

Article VI – Development Code Administration

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This Chapter describes the authority and responsibilities of City staff and official bodies in the administration of, in addition to the City Council.

17.120.020 - Planning Department Defined

The functions of a Planning Department shall be performed by the Jackson City Council, Planning Commission, Site Plan Review Committee, and City Planner in compliance with State law (Government Code Section 65100), and the Municipal Code.

17.120.030 - Planning Commission

- A. Appointment and Meetings. Appointments to the Planning Commission and the scheduling and conduct of Planning Commission meetings shall be in compliance with Chapter 2.16 of the Municipal Code.
- B. Duties and authority. The Planning Commission shall:

1. Conduct public hearings and approve or deny applications for Development Permits, Planned Developments, Reversions to Acreage, Tentative Maps, and Use Permits; and make recommendations to the City Council on Development Agreements, Development Code and Zoning Map Amendments, General Plan Amendments, Specific Plans, environmental documents, and other applicable policy or ordinance matters related to the City's planning process; and
2. Perform any other responsibilities assigned by the City Council.

17.120.040 – Site Plan Review Committee

- A. Appointment. The Site Plan Review Committee is established per Section 17.73.020 (Development Permits) of this Development Code.
- B. Duties and authority. The Site Plan Review Committee shall:
 1. Have the responsibility and authority to conduct public hearings and approve or deny applications for Certificates of Compliance, Minor Use Permits, Variances, Tentative Maps for subdivision of four or fewer parcels, and Reversions to Acreage involving four or fewer parcels;
 2. Perform the duties and functions prescribed in, including the review of development projects, in compliance with and the California Environmental Quality Act (CEQA);
 3. Consult with the Design Review Committee; and
 4. Perform any other responsibilities assigned by the City Council.

17.120.045 – Design Review Committee

- A. Appointment. The Design Review committee is appointed by the City Council.
- B. Duties and authority. The Design Review Committee shall have the authority to review and approve project designs as prescribed in Section 17.70.020 (Authority for Land Use and Zoning Decision).

17.120.050 – City Planner

- A. Duties and authority. The City Planner shall:
 1. Head and manage the functions of the Planning Department;
 2. Have the responsibility and authority to approve or deny applications for Interpretations, Lot Line Adjustments, Sign Permits, Temporary Use Permits, Voluntary Parcel Mergers, and Zoning Clearances; and

3. Perform any other responsibilities assigned by the City Manager and/or City Council.

The responsibilities of the City Planner may also be carried out by the Planning Department staff under the supervision of the City Planner.

17.120.060 - Housing Discrimination

A City official or official body, including the City Council, shall not take any action that discriminates against any residential development, senior citizen/disabled congregate care facility, emergency shelter, or transient living center because of the method of financing or the race, sex, religion, national origin, marital status, or disability of its owners or intended occupants.

Chapter 17.130 - Nonconforming Uses, Structures, and Parcels

Sections:

- 17.130.010 - Purpose of Chapter
- 17.130.020 - Definitions
- 17.130.030 - Restrictions on Nonconforming Uses and Structures
- 17.130.040 - Elimination of Nonconforming Uses (By Use)
- 17.130.050 - Single-Family Dwelling Unit Exemption
- 17.130.060 - Multi-Family Dwelling Unit Exemption
- 17.130.070 - Nonconforming Parcels
- 17.130.080 - Conformity of Uses Requiring Use Permits
- 17.130.090 - Extensions of Time for Discontinuance
- 17.130.100 - Unlawful Uses and Structures
- 17.130.110 - Nuisance Abatement

17.130.010 - Purpose of Chapter

- A. This Chapter establishes uniform provisions for the regulation of legal nonconforming land uses, structures, and parcels.
- B. Within the zoning districts established by, there exist land uses, structures, and parcels that were lawful before the adoption, or amendment of, but which would be prohibited, regulated, or restricted differently under the terms of or future amendments.
- C. It is the intent of to discourage the long-term continuance of these nonconformities, providing for their eventual elimination, but to allow them to exist under the limited conditions outlined in this Chapter.

D. Generally, this Chapter is intended to be administered in a manner which encourages the eventual abatement of these nonconformities.

17.130.020 - Definitions

A. Discontinuance of a nonconformity. The following Subsections serve to define the concept of discontinuance. Discontinuance may still occur even with the situation identified in Subsection A.4 .

1. Discontinuance is typically evidenced by:
 - a. The removal of equipment, furniture, improvements, inventory, machinery, structures, or other components so as to make the use inoperable; and/or
 - b. The lack of on-site pedestrian or vehicular activity (e.g., customers, deliveries, employees, etc.) on a daily basis, which was evident before the discontinuance.
2. Lack of business receipts/records. Where there are no business receipts/records available to provide evidence that the use is and has been in continual operation.
3. The discontinuance may be by:
 - a. Voluntary action of the owner/operator;
 - b. Involuntary discontinuance due to:
 - (1) Dilapidation of the site and/or structure(s);
 - (2) Failure of the owner/operator to abide by State and/or non-zoning local laws (e.g., required compliance with annual health inspections, payment of sales tax or Transient Occupancy Tax);
or
 - c. Voluntary or involuntary discontinuance of part of the use. In this case the City Planner shall determine if the partial discontinuance is enough to make the use inoperable.
4. Structure(s) are unoccupied but still connected to services. The site and/or structure(s) appear to be unoccupied even though they are still connected to services (e.g., cable television, electricity, protection alarm, sewer, telephone, water, etc.), or the owner/operator is still paying the required bills (maintenance, mortgage, phone, rent, utilities, etc.).

5. Termination of nonconforming rights. Application of the definitions above shall render the discontinuance complete and all rights to reestablish or continue the nonconforming use shall terminate.
- B. Intensification of a nonconformity. A change in the use of a site, or structure, where there is:
1. Additional parking required. New or modified use is required by Chapter 17.48 (Parking and Loading Standards) to provide more off-street parking spaces than the former use; or
 2. Change in operational characteristics. Owner/operator implements a change in the operational characteristics of the use (e.g., increase in the number of days and/or hours of operation), which have the ability to generate more activity on the site.
- C. Nonconforming parcels. A parcel of record that was legally created before the adoption of this Development Code and which does not comply with the access, area, or width requirements of for the zoning district in which it is located.
- D. Nonconforming signs. A sign of record (residence, business, or commercial/industrial center) that was legally created before the adoption of this Development Code and which does not comply with the sign standards and other applicable development standards of this Development Code.
- E. Nonconforming structure. A structure that was legally constructed before the adoption of this Development Code and which does not comply with applicable development standards (e.g. maximum lot coverage, setbacks, etc.) of this Development Code.
- F. Nonconforming use (of land). A use of land (no structures associated with the use) that was legally established and maintained before the adoption of this Development Code and which is not allowed in the subject zoning district.
- G. Nonconforming use (by use). A use that was legally established and maintained before the adoption of this Development Code and which is not allowed in the subject zoning district.
- H. Nonconforming use (by standard). A use that was legally established and maintained before the adoption of this Development Code and which is allowed in the subject zoning district. However, the use does not comply with applicable development standards (e.g. landscaping, parking, screening, etc.) of this Development Code.
- I. Normal repair and maintenance. Normal site or structure repair and maintenance includes the following:

1. Site — repair or replace on-site:
 - a. Fences and/or walls;
 - b. Landscaping, including the planting of new ground cover, scrubs, and trees;
 - c. Paving or repaving, and striping of parking and circulation areas; or
 - d. Service facilities (drainage, irrigation components, and utility service connections).
 2. Structure — Repair or replace:
 - a. Exterior doors, siding, or windows; or
 - b. Roof, service connections, or sewer/water system.
 3. Replacement materials. The replacement materials identified in Subsections I.1 and I.2 above shall maintain the same visual appearance and characteristics of the original materials, ensuring compatibility of the replacement materials with the site or structure.
 4. Exterior painting, stuccoing, texture coating, tin, or natural wood siding.
 5. New construction not included. Normal site or structure repair and maintenance does not include the following examples:
 - a. New on-site construction;
 - b. Additions to existing structure(s); or
 - c. Grading and paving for a new or expanded parking area on previously vacant land.
- J. Structural alterations. Any exterior or interior alteration(s) to the structure which requires a City approved (e.g., discretionary or nondiscretionary) permit (e.g., Building Permit) before construction and/or operations on the site may be initiated.
- K. Total costs for repair/maintenance and investment improvements. The expenditure of funds for both labor and materials to complete the repairs, maintenance, and investment improvements. The construction of new expansions or additions to a nonconforming structure, which comply with all applicable standards and guidelines of the Development Code, shall not count towards the costs of repair/maintenance and investment improvements. Once the expansion or addition is completed, the expansion or addition shall be considered part of the nonconforming structure, and

any subsequent repair/maintenance and investment improvements to the expansion or addition shall be counted towards the costs for repair/maintenance and investment improvements allowed for a nonconforming structure. The values for labor and materials shall be verified by a licensed contractor's estimate. If the work will be conducted by the owner, the owner shall provide an estimate of the labor hours to complete the work and an estimate of the typical labor costs for the Jackson region for such similar work.

17.130.030 - Restrictions on Nonconforming Uses and Structures

Nonconformities may be continued subject to the provisions as follows:

A. Nonconforming use of land.

1. Can continue use
2. Can change use if:
 - a. The City Planner may issue a zoning clearance for a nonconforming use to be changed to an allowed use only if one of the following findings can be made. If there is a conflict between a finding required for issuance of a zoning clearance and one of the following findings, these findings shall control.
 - (1) All requirements of the Development Code are satisfied; or
 - (2) The change in use is clearly not of an increased intensity and would not have a greater adverse impact on the surrounding area than the existing or former nonconforming use.

If a nonconforming use is converted to an allowed use, no resumption of the nonconforming use shall occur.

- b. The nonconforming use may be changed to another nonconforming use of a similar or less intensive/more restricted nature (e.g., capacity, intensity, purpose, or size) while continuing to preserve the rights provided under the nonconforming status. The City Planner may issue a zoning clearance for the change in use only if the City Planner finds that the change in use is clearly not of an increased intensity and would not have a greater adverse impact on the surrounding area than the existing or former nonconforming use. If there is a conflict between a finding required for issuance of a zoning clearance and this finding,

this finding shall control. The replacement use shall serve as the "new bench mark" in terms of establishing the acceptable level of nonconformance.

3. Expansion is not allowed
4. Intensification of use is not allowed
5. Normal repair and maintenance is allowed
6. Termination by destruction or discontinuance:
 - a. The rights provided under the nonconforming status would terminate if the use is discontinued for a minimum period of 180 days. Thereafter, the subject parcel may only be used in full compliance with all applicable Development Code requirements.
 - b. The rights provided under the nonconforming status would terminate if the use or structure is involuntarily damaged, demolished, or destroyed to the extent of 50 percent or more of its appraised market value except for single family dwellings and multi-family dwellings which are addressed in Section 17.130.050 (Single-Family Dwelling Unit Exemption) and Section 17.130.060 (Multi-Family Dwelling Unit Exemption).

B. Nonconforming use by use.

1. Can continue use
2. Can change use if: (same as for A. Nonconforming use of land.)
3. Expansion is not allowed
4. Intensification of use is not allowed
5. Maintenance and repairs can occur however, the rights provided under the nonconforming status would terminate if the total costs for repair/maintenance and investment improvements over a five year period would exceed 50 percent of its appraised market value.
6. Termination by destruction or discontinuance: (same as for A. Nonconforming use of land.)

C. Nonconforming use by standard.

1. Can continue use
2. Can change use if:
 - a. The review authority may issue a land use permit for an expansion to a nonconforming use (by standard) only if all of the following findings can be made:
 - (1) The expansion of the use, that would intensify the nonconforming development standards, complies with all applicable standards of this Development Code; and
 - (2) The existing use complies with all previous approvals for the use and complies with as many Development Code standards and guidelines, as is reasonable and practicable, that address and improve the existing nonconformities.
3. Expansion is allowed if: (same as for Change of use above)
4. Intensification of use is allowed if: (same as for Change of use above)
5. Normal repair and maintenance is allowed
6. Termination by destruction or discontinuance: (same as for A. Nonconforming use of land.)

If there is a conflict between a finding required for approval of the land use permit and the above findings, the above findings shall control.

D. Nonconforming structure.

1. Can continue use
2. Can change use
3. Expansion is allowed if any intensification to a nonconforming structure devoted to a conforming use complies with all applicable standards and guidelines of this Development Code.
4. Intensification of use is allowed any intensification to a nonconforming structure devoted to a conforming use shall comply with all applicable standards and guidelines of this Development Code.

5. Maximum allowable repair/maintenance and investment improvements (work that does not qualify under repair/maintenance) may only occur in the following manner:
 - a. No structural alterations allowed, except for those required for seismic retrofitting, City Building Code compliance, and replacement.
 - b. Normal repair/maintenance and investment improvements to the nonconforming structure may be made only if the total costs for the repair/maintenance and investment improvements over a five year period would not exceed 50 percent of its appraised market value of the structure. The appraised market value of the structure shall be verified by a valid appraisal by a credentialed real estate appraiser.
6. Termination by destruction or discontinuance: (same as for A. Nonconforming use of land.)

E. Nonconforming temporary signs.

1. Sign shall be removed at end of temporary time limit
2. Cannot change use
3. Expansion is not allowed
4. Intensification of use is not allowed
5. Repair/rehabilitation or investment is not allowed
6. Termination by destruction or discontinuance must occur within 90 days from mailing of the first written notice.

F. Nonconforming permanent signs. See also Section 17.54.100 (Nonconforming or Abandoned Signs).

1. Sign shall be abated within the amortization period of Section 17.54.100 (Nonconforming or Abandoned Signs)
2. Cannot change use
3. Expansion is not allowed
4. Intensification of use is not allowed

5. Repair/rehabilitation or investment is allowed
6. Termination by destruction or discontinuance must occur within 15 years from the first written notice.

17.130.40 - Elimination of Nonconforming Uses (By Use)

- A. Replace with a conforming use. The City Planner, or the appropriate review authority if other than the City Planner, may grant one or more of the incentives listed in Subsection B as an inducement for the owner/operator of an existing nonconforming use (by use) to replace the use with a conforming use identified in Article II (Zoning Districts and Allowable Land Uses).
- B. Incentives allowed. The incentives for conversion of a nonconforming use to an allowed use may include decreased landscaping, parking, screening, and setback requirements, and increased density, floor area ratios, or intensity provisions.

17.130.050 - Single Family Dwelling Unit Exemption

- A. Allowable reconstruction. Nonconforming single family residential dwelling units including secondary residential units, involuntarily damaged or destroyed due to a catastrophic event, may be reconstructed or replaced with a new structure(s) using the same development standards applied to the damaged or destroyed structure(s) (e.g. building envelope, density, and footprint standards).
- B. Time limits. The building permit(s) for the reconstruction or replacement of the nonconforming structure(s) with a new structure(s) shall be obtained within one year from the date of the catastrophic event and construction shall be completed within two years from the date of issuance of the building permit(s).
- C. Flood hazards. The reconstruction or replacement of the nonconforming structure(s) with a new structure(s) in the 100-year floodplain shall be in compliance with all applicable requirements of Chapter 17.34 (Flood Plain Management).

17.130.060 - Multi-Family Dwelling Unit Exemption

- A. Allowable reconstruction. Nonconforming multi-family residential dwelling units, involuntarily damaged or destroyed due to a catastrophic event, may be reconstructed or replaced with a new structure(s) of an equivalent number of dwelling units and size in compliance with State law (Government Code Sec. 65852.25) and the standards of this Section.
- B. Multi-family units defined. Multi-family is defined as two or more dwelling units on a single parcel for the purposes of this Section.

- C. Time limits. The building permit(s) for the reconstruction or replacement of the nonconforming structure(s) with a new structure(s) shall be obtained within two years from the date of the catastrophic event and construction shall be completed within two years from the date of issuance of the building permit(s).
- D. Compliance with Development Code. The multi-family reconstruction shall be in compliance with all applicable Development Code requirements provided that the pre-damaged size and number of dwelling units shall be allowed. The City Planner may waive or reduce requirements if compliance with such requirements would result in the size and/or number of dwelling units being less than that in existence prior to damage or destruction.

17.130.070 - Nonconforming Parcels

A nonconforming parcel of record that does not comply with the access, area, or width requirements of the zoning district in which it is located, shall be considered to be a legal building site if it meets at least one of the five criteria specified by Subsection A.

- A. Criteria for nonconforming status. It shall be the responsibility of the applicant to produce sufficient evidence to establish the applicability of one or more of the following, which shall determine that a parcel is a legal building site for purposes of development and new land uses:
1. The parcel was created through an approved subdivision;
 2. The parcel is under one ownership and of record, and was legally created by a recorded deed in accordance with County or City subdivision regulations in effect at the time of its creation and before the effective date of the zoning amendment that made the parcel nonconforming;
 3. The parcel was approved through a Variance in compliance with Chapter 17.82 (Variances and Historic Variances) or resulted from a lot line adjustment as provided in Chapter 17.86 (Lot Line Adjustments);
 4. A Certificate of Compliance was issued for the parcel; and/or
 5. The parcel was created in compliance with the provisions of, but was made nonconforming when a portion of the parcel was acquired by a governmental entity so that the parcel size is decreased not more than 20 percent and the yard facing any public right-of-way was decreased not more than 50 percent.
- B. Limitation on subsequent subdivision. Where structures have been erected on a nonconforming parcel, the area where structures are located shall not be later divided so as to reduce the building site area and/or frontage below the requirements of the applicable zoning district or other applicable provisions of, or in any way that makes the use of the parcel more nonconforming.

17.130.080 - Conformity of Uses Requiring Use Permits

- A. Uses allowed with Use Permit approval. Any use existing at the time of adoption of in a zoning district that allows the use subject to Use Permit approval, shall be deemed a conforming use, but only to the extent that it previously existed (e.g., maintaining the same site area boundaries, hours of operation, etc.).
- B. Uses no longer allowed with Use Permit approval. Any use in existence by virtue of a Use Permit issued in compliance with the regulations in effect at the time of application for any land use activity which, under the new regulations is not allowable by Use Permit, may continue, but only in compliance with the provisions and terms of the original Use Permit. If the Use Permit specified a termination date, then the use shall terminate in compliance with the original permit.

17.130.090 - Extensions of Time for Discontinuance

- 1. Upon the filing of a request for extension by the applicant, the City Planner may extend the time limits for the rights provided under the nonconforming status if the use is discontinued. The applicant shall file a written request for an extension of time with the City Planner in advance of the expiration date, together with the filing fee required by the City's Schedule of Fees.
- 2. In considering the extension, the City Planner shall determine whether the property owner has made a good faith effort to re-establish the nonconforming use. If the City Planner determines that the owner has proceeded in good faith and has exercised due diligence in seeking to re-establish the nonconforming use, the City Planner may grant an extension of the period for discontinuance of a nonconforming use for up to a total of 180 days.

17.130.100 - Unlawful Uses and Structures

Uses and structures that did not comply with the applicable provisions of or other planning and zoning regulations that applied to the use when it was established, are violations of and are subject to the provisions of Chapter 17.200 (Enforcement). No right to continue occupancy of property containing an illegal use or structure is granted by this Chapter. The activity shall not be lawfully allowed to continue unless/until all land use permits required by are first obtained.

17.130.110 - Nuisance Abatement

In the event that a legal nonconforming use or structure is found to constitute a public nuisance, nothing in this Chapter shall be construed to permit the retention of the nonconformity. The City Attorney may, with the consent of the City Council, commence an action or proceeding for the abatement and removal of the nonconformity.

Chapter 17.140 - Appeals

Sections:

- 17.140.010 - Purpose of Chapter
- 17.140.020 - Allowable Appeals
- 17.140.030 - Filing and Processing of Appeals

17.140.010 - Purpose of Chapter

This Chapter provides procedures for appealing determinations and actions made by the City Planner, Site Plan Review Committee, or Planning Commission.

17.140.020 - Allowable Appeals

Determinations and actions that may be appealed, and the authority to act upon an appeal shall be as follows.

- A. City Planner decisions. Any decision by the City Planner including zoning clearances, may be appealed to the Planning Commission.
- B. Site Plan Review Committee decisions. Any decision by the Site Plan Review Committee may be appealed to the Planning Commission.
- C. Planning Commission decisions. Any decision by the Planning Commission may be appealed to the City Council.
- D. City Manager's appeal of Site Plan Review Committee or Planning Commission decisions. Any decision by the Site Plan Review Committee or Planning Commission may be appealed to the City Council by the City Manager. Upon presentation of the Notice of Appeal, together with the required statement on appeal, the City Attorney may summarily reject the appeal if the City Attorney finds that the decision being appealed was made in order to comply with applicable law, and that granting the appeal would be inconsistent with applicable law.
- E. City Council review/appeal.
 - 1. Any member of the City Council within 10 calendar days from the date of the review authority's action may request the opportunity to review/discuss any decision rendered by the City Planner, Site Plan Review Committee, or Planning Commission.
 - 2. The City Council may appeal any decision by the City Planner, Site Plan Review Committee, or Planning Commission at the next available City Council meeting if a member of the City Council has requested the opportunity to review the decision within 10 calendar days from the date of

the review authority's action. A majority vote of the City Council is required to initiate the appeal.

- F. Statute of limitations. The decision of the City Council shall be final on all matters unless an appeal is filed with the Superior Court of the County of Amador within 30 days after the decision of the City Council.

17.140.030 - Filing and Processing of Appeals

A. Timing and form of appeal.

1. Appeals shall be submitted in writing, and filed with the City Clerk within 10 days from the date of the review authority's action except as allowed by Section 17.140.020(D) (Allowable Appeals – City Manger’s appeal of Site Plan Review Committee or Planning Commission).
2. The appeal shall state the pertinent facts of the case and the basis for the appeal.
3. Appeals shall be accompanied by the filing fee set by the City Council's Fee Resolution.

- B. Scheduling of hearing and City Planner’s report. When an appeal has been filed, the City Planner shall schedule the matter for consideration by the appropriate appeal body identified in Section 17.140.020 (Allowable Appeals) and prepare a report on the matter. If the matter originally required a noticed public hearing, the City Clerk shall give notice in the same manner followed for the original hearing, in compliance with Chapter 17.180 (Public Hearings).

C. Review by City Planner.

1. The City Planner shall determine if the appeal was filed within the applicable time limits and shall summarily reject any appeal which was filed beyond the time limits. Further, the City Planner shall determine if the appeal contains sufficient information as required by Subsection A. (Timing and form of appeal).
2. If the City Planner determines that the information in the appeal is incomplete, the City Planner shall immediately notify the appellant of the insufficiency and allow the appellant an additional seven days in which to correct the deficiency.
3. If upon the expiration of any additional time, the City Planner determines that the statement on appeal is still insufficient, the City Planner shall summarily reject the appeal.

- D. City Attorney's authority to summarily reject appeal. Upon presentation of the Notice of Appeal, together with the required statement on appeal, the City Attorney may summarily reject the appeal if the City Attorney finds that the matter being appealed is a requirement of law.
- E. Action. At the hearing, the appeal body may consider any issue involving the matter being appealed, in addition to the specific grounds for the appeal.
1. The appeal body may, by resolution, affirm, affirm in part, or reverse the action, the decision, or determination of the original review authority.
 2. When reviewing an appeal, the appeal body may:
 - a. Deny the permit or entitlement, even though the appeal only requested relaxation or elimination of one or more of the conditions imposed on the permit or entitlement: or
 - b. Impose additional conditions that may address other issues or concerns than the original subject of the appeal.
 3. The appellant and other interested parties shall not present new evidence and testimony at the appeal hearing unless the party can demonstrate, to the satisfaction of the appeal body, that new information:
 - a. Was not previously available to the party, or
 - b. The party could not have participated in the review process because they could not have known about the review process.
 4. If new or different evidence is presented on appeal, the Planning Commission or City Council, may, but shall not be required to, refer the matter to the original review authority for further consideration.
- F. Refund of appeal fees. Appeal fees may be refunded in only the following situations:
1. Upon the conclusion of any appeal, where the City Council upholds the appeal and overturns the decision of the review authority, the City Council may also authorize the return of all, or a portion, of the appeal fees; or
 2. Upon the conclusion of any appeal, where the City Council denies the appeal but finds that the appellant(s) raised issues of substantial merit, the City Council may authorize the return of any portion of the appeal fees deemed just.

Chapter 17.150 - Development Agreements

Sections:

- 17.150.010 - Purpose of Chapter
- 17.150.020 - Application
- 17.150.030 - Public Hearings
- 17.150.040 - Findings and Decision
- 17.150.050 - Content of Development Agreement
- 17.150.060 - Execution and Recordation
- 17.150.070 - Environmental Review
- 17.150.080 - Periodic Review
- 17.150.090 - Amendments to an Approved Development Agreement
- 17.150.100 - Effect of Development Agreement
- 17.150.110 - Approved Development Agreements

17.150.010 - Purpose of Chapter

- A. The purpose of this Chapter is to provide procedures and minimum requirements for the review and consideration of development agreements upon application by, or on behalf of property owners or other persons having a legal or equitable interest in the property subject to the agreement.
- B. It is intended that the provisions of this Chapter shall be fully consistent, and in full compliance, with the provisions of State law (Article 2.5 of Chapter 4 of Division 1 of Title 7, commencing with Section 65864 of the Government Code), and shall be so construed.
- C. In construing the provisions of any development agreement entered into in compliance with this Chapter, those provisions shall be read to fully effectuate, and to be consistent with, the language of this Chapter, State law (Article 2.5 of the Government Code, cited above), and the agreement itself. Should any apparent discrepancies between the meaning of these documents arise, reference shall be made to the following documents and in the following order:
 - 1. The plain terms of the development agreement itself;
 - 2. The provisions of this Chapter; and
 - 3. The provisions of State law (Article 2.5 of the Government Code, cited above).
- D. A development agreement is a legislative act and not a land use permit or entitlement.

17.150.020 - Application

- A. Initiated by owner. Any owner of real property may request and apply through the City Planner to enter into a development agreement provided the following:
1. The status of the applicant as an owner of the property is established to the satisfaction of the City Planner;
 2. The application is made on forms approved, and contains all information required, by the City Planner; and
 3. The application is accompanied by all lawfully required documents, information and materials.
- B. City Planner's review. The City Planner is authorized to receive, review, process, and prepare, together with recommendations for Planning Commission and City Council consideration, all applications for development agreements; and
- C. Fees. Processing fees, as established by resolution of the City Council, shall be collected for any application for a development agreement made in compliance with this Chapter. Additionally, appropriate fees shall be established and collected for periodic reviews conducted by the City Planner in compliance with Section 17.150.080 (Periodic Review).

17.150.030 - Public Hearings

- A. Planning Commission's action. The City Planner, upon finding the application for a development agreement complete, shall set the application, together with recommendations, for a public hearing before the Planning Commission in compliance with Chapter 17.180 (Public Hearings). Following conclusion of a public hearing, the Planning Commission shall make a written recommendation to the City Council that it approve, conditionally approve, or deny the agreement.
- B. City Council's action. The City Clerk shall set the application and written report of the Planning Commission for a public hearing before the City Council in compliance with Chapter 17.180 (Public Hearings). Following conclusion of the public hearing, the City Council shall approve, conditionally approve, or deny the agreement.
- C. Notice. Notice of the hearings, outlined in Subsections A. and B., shall be given in the form of a notice of intention to consider approval of a development agreement in compliance with State law (Government Code Section 65867).
- D. Preparation of agreement. Should the City Council approve or conditionally approve the application, it shall direct the preparation of a development agreement containing the terms and conditions of the application as approved or conditionally approved, as

well as an ordinance authorizing execution of the development agreement by the City Manager.

- E. Findings. The ordinance shall contain the findings required by Section 17.150.040 (Findings and Decision), and the facts supporting them.
- F. Subject to referendum. The ordinance may be subjected to referendum in the manner provided by State law.

17.150.040 - Findings and Decision

The City Council may approve a Development Agreement, with or without conditions, only if all of the following findings can be made:

- A. The Development Agreement would be in the best interests of the City and would promote the public interest and welfare of the City.
 - 1. The approval of a Development Agreement for a project that is merely developed in compliance with this Development Code would not be considered in the best interests of the City.
 - 2. Examples of project elements and components that may be considered in the best interests of the City and promote the public interest and welfare including, but are not limited to, the following:
 - a. An enhanced/expanded open space network that ties into existing neighboring open space areas;
 - b. A well designed mixed-use project that further implements the goals, objectives, and policies of the General Plan;
 - c. The dedication of lands for public uses above and beyond those otherwise required by this Development Code for the project; and
 - d. Off-site improvements in the public right-of-way that would generally be above and beyond those required by the City's standard requirements for a project of the scale and intensity desired in the proposed project.

17.150.050 - Content of Development Agreement

- A. Mandatory contents. A development agreement entered into in compliance with this Chapter shall contain the following provisions:
 - 1. Specify the duration of the agreement;

2. Specify the allowed uses for the subject property;
 3. Specify the density/intensity of the allowed uses;
 4. Clearly identify and refer to the approved documents and exhibits;
 5. Specify the maximum height and size of the proposed structures;
 6. Specify the minimum size and dimensions of the proposed parcels;
 7. Describe the provisions, if any, for reservation or dedication of land for public purposes;
 8. Describe the provisions, if any, for the construction or financing of public improvements;
 9. Negotiate a level of protection from either a future growth control ordinance or a future increase in development fees, including impact fees;
 10. Provide for a tiered amendment review process that may incorporate the following:
 - a. City Planner sign-off for minor changes;
 - b. Planning Commission sign-off for major modifications; and
 - c. Approval of major amendments by the City Council.
 11. Provide for the possibility of subsequent discovery of health and safety issues (e.g., a "compelling public necessity" [e.g., a new environmental health hazard is discovered]), which would necessitate a reconsideration/amendment of the previously approved development agreement; and
 12. Describe the provisions, if any, for any other matter(s) which is reasonably related to the requested land use permit or entitlement and which the City Council deems necessary or convenient to implement the General Plan or to promote the public health, safety, or general welfare.
- B. Permissive contents. A development agreement entered into in compliance with this Chapter may contain the following provisions:
1. Conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that the conditions, terms, restrictions, and requirements shall not prevent development of the land for the uses and to the density/intensity of development specified in the agreement;

2. Provisions which require that construction shall be commenced within a specified time and that the project, or any individual phase, be completed within a specified time;
3. Terms and conditions relating to applicant financing of necessary public improvements and facilities, including applicant participation in benefit assessment proceedings; and
4. Any other terms, conditions, and requirements the City Council may deem necessary and proper, including requirement(s) for ensuring, to the satisfaction of the City, performance of all provisions of the agreement in a timely manner by the applicant/contracting party.

17.150.060 - Execution and Recordation

- A. Effective date. The City shall not execute any development agreement until on or after the date upon which the ordinance approving the agreement, enacted in compliance with Section 17.150.050 (Content of Development Agreement), becomes effective;
- B. Mutual consent required. A development agreement may be executed only upon the mutual consent of each party to the agreement;
- C. City's authority under agreement. The provisions of this Chapter shall not be construed to prohibit the City Planner, Site Plan Review Committee, Planning Commission, or City Council from conditioning approval of a discretionary land use permit or entitlement on the execution of a development agreement where the condition is otherwise authorized by law; and
- D. Recordation of agreement. A development agreement shall be recorded with the County Recorder no later than 10 days after it is executed.

17.150.070 - Environmental Review

The approval or conditional approval of a development agreement in compliance with this Chapter shall be deemed a discretionary act for purposes of the California Environmental Quality Act (CEQA).

17.150.080 - Periodic Review

- A. Review required - every 12 months or less. Every development agreement, approved and executed in compliance with this Chapter, shall be subject to periodic review, as specified in the agreement, but in no case less than once every 12 months, by the City Planner during the full term of the agreement. Appropriate fees to cover the City's cost(s) to conduct the periodic reviews shall be collected from the

applicant/contracting party in compliance with Section 17.150.020.C (Application - Fees);

- B. Determine compliance. The purpose of the periodic review shall be to determine whether the applicant/contracting party or the successor(s)-in-interest has complied in good faith with the terms and/or conditions of the development agreement. The burden of proof shall be on the applicant/contracting party or the successor(s) to demonstrate compliance, to the full satisfaction of, and in a manner prescribed by, the City; and
- C. Termination of agreement. If the City Planner finds and determines, on the basis of substantial evidence, that the applicant/contracting party or the successor(s)-in-interest has not complied in good faith with the terms or conditions of the agreement, the City Planner may recommend to the City Council that it order the agreement to be terminated or modified. This action of the City Council shall only take place during a noticed public hearing in compliance with Chapter 17.180 (Public Hearings).

17.150.090 - Amendments to an Approved Development Agreement

A development agreement may be amended or canceled, in whole or in part, by mutual consent of all parties to the agreement, or the successor(s)-in-interest, in compliance with State law (Government Code Section 65868). The requested amendment or cancellation shall be processed in the same manner specified by this Chapter for the adoption of a development agreement.

17.150.100 - Effect of Development Agreement

- A. Rules at the time of execution. Unless otherwise provided by the development agreement, the rules, regulations, and official policies 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 rules, regulations, and official policies in force at the time of execution of the agreement.
- B. Subsequent City actions. Unless specifically provided for in the development agreement, the agreement does not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property under the development agreement, nor does a development agreement prevent the City from conditionally approving or denying any subsequent development project application on the basis of existing or new rules, regulations, and policies.

17.150.110 - Approved Development Agreements

Development agreements approved by the City Council shall be on file with the City Clerk.

Chapter 17.160 - General Plan, Land Use Designation Map, and Development Code Amendments

Sections:

- 17.160.010 - Purpose of Chapter
- 17.160.020 - Initiation of Amendments
- 17.160.030 - Notice and Hearing
- 17.160.040 – Planning Commission’s Action on Amendments
- 17.160.050 - City Council’s Action on Amendments
- 17.160.060 - Findings for Amendments

17.160.010 - Purpose of Chapter

- A. This Chapter provides procedures for the amendment of the General Plan, Zoning Map, and, whenever required by public necessity and general welfare.
- B. The General Plan amendments may include revisions to actions, goals, land use designations, policies, or text.
- C. Zoning Map amendments have the effect of rezoning property from one zoning district to another.
- D. Amendments to may modify any procedures, provisions, requirements, or standards applicable to the development and/or use of property within the City.
- E. Review and approval of each of the amendments identified above is a legislative act and not a land use permit or entitlement.

17.160.020 - Initiation of Amendments

Amendments to the General Plan, Zoning Map, or may be initiated by:

- A. Private parties. Private parties through the filing of an application including all materials and information required by the City Planner, and the applicable filing fee; or
- B. City Council. The City Council.

17.160.030 - Notice and Hearing

After receipt of a complete application for amendment, the City Planner shall review the proposal, schedule public hearings before the Planning Commission and City Council, and prepare a staff report evaluating and providing recommendations on the proposal.

Notice of the hearings shall be given in compliance with Section 17.180.020 (Notice of Hearing).

In addition, the City shall engage in all legally required consultations, including but not limited to consulting with school districts (Government Code section 65352.2), water suppliers (Government Code section 65352(a)(6), 65352.5), and Native American tribes (Government Code section 65352(a)(9), 65352.3).

17.160.040 – Planning Commission’s Action on Amendments

The Planning Commission shall make a written recommendation to the City Council whether to approve, approve in modified form, or deny the proposed amendment, based upon the findings contained in Section 17.160.060 (Findings for Amendments).

17.160.050 - City Council’s Action on Amendments

- A. City Council’s action. Upon receipt of the Planning Commission's recommendation, the City Council shall approve, approve in modified form, or deny the proposed amendment based upon the findings contained in Section 17.160.060 (Findings for Amendments).

- B. Referral to Planning Commission.
 - 1. If the City Council proposes to adopt any substantial modification to the amendment not previously considered by the Planning Commission during its hearings, the proposed modification may be first referred back to the Planning Commission for its recommendation, in compliance with State law (Government Code Sections 65356 [General Plan Amendments] and 65857 [Zoning Map/Development Code Amendments]).
 - 2. Failure of the Planning Commission to report back to the City Council within 45 days (General Plan Amendments) or 40 days (Zoning Map/Development Code Amendments) after the referral, or within a longer time set by the City Council, shall be deemed a recommendation for approval of the modification.

17.160.060 - Findings for Amendments

An amendment to the General Plan, the Zoning Map, or may be approved only if all of the following findings are made, as applicable to the type of amendment.

A. Findings for all amendments:

- 1. The proposed amendment ensures and maintains internal consistency with all of the goals, policies, and actions of all elements of the General Plan and any applicable specific plan; and

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
- B. Additional finding for Zoning Map amendments. There is adequate capacity available in the community sewer and water systems to serve the potential development allowed by the amendment, and the site is physically suitable for the requested zoning designation(s) and anticipated land use development(s). Factors considered to evaluate suitability shall include access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints.
 - C. Additional finding for Development Code amendments. The proposed amendment ensures and maintains internal consistency with other applicable provisions of this Development Code.

Chapter 17.170 - Specific Plans

Sections:

- 17.170.010 - Purpose of Chapter
- 17.170.020 - Specific Plan Preparation and Content
- 17.170.030 - Filing and Processing
- 17.170.040 - Adoption of Specific Plan
- 17.170.050 - Implementation, Amendments

17.170.010 - Purpose of Chapter

- A. The purpose of this Chapter is to provide for a Specific Plan when required by the General Plan or to systematically implement the General Plan for any part of the City.
- B. A Specific Plan is a legislative act and not a land use permit or entitlement.
- C. Specific Plans shall be prepared, processed, approved, (or denied) and implemented in compliance with this Chapter.

17.170.020 - Specific Plan Preparation and Content

An applicant shall prepare a draft Specific Plan for review by the City that includes the following detailed information in the form of text and diagram(s), organized in compliance with an outline furnished by the City Planner and State law (Government Code Section 65451). The City Council may also initiate the preparation of a Specific Plan.

- A. Proposed land uses. The distribution, location, and extent of land uses proposed within the area covered by the Specific Plan, including open space areas;

- B. Infrastructure. The proposed distribution, location, extent, and intensity of major components of public and private circulation/transportation, drainage, energy, sewage, solid waste disposal, water, and other essential facilities proposed to be located within the Specific Plan area and needed to support the proposed land uses;
- C. Land use and development standards. Standards, criteria, and design guidelines by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;
- D. Implementation measures. A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out the proposed land uses, infrastructure, and development and conservation standards and criteria;
- E. Relationship to General Plan. A discussion of the relationship of the Specific Plan to the General Plan; and
- F. Additional information. The Specific Plan shall contain any additional information deemed necessary by the City Planner because of the characteristics of the area to be covered by the plan, applicable policies of the General Plan, or any other issue(s) determined by the City Planner to be significant.

17.170.030 - Filing and Processing

A draft Specific Plan shall be filed with the City Planner, and shall be accompanied by the fee required by the Schedule of Fees. The draft plan shall be processed in the same manner as required for General Plans by State law (Government Code Sections 65350 et seq.), and as follows:

- A. City Planner evaluation. After the filing of a draft Specific Plan, the City Planner shall review the draft plan to determine whether it conforms with the provisions of this Chapter. If the draft plan is not in compliance, it shall be returned to the applicant with a written specification(s) as to why it does not comply, and with suggested revisions to ensure compliance;
- B. Public participation. The City Planner may recommend and the City Council may approve a process to obtain maximum public participation early in the review process of the Specific Plan. The process would be designed to obtain public input before the completion of the environmental review document and the scheduling of formal public hearings on the plan.

In addition, the City shall engage in all legally required consultations, including but not limited to consulting with school districts (Government Code section 65352.2), water suppliers (Government Code section 65352(a)(6), 65352.5), and Native American tribes (Government Code section 65352(a)(9), 65352.3).

- C. Environmental review. The draft Specific Plan shall be subject to environmental review in compliance with Section 17.70.060 (Initial Application Review/Environmental Assessment);
- D. Staff report. A staff report shall be prepared for the draft Specific Plan which shall include detailed recommendations for changes to the text and diagrams of the Specific Plan, as necessary, to make it acceptable for adoption; and
- E. Public hearings. A proposed Specific Plan shall be subject to public hearings before both the Planning Commission and City Council prior to its adoption, as follows:
 - 1. Planning Commission hearing. The City Planner shall schedule a public hearing on the proposed Specific Plan. The hearing shall receive public notice and be conducted in compliance with Chapter 17.180 (Public Hearings). After the hearing, the Planning Commission shall forward a written recommendation, with appropriate findings to the City Council, in compliance with Section 17.170.040 (Adoption of Specific Plan). Planning Commission recommendations can be for approval, denial, or approval with modifications; and
 - 2. City Council's action.
 - a. A public hearing on the Specific Plan shall be scheduled before the City Council. The hearing shall be noticed and conducted in compliance with Chapter 17.180 (Public Hearings).
 - b. After the hearing, the City Council may adopt the Specific Plan, may deny the plan, or may adopt the plan with modifications, with appropriate findings in compliance with Section 17.170.040 (Adoption of Specific Plan).
 - 3. Referral to Planning Commission. If the City Council proposes to adopt any substantial modifications to the plan not previously considered by the Planning Commission during its hearing, the proposed modification shall be first referred to the Planning Commission for its recommendation, in compliance with State law (Government Code Section 65356). Failure of the Planning Commission to report back to the City Council within 45 days after the referral, or within a longer time period set by the City Council, shall be deemed a recommendation for approval of the modifications.

17.170.040 - Adoption of Specific Plan

- A. Finding. The adoption of a proposed Specific Plan is entirely at the discretion of the City Council. The City Council shall adopt a Specific Plan only if it finds that the proposed plan is consistent with the General Plan, and other adopted goals and policies of the City.

B. Adoption. The Specific Plan shall be adopted by ordinance, and/or by resolution of the City Council, in compliance with State law (Government Code Section 65453).

17.170.050 - Implementation, Amendments

A. Development within Specific Plan area.

1. After the adoption of a Specific Plan, a land use permit, public works project, a tentative map or parcel map, for which a tentative map was not required, and an amendment to this Specific Plan may be approved/adopted within an area covered by a Specific Plan only if it is first found consistent with the Specific Plan, in compliance with State law (Government Code Section 65455).
2. The City Council may impose a Specific Plan Fee surcharge on development permits within the Specific Plan area, in compliance with State law (Government Code Section 65456).

B. Amendments. An adopted Specific Plan shall be amended through the same procedure specified by this Chapter for the adoption of a Specific Plan.

Chapter 17.174 - Master Plans

Sections:

- 17.174.010 - Purpose of Chapter
- 17.174.020 - Master Plan Preparation and Content
- 17.174.030 - Filing and Processing
- 17.174.040 - Adoption of Master Plan
- 17.174.050 - Findings and Decision
- 17.174.060 - Amendments

17.174.010 - Purpose of Chapter

- A. The purpose of this Chapter is to provide for a Master Plan when required by this Development Code to systematically implement any Specific Plan.
- B. A Master Plan is a legislative act and not a land use permit or entitlement.
- C. Master Plans shall be prepared, processed, approved or denied, and implemented in compliance with this Chapter.

17.174.020 - Master Plan Preparation and Content

An applicant shall prepare a draft Master Plan for review by the City that includes the following detailed information in the form of text and diagram(s), organized in

compliance with an outline furnished by the City Planner. The City Council may also initiate the preparation of a Master Plan.

- A. Proposed land uses. The distribution, location, and extent of land uses proposed within the area covered by the Master Plan, including open spaces areas.
- B. Infrastructure. The proposed distribution, location, extent, and intensity of major components of public and private circulation/transportation, drainage, energy, sewage, solid waste disposal, water, and other essential features proposed to be located within the Master Plan area and needed to support the proposed land uses.
- C. Land use and development standards. Standards, criteria, and design guidelines by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.
- D. Implementation measures. A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out the proposed land uses, infrastructure, and development and conservation standards and criteria.
- E. Relationship to Specific Plan. A discussion of the relationship of the Master Plan to the Specific Plan.
- F. Phasing. A discussion on the phases of the development, if any.
- G. Additional information. The Master Plan shall contain any additional information deemed necessary by the City Planner because of the characteristics of the area to be covered by the plan, applicable policies of the General Plan, or any other issues(s) determined by the City Planner to be significant.

17.174.030 - Filing and Processing

A draft Master Plan shall be filed with the City Planner, and shall be accompanied by the fee required by the Schedule of Fees. The draft plan shall be processed in the same manner as required for General Plans by State law (Government Code Section 65350 et seq.), and as follows:

- A. City Planner evaluation. After the filing of a draft Master Plan, the City Planner shall review the draft plan to determine whether it conforms with the provisions of this Chapter. If the draft plan is not in compliance, it shall be returned to the applicant with a written specification(s) as to why it does not comply, and with suggested revisions to ensure compliance.
- B. Public participation. The City Planner may recommend and the City Council approve a process to obtain maximum public participation early in the review process of the Master Plan. Such a process would be designed to obtain public input prior to

completion of the environmental review document and the scheduling of formal public hearings on the plan.

- C. Environmental review. The draft Master Plan shall be subject to environmental review in compliance with 17.70.060 (Initial Application Review/Environmental Assessment).
- D. Staff report. A staff report shall be prepared for the draft Master Plan which shall include detailed recommendations for changes to the text and diagrams of the Master Plan, as necessary, to make it acceptable for adoption.
- E. Public hearings. A proposed Master Plan shall be subject to public hearings before both the Planning Commission and City Council before its adoption, as follows:
 - 1. Planning Commission hearing. The City Planner shall schedule a public hearing on the proposed Master Plan. The hearing shall receive public notice and be conducted in compliance with Chapter 17.180 (Public Hearings). After the hearing, the Planning Commission shall forward a written recommendation, with appropriate findings to the City Council, in compliance with Section 17.174.040 (Adoption of Master Plan).
 - 2. City Council's action.
 - a. A public hearing on the Master Plan shall be scheduled before the City Council. The hearing shall be noticed and conducted in compliance with the Chapter 17.180 (Public Hearings).
 - b. After the hearing, the City Council may adopt the Master Plan, may deny the plan, or may adopt the plan with changes, with appropriate findings in compliance with Sections 17.174.040 (Adoption of Master Plan) and 17.174.050 (Findings and Decision).
 - 3. Referral to Planning Commission. If the City Council proposes to adopt any substantial modifications to the plan not previously considered by the Planning Commission during its hearing, the proposed modification shall be first referred to the Planning Commission for its recommendation. Failure of the Planning Commission to report back to the City Council within 45 days after the referral, or within a longer time period set by the City Council, shall be deemed a recommendation for approval of the modifications.

17.174.040 - Adoption of Master Plan

- A. Finding. The adoption of a proposed Master Plan is entirely at the discretion of the City Council. The City Council shall adopt a Master Plan only if it finds that the proposed plan is consistent with the General Plan, and other adopted goals and policies of the City.

- B. Adoption. The Master Plan shall be adopted by ordinance, or by resolution of the City Council.

17.174.050 - Findings and Decision

Following a public hearing, the City Council shall record the decision in writing with the findings upon which the decision is based. The City Council may approve a Master Plan, with or without modifications, only if all of the following findings can be made or if the City Council finds that one or more of the findings is not applicable or that a practical solution consistent with the public interest has been achieved:

- A. The uses, activities, and densities of the Master Plan shall be compatible and sensitive to the immediate environment, neighborhood, and adjacent properties relative to architectural design, scale, bulk, building height, buffer zones, identity, character, visual integrity, and orientation.
- B. The uses, activities, and densities of the Master Plan shall provide a compatible, efficient, and workable relationship with surrounding uses and activity.
- C. Appropriate parking and loading shall be established for all uses.
- D. The Master Plan is consistent with this Development Code and the General Plan.
- E. Natural and/or geologic hazards that affect the property shall be identified and mitigated.
- F. Site plan, building design and location, and open space provisions shall be designed to produce a functional development responsive and sensitive to natural features, vegetation, and overall aesthetic quality of the community.
- G. The circulation system shall be designed to address on and off-site traffic circulation for both vehicles and pedestrians.
- H. Landscaping and open space shall be incorporated into the Master Plan to optimize and preserve natural features, recreation, views and function.
- I. The phasing and subdivision plan shall provide a workable, functional, and efficient relationship throughout the development of the Master Plan.

17.174.060 - Amendments

- A. Definition. Major and minor amendments shall be defined by the applicable Master Plan.
- B. Minor amendments. Minor modifications consistent with the findings in Section 17.174.050 (Findings and Decision) may be approved by the City Planner. All minor

modifications shall be indicated on a revised development plan, and approved changes shall be noted, signed, dated, and filed by the City Planner. Notification of a proposed minor amendment and the City Planner's action on the amendment shall be provided to all property owners within or adjacent to the Master Plan area that may be affected by the amendment as determined by the City Planner. The notification shall include a statement describing the amendment and the action of the City Planner.

- C. Major amendments. Requests for major amendments to a Master Plan shall be reviewed and approved by the City Council. A proposed major amendment shall be subject to public hearings before both the Planning Commission and City Council before its approval, as follows:
1. Planning Commission hearing. The City Planner shall schedule a public hearing on the proposed major amendment. The hearing shall receive public notice and be conducted in compliance with Chapter 17.180 (Public Hearings). After the hearing, the Planning Commission shall forward a written recommendation, with appropriate findings to the City Council.
 2. City Council's action.
 - a. A public hearing on the major amendment shall be scheduled before the City Council. The hearing shall be noticed and conducted in compliance with the Chapter 17.180 (Public Hearings).
 - b. After the hearing, the City Council may approve the amendment, may deny the amendment, or may approve the amendment with changes, with appropriate findings in compliance with Section 17.174.050 (Findings and Decision).

Chapter 17.180 - Public Hearings

Sections:

- 17.180.010 - Purpose of Chapter
- 17.180.020 - Notice of Hearing
- 17.180.030 - Notice of Decision – Site Plan Review Committee
- 17.180.040 - Notice of Decision – Planning Commission
- 17.180.050 - Effective Date of Decision
- 17.180.060 - Recommendation by Planning Commission
- 17.180.070 - Notice of Decision - City Council

17.180.010 - Purpose of Chapter

This Chapter provides procedures for public hearings before the Site Plan Review Committee, Planning Commission, and City Council. When a public hearing is required

by, public notice shall be given and the hearing shall be conducted as provided by this Chapter.

17.180.020 - Notice of Hearing

When a land use permit, entitlement or other matter requires a public hearing, the public shall be provided notice of the hearing(s) in compliance with State law (Government Code Sections 65090 et seq., and 66451.3 and Public Resources Code 21000 et seq.).

A. Contents of notice. Notice of a public hearing shall include;

1. The date, time, and place of the hearing and the name of the hearing body;
2. A general explanation of the matter to be considered; and a general description, in text or by diagram, of the location of the real property that is the subject of the hearing; and
3. If a proposed Negative Declaration or final Environmental Impact Report has been prepared for the project in compliance with the City's CEQA Guidelines, the hearing notice shall include a statement that the hearing body will also consider approval of the proposed Negative Declaration or certification of the final Environmental Impact Report (EIR) and the notice shall be published, posted, mailed, and/or delivered at least the minimum number of days required by the California Environmental Quality Act.

B. Method of notice distribution. Notice of a public hearing required for a land use permit, entitlement, plan amendment, zoning amendment, or appeal shall be given as follows, as required by State law (Government Code Sections 65090 and 65091) and in compliance with Subsection A. (Contents of Notice):

1. Notice shall be published at least once in a local newspaper of general circulation within the City at least 10 days before the hearing;
2. Notice shall be mailed or delivered at least 10 days before the hearing to:
 - a. The owners of the property being considered or the owner's agent, and the applicant;
 - b. Each local agency expected to provide water, schools, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected;
 - c. All owners of real property as shown on the County's latest equalized assessment roll within 500 feet of the property which is the subject of the hearing; and

- d. Any person who has filed a written request for notice with the City Planner and has paid the fee set by the most current Schedule of Fees for the notice.
- 3. If the number of property owners to whom notice would be mailed is more than 1,000, the City Planner may choose to provide the alternate notice allowed by State law (Government Code Section 65091(a)(3)).
- 4. In addition to the types of notice required by Subsection B., the City Planner may provide any additional notice with content or using a distribution method as the City Planner determines is necessary or desirable.

17.180.030 - Notice of Decision – Site Plan Review Committee

- A. Site Plan Review Committee options. The Site Plan Review Committee may announce and record the decision at the conclusion of a scheduled hearing, refer the matter to the Planning Commission for determination, or defer action and continue the consideration of the matter to a date certain, and announce and record the decision at that date.
- B. Findings. The decision shall contain applicable findings, any conditions of approval and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public health, safety, and welfare of the City.
- C. Notice of decision. Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

17.180.040 - Notice of Decision – Planning Commission

The Planning Commission may announce and record the decision at the conclusion of a scheduled hearing or defer action and take specified items under advisement and announce and record the decision at a later date. The decision shall contain applicable findings of the Planning Commission, any conditions of approval and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public health, safety, and welfare of the City. Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

17.180.050 - Effective Date of Decision

A decision by the City Planner, Site Plan Review Committee, or Planning Commission is final, and shall become effective on the 11th day after the decision, unless appealed in compliance with Chapter 17.140 (Appeals).

17.180.060 - Recommendation by Planning Commission

At the conclusion of any public hearing on a proposed amendment to the General Plan, the Zoning Map, or a Specific Plan, the Planning Commission shall forward a recommendation, including all required findings, to the City Council for final action. Following the hearing, a notice of the Planning Commission's recommendation shall be mailed to the applicant at the address shown on the application.

17.180.070 - Notice of Decision - City Council

For applications requiring City Council approval, the City Council shall announce and record its decision at the conclusion of the public hearing. The decision shall contain the findings of the City Council, any conditions of approval and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public health, safety, and welfare of the City. Following the hearing, a notice of the decision shall be mailed to the applicant at the address shown on the application. A decision by the City Council is final and shall become effective the next business day after the City Council's decision.

Chapter 17.190 - Revocations and Modifications

Sections:

- 17.190.010 - Purpose of Chapter
- 17.190.020 - Hearings and Notice
- 17.190.030 - Review Authority Action

17.190.010 - Purpose of Chapter

This Chapter provides procedures for securing revocation or modification of previously approved land use permits or entitlements.

17.190.020 - Hearings and Notice

- A. Hearing required. The appropriate review authority shall hold a public hearing in order to revoke or modify any land use permit or entitlement granted in compliance with the provisions of this Development Code.
- B. Mailing of notice. Ten days before the public hearing (except for Temporary Use Permits), notice shall be mailed to the applicant and/or owner of the property for which the permit was granted.
- C. Deemed delivered. Notice shall be deemed delivered two days after being mailed, certified mail postage paid, to the owner as shown on the equalized assessment roll of the County and/or to the project applicant, who is not the owner of the subject property.

17.190.030 - Review Authority Action

Permit or variance revocation/modification. A land use permit or entitlement may be revoked or modified by the review authority (e.g., Site Plan Review Committee, Planning Commission, or City Council) that originally approved the permit, if the review authority makes one or more of the following findings:

1. Circumstances under which the permit or entitlement was granted have been changed by the applicant to a degree that one or more of the findings contained in the original permit can no longer be made in a positive manner and the public health, safety, and welfare require the revocation or modification;
2. The permit or entitlement was issued, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or entitlement;
3. The use or improvement authorized in compliance with the permit has not been exercised or commenced in a timely manner and a time extension is not warranted;
4. One or more of the conditions of the permit have not been met or have been violated;
5. The use or improvement authorized in compliance with the permit is in violation of any code, law, ordinance, regulation, or statute;
6. The use or improvement authorized by the permit has become detrimental to the public health, safety, or welfare or the manner of their operation constitutes a nuisance; or
7. The use and/or on-site structure(s) are nonconforming and:
 - a. Have been discontinued for a period of 180 days or more; or
 - b. Have been destroyed or damaged, and the use and/or structure(s) cannot be repaired, rebuilt, or replaced in compliance with Chapter 17.130 (Nonconforming Uses, Structures, and Parcels).

Chapter 17.200 - Enforcement

Sections:

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17.200.010 - Purpose of Chapter

The purpose of this Chapter is to provide for compliance with the requirements of this Development Code, other titles of the Municipal Code, and any conditions of an approved land use permit or entitlement.

17.200.020 - Authority to Issue Citations

- A. City Manager. The City Manager shall be the person primarily responsible for enforcing the provisions of this Development Code and shall have the authority and immunity of a public officer and employee to issue citations whenever possessing reasonable cause to believe that the person to be cited has committed a violation of this Development Code, which constitutes an infraction or misdemeanor. The responsibilities of the City Manager may also be carried out by his/her designee who shall also have the authority and immunity of a public officer and employee to issue citations whenever possessing reasonable cause to believe that the person to be cited has committed a violation of this Development Code, which constitutes an infraction or misdemeanor.
- B. Consultation with Police Chief. It may be necessary for the City Manager or his/her designee to work with the Police Chief when enforcing the provisions of this Development Code, when the specific situation warrants uniformed police involvement.

17.200.030 - Remedies are Cumulative

All remedies contained in for the handling of violations or enforcement of the provisions of this Development Code shall be cumulative and not exclusive of any other applicable provisions of City, County, State, or Federal law. If a person is found guilty and convicted of an infraction or misdemeanor for the violation of any provision of, the conviction shall not prevent the City from pursuing other available remedy(s) to correct the violation.

17.200.040 – Inspection

- A. Access for initial inspection. Every applicant seeking an application, permit, or any other action in compliance with shall allow City officials access to any premises or property which is the subject of the application.

- B. Access for ongoing inspections. If the permit or other action is approved, the owner or applicant shall allow appropriate City officials access to the premises to determine continued compliance with the approved permit and/or any conditions of approval.
- C. Failure to allow inspections. Failure to allow inspections for compliance shall constitute cause for convening a hearing before the Building Inspector and/or City Planner to void the permits and approvals.
- D. Compliance. In addition, the City Manager or his/her designee may withhold the processing of and/or issuance of any and all discretionary land use permits, where a documented Code violation(s) exists, until the subject property is found to be in complete compliance with any and all applicable Code sections.

17.200.050 - Initial Enforcement Action

This Section describes the procedures for initiating enforcement action in cases where the City Manager or his/her designee has determined that real property within the City is being used, maintained, or allowed to exist in violation of the provisions of this Development Code. It is the objective of these provisions to encourage the voluntary cooperation of responsible parties in the prompt correction of violations, so that the other enforcement measures provided by this Section may be avoided.

- A. The authority to abate and impose sanctions.
 - 1. Enforcement of this Section may be accomplished by the City Manager in any manner authorized by law.
 - 2. The procedures identified in this Chapter shall not be exclusive and shall not, in any manner, limit or restrict the City from enforcing other ordinances or abating public nuisances in any other manner provided by law.
 - 3. Whenever the City Manager determines that any condition exists in violation of this Development Code, the Building Inspector and/or City Planner may take appropriate enforcement action in compliance with this Chapter.
 - 4. Notwithstanding the public nuisance abatement procedures, criminal and/or civil remedies may be employed as determined to be necessary and provided by law.
- B. Notice to responsible parties. Whenever the City Manager or his/her designee has inspected the location of the alleged violation and it has been found or determined that conditions constituting a Code violation exist on any property located in the City, the City Manager may prepare a notice and order and cause the owner of the property and the person, if other than the landowner occupying or otherwise in charge or control of the property, to be notified in writing of the existence of the condition and/or require an appearance before the City Manager at a stated time and place to

show why the condition should not be abated by the City at the person's expense. The notice and order to abate the determined public nuisance or other Code violation shall contain the following information:

1. The street address and Assessor's Parcel Number for identification of the property on which the condition exists;
2. A statement that the City Manager or his/her designee has determined that a public nuisance/ Code violation is being maintained on the property with a brief description of the conditions which render the property a public nuisance, or which constitute a Code violation;
3. An order to secure all appropriate permits and to physically commence, within a certain time from the date of service of the notice and order, and to complete within that reasonable and established time and date, the abatement of the described conditions;
4. A statement advising that the disposal of any material associated with any Code violation shall be conducted in a legal manner;
5. A statement advising that if the required work is not commenced within the time specified, the City Manager may proceed to cause the work to be done, and may bill the persons named in the notice for the abatement costs and/or assess the costs against the property;
6. A statement that the City may charge the property owner for all administrative costs associated with the abatement of the violation(s) in compliance with Section 17.200.080 (Recovery of Costs), and/or initiate legal action as described in Section 17.200.070 (Legal Remedies);
7. A statement advising that any person having any interest or record title in the property may request an administrative hearing of the notice and order or any action of the enforcement within 10 days from the date of service of the notice and order;
8. A statement advising that the notice and order may be recorded against the property in the Office of the County Recorder;
9. A statement that the property owner may request and be provided a meeting with the Building Inspector and/or City Planner to discuss possible methods and time limits for the correction of the violations;
10. A statement that the Building Inspector and/or City Planner's determination is appealable to the City Council in compliance with this Chapter; and
11. Informal notice may precede the formal notice described above.

C. Manner of notice.

1. If a notice and order is prepared, the notice and order, and any amended notice and order, shall be mailed by first class mail, postage prepaid, at the address of the violation as it appears on the latest equalized assessment roll of the County, or as known to the City Manager. The address of owners shown on the assessment roll shall be conclusively deemed to be the property address for the purpose of mailing the notice.
2. The failure of the City Manager to make or attempt service on any person required in this Section to be served shall not invalidate any proceedings in compliance with this Chapter, as to any other person(s) duly served. Service by mail, in compliance with this Chapter, shall be effective on the date said mail is received or refused by the addressee as evidenced by the mail carrier's certified return receipt. The failure of any person entitled to receive notice shall not affect the validity of any proceedings taken under this Section. Proof of service of the notice and order shall be documented at the time of service by a declaration under penalty of perjury executed by the person effecting service, declaring the time and manner in which service was made.
3. At the time the notice and order is served or any time thereafter, the City Manager may file in the Office of the County Recorder a certificate legally describing the property and certifying that a Code violation exists on the property and that the owner has been so notified. The City Manager may then file a new certificate with the County Recorder, which indicates that the nuisance has been abated, whenever the following actions occur:
 - a. Corrections ordered have been completed so that a code violation or public nuisance no longer exists on the subject property as described in the original certificate;
 - b. The notice and order is rescinded upon appeal; or
 - c. Whenever the City abates the nuisance and the abatement costs have been paid.

D. Hearing.

1. The City Manager may set a date, time, and place to hear any relevant evidence concerning the existence of the alleged code violation or public nuisance and the question of whether the expense of abating the code violation or public nuisance, if determined to exist, should be made a lien on the property.

2. In the event any person given notice of hearing, as shown by the evidence of mailing, should fail to appear at the hearing, then the evidence available to the Building Inspector and/or City Planner shall be sufficient evidence of the existence of facts in support of the conclusion.
 3. If, at the conclusion of the hearing, the City Manager is satisfied that the condition exists and concludes that it should be abated at the expense of the landowner, the Building Inspector and/or City Planner shall advise the landowner in writing in the same manner as provided in Subsection C.
 4. The notice shall inform the landowner of the right of appeal as provided in Subsection F.
- E. Request for reconsideration. Any person aggrieved by the action of the City Manager in issuing a notice and order in compliance with this Section may appeal in compliance with Subsection F. If no appeal is filed within the time prescribed, the action of the City Manager shall be final.
- F. Appeals. Appeals shall be made in compliance with the following provisions:
1. Any person entitled who is dissatisfied with a public nuisance or code violation determination of the City Manager shall have the right to appeal to the City Council within 10 days from the date of mailing of the decision of the City Planner. The written appeal shall be filed with the Planning Department, together with a filing fee in compliance with the Schedule of Fees.
 2. The notice of appeal shall specify the following:
 - a. The Assessor's Parcel Number and street address of the property;
 - b. The determination being appealed;
 - c. The owner's or appealing party's legal interest in the property;
 - d. A statement of disputed and undisputed facts;
 - e. A statement specifying that portion of the decision or hearing proceedings that are being appealed together with any evidentiary and supporting materials that would support the appeal; and
 - f. A signed verification of the truth of all stated matters.

3. Appeals shall be processed in the following manner:
 - a. Upon the timely filing of a notice of appeal in the proper form, the City Manager shall schedule the appeal hearing to be held not less than 30 days after the appeal is received;
 - b. The City Manager shall provide written notice of the appeal, including the time, place, and date of the hearing on the appeal, to the appellant and any other person to whom notice of the City Manager's order was sent, in compliance with this Chapter. The notice shall be sent in the same manner as the City Manager's notice and order;
 - c. The City Council may limit the issues on appeal to those identified in the appellant's notice of appeal, may consider the record produced before the City Manager, and may allow additional evidence to be produced;
 - d. At the close of the hearing on an appeal, the City Council may reverse or modify the decision of the City Manager and/or remand the matter to the City Manager for further proceedings, in compliance with directions of the City Council. The City Council shall take action on the appeal within 45 days of the filing of the appeal or the appeal will be automatically granted; and
 - e. Notice of the City Council's determination shall be in substantially the same form as that sent by the City manager and shall be sent to all persons to whom notice of the City Manager's order was sent as well as to all persons requesting the notice, in writing, at the time the appeal is heard.

G. General penalty and continuing violations. Any person who:

1. Violates or fails to comply with any provision or mandatory requirement of this Section, may be found guilty of a misdemeanor unless charged as an infraction by the City Manager, City Attorney, or District Attorney.
2. Is found guilty of a misdemeanor or infraction, may be found guilty of a separate offense for each and every day during any portion of which any violation of any provision of is committed, continued, or allowed by the person and shall be punished accordingly;
3. Removes any notice or order posted as required in this Section, for the purpose of interfering with the enforcement of the provisions of this Section, may be found guilty of a misdemeanor unless charged as an infraction by the City Manager, City Attorney, or District Attorney; and

4. Obstructs, impedes, or interferes with any representative of a City or with any person who owns or holds an estate or interest in a structure which has been ordered to be demolished, rehabilitated, repaired, or vacated, or with any person to whom any structure has been lawfully sold, in compliance with this Chapter, when any of the aforementioned individuals are lawfully engaged in proceedings involving the abatement of a nuisance, may be found guilty of a misdemeanor unless charged as an infraction by the City Manager.
- H. Use of other enforcement procedures. The enforcement procedures of Section 17.200.070 (Legal Remedies) may be employed by the City Manager after or instead of the provisions of this Section where the City Manager determines that this Section would be ineffective in securing the correction of the violation within a reasonable time.

17.200.060 - Violations

- A. Unlawful violation. Any use or structure which is altered, enlarged, erected, established, maintained, moved, or operated, contrary to the provisions of or any applicable condition of approval, is hereby declared to be unlawful and a public nuisance, and shall be subject to the remedies and penalties specified in the Municipal Code, including this Chapter.
- B. Infraction or misdemeanor.
1. Any person, partnership, firm or corporation, whether as principal, agent, employee or otherwise, violating or failing to comply with any provision(s) of or any condition imposed on any land use permit, entitlement, map, or license, shall be guilty of an infraction on each separate day the violation or failure to comply exists, except as otherwise specified herein.
 2. However, any person responsible for these violations who has previously been convicted two or more times during any one year period for any other violation(s) of may be guilty of a misdemeanor.
 3. Any construction in violation of or any condition(s) imposed on a land use permit shall be subject to the issuance of a "Stop Work Order."
 4. Any violation of a Stop Work Order may constitute a misdemeanor.
 5. Any violation that may be prosecuted as a misdemeanor may instead be prosecuted as an infraction, at the discretion of the City Planner, City Attorney, or District Attorney.

17.200.070 - Legal Remedies

The City may choose to undertake any of the following legal actions to correct and/or abate nuisances or violations of this Development Code.

A. Civil actions:

1. At the request of the City Council, upon recommendation of the City Manager, the City Attorney may apply to a court of competent jurisdiction for injunctive relief to terminate a violation of this Development Code.
2. Where any person, firm, or corporation fails to abate a violation after being provided a Notice of Violation in compliance with Section 17.200.050.B. (Initial Enforcement Action - Notice to responsible parties), above and the opportunity to correct or end the violation, the City Council, upon recommendation of the Building Inspector and/or City Planner, may request the City Attorney to apply to a court of competent jurisdiction for an order authorizing the City to undertake actions necessary to abate the violation and requiring the violator to pay for the cost of the actions.

B. Civil remedies and penalties:

1. Any person who willfully violates the provisions of this Development Code, or any permit issued in compliance with this Development Code, may be liable for a civil penalty not to exceed \$5,000.00 for each day that the violation continues to exist.
2. Any person violating any provisions of this Development Code, or permits issued in compliance with this Development Code, may be liable to the City for the costs incurred and the damages suffered by the City, its agents, and agencies as a direct result of the violations.
3. In determining the amount of the civil penalty to impose, the Court should consider all relevant circumstances, including the extent of the harm caused by the conduct constituting a violation, the nature and persistence of the conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the defendant, whether corporate or individual, and any corrective action taken by defendant.

C. Criminal actions and penalties.

1. A person violating any provisions of this Development Code, or any permit issued in compliance with this Development Code, shall be guilty of an infraction, unless such violation is specifically designated as constituting a misdemeanor.

2. Any conviction of an infraction under the provisions of this Development Code shall be punishable for a first conviction of a fine of not more than One Hundred Dollars (\$100), for a second conviction within a period of one year by a fine of not more than Two Hundred Dollars (\$200), and for a third or any subsequent conviction within a period of one year by a fine of not more than Five Hundred Dollars (\$500).
3. Any conviction of a misdemeanor under provisions of this Development Code shall be punishable by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment in the County jail for a period of not exceeding six (6) months, or by both such fine and imprisonment.

D. Abatement of Code violations/nuisances.

1. If the violation(s) is not completely abated by the owner as directed within the abatement period, the City may immediately cause the violation(s) to be abated by City personnel or private contract and the personnel or persons under contract are expressly authorized to enter upon the subject premises for these purposes. The City may obtain an abatement warrant authorizing entry onto the property and the abatement of the violation.
2. The owner of the premises shall be liable to the City for all costs of abatement, including all administrative and inspection costs.

E. Proceedings for abatement of imminently dangerous public nuisances. Whenever the City Planner determines that a public nuisance (or any other Code violation) is so imminently dangerous to life or adjacent property that the condition shall be immediately corrected, or isolated, the following procedures shall be instituted:

1. Before abatement of an imminently dangerous public nuisance, written notice shall be provided to the property owner by first class mail and by posting at the subject property. At least 72 hours notice shall be provided unless a specific finding is made of an emergency requiring immediate abatement or other action.
2. The City Manager shall attempt to make contact through a personal interview, or by telephone with the landowner or the person, if any, occupying or otherwise in real or apparent charge and control of the subject property. In the event contact is made, the City Manager shall notify the person(s) of the danger involved and require that the condition be immediately removed, repaired, or isolated to preclude harm to any person or property;
3. In the event the City Manager is unable to make contact, or if the appropriate persons, after notification by the City Manager, do not take action as specified by the City Manager, within the time frame requested, the Building Inspector and/or City Planner may, with the approval of the City Manager, take all steps

deemed necessary to remove or isolate the dangerous condition(s), with the use of City forces or a contractor retained in compliance with the provisions of the Municipal Code.

4. The Building Inspector and/or City Planner shall keep an itemized account of the costs incurred by the City in removing or isolating the condition(s). These costs may be recovered in the same manner that other abatement costs are recovered, in compliance with this Chapter.

17.200.080 - Recovery of Costs

This Section establishes procedures for the recovery of administrative costs (e.g., staff, legal, etc.), including staff time expended in the enforcement of the provisions of this Development Code. The intent of this Section is to recover City administrative and legal costs reasonably related to the required enforcement action(s).

- A. Notice. Upon investigation and a determination that a violation of any provision(s) of this Development Code is found to exist, the City Planner shall notify the record owner or any person having possession or control of the property by certified mail, of the existence of the violation, the City Planner's intent to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing on any objections they may have. The notice shall be in a form approved by the City Attorney.
- B. Cost assessment. The Building Inspector and/or City Planner shall maintain records of all administrative costs, incurred by responsible City departments, associated with the processing of violations, and enforcement of this Development Code, and shall recover the costs from the property owner in compliance with this Section. Staff time shall be calculated at an hourly rate established and revised from time to time by the City Council.
- C. Summary of costs and notice.
 1. At the conclusion of the case, the Building Inspector and/or City Planner shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the property by certified mail, in compliance with Subsection A.
 2. The summary shall include a notice in a form approved by the City Attorney, advising the responsible party of their right to request a hearing on the charges for City cost recovery within 10 days of the date of the notice, and that if no request for hearing is filed, the responsible party will be liable for the charges.
 3. In the event that a request for hearing is not timely filed or, after a hearing during which the City Planner affirms the validity of the costs, the property owner and/or person in control shall be liable to the City in the amount stated

in the summary or any lesser amount determined by the Building Inspector and/or City Planner.

4. These costs shall be recoverable in a civil action in the name of the City, in any court of competent jurisdiction within the County.

D. Request for hearing on costs. Any property owner, and/or other person having possession or control of the subject property, who receives a summary of costs shall have the right to a hearing before the Building Inspector and/or City Planner on their objections to the proposed costs.

1. A request for hearing shall be filed with the Building Inspector and/or City Planner within 10 days of the service by certified mail, of the City Planner's summary of costs, on a form provided by the Building Inspector or City Planner.
2. Within 30 days of the filing of the request, and on 10 days written notice to the owner, the Building Inspector and/or City Planner shall hold a hearing on the owner's objections and determine their validity.
3. In determining the validity of the costs, the Building Inspector and/or City Planner shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include: whether the present owner created the violation(s); whether there is a present ability to correct the violation(s); whether the owner moved promptly to correct the violation(s); the degree of cooperation provided by the owner; and whether reasonable minds can differ as to whether a violation(s) exists.
4. The Building Inspector and/or City Planner's decision shall be appealable to the City Council in compliance with Chapter 17.140 (Appeals).

E. Tax lien.

1. The Building Inspector and/or City Planner shall consider the cost summary at the time set for hearing, together with any objections or protests by any interested parties. Any owner of land or interested person may present a written or oral protest or objections to the cost summary.
2. The Building Inspector and/or City Planner may modify the cost summary if it is deemed necessary. The Building Inspector and/or City Planner shall mail a written copy of the modified cost summary to the owner of the property and the person, if other than the landowner occupying or otherwise in charge or control of the property.
3. In compliance with State law, the total costs of abatement, including all administrative costs, shall constitute a special assessment against the subject

parcel. After the assessment is made and confirmed, it shall become a lien on the subject parcel in the following manner.

- a. After confirmation of the cost summary, a certified copy shall be filed with the County Auditor on or before August 10th of each year and the Auditor shall be requested to enter the amounts of the respective assessments on the County tax roll.
- b. The special assessment (in the amount of the total costs in the cost summary) shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary property taxes.
- c. The Building Inspector and/or City Planner may order refunded all or part of an assessment paid in compliance with this Section, if the City Planner finds that all or part of the assessment has been erroneously levied. An assessment or any part thereof shall not be refunded unless a claim is filed with the City Clerk on or before December 1st after the assessment becomes due and payable. The claim shall be verified by the person who paid the assessment, or the responsible administrator, executor, or guardian.

F. Additional permit processing fees.

1. Any person who establishes a land use, or alters, constructs, enlarges, erects, maintains, or moves any structure without first obtaining a permit required by this Development Code, shall pay the additional permit processing fees established by the City Council's Fee Resolution for the correction of the violation(s), before being granted a permit for any use or structure on the site.
2. All administrative fees that have accrued against a particular parcel shall be paid before processing of any application (including a Building Permit) for that property.
3. Any property owner notified of a Code violation shall correct the violation before issuance, processing, approval, or completion, as appropriate, of any discretionary permit application.