decision, the appellate body may impose additional conditions on a project in granting approval to a modified project.
- D. **Hearing.** At the public hearing, the appellate body shall review the record of the decision and hear testimony of the appellant, the applicant, the party or body whose decision is being appealed or reviewed, and any other interested party.

**E. Decision and Notice.**

1. After the hearing, the appellate body shall affirm, modify, or reverse the original decision or refer the matter back for further review.
2. When a decision is modified or reversed, the appellate body shall state the specific reasons for modification or reversal.
3. Decisions on appeals or reviews shall be rendered within 30 days of the close of the hearing. The secretary or clerk of the appellate body shall mail notice of the decision within five working days after the date of the decision to the applicant, the appellant and any other persons required to be notified pursuant to Section 22.114.090 (Public Hearing Notice).

- F. Failure to Act.** If the appellate body fails to act upon an appeal within the time limits prescribed in Subsection E, above, the decision from which the appeal was taken shall be deemed affirmed.

**22.140.080 Additional Procedures for Appeals to the Board of Supervisors**

In addition to the foregoing procedures, upon receiving an appeal or initiating a call for review, the Board of Supervisors may take one of the following additional actions:

- A. Affirm the action of the Commission; or
- B. Refer the matter back to the Commission for further proceedings with or without instructions; or
- C. Require a transcript of the testimony and any other evidence relevant to the decision and take such action as in its opinion is indicated by the evidence. In such case, the Board's decision need not be limited to the points appealed, and may cover all phases of the matter, including the addition or deletion of any conditions.

**22.140.090 Effective Dates**

Unless otherwise specified in this Division, the following effective dates shall apply to all approved applications issued pursuant to this Ordinance:

- A. Except as set forth in Subsection B, below, the decision of the Director, Hearing Officer, or the Commission shall be effective on the 15th calendar day following the date of the decision, except and unless the decision is timely appealed or called up for review, where available.

- B. To be timely, an appeal or call for review shall be filed before the end of the business day on the 14th calendar day following the date of the decision. If the 14th day falls on a non-business day of the applicable appellate body, in which case, the appeal deadline shall be extended to the next business day and the effective date of the decision shall be the following day.
- C. In all cases in which a project has received permits issued concurrently pursuant to both this Ordinance and Title 21 (Subdivisions) of the County Code, the decision shall become effective on the first calendar day after expiration of the time limit established by Section 66452.5 of the State Government Code as set forth in Section 21.56.010 of Title 21 (Subdivisions).
- D. Where an appeal to or call for review by the Board is filed relating to any land use permit or variance, the date of decision by the Board of such appeal or review shall be deemed the date of grant in determining an expiration date.

## **Chapter 22.142    Revocations and Revisions**

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### Sections:

- 22.142.010 Purpose
- 22.142.020 Initiation
- 22.142.030 Allowable Actions
- 22.142.040 Project Notice and Required Actions
- 22.142.050 Grounds for Revocations and Revisions
- 22.142.060 Nonconforming Uses and Structures
- 22.142.070 Commercial and Industrial Uses
- 22.142.080 Variances
- 22.142.090 Decision after Public Hearing
- 22.142.100 Notice of Action and Additional Requirements

### **22.142.010 Purpose**

This Chapter establishes procedures for the County to revoke or revise previously approved permits that required a public hearing. These include existing land uses which have become public nuisances or are being operated or maintained in violation of this ordinance, approved permit provisions, or any other provision of law. These actions, which supplement the enforcement provisions in Chapter 22.144 (Enforcement Provisions), are intended not only to serve a corrective purpose, but also as a deterrent to violating this Ordinance.

### **22.142.020 Initiation**

Hearings on revocations or revisions of permits and variances may be initiated:

- A. If the Board, individually or collectively, instructs the Hearing Officer or the Commission to set the matter for a public hearing; or
- B. Upon the initiative of the Commission.

### **22.142.030 Allowable Actions**

- A. **Revocations.** The County's action to revoke a permit or approval shall have the effect of terminating the permit and denying the privileges granted by the original approval.

**B. Revisions.**

1. The County's action to revise a permit instead of revocation may include revising or changing any permit conditions or operational aspect of the project, including buffers, duration of the permit or entitlement, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect or condition determined to be reasonable and necessary to ensure that the permit is used in a manner consistent with the original findings for approval.
2. Permit revisions prescribed in this Chapter are initiated by the County. Permit revisions requested by the applicant shall be in compliance with Chapter 22.136 (Minor Permit Modifications).

**22.142.040 Project Notice and Required Actions**

- A. In all cases where a revocation or revision is initiated per Section 22.142.020 (Initiation), a public hearing shall be scheduled before the Commission.
- B. Procedures relative to notification, public hearing and appeal shall comply with Section 22.124 (Type IV Applications – Discretionary), unless stated otherwise in this Chapter.

**22.142.050 Grounds for Revocation or Revisions**

After a public hearing, as provided for in this Chapter, the Commission may revoke or revise any approval which has been granted by the Review Authority, in compliance with either the provisions of this Ordinance or on any one or more of the following grounds:

- A. That such approval was obtained by fraud;
- B. That the use for which such approval was granted is not being used;
- C. That the use for which such approval was granted has ceased or has been suspended for one year or more. This does not apply to a surface mining operation for which a valid permit is in full force and effect; or for a valid, unexpired zone exception that was granted prior to November 23, 1970, or which was lawfully established in former Zone Q, provided such operation complies with the requirements of Section 22.106.560 (Surface Mining Operations) for intermittent mining operations and if from the cessation of use the outer boundaries of the premises have been continuously posted with signs as described in said Section;

- D. Except in case of a dedicated cemetery, that any person making use of or relying upon the permit, variance or other approval is violating or has violated any conditions of such permit, or has been used contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law, or regulation;
- E. Except in the case of a dedicated cemetery, that the use for which the approval was granted is being used to be detrimental to the public health or safety, or is a public nuisance.

### 22.142.060 Nonconforming Uses and Structures

In addition to the grounds for revocation or revisions contained in Section 22.142.050 (Grounds for Revocation or Revisions), a nonconforming use or structure may be revoked or revised after a public hearing if the Commissions finds:

- A. That the condition of the improvements, if any, on the property requires the property be used only for uses permitted in the base zone where it is located and would not impair the constitutional rights of any person; and
- B. That the nature of the improvements are such that they can be altered to be used in conformity with the uses permitted in the base zone in which such property is located without impairing the constitutional rights of any person.

### 22.142.070 Commercial and Industrial Uses

- A. **Findings.** The Commission may recommend to the Board the revocation or revision of a commercial or industrial use if the Commission finds that as operated or maintained such use:
  - 1. Jeopardizes or endangers the public health or safety of persons residing or working on the premises or in the surrounding area; or
  - 2. Constitutes a public nuisance; or
  - 3. Has resulted in repeated nuisance activities including but not limited to, disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, loud noises in late night or early morning hours, traffic violations, curfew violations, lewd conduct or police detentions and arrests; or

4. Violates any provision of any county, state, or federal regulation, ordinance or statute.
- B. **Notice.** In addition to notification required in Section 22.142.040 (Project Notice and Required Actions), the Commission shall give notice to the record owner and the lessee of the real property affected:
1. To appear at a public hearing at a time and place fixed by the Commission; and
  2. At the public hearing, show cause why the use, building, or structure should not be modified, discontinued, or removed as the case may be.
- C. **Decision after Public Hearing.**
1. After the public hearing, the Commission shall recommend approval or denial of the revocation or revision of the subject use or structure.
  2. As part of any recommendation for revision, the Commission shall recommend conditions as the Commission deems appropriate, including:
    - a. Those necessary to protect the surrounding property or neighborhood, to eliminate, lessen, or prevent any detrimental effect thereon, or assure compliance with other applicable provisions of law; and
    - b. Conditions imposed may include the establishment of amortization schedules, and may affect the establishment, maintenance, or operation of the subject commercial or industrial use and any related uses or structures.
  3. Recommendation shall be supported by written findings, including a finding that the action does not impair the constitutional rights of any person. However, the Commission may recommend that a use be discontinued or a building or structure removed only upon finding that:
    - a. Prior governmental efforts to cause the owner or lessee to eliminate the problems associated with the premises have failed (examples include formal action by law enforcement, building and safety, or zoning officials); and
    - b. That the owner or lessee has failed to demonstrate, to the satisfaction of the Commission, the willingness and ability to eliminate the problems associated with the premises.

**D. Notice of Action and Additional Requirements**

1. The Commission shall serve a notice of its action in compliance with Section 22.114.140 (Notice of Action and Findings).
2. After receipt of the Commission's recommendation, the Board shall hold a public hearing and shall give notice of such public hearing in compliance with Section 22.114.090 (Public Hearing Notice); provided, however:
  - a. If the Commission has recommended against the approval of a modification, the Board shall not be required to take further action and the action of the Commission shall become final, and
  - b. If an interested party requests a hearing by the Board by filing a written request with the Executive Officer of the Board within five days after the Commission files its recommendation with the Board, the Board is required to hold a public hearing regarding the application.
3. The Board may approve, modify or disapprove the recommendation of the Commission, and its action to revoke or revise shall be supported by the written findings prescribed in this Chapter.
4. The Board shall serve a notice of its action in compliance with Section 22.114.140 (Notice of Action and Findings).

- E. Violation.** It shall be unlawful to violate or fail to comply with any requirement or condition imposed by final action of the Board pursuant to this Chapter. Such violation or failure to comply shall constitute a violation of this Ordinance and shall be subject to the same penalties as any other violation of this Ordinance.

**22.142.080 Variances**

A variance may be revoked or revised by the Commission, if the Commission makes any one of the following findings:

- A. Circumstances under which the original approval was granted have been changed by the applicant to a degree that one or more of the findings contained in the original approval can no longer be made, and the grantee has not substantially used the rights granted by the variance; or

- B. One or more of the conditions of the variance have not been met, or have been violated, and the grantee has not substantially used the rights granted by the variance.

## **Chapter 22.144 Enforcement Provisions**

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### Sections:

- 22.144.010 Purpose
- 22.144.020 General Prohibitions
- 22.144.030 Violations
- 22.144.040 Public Nuisance
- 22.144.050 Infractions
- 22.144.060 Injunctions
- 22.144.070 Zoning Enforcement Order and Noncompliance Fee

### **22.144.010 Purpose**

This Chapter establishes procedures for enforcement of the provisions of this Ordinance. These enforcement procedures are intended to assure due process of law in the abatement or correction of nuisances and violations of this Ordinance.

### **22.144.020 General Prohibitions**

- A. No structure shall be moved into an area, erected, reconstructed, added to, enlarged, advertised on, structurally altered or maintained, and no structure or land shall be used for any purpose, except as specifically provided and allowed by this Ordinance.
- B. No person shall use or permit to be used any structure or land, nor shall any person erect, structurally alter or enlarge any structure, or advertise on any structure, except in accordance with the provisions of this Ordinance.
- C. No permit or entitlement may be issued or renewed for any use, construction, improvement or other purpose, unless specifically provided for or permitted by this Ordinance.

### **22.144.030 Violations**

- A. Every person violating any condition or provision either of this Ordinance, permit, or approval thereunder, is guilty of a misdemeanor, unless such violation is otherwise declared to be an infraction in Section 22.144.050 (Infractions). Each violation is a separate offense for each and every day during any portion of which the violation is committed.

- B. Each violation determined to be an infraction by this Ordinance shall be punishable by a fine of \$100.00 for the first violation. Subsequent violations of the same provision of this Ordinance shall be punishable by a fine of \$200.00 for the second violation and \$500.00 for the third violation in a 12-month period as provided by applicable law. The fourth and any further violations of the same provision of this Ordinance which are committed at any time within a 12-month period from the date of the commission of the first violation shall be deemed misdemeanors. The three infraction violations which are the basis for the fourth and any further violations being misdemeanors may be brought and tried together. The increased penalties set forth in this Section for subsequent violations shall be applicable whether said subsequent violations are brought and tried together with the underlying previous violations or separately from previous violations.

#### **22.144.040 Public Nuisance**

Any use of property contrary to the provisions of this Ordinance shall be, and the same is hereby declared to be unlawful and a public nuisance, and the authorized legal representative of the County may commence actions and proceedings for the abatement thereof, in the manner provided by law, and may take such other steps and may apply to any court having jurisdiction to grant such relief as will abate or remove such use and restrain and enjoin any person from using any property contrary to the provisions of this Ordinance.

#### **22.144.050 Infractions**

Violations of the provisions contained in the following list are deemed infractions:

- A. Automobile, truck or other motor vehicle repair conducted outside of an enclosed building.
- B. Commercial vehicles, as defined by State Vehicle Code, weighing more than 10,000 pounds unladen where parked or stored in violation of Subsection J of Section 22.16.040 (Parking of Commercial Vehicles in Agricultural Zones) or Subsection B of Section 22.18.040 (Parking of Commercial Vehicles in Residential Zones).
- C. Inoperative vehicle parking or storage.
- D. Keeping or parking of vehicles in violation of Subsection K of Section 22.16.040 (Keeping or Parking of Vehicles) or Subsection C of Section 22.18.040 (Keeping or Parking of Vehicles).

- E. Outside display and/or sales, except when authorized by and in accordance with a Special Event Permit.
- F. Signs prohibited by Section 22.94.040 (Prohibited Signs).

### **22.144.060 Injunction**

The provisions of this Ordinance may also be enforced by injunction issued by any court having jurisdiction over the owner or occupant of any real property affected by such violation or prospective violation.

### **22.144.070 Zoning Enforcement Order and Noncompliance Fee**

#### **A. Final Zoning Enforcement Order.**

1. In the course of enforcing any provision of this Ordinance, the Director shall have the authority to issue a final zoning enforcement order concerning any property not in compliance with the provisions of this Ordinance. Such order shall state, in not less than 14-point type in substantially the following form, that "Failure of the owner or person in charge of the premises to comply with this order within 15 days after the compliance date specified herein, or any written extension thereof, shall subject the violator to a noncompliance fee in the amount listed in the Filing Fee Schedule, unless an appeal from this order is received within 15 days after the compliance date. Such appeal shall comply with Section 22.144.080.C of the Los Angeles County Code." The Director's issuance of a final zoning enforcement order shall be final unless an appeal from the order has been received.
2. Service of a final zoning enforcement order shall be upon:
  - a. The person in real or apparent charge and control of the premises involved,
  - b. The record owner,
  - c. The owner or holder of any lease of record, or
  - d. The record owner of any interest in or to the land or any building or structure located thereon.
3. Service shall be by personal delivery or by registered or certified mail, return receipt requested, at the Director's election.

4. In the event the Director, after reasonable effort, is unable to serve the order as specified above, proper service shall be by posting a copy of the order on the premises. The date of service is deemed to be the date of mailing, personal delivery or posting, as applicable.
- B. Noncompliance Fee.**
1. If a final zoning enforcement order has not been complied with within 15 days following the compliance date specified in the order, or any written extension thereof, and no appeal of such order has been timely received as provided in this Section, the Director shall have the authority to impose and collect a noncompliance fee.
  2. The purpose of the noncompliance fee is to recover costs of zoning enforcement inspections and other efforts by the Director to secure substantial compliance with a zoning enforcement order. Not more than one such fee shall be collected for failure to comply with a zoning enforcement order. The noncompliance fee shall be in addition to any other fees required by the County Code.
  3. The determination of the Director to impose and collect a noncompliance fee shall be final, and it shall not be subject to further administrative appeal.
- C. Appeal of Final Zoning Enforcement Order.**
1. Any person upon whom a final zoning enforcement order has been served may appeal the order to the Hearing Officer within the time specified in Subsection A, above. Such appeal shall contain any written evidence that the appellant wishes to be considered in connection with the appeal. If applicable, the appeal shall state that said person has applied for the appropriate permit or other administrative approval pursuant to this Ordinance.
  2. The Hearing Officer shall consider such appeal within 45 days from the date that the appeal is received and shall notify the appellant of the decision within a reasonable period of time thereafter in the manner described in this Section for service of a final zoning enforcement order. The Hearing Officer may sustain, rescind or modify the final zoning enforcement order. The decision of the Hearing Officer shall be final and effective on the date of decision, and it shall not be subject to further administrative appeal.

**D. Imposition and Collection of the Noncompliance Fee.**

1. The Director shall notify the person against whom a noncompliance fee is imposed in the manner described in this Section for service of a final zoning enforcement order. The Director may waive the imposition and collection of a noncompliance fee where the Director determines such waiver to be in the public interest.
2. The person against whom the noncompliance fee is imposed shall remit the fee to the Director within 15 days after the date of service of said notice.

**E. Penalty After Second Notice of Noncompliance Fee.** If the person against whom a noncompliance fee has been imposed fails to pay such fee within 15 days of notification as provided above, the Director may send a second notice of noncompliance fee in the manner described in this Section for service of a final zoning enforcement order. If the fee has not been paid within 15 days after the date of service of the second notice of noncompliance fee, the County shall withhold the issuance of a building permit or other approval to such person until the noncompliance fee has been paid in full. An administrative penalty assessment equal to two times the noncompliance fee and a collection fee equal to 50 percent of the noncompliance fee shall also be imposed if the fee is not paid within 15 days after the date of service of the second notice. The administrative penalty assessment and collection fee, after notice, shall become part of the debt immediately due and owing to the County. The County thereafter shall have the right to institute legal action in any court of competent jurisdiction to collect the amount of the noncompliance fee, administrative penalty assessment and collection fee. In any suit brought by the County to enforce and collect the noncompliance fee, administrative penalty assessment and collection fee, the County shall be entitled to collect all costs and fees incurred in such proceedings.

## Chapter 22.146 Zone Changes and Amendments

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### Sections:

- 22.146.010 Purpose
- 22.146.020 Initiation
- 22.146.030 Review Authority and Related Procedures
- 22.146.040 Application Filing, Fees and Project Review
- 22.146.050 Project Notice and Required Actions
- 22.146.060 Notice of Action
- 22.146.070 Additional Requirements for Zone Changes
- 22.146.080 Additional Requirements for Amendments

### 22.146.010 Purpose

This Chapter provides procedures and criteria for zone changes and amendments of the General Plan, Zoning Maps, and this Ordinance, whenever the Board determines that public convenience, general welfare, and/or zoning practice justify a zone change or an amendment. All such zone changes and amendments shall be made pursuant to the provisions of this Ordinance and Title 7 (Planning and Land Use) of the State Government Code.

### 22.146.020 Initiation

- A. **Initiation by the County.** A zone change or amendment to the General Plan, Zoning Map or this Ordinance may be initiated by the following Review Authorities:
  - 1. **Board.** The Board may instruct the Director or Commission to initiate an amendment; or
  - 2. **Commission.** The Commission may initiate an amendment.
- B. **Initiation by the Applicant.** In the case of the General Plan, or Zoning Maps, an amendment may also be initiated by the filing of a Type V application.
- C. **Urgency Ordinance.** In the case of the Zoning Ordinance, the Board may also adopt an urgency measure as an interim ordinance in compliance with Section 65858 of the State Government Code.

- D. **Timing of General Plan Amendments.** Each mandatory element of the General Plan may be amended up to four times in a single calendar year in compliance with Section 65358 of the State Government Code.

#### 22.146.030 Review Authority and Related Procedures

Zone changes and amendments shall be approved or denied by the Board in compliance with Table 22.114.020: Review Authority, and any additional requirements or review criteria for a Type V application and amendment review established in this Ordinance.

#### 22.146.040 Application Filing, Fees and Project Review

Applications for a zone change or amendment shall be in compliance with Chapter 22.126 (Type V Applications – Discretionary).

#### 22.146.050 Project Notice and Required Actions

- A. **Public Hearings and Notice Required.** The Department shall provide notice of the public hearing in compliance with Section 22.126.050 (Project Notice and Required Actions).
- B. **Additional Area May be Included.** Where an application is filed requesting an amendment, the Director or Commission may elect to expand the boundaries of the area to be studied when, in the opinion of the Director or Commission, good zoning practice justifies the proposed expansion.

#### 22.146.060 Notice of Action

- A. **Commission Recommendation.** A recommendation by the Commission relative to a zone change or amendment shall be by resolution carried by the affirmative vote of not less than three of its members. Such recommendation is final and conclusive and may not be reconsidered by the Commission except upon a referral by the Board.
- B. **Notice of Commission Action.** The Commission shall serve a notice of its action in the manner prescribed by Section 22.114.140 (Notice of Action and Findings).
- C. **Public Hearing by Board—Procedures Generally—Commission Actions Final.** After receipt of the Commission's recommendation, the Board shall hold a public hearing and shall give notice of such public hearing pursuant to the procedure set forth in Section 22.114.090 (Public Hearing Notice); provided, however:

1. That if the Commission has recommended against the approval of an amendment other than a zone change, the Board shall not be required to take further action; and
  2. In case of a change of zone where the Commission has recommended denial, the Board shall not be required to take further action, and the action of the Commission shall become final unless an interested party requests a public hearing by the Board by filing a written request with the Executive Officer-Clerk of the Board within five days after the Commission files its recommendations with the Board.
- D. **Board Action on Commission Recommendations.** The Board may approve, modify or reject the recommendation of the Commission involving a zone change or amendment, provided:
1. Any modification of the proposed zone change or amendment by the Board not previously considered by the Commission during its hearing, shall first be referred to the Commission for report and recommendation, the Commission shall not be required to hold a public hearing; and
  2. Failure of the Commission to report within 40 days after the reference, or such longer period as may be designated by the Board shall be deemed to be approval of the proposed modification.
- E. **Public Hearing by Board—Notice of Action Taken.** The Board shall serve a notice of its action in the manner prescribed by Section 22.114.140 (Notice of Action and Findings).

### 22.146.070 Additional Requirements for Zone Changes

- A. **Principles and Standards for Zone Changes.** In addition to the information required in the application by Section 22.146.110 (Findings and Decisions), the applicant shall substantiate to the satisfaction of the Commission the following facts:
1. That modified conditions warrant a revision in the zoning plan as it pertains to the area or district under consideration;
  2. That a need for the proposed zone classification exists within such area or district;
  3. That the particular property under consideration is a proper location for said zone classification within such area or district;

- a. That placement of the proposed zone at such location will be in the interest of public health, safety and general welfare, and in conformity with good zoning practice; and
  - b. That the proposed zone change is consistent with the adopted general plan for the area.
- B. **Decision.** The Commission shall recommend approval or denial where the information submitted by the applicant and/or presented at public hearings substantiates or fails to substantiate such findings to the satisfaction of the Commission.
- C. **Water Supply Standards.** In addition to the principles and standards enumerated in Subsection A, above, the Review Authority, in determining its recommendation for a change of zone, shall consider whether or not the change of zone under consideration, if adopted, will result in a need for a greater water supply for adequate fire protection and, if so, what are the existing and proposed sources of such an adequate water supply. The Commission may request that the Fire Department or Director of Public Works, or both, supply it with all facts, opinions, suggestions and advice which may be material to reaching a decision on any or all matters mentioned in this Section.

#### 22.146.080 Additional Requirements for Amendments

- A. **Principles and Standards for Amendments.** In addition to the information required in the petition by Section 22.146.040 (Application Filing, Fees, and Project Review), the applicant shall substantiate to the satisfaction of the Commission the following facts for a proposed amendment other than a zone change:
1. The amendment is consistent with the adjacent area, if applicable'
  2. The amendment is consistent with the principles of the general plan;
  3. Approval of the amendment will be in the interest of public health, safety and general welfare and in conformity with good zoning practice; and
  4. The amendment is consistent with other applicable provisions of this Ordinance.
- B. **Findings.** In making its recommendation relative to a proposed amendment other than a zone change, the Commission may recommend approval where

the information presented at public hearing shows that such amendment is consistent with the general plan and is necessary to implement the general plan and/or that the public convenience, the general welfare or good zoning practice justifies such action.

## **Chapter 22.148 Development Agreements**

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### Sections:

- 22.148.010 Purpose and Interpreting Provisions
- 22.148.020 Application
- 22.148.030 Initiation of Development Agreement
- 22.148.040 Content of Development Agreement
- 22.148.050 Application Filing, Processing, and Review
- 22.148.060 Execution and Recordation
- 22.148.070 Subsequently Enacted State and Federal Laws
- 22.148.080 Coordination of Hearings
- 22.148.090 Enforcement
- 22.148.100 Amendment and Cancellation of Development Agreements
- 22.148.110 Periodic Review
- 22.148.120 Applicability to Areas Where Local Coastal Program is Required
- 22.148.130 Effect of Development Agreements
- 22.148.140 Approved Development Agreements

### **22.148.010 Purpose and Interpreting Provisions**

The purpose of this Chapter is to provide procedures, requirements for consideration of development agreements, implementing, amending and enforcing development agreements.

- A. **Intent of Agreement.** A development agreement is a contract between the County and an applicant for a development project, in compliance with Chapter 4, Article 2.5 (Development Agreements) in Title 7, Division 1 (Planning and Land Use) of the State Government Code. It is intended to assure to an applicant that an approved project may proceed, subject to the policies, rules, regulations, and conditions of approval applicable to the project at the time of approval, regardless of any changes to County policies, rules, and regulations after project approval. In return, the County is provided assurance that the project would advance important Countywide goals and policies that have been officially recognized by the Board, and provide the County with significant, tangible benefits beyond those that may be required by the County through normal review procedures and project conditions of approval that would otherwise apply.

**B. Interpreting Provisions.**

1. In interpreting the provisions of any development agreement entered into compliance with this Chapter, those provisions shall be read to be consistent with the language of this Chapter, and Chapter 4, Article 2.5, in Title 7, Division 1 of the State Government Code, and the agreement itself.
2. Should any apparent discrepancies between the meanings of these documents arise, reference shall be made to the following documents, and in the following order:
  - a. The plain terms of the development agreement itself;
  - b. The provisions of this Chapter; and
  - c. The provisions of Chapter 4, Article 2.5, in Title 7, Division 1 of the State Government Code.

**22.148.020 Initiation of Development Agreement**

Where a development agreement is initiated, the Commission shall hold a public hearing and shall give notice of such public hearing pursuant to the procedure provided in Chapter 22.114 (Common Procedures). Hearing on a development agreement may be initiated by:

- A. **Board.** If the Board instructs the Commission or the Director to set the matter for a public hearing, report, and recommendation;
- B. **Commission.** Upon the initiative of the Commission; or
- C. **Filing of an Application.** Upon the filing of an application for a development agreement in compliance with Section 22.148.040 (Application).

**22.148.030 Hearing**

In all cases where a proposed development agreement is initiated, the Commission shall hold a public hearing and shall give a notice of such public hearing pursuant to the procedure provided in Chapter 22.114 (Common Procedures).

**22.148.040 Application**

- A. **Filing.** Any person having a legal or equitable interest in real property may file a Type V application with the Director to enter into a development agreement.

- B. **Application Submission.** An application for a development agreement shall comply with 22.114.210 (Resubmission of Application), except as otherwise provided in Section 22.148.110 (Amendment and Cancellation of Development Agreements).

### 22.148.050 Content of Development Agreement

- A. **Mandatory Contents.** A development agreement shall contain the applicable provisions in compliance with the State Government Code including:
1. The duration of the agreement, including a specified termination date if appropriate;
  2. The uses to be permitted on the property;
  3. The density or intensity of use permitted;
  4. The minimum height, size and location of buildings permitted;
  5. The reservation or dedication of land for public purposes to be accomplished, if any; and
  6. The time schedule established for periodic review as required by Section 22.148.110 (Periodic Review);

Such terms, conditions, restrictions or requirements shall not be contrary to zoning, subdivision or other ordinances, laws or regulations applicable to the proposed development.

- B. **Permissive Contents.** A development agreement may contain the applicable provisions in compliance with State Government Code including:
1. The requirement of development schedules providing that construction of the proposed development as a total project or in phases be initiated and/or completed within specified time periods;
  2. The construction of public facilities required in conjunction with such development, including but not limited to vehicular and pedestrian rights-of-way, drainage and flood-control facilities, parks and other recreational facilities, and sewers and sewage treatment facilities;
  3. The prohibition of one or more uses normally listed as a use subject to application in the base zone where placed;

4. The limitation of future development or requirement of specified conditions under which further development not included in the agreement may occur;
5. The requirement of a faithful performance bond where deemed necessary to, and in an amount deemed sufficient to guarantee the faithful performance of specified terms, conditions, restrictions and/or requirements of the agreement. In lieu of the required bond, the applicant may deposit with the Executive Officer-Clerk of the Board and assign to the County, certificates of deposit or savings and loan certificates or shares equal in amount to the same conditions as set forth herein. Such deposit and assignment shall comply with all the provisions and conditions of Chapter 4.36 (Assignment of Savings and Loan Certificates and Shares) in Title 4 (Revenue and Finance) of the County Code;
6. The requirements of specified design criteria for the exteriors of buildings and other structures, including signs;
7. The requirement of special yards, open spaces, buffer areas, fences and walls, landscaping and parking facilities, including vehicular and pedestrian ingress and egress;
8. The regulation of nuisance factors such as noise, vibration, smoke, dust, dirt, odors, gases, garbage, heat and the prevention of glare or direct illumination of adjacent properties; and
9. The regulation of operating hours and other characteristics of operation adversely affecting normal neighborhood schedules and functions on surrounding property.

#### **22.148.060 Application Filing, Processing, and Review**

If initiated by the filing of a development agreement application:

- A. **Filing.** An application for a Development Agreement shall be processed in accordance with Section 22.114.050 (Application Filing and Withdrawal and Section 22.114.060 (Fees and Deposits).
- B. **Contents.**
  1. The application shall be accompanied by detailed data and materials identified in the development agreement application checklist, the materials specified in Section 22.148.050 (Content of Development

Agreement), above, and any other information requested by the Director.

2. The Director may waive the filing of one or more of the items specified in this Subsection where the same information required is filed with a concurrent permit, tentative tract or parcel map, variance, or zoning map amendment, or other action requiring approval of the Commission and/or Board to be concurrently considered.

**C. Project Review Procedures.**

1. Following receipt of a completed application, the Director shall investigate the facts bearing on the case in order to obtain the information necessary for action, consistent with the purpose of this Chapter.
2. The Director is empowered to receive, review, process, and prepare, together with recommendations for the Review Authority, all applications for development agreements.
3. The Director may reject any application that does not supply the information specified in this Section as well as in Section 22.148.050 (Content of Development Agreement), above.

**D. Notice and Hearings.**

1. The Director, upon finding the application for a development agreement complete and in compliance with the provisions of the California Environmental Quality Act (CEQA), shall set the application, together with recommendations, for public hearings before the Review Authority in compliance with Chapter 22.114 (Common Procedures).
2. Following conclusion of the public hearings, the Review Authority shall make a written report and recommendation to the Board that it approve, conditionally approve, modify, or deny the application, based on the findings identified in Subsection E, below.
3. A recommendation by the Commission shall be by resolution carried by the affirmative vote of not less than three of its members. The recommendation shall be final and conclusive, and may not be reconsidered by the Commission, except upon a referral by the Board.
4. The Commission shall serve a notice of its action in the manner specified by Chapter 22.114 (Common Procedures).

5. If the Commission has recommended denial on a development agreement that was not initiated by the Board, the action of the Commission shall become final and the Board shall not be required to take further action, unless a timely appeal has been filed with the Executive Office in compliance with Chapter 22.140 (Appeals).
  6. Upon receipt of the Commission's recommendations, the Executive Office shall set the application and written report of the Commission for a public hearing before the Board in compliance with Chapter 22.114 (Common Procedures).
  7. Following conclusion of the public hearing, the Board shall approve, conditionally approve, modify, or deny the application, based on the findings identified in Subsection E, below; provided, that any modification(s) of the development agreement by the Board not previously considered by the Commission during its hearing shall, first, be referred to the Commission for report and recommendation, but the Commission shall not be required to hold a public hearing.
  8. Failure of the Commission to report back within 40 days after the referral, or longer period as may be designated by the Board, shall be deemed to be approval of the proposed modification(s).
  9. The Board shall serve a notice of its action in the manner specified by Chapter 22.114 (Common Procedures).
  10. Notice of the public hearings identified in Subsections D.1 and D.6, above shall be given in the form of a notice of intention to consider approval of a development agreement in compliance with Section 65867 of the State Government Code.
- E. **Findings.** The Commission may approve a development agreement only after making the following findings:
1. The proposal is consistent with the General Plan;
  2. The proposal is allowed within the applicable base zone and complies with all other applicable provisions of this Ordinance;
  3. The design, location, size, and operating characteristics of the proposal are compatible with the existing land uses and zoning in the vicinity; and
  4. The proposal is physically suitable for the site. The factors related to the proposal's physical suitability of the site (e.g., its design, location, size, etc.) shall include, but are not limited to, the following:

- a. The design, location, shape, size, and operating characteristics are suitable for the proposed use;
  - b. The highways or streets that provide access to the site are of sufficient width and are improved as necessary to carry the kind and quantity of traffic such proposal would generate;
  - c. Public protection services (e.g., fire protection, Sheriff protection, etc.) are readily available; and
  - d. The provision of utilities (e.g., potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.) are adequate to serve the site.
5. The proposal will not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare, or be materially detrimental or injurious to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.
  6. The proposed development agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the general plan, a local coastal program, if applicable, any applicable area, community, or specific plan, this Ordinance, and the purpose and intent of this Chapter;
  7. The proposed development agreement complies with County zoning, subdivision, and other applicable ordinances and regulations; and
  8. The proposed development agreement is consistent with the public convenience, general welfare, and good zoning practice, making it in the public interest to enter into the development agreement with the applicant.

## 22.148.070 Execution and Recordation

### A. Adopted by Ordinance.

1. Approval by the Board of a development agreement shall be by ordinance.
2. The ordinance shall not be adopted and the Chairperson of the Board shall not execute a development agreement until it has been executed by the applicant.

3. If the applicant has not executed the agreement, or the agreement as modified by the Board, and returned the executed agreement to the Executive Office within 30 days following Board approval, the approval shall be deemed withdrawn, and the Board shall not adopt the ordinance and the Chairperson shall not execute the agreement. The 30-day time period may be extended upon approval of the Board.
- B. **Ordinance Becomes Effective.** The County shall not execute a development agreement until on or after the date upon which the ordinance approving the agreement, enacted in compliance with Section 22.148.060.D (Notice and Hearings), above, becomes effective.
- C. **Recordation of Agreement.** A development agreement shall be recorded by the Executive Officer with the Registrar-Recorder/County Clerk no later than 10 days after it is executed in compliance with Section 65868.5 of the State Government Code.

#### 22.148.080 **Subsequently Enacted State and Federal Laws**

In the event that State or Federal laws or regulations enacted subsequent to the execution of a development agreement prevent or preclude compliance with one or more provisions of the agreement, the provisions of the agreement shall be deemed modified or suspended to the extent necessary to comply with the subsequently enacted State or Federal laws or regulations.

#### 22.148.090 **Coordination of Hearings**

- A. **Public Hearings shall be Concurrently Held.** Where an application for a development agreement is concurrently filed with an application for a permit, tentative tract or parcel map, variance, or Zoning Map amendment and may be feasibly processed together, all public hearings shall be concurrently held.
- B. **Modification of Development Standards.** In instances where the provisions of applicable ordinances would allow the modification of development standards during consideration of the development agreement, the standards may be concurrently considered where modification is requested.

#### 22.148.100 **Enforcement**

- A. **Responsibility for Enforcement.** Unless and until amended or cancelled in whole or in part in compliance with Section 22.148.110 (Amendment and Cancellation of Development Agreements), below, a development agreement shall be enforceable by any party to the agreement notwithstanding any

change in regulations which alters or amends the regulations applicable to development as specified in Section 22.148.140 (Effect of Development Agreements), below.

- B. **Burden of the Agreement.** The burden of a development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successor(s)-in-interest to the parties to the agreement.

#### 22.148.110 **Amendment and Cancellation of Development Agreements**

- A. **Proposed Amendment or Cancellation.** A development agreement may be amended, or cancelled in whole or in part, by mutual consent of all parties to the agreement or their successor(s)-in-interest.
- B. **Initiation of Amendment or Cancellation.** Either party to the agreement may propose and initiate an amendment to or cancellation of a development agreement.
- C. **Same Procedures.** The procedures and notice requirements for amendment or cancellation of a development agreement are the same as the procedures for entering into an agreement in compliance with this Chapter.
- D. **County Initiated Amendment or Cancellation.** Where the County initiates the amendment or cancellation of the development agreement, it shall first give notice to the property owner of its intention to initiate the proceedings at least 30 days before giving public notice to consider the amendment or cancellation, in compliance with Chapter 22.114 (Common Procedures).

#### 22.148.120 **Periodic Review**

- A. **Basic Requirements for Periodic Review.** Every development agreement entered into by the Board shall provide for periodic review of the applicant's compliance with such agreement by the Director at a time interval specified in such agreement, but in no event longer than 12 months.
- B. **Procedure for Periodic Review.**
  - 1. **Purpose of Periodic Review.** The purpose of the periodic reviews shall be to determine whether the applicant/contracting party or its successor(s)-in-interest has complied in good faith with the terms or conditions of the development agreement.

- a. The Director shall determine on the basis of substantial evidence that the applicant or the successor(s)-in-interest has or has not complied with the agreement.
- b. If as a result of this review the Director determines that the agreement is not being complied with, the Director shall notify the applicant or the successor(s)-in-interest of the findings as required by law for the service of summons or by registered or certified mail, postage prepaid, return receipt requested, also indicating that failure to comply within a period specified, but in no event less than 30 calendar days, may result in legal action to enforce compliance, termination, or modification of the agreement.
- c. It is the duty of the applicant or the successor(s)-in-interest to provide evidence of good-faith compliance with the agreement to the Director's satisfaction at the time of the review.
- d. Refusal by the applicant or the successor(s)-in-interest to provide the required information shall be deemed prima facie evidence of violation of the development agreement.
- e. If, at the end of the time period established by the Director, the applicant or the successor(s)-in-interest has failed to comply with the terms of the agreement or, alternatively, submitted additional evidence satisfactorily substantiating compliance, the Director shall notify the Commission of the findings recommending the action as the Director deems appropriate, including legal action to enforce compliance or to terminate or modify the agreement.
- f. Where the Director notifies the Commission that the Director's findings indicate that a development agreement is being violated, a public hearing shall be scheduled before the Commission to consider the applicant's reported failure to comply, and the action recommended by the Director. Procedures for conduct of the hearing shall be the same as provided in this Chapter for initiation and consideration of a development agreement.
- g. If as a result of the hearing the Commission finds that the applicant or the successor(s)-in-interest is in violation of a development agreement, it shall notify the Board of its findings, recommending action as it deems appropriate.

2. **Board Actions Following Periodic Review.** Where the Commission reports the violation of a development agreement, the Board may take one of the following actions:
  - a. Approve the recommendation of the Commission instructing that action be taken as indicated in cases other than a recommendation to terminate or modify an agreement;
  - b. Refer the matter back to the Commission for further proceedings with or without instructions; or
  - c. Schedule the matter for public hearing before the Board where termination or modification of an agreement is recommended. Procedures for conduct of the public hearing shall be the same as provided in this Chapter for initiation and consideration of a development agreement.

#### 22.148.130 **Applicability to Areas Where Local Coastal Program is Required**

A development agreement shall not be approved in an area for which a Local Coastal Program is required to be prepared and certified in compliance with Division 20 (California Coastal Act) of the State Public Resources Code unless:

- A. **Local Coastal Program has Been Certified.** The required Local Coastal Program has been certified in compliance with Division 20 before the date on which the development agreement is approved; or
- B. **Local Coastal Program has Not Been Certified.** In the event that the required Local Coastal Program has not been certified, the California Coastal Commission approves the development agreement by its formal action.

#### 22.148.140 **Effect of Development Agreements**

- A. **Rules in Force at the Time of Execution.** Unless otherwise provided by the development agreement, the General Plan, zoning, subdivision, and other County ordinances, policies, regulations, and rules governing allowed uses of the land, density, design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, are the ordinances, policies, regulations, and rules in force at the time of execution of the agreement.
- B. **Application of New Rules.** In compliance with State Government Code, a development agreement shall not prevent the County, in subsequent actions

from applying new ordinances, policies, regulations, and rules which do not conflict with the ordinances, policies, regulations, and rules that were applicable to the property at the time of the approved development agreement, nor shall a development agreement prevent the County from conditionally approving or denying any subsequent development applications on the basis of existing or new ordinances, policies, regulations, and rules.

### **22.148.150 Approved Development Agreements**

Development agreements approved by the Board shall be on file with the Executive Office of the Board.

## **Chapter 22.150 Specific Plans**

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Sections:

- 22.150.010 Purpose
- 22.150.020 Procedure and Adoption
- 22.150.030 Administration
- 22.150.040 List of Specific Plans

### **22.150.010 Purpose**

This Chapter establishes procedures for consideration of specific plans as authorized by Article 8, Chapter 3, in Division 1, Title 7 (Planning and Land Use) and other applicable provisions of the State Government Code. This Chapter describes the relation between an adopted specific plan and the provisions of this Ordinance.

### **22.150.020 Procedure and Adoption**

- A. **Adoption.** Specific plans, including any associated regulations, conditions, programs and proposed legislation shall be adopted by ordinance according to the procedures established in Article 8, Chapter 3, in Division 1, Title 7 (Planning and Land Use) and other applicable provisions of the State Government Code.
- B. **Amendments.** Any amendments to such specific plans or regulations shall also be adopted in accordance with the State Government Code provisions mentioned above. No amendment to a specific plan certified as part of a Local Coastal Program shall be effective in the coastal zone until the amendments are certified by the California Coastal Commission pursuant to Section 30514 of the State Public Resources Code.

### **22.150.030 Administration**

- A. **Administration.** Specific plans and associated regulations shall be administered in accordance with Article 8, Chapter 3, in Division 1, Title 7 (Planning and Land Use) and other applicable provisions of the State Government Code. Such plans and regulations may reference existing provisions and procedures of this Ordinance or they may develop different administrative procedures to use in the implementation of the specific plan.

- B. **Specific Plan Supersedes.** Except as otherwise expressly provided in a specific plan, property may be used for any purpose and subject to all of the standards and requirements of the base zone. Where the regulations of a specific plan differ from the provisions of the base zone, with the exception of qualified projects allowed by Chapters 22.92 (Requests for Reasonable Accommodations) and 22.132 (Housing Permits), such regulations shall supersede the provisions of the base zone as specified in the specific plan.

**22.150.040 List of Specific Plans**

The following specific plans are added by reference, together with all maps and provisions pertaining thereto:

<i>Specific Plan Number</i>	<i>Specific Plan Name</i>	<i>Ordinance of Adoption</i>	<i>Date of Adoption</i>
1	Canyon Country	86-022	12/23/86
2	La Vina	89-0167	12/26/89
3	Santa Catalina Island	89-0148	11/28/89
4	Marina Del Rey	90-0158	11/6/90
5	Northlake	93-0014	2/9/93
6	Newhall Ranch	2003-0031Z	4/27/03

## Chapter 22.152 Additional Regulations

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### Sections:

- 22.152.010 Legislative Provisions
- 22.152.020 Bonds and Insurance
- 22.152.030 Procedural Ordinance for Financing of Public Facilities
- 22.152.040 Major Projects Review Trust Funds
- 22.152.050 Library Facilities Mitigation Fee
- 22.152.060 Law Enforcement Facilities Fee

### 22.152.010 Legislative Provisions

- A. **Continuation of Existing Law.** The provisions of this Ordinance, as long as they are substantially the same as the provisions of any ordinance, or portions of any ordinance repealed by provisions codified in this Section, shall be construed as restatements and continuations of these ordinances, and not as new enactments.
- B. **Proceedings Pending as of November 5, 1971—Procedure Generally.** No hearing or other proceeding initiated or commenced prior to November 5, 1971, and no right accrued, is affected either by amendments to Ordinance 1494 effective on November 5, 1971, or by the provisions of this Ordinance (Title 22 of the County Code) as far as possible. All proceedings taken after this date shall conform to the provisions of this Ordinance. Where the Commission, prior to November 5, 1971, has recommended the granting, denial, revocation or modification of any permit, exception, license or other approval to the Board, the Board may act upon such recommendation either before or after November 5, 1971. In all other cases, the Commission shall grant, deny, revoke or modify as now provided in this Ordinance, even if the action was initiated prior to November 5, 1971.
- C. **Proceedings Pending as of November 5, 1971—Applications for Exceptions.** If, prior to November 5, 1971, an application for an exception has been heard by the Board, Commission or Hearing Officer but has not been decided on by November 5, 1971, the Board, Commission or Hearing Officer may, where applicable, consider the case as either an application for a variance or for a conditional use permit, and shall decide or recommend pursuant to the provisions of this Ordinance as they now exist.

- D. **Zone Exception—Deemed Variance When.** Where a zone exception granted by action of the Board or Commission prior to November 5, 1971, may be granted as a variance under the present provisions of this Ordinance, it shall be deemed a variance.
- E. **Zone Exception—Considered Nonconforming Use When.** In all cases other than as provided in Subsection D, where a zone exception was granted by action of the Review Authority prior to November 5, 1971, such use shall be considered a nonconforming use under the provisions of this Ordinance, provided:
1. That such uses shall remain in compliance with and subject to all limitations and conditions imposed by such grant; and
  2. That all provisions governing nonconforming uses not in conflict with the limitations and conditions of such grant shall apply.
- F. **Zone Exception Considered Conditional Use.** Notwithstanding the provisions of Subsection E, above, where a zone exception, granted by action of the Review Authority prior to November 5, 1971, may be granted as a Type IV application under the present provisions of Ordinance, it shall be deemed a Type IV Permit.
- G. **Rights Under Existing Approval Not Affected.** No rights given by any permit, license or other approval under any ordinance repealed by the provisions of this Section are affected by such repeal, but such rights shall hereafter be exercised according to the provisions of this Ordinance.
- H. **Convictions for Crimes.** Any conviction for a crime under any ordinance which is repealed by this Section, which crime is continued as a public offense by this Ordinance, constitutes a conviction under this Ordinance for any purpose for which it constituted a conviction under such repealed ordinance.
- I. **Repeal Does Not Revive Any Ordinance.** The repeal of any ordinance amending this Ordinance shall not revive any amendment adopted prior to the repealed ordinance amendment.

## 22.152.020 Bonds and Insurance

- A. **Bond or Assignment of Savings and Loan Certificates or Shares Required When.** When one or more conditions are attached to any grant, modification or appeal of a zone change, permit, variance or nonconforming use or structure review, the Review Authority may require the owners of the

property to which such approval applies, to file a surety bond or corporate surety bond, or to deposit money, savings and loan certificates or shares with the Board in a prescribed amount for the purpose of guaranteeing the faithful performance of conditions placed on the approval.

- B. Procedure for Assignment of Savings and Loan Certificates or Shares.** Where savings and loan certificates or shares are deposited, they shall be assigned to the County subject to all provisions of Chapter 4.36 in Title 2 (Administrative Code) of the County Code.
- C. Insurance Required When—Exceptions.** The Review Authority may also require the owners of the property to which such approval applies to file a policy of insurance equal in amount to the amount of the required bond or deposit, insuring all persons against any injury or annoyance arising from the breach of such conditions unless:
1. If the bond is filed, it includes as obligees all such persons; or
  2. If money, savings and loan certificates or shares are deposited, such owners also file an agreement in writing with the Executive Office of the Board that the County may satisfy in whole or in part from such deposit any final judgment, the payment of which would have been guaranteed by such bond or policy of insurance.

## 22.152.030 Procedural Ordinance for Financing of Public Facilities

- A. Purpose.**
1. This Section implements, in part, the Los Angeles County General Plan, which provides guidelines for future development in areas depicted within urban expansion or nonurban categories on the General Development Policy Map.
  2. The General Plan recommends a development qualification procedure, in part, to ensure that proposed new projects in areas designated in the General Plan as urban expansion or nonurban will not create substantial net costs on County government, special districts and existing taxpayers.
  3. This Section is intended to establish procedures for the implementation of the General Plan by providing for the designation of lands which will receive special benefits from the acquisition, construction and improvement of certain public facilities set forth in this

Section, and the imposition of special assessments on land related to benefits received.

- B. **Areas of Benefit Authorized.** In order that the burden of the cost of constructing public facilities may be borne by all of the lands benefited thereby, areas of benefit may be designated and facilities benefits assessments, as defined in Subsection C, below, chargeable to and against such lands may be imposed in accordance with procedures set forth in this Section.
- C. **Definitions.** For purposes of this Section, the following definitions shall apply, unless the context requires otherwise.
1. **Advance.** An amount expended by the County or other governmental entity toward the cost of a public facilities project within or for the benefit of an area of benefit and for which the County shall be reimbursed from facilities benefit assessments.
  2. **Area(s) of benefit.** Lands which are designated as receiving special benefits from the construction, acquisition and improvement of public facilities project(s) as established by a resolution of designation adopted by the County pursuant to this Section.
  3. **Building permit.** The permit issued or required for the construction of any structure in connection with the development of land pursuant to and as defined by the International Building Code.
  4. **Capital improvement program.** A plan for the implementation and financing of public facilities projects, including but not limited to a schedule for the commencement of construction, the estimated cost of construction, and the payment of facilities benefit assessments.
  5. **Construction.** The design, acquisition of property, administration of construction contracts, actual construction and incidental costs related thereto.
  6. **Contribution.** The amounts expended by the County or other governmental entity toward the cost of a public facilities project in relation to the general benefit received by the County from construction of the public facilities project.
  7. **Costs.** The amounts spent or authorized to be spent in connection with the planning, financing, acquisition and development of a public facilities project including, without limitation, the costs of land,

- construction, engineering, administration, and legal and financial consulting fees.
8. **Development.** The division of land, grading or original construction of an improvement to real property, which division of land, grading or construction is of the type normally associated with urban development.
  9. **Facilities benefit assessment(s).** The amounts collected under the terms of this Section to provide funds for public facilities project(s) which will benefit designated areas of benefit.
  10. **Public facilities project.** Any and all public improvements, the need for which is directly or indirectly generated by development, including, but not limited to the following:
    - a. Water mains, pipes, conduits, tunnels, hydrants, and other necessary works and appliances for providing water service;
    - b. Lines, conduits and other necessary works and appliances for providing electric power service;
    - c. Mains, pipes and other necessary works and appliances for providing gas service;
    - d. Poles, posts, wires, pipes, conduits, lamps and other necessary works and appliances for lighting purposes;
    - e. Sidewalks, crosswalks, steps, safety zones, platforms, seats, culverts, bridges, curbs, gutters, tunnels, parks and parkways, recreation areas, including all structures, buildings and other facilities necessary to make parks and parkways and recreation areas useful for the purposes for which intended;
    - f. Sanitary sewers or instrumentalities of sanitation, together with the necessary outlets, cesspools, manholes, catchbasins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels or other appurtenances;
    - g. Dams, retention basins, detention basins, debris basins, spreading grounds, injection wells, observation wells, pressure-reduction facilities, headworks, drains, tunnels, conduits, culverts, washes, swales, floodways, flowpaths, and channels for drainage and/or water conservation purposes.

- h. Pipes, hydrants and appliances for fire protection;
  - i. Retaining walls, embankments, buildings and any other structures or facilities necessary or suitable in connection with any of the work mentioned in this Section;
  - j. Compaction of land, change of grade or contours, construction of caissons, retaining walls, drains and other structures suitable for the purpose of stabilizing land;
  - k. Acquisition, construction and installation of:
    - i. Streets and highways; and
    - ii. Traffic signs, signals, lights and lighting.
  - l. Acquisition, construction, improvement and equipping of:
    - i. Library buildings;
    - ii. Fire stations;
    - iii. Temporary and permanent school buildings; and
    - iv. Police stations.
  - m. Public works maintenance facilities;
  - n. All other work auxiliary to any of the above which may be required to carry out that work, including but not limited to the maintenance of public facilities projects and administrative, engineering, architectural and legal work performed in connection with establishing, implementing and monitoring public facilities projects;
  - o. Acquisition of any and all property, easements and rights-of-way which may be required to carry out the purposes of the project.
- D. **Initiation of Proceedings.** Upon the receipt of an application by a landowner or his designated agent, or on its own motion, the Board may initiate proceedings for the designation of an area of benefit by adopting a resolution stating its intention to do so. The Board shall refer the proposed public facilities project to the Director of Public Works and shall instruct the Director of Public Works, with the assistance of the Director of Regional Planning and,

where appropriate, interested landowners to make and file with the Board a report in writing which shall contain:

1. Either:
  - a. An implementation program for future development, and/or
  - b. A financing plan with respect to the proposed public facilities project;
2. A general description of the proposed public facilities project;
3. An estimate of the total cost of the public facilities project(s) based on the projected time for commencement and completion thereof in accordance with the capital improvement program;
4. A capital improvement program establishing a schedule for the timing of construction of the public facilities project and the estimated cost for the project;
5. A diagram showing the area of benefit to be designated and the boundaries and dimensions of the subdivision of land within the area of benefit;
6. Preliminary information concerning the method pursuant to which the costs are proposed to be apportioned among the parcels within the area of benefit in proportion to the estimated benefits to be received by those parcels and a preliminary estimate of the amount of the facilities benefit assessments which will be charged to each such parcel;
7. The amount of the contribution or advance, if any, which the County or other public entity will make toward the total cost of the public facilities project(s).

E. **Resolution of Intention.** Upon receipt of the report described in Subsection D, above, the Board may declare its intention to designate an area of benefit by adopting a resolution of intention which shall include the following:

1. A definitive description of the specific public facilities project, the cost of which is proposed to be charged to the properties located within the area of benefit;
2. A capital improvement program with respect to the public facilities project(s);
3. The proposed boundaries of the area of benefit;

4. Information concerning the method by which the costs are proposed to be apportioned among the parcels within the area of benefit and an estimate of the amount of the facilities benefit assessments which will be charged to each such parcel;
  5. The basis and methodology by which automatic annual increases in the facilities benefit assessment will be computed, assessed and levied, without the necessity for further proceeding pursuant to Subsection M, below. If, in the discretion of the Board such automatic annual increases are determined to be necessary;
  6. The amount of the contribution or advance, if any, which the County or other public entity will make toward the total cost;
  7. The time and place at which the Board will hold a public hearing to consider designation of the area benefit.
- F. **Notice of Hearing.** Notice of the public hearing shall be provided by publication of the resolution of intention in a newspaper of general circulation at least two weeks before the date set for the public hearing and by mailing copies of the resolution of intention to the owners of the affected properties located within the proposed area of benefit at the addresses shown on the last equalized assessment roll, or as otherwise known to the assessor, or by any other means which the Board finds reasonably calculated to appraise affected landowners of the public hearing.
- G. **Protests.** At any time not later than the close of the public hearing, any owner of property within the proposed area of benefit may file a written protest against the public facilities project proposed to be undertaken, or against the extent of the area to be benefited by it, or against the facilities benefit assessments proposed to be levied within the area of benefit or against any or all of the foregoing. The protest shall be in writing, signed by the protester, and shall contain a description of the property in which the signer is interested. The description shall be sufficient to clearly identify the property. If the signer is not shown on the last equalized assessment roll as the owner of that property, the protest shall contain or be accompanied by written evidence that the signer is the owner of the property. All such protests shall be delivered to the Board and no other protests or objections shall be considered. Any protests may be withdrawn by the owner(s) requesting the same, in writing, at any time prior to the conclusion of the public hearing.
- H. **Hearing.** At the time and place established in the resolution of intention, the Board shall hear and consider protests filed against the proposed public

facilities project, the extent of the area of benefit, the amount of the facilities benefit assessments proposed to be levied within the area of benefit, or any or all of the foregoing. The public hearing may be continued from time to time. If within the time when protests may be filed, there is filed with the Board a written protest by the owners of more than one-half of the area of the property proposed to be included within the area of benefit, and if sufficient protests are not withdrawn so as to reduce the area represented to less than one-half, then the proposed proceedings shall be abandoned unless the protests are overruled by an affirmative vote of four-fifths of the members of the Board. The Board shall not overrule a majority protest unless it finds that the public health, safety or general welfare require that provision be made for the installation of the proposed public facilities project(s). In the event a majority protest is not withdrawn or overruled, the Board shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same public facilities project under the provisions of this Section. If any majority protest which is not withdrawn or overruled is directed against only a portion of the public facilities project, then all further proceedings under the provisions of this Section to construct that portion of the public facilities project so protested against shall be barred for a period of one year; but the Board shall not be barred from commencing new proceedings, not including any part of the public facilities project so protested against. Nothing in this Section shall prohibit the Board within a one-year period, from commencing and carrying on new proceedings for the construction of a portion of the public facilities project so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with such portion of the public facilities project.

- I. **Resolution of Designation.** At the conclusion of the public hearing, and provided there is no majority protest or a majority protest is overruled, the Board may adopt a resolution of designation ordering designation of the area of benefit and the establishment of the amount of the facilities benefit assessment against each parcel within the area of benefit. The resolution shall include the following:
  1. A definitive description of the public facilities project(s), the cost of which is to be charged to the properties located within the area of benefit;
  2. A capital improvement program with respect to the public facilities project;
  3. The boundaries of the area of benefit;

4. The method by which the costs are to be apportioned among the parcels within the area of benefit and the amount of the facilities benefit assessments which will be charged to each such parcel;
  5. The basis and methodology by which automatic annual increases in the facilities benefit assessment will be computed, assessed and levied, without the necessity for further proceeding pursuant to Subsection M, below, if, in discretion of the Board, such automatic annual increases are determined to be necessary;
  6. The amount of the contribution or advance, if any, which the County or other public entity will make toward the total cost.
- J. Filing of Map and Recording of Notice of Assessment as Lien.**
1. After the adoption by the Board of a resolution of designation, the Director of Public Works shall prepare a diagram of the boundaries of the area of benefit based on said resolution and shall file same with the Board. The Director of Public Works shall also file a copy of the diagram referred to in this Subsection with the Registrar-Recorder/County Clerk.
  2. After recording the assessment and diagram, the Director of Public Works shall execute and record a notice of assessment with the Registrar-Recorder/County Clerk.
  3. From the date of the recording of the notice of assessment in accordance with the provisions of Subsection J.2, above, all persons shall be deemed to have notice of the contents of such assessment. Immediately upon such recording with the Registrar-Recorder/County Clerk each of the assessments shall be a lien upon the property against which it is made.
  4. In its discretion, and for good cause shown, the Board may, upon terms and conditions prescribed by the Board in its resolution of designation or thereafter, allow the lien of the facilities benefit assessment to become subordinate to the lien of deed(s) of trust executed by landowners to secure loans to finance the construction of improvements on the property within the area of benefit.
  5. The Director of Public Works shall file a copy of the diagram and notice of assessment referred to in this Subsection with the Assessor's Office.

- K. **Payment of Benefit Assessments.** After the adoption by the Board of its resolution of designation, no building permits shall be issued for development on any land included within the area of benefit unless and until the facilities benefit assessments established by the resolution of designation for such lands have been paid. The facilities benefit assessment shall be paid by the landowner upon the issuance of building permit(s) for development or at such time as the capital improvement program for the area of benefit in which the assessed land is located calls for the commencement of construction of the public facilities project. In the event that a landowner desires to proceed with development of a portion of the landowner's property, based on a phased development program, which is subject to a lien for the total amount of facilities benefit assessments as provided in this Section, the landowner may obtain building permits for the development phase after paying a portion of the facilities benefit assessments and making provision for payment of the remainder of the facilities benefit assessments to the satisfaction of the Director of Public Works. Money received by the County as payment of the facilities benefit assessments shall be deposited in a special fund established for the area of benefit and shall therefore be expended solely for the purposes for which it was assessed and levied. Upon payment of the facilities benefit assessment as provided in this Section, the lien which attaches pursuant to Subsection J, above, shall be discharged. In the event the partial payment is made based on a phased construction program, the County shall release the portion of the property for which building permits have been issued from the lien of the facilities benefit assessment.
- L. **Recordation of Notice of Pendency of Sale or Foreclosure.** Where there is a delinquency in payment of the facilities benefit assessments as required by Subsection K, above, the County may initiate foreclosure proceedings in accordance with the procedures set forth in this Section and in any and all applicable state and local laws. If a sale or foreclosure is commenced, notice of the pendency of such sale or foreclosure shall be recorded with the Registrar-Recorder/County Clerk not later than 10 days after commencing an action or proceeding in any court to foreclose the lien of such assessment. The notice of pendency shall state that the County has commenced a sale or foreclosure, as the case may be, and shall refer to and identify such sale or foreclosure and shall describe the property affected thereby. The County shall be entitled to recover the cost of recordation of any such notice of pendency in any sale or foreclosure resulting from such delinquency, and provisions shall be made in any notice, order or judgment authorizing or providing for such sale or foreclosure.

- M. **Annual Adjustment of Facilities Benefit Assessment.** The Board may, annually after the adoption of the resolution of designation and subject to the requirements set forth in Subsections D through J, above, cause an adjustment to be made in the facilities benefit assessments established by the resolution. The adjustments may reflect increases or decreases in the actual cost of the public facilities project or if the public facilities project has not yet been constructed then the estimated cost of the proposed capital improvements as reflected in changes in the scope of the public facilities project or any other indices as the Board may deem appropriate for this purpose. The modifications may also reflect changes in the improvements proposed to be constructed as well as the availability, or lack thereof of other funds with which to construct the capital improvements.
- N. **Consideration in Lieu of Assessment.**
1. The provisions of Subsection J to the contrary notwithstanding, upon application by the landowner or his authorized agent, the Board may accept consideration in lieu of the facilities benefit assessments required pursuant to this Section, provided the Board, upon recommendation of the Director of Public Works, finds that the substitute consideration proposed:
    - a. Has a value equal to or greater than such facilities benefit assessments;
    - b. Is in a form acceptable to the Board; and
    - c. Is within the scope of the public facilities project.
  2. The Board may accept consideration in lieu of the facilities benefit assessments required pursuant to this Section where the Board finds that the substitute consideration proposed is less than the value of such facilities benefit assessment after payment of an amount equal to the difference between the value of the substitute consideration as determined by the Board and the amount of such facilities benefit assessments.
- O. **Termination of Area of Benefit.** Upon the receipt of an application by a landowner or his designated agent, or on its own motion, the Board may initiate proceedings for the termination of an area of benefit by adopting a resolution stating its intention. The resolution of intention shall state the time and place at which the Board will hold a public hearing to consider such termination. If, at the conclusion of such hearing, the Board finds and determines that the public facilities project for which the area was originally

formed will not be required in the reasonably foreseeable future, or that the installation of said public facilities project may be financed more effectively by another method, the Board may adopt a resolution declaring the area of benefit terminated.

**P. Reimbursement and Refund.**

1. In the event of an annual adjustment of assessment as provided by Subsection M, above, which reduces the facilities benefit assessment, amounts in the special fund which are no longer required shall be refundable to the current owner(s) of the property as shown on the last equalized assessment roll in proportion to the amount of the original payments.
2. In the event the Board agrees to accept consideration in lieu of facilities benefit assessments as provided by Subsection N, above, the value of which the Board finds is greater than the amount of the otherwise applicable facilities benefit assessments, the Board may enter into an agreement with a developer pursuant to which said developer may be reimbursed for the amount of the otherwise applicable facilities benefit assessments. The agreement shall set forth the amount to be reimbursed, and the time and manner in which payments shall be made only from revenues paid into the special fund created for the area of benefit.
3. Upon termination of an area of benefit as provided by Subsection O, above, any money remaining in the special fund established in connection therewith shall be refunded to the current owner(s) of the property as shown on the last equalized assessment roll in proportion to the amount of the original payments.

**Q. Alternative Method.** This Subsection is intended to establish an alternative method for the spreading of the costs of certain public improvements against the lands which will be benefited thereby; and the provisions of this Subsection shall not be construed to limit the power of the Board to utilize any other method for accomplishing this purpose but shall be in addition to any other requirements which the Board is authorized to impose as a condition to approving new development pursuant to state and local laws.

**22.152.040 Major Projects Review Trust Funds**

- A. **Major Projects.** A major project is defined as any project so determined by the Director for which the planning or processing of requests for entitlements will impact County departmental resources.
- B. **Creation of the Funds.**
1. There are hereby authorized within the treasury of the County of Los Angeles special trust funds to be known as the “Major Projects Review Trust Funds.”
  2. Each fund shall be used to provide additional human and physical resources to the County solely to process discretionary land use actions and to prepare and/or review associated environmental documents for major projects proposed in the County.
- C. **Administration of the Funds.**
1. Each fund shall be administered by the Department to provide for necessary staffing, expense and equipment for the aforesaid purposes only, and in accordance with established County practices.
  2. Each fund shall be interest bearing, and a separate fund shall be established for each major project.
  3. All amounts received from a project applicant under a supplemental service agreement, as defined in Subsection D, below, shall be placed in the fund established for that major project. Notwithstanding any other ordinances to the contrary, when a project applicant enters into a supplemental service agreement with the County, any fees paid by that applicant related to processing the discretionary land use actions shall be placed within the fund and not in the general fund. Funds from any appropriation to the fund approved by the Board shall be placed in the fund.
  4. The Department shall be responsible for maintaining the accounting records relating to each fund.
  5. The Board declares its intention to authorize positions necessary to carry out the work programs provided for in each supplemental service agreement for the fiscal year, which positions and related expenses will be funded from the fund. The Chief Executive Officer may authorize interim staffing during the fiscal year when needed to

provide for necessary adjustments in personnel during any quarterly period.

6. The County services authorized by this Section shall be paid for at rates sufficient to provide for the full recovery of the costs to the County of providing the services, and the rates shall be reviewed and approved by the Auditor-Controller.

**D. Supplemental Fee Agreement.**

1. Any supplemental service agreement entered into pursuant to this Section shall be negotiated by the Department and executed by the Chief Executive Officer.
2. The agreement shall include, but need not be limited to, substantially the following provisions:
  - a. The County and the applicant, hereinafter referred to as the "parties," shall agree upon the processing services which will be required to process the discretionary land use actions, including environmental reviews, and the personnel, estimated time and physical resources which the County will need to accomplish those processing services.
  - b. The parties shall agree on the number and type of employees that the County shall assign to perform the processing services with the understanding that one or more employees may be utilized to perform any designated tasks and that the County may replace any employee that is assigned to perform a processing service at any time.
  - c. The costs which are to be funded shall consist of the actual costs to the County which include, but are not limited to: wages, other benefits, and overhead, which are incurred in connection with the employees assigned to perform the processing services for the major project, the direct costs of material and equipment required to furnish the processing services, the reasonable out-of-pocket expenses incurred by any employee assigned to furnish the processing services, and the costs of hiring outside consultants necessary to provide the County with special expertise.
  - d. The applicant shall deposit funds into a fund for that major project on a quarterly basis in an amount estimated to pay for

the costs of providing the processing services for the following quarterly period.

- e. The parties shall meet quarterly during the term of the agreement to review the amount of funds remaining in the fund and to review, reevaluate and negotiate in good faith the number and type of employees necessary to accomplish the processing services for the next quarterly period and the estimated costs for the services.
- f. The Department shall promptly advise the applicant if, at any time during the quarterly period, the Department believes that the costs of accomplishing the processing services for the quarterly period will exceed the previous estimate.
- g. The parties shall agree to a procedure for deposit of additional funds if the existing funds are not adequate to pay for the agreed upon services for the quarterly period.
- h. The involved County departments shall maintain appropriate records of their actual costs of the processing services.
- i. Entering into the agreement is voluntary.
- j. The agreement shall not control, limit or influence any County approval, disapproval or condition of any discretionary land use action or associated environmental document. The County has the sole discretion to direct the work of any County employee or consultant retained to evaluate, or to assist with the preparation of, any discretionary land use action or associated environmental document. The cooperation of any such employee or consultant shall be exclusively determined by the County and shall not be dependent upon the approval by the County of any discretionary land use action. The agreement is not contingent upon the hiring of any specific employee or the retention of any specific consultant.

## 22.152.050 Library Facilities Mitigation Fee

A. **Purpose.** The purpose of this Section is:

1. To implement certain goals and policies of the Los Angeles County General Plan, which goals and policies promote an equitable distribution of the costs and benefits of governmental actions, promote

a distribution of population consistent with service system capacity and resource availability, seek to maintain a balance between increased intensity of development and the capacity of needed public facilities, and give priority to upgrading existing facilities in areas lacking adequate facilities;

2. To mitigate any significant adverse impacts of increased residential development upon public library facilities as required by the California Environmental Quality Act (Section 21000 et. seq. of the State Public Resources Code); and
3. To implement the Mitigation Fee Act (Section 66000 et. seq. of the State Government Code).

**B. Definitions.** As used in this Section:

1. **Appropriated.** Authorization by the Board to make expenditures and incur obligations for specific purposes.
2. **Capital improvement plan.** A plan indicating the approximate location, size, time of availability and estimates of cost for all library facilities to be financed with library facilities mitigation fees. A capital improvement plan shall be adopted and annually updated by the Board in accordance with Section 66002 of the State Government Code.
3. **Library facilities.** Public library improvements and public library services and community amenities, the need for which is directly or indirectly generated by a residential development project, including but not limited to acquiring, through purchase, lease, lease-purchase, installment purchase or otherwise, improving, constructing, altering, repairing, augmenting, equipping and furnishing real property, buildings, equipment, materials and other facilities for the conduct of public library services and programs; providing collection development and maintenance, including acquiring books, magazines, newspapers, audio-visual, electronic media, and other informational materials; and all other auxiliary work which may be required to carry out that work, such as administrative, engineering, architectural and legal work performed in connection with establishing, implementing and monitoring such projects, indirect costs, and other incidental expenses of providing those library facilities, or all or any combination thereof.
4. **Library planning area.** One of seven planning areas, the boundaries of which are depicted in the "Report on Proposed Developer Fee

Program for Library Facilities—Prepared by the County of Los Angeles Public Library, October 1998” on file with the County Chief Executive Office, each of which includes related territories in the unincorporated portions of the County which are within the service area of the County public library. The seven library planning areas are:

<b>TABLE 22.152.050.B: PLANNING AREAS</b>
Planning Area 1: Santa Clarita Valley
Planning Area 2: Antelope Valley
Planning Area 3: West San Gabriel Valley
Planning Area 4: East San Gabriel Valley
Planning Area 5: Southeast
Planning Area 6: Southwest
Planning Area 7: Santa Monica Mountains

5. **Mitigation fee.** A monetary exaction other than a tax or special assessment that is collected under the terms of this Section to provide funds for library facilities related to a residential development project.
6. **Residential development project.** Any activity which requires approval by the County resulting in the issuance of grading, building, plumbing, mechanical or electrical permits or certificates of occupancy to construct or change the use of a building or property for residential use.

**C. Establishment of Library Facilities Mitigation Fee.\***

1. There is hereby established a library facilities mitigation fee. The amount of the fee to be imposed on a residential development project is based upon the findings and conclusions of the County Librarian, as set forth in the “Report on Proposed Developer Fee Program for Library Facilities—Prepared by the County of Los Angeles Public Library, October 1998,” and shall not exceed the estimated reasonable cost of providing library facilities for such residential development project.
2. The library facilities mitigation fee shall be a uniform fee within each library planning area based on the estimated cost of providing the projected library facility needs in each library planning area, as follows:

<b>TABLE 22.152.050.C: LIBRARY FACILITIES MITIGATION FEE PER DWELLING UNIT</b>	
Planning Area 1: Santa Clarita Valley	\$829.00
Planning Area 2: Antelope Valley	\$804.00
Planning Area 3: West San Gabriel Valley	\$839.00
Planning Area 4: East San Gabriel Valley	\$827.00
Planning Area 5: Southeast	\$830.00
Planning Area 6: Southwest	\$836.00
Planning Area 7: Santa Monica Mountains	\$832.00

\*Editor’s note: Fee changes in this section include changes made by the County Librarian due to increases in the Consumer Price Index and are effective July 1, 2011.

**D. Annual Review of Fee.**

1. The amount of the fee established by Subsection C above shall be reviewed annually by the County Librarian, in consultation with the Auditor-Controller. On July 1st of each year, the fee in each library planning area shall be adjusted as follows: calculate the percentage movement between April 1st of the previous year and March 31st of the current year in the Consumer Price Index (CPI) for all urban consumers in the Los Angeles, Anaheim and Riverside areas, as published by the United States Government Bureau of Labor Statistics, adjust the fee in each library planning area by said percentage amount and round to the nearest dollar. No adjustment shall increase or decrease the fee to an amount more or less than the amount necessary to recover the cost of providing the applicable library facilities.
  
2. If it is determined that the reasonable amount necessary to recover the cost of providing the library facilities exceeds the fee as adjusted by Subsection D.1, above, the County Librarian shall present an alternative fee proposal to the Board for consideration. Such proposal may reflect increases or decreases in the actual cost of library facilities projects or, if such projects have not been completed, then the estimated cost of the proposed library facilities. The proposal may also reflect changes in the library facilities proposed as well as the availability or lack of other funds with which to provide such facilities.

3. The County Librarian shall also present an alternative fee proposal to the Board for approval as may be necessary to insure that the library facilities mitigation fee is a fair and equitable method of distributing the costs of the library facilities necessary to accommodate the library needs generated by the development of land in the unincorporated areas of the County among the developments which will generate the increased library needs and usage.

**E. Applicability.**

1. The provisions of this Section shall apply only to residential development projects which, as of the effective date of the ordinance codified in this Section,\* are yet to receive final discretionary approval and/or the issuance of a building permit or other development right and to any new residential use of existing buildings which has not yet commenced as of said effective date.
2. No tract map, parcel map, conditional use permit, other land use permit or other entitlement shall be approved unless payment of the library facilities mitigation fee is made a condition of approval for any such entitlement.

\* Editor's note: Ordinance 98-0068, which enacts Section 22.152.040 (Ch. 22.72 at that time), is effective December 26, 1998.

**F. Time of Payment of Fee.**

1. No building or similar permit for residential use shall be issued and no new residential use of an existing building shall occur until the applicant has paid the applicable library facilities mitigation fee to the County Librarian. In the event that an applicant desires to proceed with development of a portion of the residential development project, the applicant may obtain building permits for that portion of the project after paying a proportional share of the total library facilities mitigation fee for the project to the satisfaction of the County Librarian.
2. The provisions of Subsection F.1, above, shall apply to payment of the library facilities mitigation fee for a residential development project if the fee will reimburse the County for expenditures already made, or if the County has previously adopted a capital improvement plan or proposed construction schedule and has established an account and appropriated funds for the library facilities to be financed by the fee. In all other cases, notwithstanding the provisions of Subsection F.1, above, payment of the fee for a residential development project shall

not be required prior to the date of the final inspection or the date the certificate of occupancy is issued for the first dwelling in the development, whichever occurs first. In such cases, execution of an agreement to pay the required fee or applicable portion thereof within the time specified herein shall be a condition of issuance of the applicable building or similar permit. Such agreement shall constitute a lien for the payment of the fee and shall be enforceable as provided in Section 66007 of the State Government Code.

G. **Exemptions From Fee.** The following shall be exempt from the provisions of this Section:

1. Individual single-family residences where not more than one such residence is proposed to be built by the same person or entity on contiguous lots; or
2. Additions or modifications to existing residential units, provided that such additions or modifications do not increase the number of families that can be housed in such residential units.

H. **Deposit and Use of Fees Collected.** All library facilities mitigation fees received by the County shall be deposited in a special library capital facilities fund and expended solely for the purposes for which the fee was collected. A separate library capital facilities fund account shall be established for each of the seven library planning areas. All interest income earned shall be credited to each account and shall be used solely for the purposes for which the fee was collected.

I. **Consideration in Lieu of Fee.**

1. The County Librarian may accept substitute consideration in lieu of the library facilities mitigation fee required pursuant to this Section, provided the County Librarian finds that the proposed substitute consideration:
  - a. Has a value equal to or greater than the applicable library facilities mitigation fee otherwise due;
  - b. Is in a form acceptable to the County Librarian; and
  - c. Is within the scope of the applicable library facilities project.
2. The County Librarian may accept substitute consideration in lieu of a portion of the library facilities mitigation fee required pursuant to this

Section where he or she finds that the substitute consideration proposed is less than the value of the required fee but is in a form acceptable to the County Librarian and is within the scope of the applicable library facilities project. Such substitute consideration may be accepted by the County Librarian only after payment of an amount equal to the difference between the value of the substitute consideration, as solely determined by the County Librarian, and the amount of the otherwise required fee.

- J. **Reimbursement.** The provisions of Subsection I, above, shall not prevent the execution of a reimbursement agreement between the County and a developer for that portion of the cost of library facilities paid by the developer which exceeds the need for the library facilities attributable to and reasonably related to the development.
- K. **Alternative Method.** This Subsection is intended to establish an alternative method for the financing of public library facilities, the need for which is generated directly or indirectly by a residential development project or projects. The provisions of this Subsection shall not be construed to limit the power of the County to utilize any other method for accomplishing this purpose but shall be in addition to any other fees or requirements which the Board is authorized to impose as a condition to approving new development pursuant to state and local laws.

## 22.152.060 Law Enforcement Facilities Fee

- A. **Purpose.** The purpose of this Section is:
1. To implement goals and policies of the County of Los Angeles General Plan with respect to the unincorporated urban expansion areas of Santa Clarita, Newhall, and Gorman, which goals and policies promote an equitable distribution of the costs and benefits of governmental actions; promote a distribution of population consistent with service system capacity and resource availability; seek to maintain a balance between increased intensity of development and the capacity of needed public facilities; and give priority to upgrading existing public facilities in areas lacking adequate facilities;
  2. To mitigate adverse impacts due to the inadequacy of law enforcement facilities that might otherwise occur due to new development; and

3. To comply with the procedures for adoption of developer fees contained in the Mitigation Fee Act, (Section 66000, et seq. of the State Government Code).

**B. Definitions.** As used in this Section:

1. **Appropriated.** An authorization by the Board to make expenditures and incur obligations for specific purposes.
2. **Capital improvement plan.** A plan that indicates the approximate location, size, time of availability, and estimates of cost for law enforcement facilities to be financed with law enforcement facilities mitigation fees. A capital improvement plan shall be adopted and annually updated by the Board in accordance with Section 66002 of the State Government Code.
3. **Commercial.** Retail, education, hotels/motels, places of religious worship, and other similar buildings.
4. **Industrial.** Manufacturing, warehousing, and similar industrial buildings.
5. **Law enforcement facilities.** Law enforcement improvements and amenities, the need for which is directly or indirectly generated by a residential, commercial, office, and/or industrial development project, including but not limited to acquiring, through purchase, lease, lease-purchase, installment purchase, or otherwise; improving, constructing, altering, repairing, augmenting, equipping, and furnishing real property, buildings and other structures, equipment, and materials for law enforcement purposes; and all other auxiliary work which may be required to carry out that work, such as administrative, engineering, architectural, and legal work performed in connection with establishing, implementing, and monitoring such projects, indirect costs, and other incidental expenses of providing those law enforcement facilities, or all or any combination thereof.
6. **Law enforcement facilities fee zone.** One of the three law enforcement facility fee zones, for the unincorporated Santa Clarita, Newhall, and Gorman areas, the boundaries of which are depicted in the "Santa Clarita-North Los Angeles County Law Enforcement Facilities Fee Study, October 29, 2007," on file in the Executive Office of the Board, each of which includes areas which are within the service area of the County Sheriff's Department. The law enforcement facilities fee zones are:

- a. Zone 1: Santa Clarita Zone;
  - b. Zone 2: Newhall Zone; and
  - c. Zone 3: Gorman Zone.
7. **Mitigation fee.** A monetary exaction other than a tax or special assessment that is collected under the terms of this Section to provide funds for law enforcement facilities related to a residential, commercial, office, and/or industrial development project.
  8. **Multi-family.** Attached single-family dwellings, multiple unit apartment buildings, condominiums, and similar multi-family residential buildings.
  9. **New development project(s).** Any activity which requires approval by the County resulting in the issuance of grading, building, plumbing, mechanical or electrical permits, or certificates of occupancy to construct or change the use of a building, or property for residential, commercial, office, and/or industrial use.
  10. **Office.** General, professional, or medical office building developments.
  11. **Single-family.** Detached one-family dwelling units, duplexes, condominiums, townhomes, and similar residential uses.

**C. Establishment of Law Enforcement Facilities Mitigation Fee.**

1. This Section establishes a law enforcement facilities mitigation fee. The amount of the fee to be imposed on a new residential, commercial, office, and/or industrial development project is based upon the findings and conclusions set forth in the “Santa Clarita-North Los Angeles County Law Enforcement Facilities Fee Study, October 29, 2007,” and shall not exceed the estimated reasonable cost of providing law enforcement facilities for such residential, commercial, office, and/or industrial development projects.
2. The law enforcement facilities mitigation fee shall be a uniform fee within each law enforcement facilities fee zone based on the estimated cost of providing the projected law enforcement facility needs in each such zone, as follows:

TABLE 22.152.060.C: LAW ENFORCEMENT FACILITIES MITIGATION FEE	
Zone 1: Santa Clarita zone	
Per single-family dwelling unit	\$467.00
Per multi-family dwelling unit	\$337.00

Per 1,000-square-foot commercial unit or, per square-foot of commercial space	\$ 69.00 \$0.07
Per 1,000-square-foot office unit or, per square-foot of office space	\$87.00 \$0.09
Per 1,000-square-foot industrial unit or, per square-foot of industrial space	\$35.00 \$0.03
<b>Zone 2: Newhall zone</b>	
Per single-family dwelling unit	\$863.00
Per multi-family dwelling unit	\$652.00
Per 1,000-square-foot commercial unit or, per square-foot of commercial space	\$129.00 \$0.13
Per 1,000-square-foot office unit or, per square-foot of office space	\$161.00 \$0.16
Per 1,000-square-foot industrial unit or, per square-foot of industrial space	\$64.00 \$0.06
<b>Zone 3: Gorman zone</b>	
Per single-family dwelling unit	\$1,285.00
Per multi-family dwelling unit	\$971.00
Per 1,000-square-foot commercial unit or, per square-foot of commercial space	\$192.00 \$0.19
Per 1,000-square-foot office unit or, per square-foot of office space	\$240.00 \$0.24
Per 1,000-square-foot industrial unit or, per square-foot of industrial space	\$96.00 \$0.10

**D. Annual Review of Fee.**

1. The amount of the fees established by Subsection C, above, shall be reviewed annually by the County Sheriff, in consultation with the Auditor-Controller. On July 1st of each year, the fee in each law enforcement facilities fee zone shall be adjusted as follows: Calculate the percentage movement between April 1st of the previous year and March 31st of the current year in the Engineering Record-News Building Construction Cost Index—Los Angeles (ENR-BCCI), adjust the fee in each law enforcement facilities fee zone by said percentage amount and round to the nearest dollar. No adjustment shall result in a fee that is greater than the amount necessary to recover the cost of providing the applicable law enforcement facilities.
2. If it is determined that the reasonable amount necessary to recover the cost of providing the law enforcement facilities exceeds the fee as adjusted by Subsection D.1, above, the County Sheriff shall present an alternative fee proposal to the Board for consideration. Such alternative fee proposal may reflect changes in the actual cost of

completed law enforcement facilities projects or, if such projects have not been completed, then the estimated cost of the proposed law enforcement facilities. The proposal may also reflect changes in the law enforcement facilities proposed as well as the availability or lack of other funds with which to provide such facilities.

3. The County Sheriff may also present an alternative fee proposal to the Board for approval as may be necessary to insure that the law enforcement facilities mitigation fee is a fair and equitable method of distributing the costs of the law enforcement facilities necessary to accommodate the law enforcement needs generated by the development of land in the unincorporated areas of north Los Angeles County.

**E. Applicability.**

1. The provisions of this Section shall apply to new development projects which, as of August 23, 2008, the effective date of the ordinance establishing this Section, are yet to receive final discretionary approval and/or the issuance of a building permit or other development right. The fees provided in this Section shall also be imposed upon a previously improved lot when a building permit is issued to add 1,000 square feet, or more, to an existing building unit upon such lot.
2. No tract map, parcel map, discretionary permit, building permit, other land use permit, or other entitlement for a new development project as defined in this Section shall be approved unless payment of the law enforcement facilities mitigation fee is made a condition of approval for any such entitlement.
3. Additionally, the fees provided for in this Section shall be imposed upon a lot which has been previously improved with a building unit whenever a building permit is issued for a new building unit on an adjoining lot under common ownership and which new unit constitutes, in effect, an addition of 1,000 square feet, or more, when constructed, or an expansion of use of the previously improved parcel. Such fee shall be calculated upon the total square footage of new construction and paid by every person or entity for which a building permit is issued.

**F. Time of Payment of Fee.**

1. No building or similar permit for any new development project as defined in this Section shall be issued until the applicant has paid the

applicable law enforcement facilities mitigation fee to the County Sheriff. In the event that an applicant desires to proceed only with development of a portion of the development project, the applicant may obtain building permits for that portion of the project after paying a proportional share of the total law enforcement facilities mitigation fee for the project to the satisfaction of the County Sheriff.

2. Notwithstanding the provisions of Subsection F.1, above, payment of the law enforcement facilities mitigation fee for a single-family or multi-family development project shall not be required prior to the date of the final inspection or the date the certificate of occupancy is issued for the first unit in the development, whichever occurs first, unless the County has previously adopted a capital improvement plan or proposed construction schedule and has established an account and appropriated funds for the law enforcement facilities to be financed by the fee, or unless the fee is intended to reimburse the County for expenditures already made. Additionally, notwithstanding the provisions of Subsection F.1, above, payment of the law enforcement facilities mitigation fee for projects for occupancy by lower income households meeting the criteria set forth in Section 66007(b)(2)(A) of the State Government Code shall not be required prior to the date of the final inspection or the date the certificate of occupancy is issued for the first unit in the development, whichever occurs first. Where payment of the fees may only be collected on the date of final inspection or the date the certificate of occupancy is issued as provided in this Subsection, execution of an agreement to pay the required fee or applicable portion thereof within the time specified herein shall be a condition of issuance of the applicable building or similar permit. Such agreement shall constitute a lien for the payment of the fee and shall be enforceable as provided in Section 660007 of the State Government Code.
- G. **Exemptions from Fee.** The following shall be exempt from the provisions of this Section:
1. Notwithstanding the provisions of Subsection E.1, above, additions to residential structures that are less than 2,000 square feet in size shall not be subject to the fees otherwise required by this Section.
  2. No fee imposed by this Section shall be imposed upon the issuance of building permit for the restoration of existing buildings, or buildings damaged by fire, or natural disasters such as earthquake, wind, or flood, where the replaced building, or portion thereof, does not exceed

the original gross floor area. For purposes of this Subsection, “gross floor area” shall be determined by the Director of Public Works, or his designee and excludes accessory structures such as decks, patios, barns, sheds, and kiosks.

- H. **Deposit and Use of Fees Collected.** All law enforcement facilities mitigation fees received by the County shall be deposited in a special law enforcement capital facilities fund and expended solely for the purposes for which the fee was collected. A separate law enforcement capital facilities fund account shall be established for each of the three law enforcement facilities fee zones. All funds from the imposition of fees provided herein shall be deposited into such accounts to be used exclusively for the purpose of land acquisition, engineering, construction, installation, purchasing, or any other direct cost of providing law enforcement facilities as defined in Subsection B.5, above, and for no other purpose. All interest income earned shall be credited to each account, and shall be used solely for the purposes for which the fee was collected.
- I. **Consideration in Lieu of Fee.**
1. The County Sheriff may accept substitute consideration in lieu of the law enforcement facilities mitigation fee required pursuant to this Section, provided the County Sheriff finds that the proposed substitute consideration:
    - a. Has a value equal to or greater than the applicable law enforcement facilities mitigation fee otherwise due;
    - b. Is in a form acceptable to the County Sheriff; and
    - c. Is within the scope of the applicable law enforcement facilities project.
  2. The County Sheriff may accept substitute consideration in lieu of a portion of the law enforcement facilities mitigation fee required pursuant to this Section where he, or she finds that the substitute consideration proposed is less than the value of the required fee but is in a form acceptable to the County Sheriff and is within the scope of the applicable law enforcement facilities project. Such substitute consideration may be accepted by the County Sheriff only after payment of an amount equal to the difference between the value of the substitute consideration, as solely determined by the County Sheriff, and the amount of the otherwise required fee.

- J. **Reimbursement.** The provisions of Subsection I, above, shall not prevent the execution of a reimbursement agreement between the County and a developer for that portion of the cost of law enforcement facilities paid by the developer which exceeds the need for the law enforcement facilities attributable to and reasonably related to the development.
  
- K. **Alternative Method.** This Subsection is intended to establish an alternative method for the financing of public law enforcement facilities, the need for which is generated directly, or indirectly by new development projects. The provisions of this Subsection shall not be construed to limit the power of the County to utilize any other method for accomplishing this purpose, but shall be in addition to any other fees, or requirements which the Board is authorized to impose as a condition to approving new development pursuant to state and local laws.

**Chapter 22.154    Reserved**

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