

# CITY OF MORRO BAY

## ZONING CODE UPDATE



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Module 1: Administration and Permits

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# INTRODUCTION

Zoning updates are significant undertakings for any community. Proceeding with discrete, digestible groups of specific sections make the project more approachable. To this end, this paper presents preliminary draft regulations for a major section of Morro Bay's new Zoning Code—provisions for the administration of the code and processing of permits.

The new Zoning Code will be organized so that it will be easy to use and amend overtime. Generally, the most frequently consulted sections appear towards the beginning of the code, while more specific and less frequently used parts, such as definitions, appear at the end. Administrative provisions combine permit requirements in one place for ease of reference by staff, the Planning Commission, and other code-users. In all, the updated Title 17-Zoning will comprise five divisions, in the following order:

Division I – Introductory Provisions

Division II – District Regulations

Division III – Citywide Regulations

Division IV – Administration and Permits

Division V –Terms and Definitions

Within each of these divisions, chapters and sections have been ordered to flow logically from one idea to the next. Typically, chapters begin with statements regarding their purpose and applicability, next list general provisions, and then move progressively to more specific provisions and related regulations.

This paper presents preliminary draft regulations for Division IV – Administration and Permits.

## DIVISION IV: ADMINISTRATION AND PERMITS

Provisions for administration of the code are intended to convey clearly who is responsible for making decisions on zoning applications and what the process is to secure approvals. It is important that this section be understandable to both users and staff.

Division IV contains provisions for administration of the Zoning Code. Chapters have been organized to list, first, the responsibilities of all decision makers, followed by a “common procedures” section that establishes procedures applicable to all types of review procedures and approvals. This Division then proceeds to more specific processes and permits in an order meant to reflect their relative frequency of use. Additionally, it clarifies the complementary roles of the Director, Planning Commission, and City Council by listing the responsibilities and authority that each body has in administering the code.

The proposed chapters incorporate many provisions included in Morro Bay's existing code, but simplify the regulations by consolidating a number of the administrative provisions in a new and

separate chapter that establishes common administrative procedures related to filing and review of applications, noticing and hearings common to all or most approvals. Technical edits also are made to reflect “best practices.”

Certain chapters included in Division IV, Administration and Permits, are a part of the Coastal Implementation Plan. These chapters are indicated with an **(IP)**.

## Planning Authorities

The first chapter of Division IV, Administration and Permits, lays out the basic roles and functions of the authorities that have a role in implementing the Zoning Code, including the City Council, Planning Commission, and Director.

## Common Procedures (IP)

The purpose of this chapter is to establish uniform procedures that are common to the application and processing of a variety of different permits and approvals such as Use Permits, Coastal Development Permits, Variances, General Plan Amendments, and Zoning Code and Map Amendments. This material includes everything from time limits and extensions through to post-decision provisions (e.g. expiration, extension, and revision of approvals). Because this chapter will likely be the most frequently consulted of all administrative chapters, it appears immediately following the chapter identifying various planning authorities.

## Zoning Clearance

This chapter establishes procedures for ensuring that all permits or licenses issued by the City conform to the provisions of the Zoning Code. The chapter describes the process the City uses for reviewing applications for business licenses, building permits, and other entitlements to ensure that the proposed use or structure is either permitted by right and conforms to all applicable zoning standards or conforms to the requirements and conditions of any discretionary approval that the City has granted under the code.

## Design Review

This chapter establishes provisions for design review, identifying first which projects are subject to design review and then the review authority, scope of review, procedures, and criteria. Reference is made to the Residential Design Guidelines and other applicable design guidelines.

## Coastal Development Permits (IP)

A Coastal Development Permit is required for certain types and locations of development in the Coastal Zone. Instances in which a Coastal Development Permit is required will be detailed in the Coastal Zone (CZ) Overlay District provisions. This chapter contains the permit procedures to be followed for those instances where a Coastal Development Permit is required.

## Use Permits

This chapter includes a description of the purpose and processes for “Conditional” Use Permits, which require Planning Commission review, and “Minor” Use Permits, which require review by the Director. This chapter is organized so that action by the appropriate authority is listed first, followed by the application and public hearing provisions. The chapter includes cross-references to specific provisions in Chapter 17.25, Common Procedures, that describe specific requirements for appeals, expiration, extension, revision, and other procedures common to use permits as well as other approvals. The lists of conditionally permitted uses currently located in Chapter 17.60 will be incorporated into the use regulations for each zoning district.

## Temporary Use Permits

Regulations governing temporary uses on private property will be included in a separate chapter which includes standards for specific uses which will classify temporary uses as those requiring a permit and those permitted by right, subject to specific standards and time limits. This chapter on Temporary Use Permits details the permit procedures for those temporary uses that require a permit.

## Modifications (IP)

Similar to the current provisions for Minor Variances, this Chapter is intended to provide an alternate means of granting relief from code requirements when so doing would be consistent with the code’s objectives and it is not possible or practical to approve a Variance. This chapter includes opportunities for gaining relief from codified locational, developmental, and operational standards by the Director in cases where modifications are consistent with General Plan objectives and warranted by special circumstances that may not meet the requirements for approval of a variance based on physical hardship.

## Reasonable Accommodation

This chapter includes procedures to ensure compliance with State and Federal laws that require accommodation of certain protected uses, consistent with Section 17.48.400, Reasonable Accommodation Procedure, of the current code.

## Variances

This chapter incorporates provisions for Variances that are applicable to situations where the variation exceeds the thresholds for consideration of a Modification or are not otherwise entitled to modification under those rules or other regulations. Where procedures are the same as for use permits and other approvals, the chapter refers to relevant requirements in Chapter 17.25, Common Procedures. This chapter is distinguished from Chapter 17.31, Modifications, which applies to situations where relief is determined consistent with the City’s adopted plans and the purposes of the code.

## Emergency Permits (IP)

This chapter includes provisions that enable the Community Development Director to issue an Emergency Permit without compliance with the procedures for the issuance of a regular city permit or Coastal Development Permit in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Code of Regulations.

## Development Agreements

The purpose of this chapter is to enable the City to implement Government Code Sections 65864-65869.5 authorizing government entities to enter into legally binding agreements with private parties. Section 65865 requires cities to establish procedures for consideration of development agreements when requested by an applicant.

## Amendments to the General Plan, Zoning Code, and Zoning Map

This chapter contains provisions for amending the Zoning Code text and the Zoning Map, currently located in Chapter 17.64, Amendment, and for amending the General Plan. Emphasis is given to the General Plan as the underlying basis for all land use and development policies and regulations.

## Amendments to the Local Coastal Program (IP)

This chapter contains provisions for amending the Local Coastal Program, consisting of the Coastal Land Use Plan and Coastal Implementation Plan, incorporating the State Government Code's specific procedures governing these legislative decisions.

## Zoning Upon Annexation

This chapter describes the process and applicability for zoning property upon annexation. Zoning of property to be annexed may be established through a zoning amendment and, if applicable, a Local Coastal Program amendment.

## Enforcement

This chapter incorporates and expands upon procedures in Chapters 17.61, Enforcement, for enforcement of code regulations. In addition to issuing citations for title violations, provisions in this chapter enable the City to record a notice of violation against the property. This notice, filed with the County Recorder, would identify the property and/or structure in violation, describe the violation, and certify that the owner has been notified of such violation.

# Division IV: Administration and Permits

## Chapter 17.24 Planning Authorities

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### Sections:

- 17.24.010 Purpose
- 17.24.020 City Council
- 17.24.030 Planning Commission
- 17.24.040 Community Development Director

### 17.24.010 Purpose

The purpose of this Chapter is to identify the bodies, officials, and administrators with designated responsibilities under various chapters of this Title. Subsequent chapters of this Division provide detailed information on procedures, applications, and permits, including zoning and General Plan text and map amendments, and enforcement. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of this Title as minimum requirements adopted to implement the policies and achieve the objectives of the General Plan and Local Coastal Plan.

### 17.24.020 City Council

The powers and duties of the City Council under this Title include, but are not limited to, the following:

- A. Consider and act on amendments to the General Plan, Zoning Code, Zoning Map, and Local Coastal Program, and environmental documents related to any of the foregoing following a public hearing and recommended action by the Planning Commission.
- B. Hear and decide applications for Development Agreements.
- C. Hear and decide appeals from decisions of the Planning Commission.
- D. Establish, by resolution, a Municipal Fee Schedule listing fees, charges, and deposits for various applications and services provided, pursuant to this Title.

### 17.24.030 Planning Commission

The powers and duties of the Planning Commission under this Title include, but are not limited to the following:

- A. Annually review progress towards implementation of the General Plan and recommend to the City Council changes needed due to new legislation, development trends and changing economic, social, and environmental conditions.

- B. Make recommendations to the City Council on proposed amendments to the General Plan, Zoning Code, Zoning Map, and Local Coastal Program, and environmental documents related to any of the foregoing following a public hearing.
- C. Make recommendations to the City Council on Development Agreements.
- D. Approve, conditionally approve, or deny Conditional Use Permits, Coastal Development Permits, and Variances.
- E. Hear and decide on revisions to approved Conditional Use Permits and Variances, pursuant to Section TBD, Revision of Approved Plans.
- F. Conduct design review on certain projects and approvals it grants pursuant to Chapter TBD, Design Review.
- G. Hear and decide on proposed revocations of permits.
- H. Hear and decide appeals from decisions of the Director.
- I. Make environmental determinations on any approvals it grants that are subject to environmental review under the California Environmental Quality Act.
- J. Such other duties and powers as assigned or directed by the City Council.

#### **17.24.040 Community Development Director**

The following powers and duties of the Community Development Director (the "Director") under this Title include, but are not limited to the following:

- A. Have the responsibility to perform all of the functions designated by State law, including, but not limited to the following:
  - 1. Prepare an annual report related to implementation of the General Plan in compliance with Government Code Section 65400;
  - 2. Review of public works projects for conformity to the General Plan in compliance with Government Code Section 65401; and
  - 3. Review of acquisition of property for conformity to the General Plan in compliance with Government Code Section 65402.
- B. Maintain and administer the Zoning Code, including processing of applications, abatements and other enforcement actions.
- C. Prepare and effect rules and procedures necessary or convenient for the conduct of the Director's business. These rules and procedures must be as approved by a resolution of the City Council following review and recommendation of the Planning Commission. They may include the administrative details of hearings officiated by the Director (e.g., scheduling, rules of procedure and recordkeeping).
- D. Interpret the Zoning Code to members of the public and to other City Departments.
- E. Issue administrative regulations for the submission and review of applications subject to the requirements of this Title and Government Code Section 65950, Deadlines for Project Approval Conformance; Extensions.

- F. Review applications for permits and licenses for conformance with this Title and issue a Zoning Clearance when the proposed use, activity or building is allowed by right and conforms to all applicable development and use standards.
- G. Review applications for discretionary permits and approvals under this Title for conformance with applicable submission requirements and time limits.
- H. Review applications for discretionary permits and approvals to determine whether the application is exempt from review under the California Environmental Quality Act and the City's environmental review requirements and notify the applicant if any additional information is necessary to conduct the review.
- I. Determine level of coastal review pursuant to Chapter TBD, Coastal (CZ) Overlay Zone, and document Coastal Exclusions and Coastal Exemptions, as appropriate.
- J. Hear and decide requests for minor revisions to approved permits, pursuant to Section TBD, Revision of Approved Plans.
- K. Process and make recommendations to the City Council on all applications, amendments, appeals and other matters upon which the Council has the authority and the duty to act under this Title.
- L. Process and make recommendations to the Planning Commission on all applications, appeals and other matters upon which the Commission has the authority and the duty to act under this Title.
- M. Approve, conditionally approve, or deny Minor Use Permits pursuant to the provisions of Chapter TBD, Use Permits, and Coastal Development Permits pursuant to the provisions of Chapter TBD.
- N. Approve, conditionally approve, or deny requests for modifications to dimensional requirements and requests for reasonable accommodation, pursuant to Chapter TBD, Modifications, and Chapter TBD, Reasonable Accommodation.
- O. Conduct design review pursuant to Chapter TBD, Design Review.
- P. Review and decide on Temporary Use Permits pursuant to Chapter TBD.
- Q. Review and decide on Emergency Permits pursuant to Chapter TBD, Emergency Permits.
- R. Negotiate the components and provisions of Development Agreements for recommendation to the City Council.
- S. Investigate and make reports to the Planning Commission on violations of permit terms and conditions when the City has initiated revocation procedures.
- T. Refer items to the Planning Commission where, in his/her opinion, the public interest would be better served by a Planning Commission public hearing and action.
- U. Delegate the responsibilities of the Director to Department staff under the supervision of the Director.
- V. Other duties and powers as may be assigned by the City Council or established by legislation.

## Chapter 17.25 Common Procedures (IP)

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### Sections:

- 17.25.010 Purpose
- 17.25.020 Application Forms and Fees
- 17.25.030 Conceptual Review
- 17.25.040 Review of Applications
- 17.25.050 Environmental Review
- 17.25.060 Public Notice
- 17.25.070 Conduct of Public Hearings
- 17.25.080 Timing and Notice of Action and Findings Required
- 17.25.090 Scope of Approvals
- 17.25.100 Effective Dates
- 17.25.110 Expiration and Extension
- 17.25.120 Revisions of Approved Plans and Permits
- 17.25.130 Appeals
- 17.25.140 Interpretations and Determinations

### 17.25.010 Purpose

This Chapter establishes procedures that are common to the application and processing of all permits and approvals provided for in this Title, unless superseded by specific requirement of this Title or State law.

### 17.25.020 Application Forms and Fees

- A. **Applicant.** The owner of property or the owner's authorized agent. If the application is made by someone other than the owner or the owner's agent, proof, satisfactory to the Director, of the right to use and possess the property as applied for, shall accompany the application.
- B. **Application Forms and Materials.**
  - 1. **Application Forms.** The Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Title.
  - 2. **Supporting Materials.** The Director may require the submission of supporting materials as part of the application, including but not limited to statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe existing conditions and the proposed project and to determine the level of environmental review pursuant to the California Environmental Quality Act (CEQA).
  - 3. **Availability of Materials.** All material submitted becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time upon reasonable request, and during normal business hours, any

person may examine an application and materials submitted in support of or in opposition to an application in the Planning Division offices. Unless prohibited by law, copies of such materials shall be made available at a reasonable cost.

C. **Application Fees.**

1. **Schedule of Fees.** The City Council shall approve by resolution a Municipal Fee Schedule that establishes fees for permits, informational materials, penalties, copying, and other such items.
2. **Payment of Fees.** No application shall be accepted as complete and processed without payment of a fee unless a fee waiver has been approved.
3. **Fee Waiver.** No fee shall be required when the applicant is the City, or if it is waived by the City Council or under any other provision of the Municipal Code.
4. **Refund of Fees.** Application fees are non-refundable unless otherwise provided for in the Municipal Code or by policy of the City Council.

### 17.25.030 Conceptual Review

Conceptual review is an optional review process that is intended to provide information on relevant policies, zoning regulations, and procedures.

- A. **Exemption from Permit Streamlining Act.** Conceptual review is not subject to the requirements of the California Permit Streamlining Act (the Act). An application that is accepted for conceptual review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project, reviewed it, and determined it to be complete under Section TBD, Review of Applications.
- B. **Review Procedure.** The Planning Division shall conduct conceptual review. The Director may consult with or request review by any City agency or official with interest in the application. The Director may refer items to the Planning Commission when in his/her opinion the conceptual review would benefit from Planning Commission input.
- C. **Fees.** Conceptual review application fees are credited toward any future discretionary permit application.
- D. **Recommendations are Advisory.** Neither the conceptual review nor the provision of information and/or pertinent policies shall be construed as a recommendation for approval or denial of the application by City representatives. Any recommendations that result from conceptual review are considered advisory only and shall not be binding on either the applicant or the City.

### 17.25.040 Review of Applications

- A. **Review Process.** The Director shall determine whether an application is complete within 30 days of the date the application is filed with the required fee.
- B. **Incomplete Application.** If an application is incomplete, the Director shall provide written notification to the applicant listing the applications for permit(s), forms, information, and any additional fees that are necessary to complete the application.

1. **Zoning Code Violations.** An application shall not be found complete if conditions exist on the site in violation of this Zoning Code or any permit or other approval granted in compliance with this Zoning Code, unless the proposed project includes the correction of the violations.
  2. **Appeal of Determination.** Determinations of incompleteness are subject to the provisions of Section TBD, Appeals, except there shall be a final written determination on the appeal no later than 60 days after receipt of the appeal. The fact that an appeal is permitted to both the Planning Commission and the City Council does not extend the 60-day period.
  3. **Submittal of Additional Information.** The applicant shall provide the additional information within 30 days of the notice of incompleteness unless a longer time limit is specified by the Director.
  4. **Expiration of Application.** If an applicant fails to correct the specified deficiencies within the specified time limit, the application shall expire and be deemed withdrawn. After the expiration of an application, project review shall require the submittal of a new, complete application, along with all required fees.
- C. **Complete Application.** When an application is determined to be complete, the Director shall make a record of that date. If an application requires a public hearing, the Director shall schedule it and notify the applicant of the date and time.
- D. **Extensions.** The Director may, upon written request and for good cause, grant extensions of any time limit for review of applications imposed by this Title.

#### 17.25.050 Environmental Review

All projects shall be reviewed for compliance with or exemption from the California Environmental Quality Act (CEQA). Environmental review will be conducted pursuant to Title 14 of the California Code of Regulations (CEQA Guidelines). If Title 14 of the California Code is amended, such amendments will govern City procedures.

#### 17.25.060 Public Notice

Unless otherwise specified, whenever the provisions of this Title require public notice, the City shall provide notice in compliance with State law as follows.

- A. **Posted Notice.** At least 10 days before the date of the public hearing or the date of action when no public hearing is required the City shall post a notice in a conspicuous place on the project site and at the Morro Bay branch of the public library, at the Planning Division office, and at City Hall.
- B. **Mailed Notice.** At least 10 days before the date of the public hearing or before the date of action when no public hearing is required, the Director, or the City Clerk for hearings before the City Council, shall provide notice by First Class mail delivery to:
  1. The applicant, the owner, and any occupant of the subject property;
  2. All owners of record as shown on the latest available records of the County Assessor of property within 500 feet of the subject property.

3. All neighborhood and community organizations that have previously filed a written request for notice of projects in the area where the site is located; and
  4. Any person or group who has filed a written request for notice regarding the specific application.
- C. **Newspaper Notice.** At least 10 days before the date of the public hearing or the date of action when no public hearing is required, the Director or the City Clerk for hearings before the City Council, shall publish a notice in at least one newspaper of general circulation in the City.
- D. **Alternative Method for Large Mailings.** If the number of owners to whom notice would be mailed or delivered is greater than 1,000, instead of mailed notice, the Director or City Clerk may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the City at least 10 days prior to the hearing.
- E. **Contents of Notice.** The notice shall include the following information:
1. The location of the real property, if any, that is the subject of the application;
  2. A general description of the proposed project or action;
  3. The City's file number assigned to the application;
  4. The date, time, location, and purpose of the public hearing or the date of action when no public hearing is required and the identity of the hearing body or officer;
  5. The date of filing of the application and names of the applicant and the owner of the property that is the subject of the application;
  6. The location and times at which the complete application and project file, including any environmental impact assessment prepared in connection with the application, may be viewed by the public;
  7. A statement that any interested person or authorized agent may appear and be heard;
  8. A statement describing how to submit written comments;
  9. For Council hearings, the Planning Commission recommendation; and
  10. A statement, if applicable, that the project is located within the City's Coastal Zone, that the decision will include a determination on a Coastal Development Permit, and whether the project is appealable to the Coastal Commission under Public Resources Code 30603(a).
- F. **Failure to Notify Individual Properties.** The validity of the proceedings shall not be affected by the failure of any property owner, resident, or neighborhood or community organization to receive a mailed notice.

### 17.25.070 Conduct of Public Hearings

Whenever the provisions of this Title require a public hearing, the hearing shall be conducted in compliance with the requirements of State law and as follows.

- A. **Generally.** Hearings shall be conducted pursuant to procedures adopted by the hearing body. They do not have to be conducted according to technical rules relating to evidence and witnesses.
- B. **Scheduling.** Hearings before the City Council shall be scheduled by the City Clerk. All other hearings shall be scheduled by the Director.
- C. **Presentation.** An applicant or an applicant's representative may make a presentation of a proposed project.
- D. **Public Hearing Testimony.** Any person may appear at a public hearing and submit oral or written evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing representing an organization shall identify the organization being represented.
- E. **Time Limits.** The presiding officer may establish time limits for individual testimony and require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.
- F. **Continuance of Public Hearing.** The body conducting the public hearing may by motion continue the public hearing to a fixed date, time and place without providing further notice, or may continue the item to an undetermined date and provide notice of the continued hearing.
- G. **Investigations.** The body conducting the hearing may cause such investigations to be made as it deems necessary and in the public interest in any matter to be heard by it. Such investigation may be made by a committee of one or more members of the hearing body or by City staff. The facts established by such investigation shall be submitted to the hearing body either in writing, to be filed with the records of the matter, or in testimony before the hearing body, and may be considered by the body in making its decision.
- H. **Decision.** The public hearing shall be closed before a vote is taken.

#### 17.25.080 Timing and Notice of Action and Findings Required

When making a decision to approve, approve with conditions, revoke or deny any discretionary permit under this Title, the responsible authority shall issue a Notice of Action and make findings of fact as required by this Title.

- A. **Timing.** The responsible authority shall decide to approve, revoke, or deny any discretionary permit following the close of the public hearing, or if no public hearing is required, within the time period set forth below. These deadlines do not apply to any action that has been appealed to the City Council in accordance with Section TBD, Appeals.
  - 1. **Project Exempt from Environmental Review.** Within 30 days of the date the City has determined an application to be complete, a determination must be made whether the project is exempt from Environmental Review per State CEQA requirements.
  - 2. **Project for which a Negative Declaration or Mitigated Negative Declaration is Prepared.** Within 60 days of the date a Negative Declaration or Mitigated Negative

Declaration has been completed and adopted for project approval, the City shall take action on the accompanying discretionary project.

3. **Project for which an EIR is Prepared.** Within 180 days from the date the decision-making authority certifies a Final EIR, the City shall take action on the accompanying discretionary project.
- B. **Notice of Action.** After any action to approve, or deny an application that is subject to appeal under the terms of this Title, the Director shall issue a Notice of Action. The Notice shall describe the action taken, including any applicable conditions, and shall list the findings that were the basis for the decision. The Director shall mail the Notice to the applicant and to any other person or entity that has filed a written request for such notification with the Planning Division.
1. **Coastal Development Permits.**
    - a. *Final Local Decision.* A local decision on an application for a Coastal Development Permit shall not be deemed final until:
      - i. A local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified Local Coastal Program, and where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act; and
      - ii. All local rights to appeal pursuant to Section TBD, Appeals, have been exhausted.
    - b. *Notice of Final Action.* Within five business days of a final local decision on an application for a Coastal Development Permit, the Community Development Director shall provide notice of the action in writing by first class mail to the California Coastal Commission and to any persons who specifically requested such notice and provided a self-addressed, stamped envelope. Such notice shall include conditions of approval, written findings and the procedures for appeal of the City decision to the California Coastal Commission.
- C. **Findings.** Findings, when required by State law or this Title, shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record and shall be stated in writing in the resolution or record of the action on the permit.

### 17.25.090 Scope of Approvals

- A. **Scope.** Any approval permits only those uses and activities actually included in the project approval, and excludes other uses and activities. Unless otherwise specified, the approval of a new use shall terminate all rights and approvals for previous uses no longer occupying the same site or location.
- B. **Conditions of Approval.** The site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or submitted during the approval

process shall be deemed conditions of approval. Any approval may be subject to requirements that the applicant guarantees, warranties or insures compliance with permit's plans and conditions in all respects.

- C. **Actions Subject to Enforcement.** If the construction of a building or structure or the use established is contrary to the description or illustration in the application, so as to either violate any provision of this Title or require additional permits, then the approval shall be suspended and subject to revocation and enforcement provisions of Chapter TBD, Enforcement.
- D. **Periodic Review.** All approvals may be subject to periodic review to determine compliance with the permit and applicable conditions. If a condition specifies that activities or uses allowed under the permit are subject to periodic reporting, monitoring or assessments, it shall be the responsibility of the permit holder, the property owner or successor property owners to comply with such conditions.

### 17.25.100 Effective Dates

A final decision on an application for any discretionary approval subject to appeal shall become effective after the expiration of the 10-day appeal period following the date of action, unless an appeal is filed. No building permit or business license shall be issued until the 11th day following the date of the action.

#### A. **Coastal Development Permits.**

- 1. **Outside the Coastal Appeal Jurisdiction.** A final decision on a Coastal Development Permit for projects outside the Coastal Development Permit appeal area shall become effective after the City's 10-day appeal period has expired unless an appeal is filed, or the Notice of Final Action required for Coastal Development Permits pursuant to Section TBD.B, Notice of Action, is inadequate.
- 2. **Within the Coastal Appeal Jurisdiction.** A final decision on an application for a Coastal Development Permit for projects within the Coastal Development Permit appeal area shall become effective 10 working days after the date the Coastal Commission receives a Notice of Final Action pursuant to Section TBD. B, Notice of Action unless either of the following occur:
  - a. An appeal is filed with the Coastal Commission within 10 working days of Coastal Commission receipt of the Notice of Final Action; or
  - b. Notice of Final Action does not meet the requirements set forth in Section TBD.B, Notice of Action.

### 17.25.110 Expiration and Extension

Permits and approvals granted under this Title shall automatically expire and become null and void if the approval is not inaugurated within the time periods established in this Section, or the approved use, structure, or site development is not continued pursuant to Section TBD.B, Continuation of Use, Structure, or Site Development.

- A. **Inaugurating a Permit or Approval.** A permit or approval is inaugurated when a valid City building permit has been issued for work related to the approval and construction work

has begun and been carried on diligently without substantial suspension or abandonment of work. Where a building permit is not required, the approval shall be considered inaugurated when the use or development authorized by the approval has commenced and, if required, a valid City business license has been issued.

**B. Time Period in which to Inaugurate a Permit or Approval.**

1. **Expiration.** The decision-maker, in the granting of any permit, may specify a time, consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare, within which the proposed project must be undertaken and actively and continuously pursued. If no time period is specified, any permit granted under this Title shall automatically expire if it is not inaugurated or extended within two years of its approval.
  - a. A Coastal Development Permit shall expire on the latest expiration date applicable to any other permit or approval required for the project.
2. **Extensions.** The Director may approve up to two one-year extensions of any permit or approval granted under this Title upon receipt of a written application with the required fee prior to expiration date of the permit. For discretionary permits issued by the Planning Commission, the Planning Commission may approve additional extensions upon conducting a public hearing.

**C. Continuation of Use, Structure, or Site Development.** A use, structure, or site development authorized by the permit or approval is considered continued unless the structure or site development is demolished pursuant to Section TBD, Demolition, or the use authorized by the approval is discontinued pursuant to Section TBD, Discontinuation of Use.

### 17.25.120 Revisions of Approved Plans and Permits

No change in the use, structure, or site development for which a permit or other approval has been issued is permitted unless the permit or approval is revised as provided for in this Title.

- A. **Minor Revisions.** The Director may approve minor changes to approved plans that are consistent with the original findings and conditions approved by the hearing body and would not intensify any potentially detrimental effects of the project.
- B. **Major Revisions.** A request for changes in conditions of approval of a discretionary permit or for a change in an approved site plan or building plan that would affect a condition of approval shall be treated as a new application, except that the Director may approve changes determined to be minor.

### 17.25.130 Appeals

- A. **Applicability.** An action by the Director or Planning Commission in the administration or enforcement of the provisions of this Title may be appealed in accordance with this Section.
  1. **Appeals of Director Decisions.** Decisions of the Director may be appealed to the Planning Commission by filing a written appeal with the Planning Division.

2. **Appeals of Planning Commission Decisions.** Decisions of the Planning Commission may be appealed to the City Council by filing a written appeal with the City Clerk and paying any applicable fees.
3. **Appeals of Local Decisions on Coastal Development Permits.** Actions on Coastal Development Permits for the following types of development may also be appealed to the California Coastal Commission pursuant to Section TBD.C, Appeals to the Coastal Commission.
  - a. **Appealable Development.** Pursuant to Public Resources Code Section 30603(a), an action taken by the City on a Coastal Development Permit application may be appealed to the Coastal Commission for the following types of development.
    - i. Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.
    - ii. Developments that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
    - iii. Developments located in a sensitive coastal resource area.
    - iv. Any development which constitutes a major public works project or a major energy facility.

**B. Appeal Process.**

1. **Rights of Appeal.** Appeals may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this Title.
2. **Time Limits.** Unless otherwise specified in State or federal law, all appeals shall be filed in writing within 10 days of the date of the action, decision, motion, or resolution from which the action is taken. In the event an appeal period ends on a Saturday, Sunday, or any other day the City is closed, the appeal period shall end at the close of business on the next consecutive business day.
3. **Procedures.**
  - a. **Filing.** The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be accompanied by the required fee.
  - b. **Proceedings Stayed by Appeal.** The timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses.
  - c. **Public Notice and Hearing.** The Director, or in the case of appeals to the City Council, the City Clerk, shall schedule the appeal for consideration by the applicable appeal body within 60 days of the date the appeal is filed.

Notice of the appeal hearing must be provided in the same manner required for the action that was the subject of the appeal.

C. **Appeals to the Coastal Commission.** A final action taken by the City on a Coastal Development Permit application for appealable development may be appealed to the California Coastal Commission in compliance with this Section.

1. ***Status of Appellant.***

- a. *Who may Appeal.* An appeal may be filed by an applicant, an aggrieved person, or two members of the Coastal Commission in compliance with Public Resources Code Section 30625.
- b. *Aggrieved Person Defined.* As provided by Public Resources Code Section 30801, an aggrieved person is anyone who, in person or through an explicitly identified representative, appeared at a public hearing held before the Zoning Administrator, Planning Commission, or Council in connection with the decision or appeal of any project, or who by other appropriate means before a hearing, informed the City of the nature of their concerns, unless for good cause was unable to do either.

2. ***Exhaustion of City Appeals Required.*** An applicant or other aggrieved person may appeal a City decision on a Coastal Development Permit application to the Coastal Commission only after exhausting all appeals to the Planning Commission and Council in compliance with this Section. This limitation shall not apply to any circumstance identified in Code of Regulations Section 13573, including:

- a. An appellant was denied the right of appeal under this Section because City notice and hearing procedures did not comply with Title 14, Division 5.5, Chapter 8, Subdivision 2 of the Code of Regulations; or
- b. An appeal of a City decision was filed by two members of the Coastal Commission in compliance with Public Resources Code Section 30625. (Notice of a Coastal Commissioners' appeal shall be transmitted to the City in compliance with Code of Regulations Section 13573(b). The appeal shall be suspended where the City decision has been appealed. If the final action by an appellate body changes or reverses the previous decision, the Coastal Commissioners shall be required to file a new appeal of that decision if deemed appropriate and necessary.)

3. ***Grounds for appeal to Coastal Commission.*** Pursuant to Public Resources Code Section 30603, the grounds for an appeal to the Coastal Commission of a City decision on a Coastal Development Permit application are as follows:

- a. For approval of a Coastal Development Permit, an allegation that the project does not conform to the standards of the Coastal Land Use Plan or the public access policies of the Coastal Act;
- b. For elimination or change of a condition of approval for a Coastal Development Permit, an allegation that the condition was not needed or should be adjusted; or

- c. For denial of a development, an allegation that the project conforms to the standards of the Coastal Land Use Plan and the public access policies of the Coastal Act.
4. ***Time Limit for Filing an Appeal to the Coastal Commission.*** An appeal of a Council decision on an appealable development shall be filed with the Coastal Commission within 10 business days of the receipt by the Coastal Commission of adequate notice of final City action, in compliance with this Section and the Coastal Act.
5. ***Notice to City of Appeal to Coastal Commission.*** An appellant shall notify the City when appealing to the Coastal Commission by providing the City a copy of the appeal within five days of filing the appeal.

#### **17.25.140 Interpretations and Determinations**

Requests for interpretations of this Title and verifications relating to prior approvals or permits may be made to the Director. Requests shall be in writing. The decision of the Director or Planning Commission on such requests may be appealed under Section TBD, Appeals.

## Chapter 17.26 Zoning Clearance

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### Sections:

- 17.26.010 Purpose
- 17.26.020 Applicability
- 17.26.030 Review and Decision

### 17.26.010 Purpose

This Chapter establishes procedures for conducting a Zoning Clearance to verify that each new or expanded use, activity, improvement, or structure complies with all of the applicable requirements of this Title.

### 17.26.020 Applicability

A Zoning Clearance is required for property improvements, buildings or structures erected, constructed, altered, repaired or moved, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which are allowed as a matter of right by this Title.

### 17.26.030 Review and Decision

Before work may commence and before the City may issue any business license, building permit, subdivision approval, or lot line adjustment, the Director shall review the application to determine whether the improvement, use, building, or change in lot configuration complies with all provisions of this Title or any Design Review, Use Permit or Variance approval and that all conditions of such permits and approvals have been satisfied.

- A. **Application.** Applications and fees for a Zoning Clearance shall be submitted in accordance with the provisions set forth in Section TBD, Application Forms and Fees. The Director may request that the Zoning Clearance application be accompanied by a written narrative, plans and other related materials necessary to show that the proposed development, alteration, or use of the site complies with all provisions of this Title and the requirements and conditions of any applicable Design Review, Use Permit, Variance, Coastal Development Permit, or other planning approval.
- B. **Determination.** If the Director determines that the proposed use, building, or site development is allowed as a matter of right by this Title, and conforms to all the applicable development and use standards, the Director shall issue a Zoning Clearance. An approved Zoning Clearance may include attachments of other written or graphic information, including but not limited to, statements, numeric data, site plans, floor plans and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Title.
- C. **Exceptions.** No Zoning Clearance shall be required for the continuation of previously approved or permitted uses and structures, or uses and structures that are not subject to any building or zoning regulations.

## Chapter 17.27 Design Review

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### Sections:

- 17.27.010 Purpose
- 17.27.020 Applicability
- 17.27.030 Review Authority
- 17.27.040 Application
- 17.27.050 Public Notice
- 17.27.060 Public Hearing
- 17.27.070 Scope of Design Review
- 17.27.080 Design Review Criteria
- 17.27.090 Appeals; Expiration, Extensions, and Revisions; Revocation

### 17.27.010 Purpose

This Chapter establishes the design review procedure to ensure that new development supports the goals and objectives of the General Plan and other adopted plans and guidelines. The specific purposes of the design review process are to:

- A. Promote excellence in site planning and design and the harmonious appearance of buildings and sites;
- B. Ensure that new and altered uses and development will be compatible with the existing and potential development of the surrounding area; and
- C. Supplement other City regulations and standards in order to ensure control of aspects of design that are not otherwise addressed.

### 17.27.020 Applicability

Design review is required for all projects that require a permit for new construction, reconstruction, rehabilitation, alteration, or other improvements to the exterior of a structure, site, or a parking area except for:

- A. Additions, construction, reconstruction, alterations, improvements, and landscaping for a project developed in compliance with a previous design review approval; and
- B. Replacement of exterior materials, including openings, with the same materials.

### 17.27.030 Review Authority

- A. **Planning Commission.** The Planning Commission shall have design review authority for the following projects:
  - 1. **Multi-Unit Development.** Multi-unit development consisting of five or more units.

2. **Nonresidential Development.** All new construction and any improvement or addition that results in more than a 10 percent increase in floor area or more than 2,000 square feet of floor area.
  3. **Other Projects.** All projects otherwise requiring Planning Commission approval.
- B. **Director.**
1. The Director shall have design review authority for all projects that do not meet the criteria listed in Subsection A for a decision by the Planning Commission.
  2. The Director may refer items directly to the Planning Commission when in his/her opinion the public interest would be better served by having the Planning Commission conduct design review.

#### 17.27.040 Application

- A. **Forms and Fees.** Written applications for design review applications shall be submitted to the Planning Division in compliance with the application procedures in Chapter TBD, Common Procedures.
- B. **Concurrent Processing.** When a development project requires a Use Permit, Variance, Coastal Development Permit, or any other discretionary approval, the design review application shall be submitted as a part of the application for the underlying permit, Coastal Development Permit, Use Permit, or Variance.

#### 17.27.050 Public Notice

- A. **Design Review by the Planning Commission.** For all projects for which the Planning Commission is the design review authority, public notice shall be provided pursuant to Section TBD, Public Notice.
- B. **Design Review by the Director.** No public notice is required for Design Review for projects for which the Director is the design review authority.

#### 17.27.060 Public Hearing

- A. **Design Review by the Planning Commission.** All projects for which the Planning Commission is the design review authority, shall require a public hearing before the Planning Commission pursuant to Section TBD, Conduct of Public Hearings.
- B. **Design Review by the Director.** No public hearing is required for Design Review where the Director is the design review authority.

#### 17.27.070 Scope of Design Review

- A. **Design Review Considerations.** Design review shall be based on consideration of the requirements of this Chapter as they apply to the design of the site plan, structures, landscaping, and other physical features of a proposed project, including:
  1. Building proportions, massing, and architectural details;

2. Site design, orientation, location, and architectural design of buildings relative to existing structures on or adjacent to the property, topography, and other physical features of the natural and built environment;
  3. Size, location, design, development, and arrangement of on-site parking and other paved areas;
  4. Exterior materials and, except in the case of design review of a single-family residence, color as they relate to each other, to the overall appearance of the project, and to surrounding development;
  5. Height, materials, design, fences, walls, and screen plantings;
  6. Location and type of landscaping including selection and size of plant materials, and design of hardscape; and
  7. Size, location, design, color, lighting, and materials of all signs.
- B. **Reduction in Density.** Design review shall not result in a reduction in the residential density.

#### 17.27.080 Design Review Criteria

When conducting design review, the review authority shall evaluate applications to ensure that they satisfy the following criteria, conform to the policies of the General Plan and any applicable specific plan, the Residential Design Guidelines and any other applicable design guidelines, and are consistent with any other policies or guidelines the City Council may adopt for this purpose. To obtain design review approval, projects must satisfy the following criteria to the extent they apply.

- A. The overall design of the project including its scale, massing, site plan, exterior design, and landscaping will enhance the appearance and features of the project site and surrounding natural and built environment.
- B. The project design is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.
- C. Project details, materials, signage and landscaping, are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design.
- D. The design of streetscapes, including street trees, lighting, and pedestrian furniture, is consistent with the intended character of the area.
- E. Parking areas are designed and developed to buffer surrounding land uses; compliment pedestrian-oriented development; enhance the environmental quality of the site, including minimizing stormwater run-off and the heat-island effect; and achieve a safe, efficient, and harmonious development.
- F. Lighting and lighting fixtures are designed to complement buildings, be of appropriate scale, provide adequate light over walkways and parking areas to create a sense of pedestrian safety, and avoid creating glare.
- G. Landscaping is designed to be compatible with and enhance the architectural character and features of the buildings on site, and help relate the building to the surrounding landscape.

### 17.27.090 Appeals; Expiration, Extensions, and Revisions; Revocation

- A. **Appeals.** Design review decisions are subject to the appeal provisions of Section TBD, Appeals.
- B. **Expiration, Extensions and Revisions.** Design review approval is effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Design review approval may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

## Chapter 17.28 Coastal Development Permits (IP)

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### Sections:

- 17.28.010 Purpose
- 17.28.020 Applicability
- 17.28.030 Review Authority
- 17.28.040 Application
- 17.28.050 Public Notice
- 17.28.060 Public Hearing
- 17.28.070 Required Findings
- 17.28.080 Conditions of Approval
- 17.28.090 Appeals; Expirations, Extensions, and Revisions; Revocation
- 17.28.100 Failure to Act Notice

### 17.28.010 Purpose

This Chapter establishes a process for consideration and review of Coastal Development Permits issued by the City, which is intended to implement the California Coastal Act of 1976 (Division 20 of the Public Resources Code), as amended, in accordance with the City's Local Coastal Program.

### 17.28.020 Applicability

The provisions of this Chapter apply to Coastal Development Permits for development in the Coastal (CZ) Overlay Zone except the following:

- A. Development specifically excluded or exempted pursuant to Section TBD, Exclusions and Exemptions.
- B. Development determined to require a permit or exemption issued by the Coastal Commission pursuant to Section TBD, Determination of Applicable Coastal Development Permit Procedures.

### 17.28.030 Review Authority

The following bodies shall approve, conditionally approve, revise or deny applications for Coastal Development Permits based on consideration of the requirements of this Chapter.

- A. **Director.** The Director shall review applications for Coastal Development Permits for development that meets all the following criteria:
  - 1. The development will not result in more than four new residential units;
  - 2. The development will not result in the demolition of more than two residential units;
  - 3. The development does not constitute major public works as defined by the California Code of Regulations Section 13012;

4. The development does not require discretionary action by the Planning Commission under another provision of this Title; and
  5. The development is not appealable to the Coastal Commission pursuant to Public Resources Code Section 30603 and Title 14 Sections 13110 through 13120 of the California Code of Regulations.
- B. **Planning Commission.** The Planning Commission shall review applications for Coastal Development Permits for all projects that do not meet the criteria listed in Section TBD.A, Director, for a decision by the Director.

#### 17.28.040 Application

Applications for Coastal Development Permits shall be accepted and processed pursuant to Chapter TBD, Common Procedures, and the specific requirements of this Chapter. In addition to any other application requirements, the application for a Coastal Development Permit shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

- A. **Timing.** The application for the Coastal Development Permit shall be filed with the Community Development Director prior to or concurrent with other necessary City permits or approvals for the subject development.

#### 17.28.050 Public Notice

- A. **Coastal Development Permits that Require Public Hearing.** For Coastal Development Permits where a public hearing is required, public notice shall be provided as specified in Section TBD, Public Notice. In addition to the recipients listed in Section TBD(A), Mailed Notice, notice by First Class mail delivery shall be provided to:
1. Occupants of property within 500 feet of the affected parcel;
  2. All persons who have requested to be on the mailing list for decisions by the City within the Coastal Zone; and
  3. The Coastal Commission.
- B. **Coastal Development Permits that Do Not Require Public Hearing.** For Coastal Development Permits where no public hearing is required, public notice shall be provided as follows.
1. **Posted Notice.** Posted notice shall be provided as specified in Subsection TBD(A), Posted Notice.
  2. **Mailed Notice.** Mailed notice pursuant to Section TBD, Public Notice, shall be provided to:
    - a. The applicant, the owner, and any occupant of the subject property;
    - b. Property owners and occupants within 500 feet of subject property;
    - c. The Coastal Commission; and

- d. All persons who have filed a written request for notice of all projects in the Coastal Zone, all projects in the area where the site is located, or any action regarding the specific application.

#### **17.28.060 Public Hearing**

At least one public hearing shall be held on each application for a Coastal Development Permit for which the Planning Commission is the Review Authority pursuant to Section TBD, Review Authority.

#### **17.28.070 Required Findings**

A Coastal Development Permit shall only be approved if the following findings are made:

- A. The project is consistent with the policies of the City's certified Local Coastal Program; and
- B. The project, if appealable to the Coastal Commission, is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

#### **17.28.080 Conditions of Approval**

In approving a Coastal Development Permit, the Review Authority may impose reasonable conditions or restrictions deemed necessary to:

- A. Ensure that the proposal conforms in all significant aspects with the certified Local Coastal Program; and
- B. Achieve the findings for a Coastal Development Permit listed in Section TBD, Required Findings, above.
- C. The Review Authority may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

#### **17.28.090 Appeals; Expirations, Extensions, and Revisions; Revocation**

- A. **Appeals.** An applicant or any other aggrieved party may appeal a decision on a Coastal Development Permit pursuant to the provisions of Section TBD, Appeals.
- B. **Expiration, Extensions and Revisions.** Coastal Development Permits are effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Coastal Development Permit approval may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

#### **17.28.100 Failure to Act Notice**

- A. **Notification by Applicant.** If the City has failed to act on an application within the time limits set forth in Article 5 ("Approval of Development Permits") of Title 7, Division I, Chapter 4.5 of the Government Code, commencing with 65950, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to

Government Code Section 65950 et seq. shall notify, in writing, the City and the Coastal Commission of the claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.

- B. **Notification by City.** Upon determination that the time limits established pursuant to Government Code Section 65950 et seq. have expired, the Community Development Director shall, within five working days of such determination, notify those persons entitled to receive notice that it has taken final action by operation of law pursuant to Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the City's notice in the office of the Coastal Commission.

## Chapter 17.29 Use Permits

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### Sections:

- 17.29.010 Purpose
- 17.29.020 Applicability
- 17.29.030 Review Authority
- 17.29.040 Application
- 17.29.050 Public Notice
- 17.29.060 Public Hearing
- 17.29.070 Required Findings
- 17.29.080 Conditions of Approval
- 17.29.090 Appeals; Expirations, Extensions, and Revisions; Revocation

### 17.29.010 Purpose

The Use Permit review and approval process is intended to apply to uses that are generally consistent with the purposes of the zoning district where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties.

### 17.29.020 Applicability

Approval of a Use Permit is required for uses or developments specifically identified in Division II, District Regulations, and/or any other section of this Title which requires a Use Permit.

### 17.29.030 Review Authority

- A. **Conditional Use Permits.** The Planning Commission shall approve, conditionally approve, or deny applications for Conditional Use Permits based on consideration of the requirements of this Chapter.
- B. **Minor Use Permits.** The Director shall approve, conditionally approve, or deny applications for Minor Use Permits based on consideration of the requirements of this Chapter.
  - 1. The Director may, at their discretion, refer any application for a Minor Use Permit for a project that may generate substantial public controversy or involve significant land use policy decisions to the Planning Commission for a decision rather than acting on it themselves. In that case, the application shall be processed as a Conditional Use Permit.

### 17.29.040 Application

An application for a Use Permit shall be filed to the Planning Division in accordance with Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a Use Permit shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

### 17.29.050 Public Notice

Public notice pursuant to Section TBD, Public Notice, is required for all Use Permits.

### 17.29.060 Public Hearing

- A. **Conditional Use Permits.** All applications for Conditional Use Permits shall require a public hearing before the Planning Commission pursuant to Section TBD, Conduct of Public Hearings.
- B. **Minor Use Permits.** No public hearing is required for Minor Use Permits where the Director is the Review Authority.
  - 1. Minor Use Permit applications referred to the Planning Commission for decision shall require a public hearing pursuant to Section TBD, Conduct of Public Hearings.

### 17.29.070 Required Findings

The Review Authority must make all of the following findings in order to approve or conditionally approve a Use Permit application. The inability to make one or more of the findings is grounds for denial of an application.

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Title and all other titles of the Municipal Code;
- B. The proposed use is consistent with the General Plan and any applicable specific plan;
- C. The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements;
- D. The proposed use complies with any design or development standards applicable to the zoning district or the use in question unless waived or modified pursuant to the provisions of this Title;
- E. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and
- F. The site is physically suitable for the type, density, and intensity of use being proposed.

### 17.29.080 Conditions of Approval

In approving a Use Permit, the Review Authority may impose reasonable conditions or restrictions deemed necessary to:

- A. Ensure that the proposal conforms in all significant aspects with the General Plan and with any other applicable plans or policies adopted by the City Council;
- B. Achieve the general purpose of this Title or the specific purpose of the zoning district in which the project is located;
- C. Achieve the findings for a use permit listed in Section TBD, Required Findings, above; or

- D. Mitigate any potentially significant impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

The Review Authority may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

#### **17.29.090 Appeals; Expirations, Extensions, and Revisions; Revocation**

- A. **Appeals.** An applicant or any other aggrieved party may appeal a decision on a Use Permit pursuant to the provisions of Section TBD, Appeals.
- B. **Expiration, Extensions and Revisions.** Use Permits are effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Use Permit approval may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

## Chapter 17.30 Temporary Use Permits

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### Sections:

- 17.30.010 Purpose
- 17.30.020 Application
- 17.30.030 Public Notice
- 17.30.040 Required Findings
- 17.30.050 Conditions of Approval

### 17.30.010 Purpose

This Chapter establishes a process for review and approval of certain uses that are intended to be of limited duration of time and will not permanently alter the character or physical facilities of the site where they occur.

### 17.30.020 Application

An application for a Temporary Use Permit shall be submitted at least 15 days before the use is intended to begin. The application shall be on the required form and shall include the written consent of the owner of the property or the agent of the owner.

### 17.30.030 Public Notice

- A. **Posted Notice.** At least 10 days before the date the temporary use will commence, notice shall be posted on the project site.
- B. **Contents of Notice.** The notice shall include the following information:
  - 1. The location of the real property, if any, that is the subject of the application;
  - 2. A general description of the proposed temporary use;
  - 3. The City's file number assigned to the application;
  - 4. The date, time, and duration of the temporary use;
  - 5. The location and times as which the application and project file may be viewed by the public; and
  - 6. A statement describing how to submit written comments.

### 17.30.040 Required Findings

The Director may approve an application for a temporary use only upon making both of the following findings:

- A. The proposed use will not unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of

persons residing or working in the area of such use or to the general welfare of the City;  
and

- B. The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas.

#### **17.30.050 Conditions of Approval**

The Director may impose reasonable conditions deemed necessary to ensure compliance with the findings for a Temporary Use Permit listed in Section TBD, Required Findings, including, but not limited to: regulation of ingress and egress and traffic circulation; fire protection and access for fire vehicles; regulation of lighting; regulation of hours and/or other characteristics of operation; and removal of all trash, debris, signs, sign supports and temporary structures and electrical service. The Director may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

## Chapter 17.31 Modifications (IP)

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### Sections:

- 17.31.010 Purpose
- 17.31.020 Applicability and Review Authority
- 17.31.030 Application
- 17.31.040 Public Notice
- 17.31.050 Public Hearing
- 17.31.060 Required Findings
- 17.31.070 Conditions of Approval
- 17.31.080 Appeals; Expiration, Extensions, and Revisions; Revocation

### 17.31.010 Purpose

The purpose of this Chapter is to establish an alternate means of granting relief from the requirements of this Title when so doing would be consistent with the purposes of the Zoning Code and it is not possible or practical to approve a Variance.

### 17.31.020 Applicability and Review Authority

The Director may grant Modifications as specifically identified in any other section of this Title and as follows:

- A. **Dimensional Requirements.** Relief from dimensional requirements of property development standards specified in this Title, not to exceed 10 percent of the requirement. Types of standards for which Modifications may be approved by the Director include, but are not limited to:
  - 1. **Setbacks.** Front, side, and rear yard setback standards.
  - 2. **Parking.** The dimensional standards for parking spaces, aisles, driveways, landscaping, garages, and parking facility design.
  - 3. **Fences.** Standards for the location, height, and design of fences.
  - 4. **Lot Coverage.** Standards for the maximum amount of lot coverage.
  - 5. **Height.** Maximum building height or other height limitations.
  - 6. **Landscaping.** Standards for required landscaping and plantings.
  - 7. **Transparency.** Required ground-floor building transparency.
  - 8. **Other Standards.** Up to 10 percent of other development standards not listed in Subsection B below.
- B. **Exclusions.** Modification of the following standards may not be granted:
  - 1. Lot area, width, or depth.
  - 2. Residential density.

3. Maximum floor area ratio (FAR).

### **17.31.030 Application**

- A. **Concurrent Processing.** If a request for a Modification is being submitted in conjunction with an application for another approval, permit, or entitlement that requires Planning Commission action, it shall be heard and acted upon at the same time and in the same manner as that application.
- B. **Application Requirements.** An application for a Modification shall be filed to the Planning Division in accordance with Section TBD, Application Forms and Fees. In addition to any other application requirements, the application shall state in writing the nature of the modification requested and explain why the findings necessary to grant the modification are satisfied. The applicant shall also submit plans delineating the requested modification.

### **17.31.040 Public Notice**

Public notice pursuant to Section TBD, Public Notice, is required for all Modifications.

### **17.31.050 Public Hearing**

No public hearing is required for Modifications where the Director is the Review Authority.

### **17.31.060 Required Findings**

A decision to grant a Modification shall be based on the following findings:

- A. The modification is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance.
- B. There are no alternatives to the requested modification that could provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or to the general public.
- C. The granting of the requested modification would not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this Title.

### **17.31.070 Conditions of Approval**

In approving a Modification, the Review Authority may impose any conditions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan, Local Coastal Program, and with any other applicable plans or policies adopted by the City Council;
- B. Achieve the general purposes of this Title or the specific purposes of the zoning district in which the project is located;
- C. Achieve the findings for a modification granted; or

- D. Mitigate any potentially significant impacts identified as a result of review conducted in compliance with the California Environmental Quality Act.

The Review Authority may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

#### **17.31.080 Appeals; Expiration, Extensions, and Revisions; Revocation**

- A. **Appeals.** The applicant or any other aggrieved party may appeal a decision on Modification pursuant to the provisions of Section TBD, Appeals.
- B. **Expiration, Extensions, and Revisions.** Modifications granted under this Chapter are effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Modification approval may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

## Chapter 17.32 Reasonable Accommodation

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### Sections:

- 17.32.010 Purpose
- 17.32.020 Applicability
- 17.32.030 Review Authority
- 17.32.040 Application
- 17.32.050 Required Findings
- 17.32.060 Conditions of Approval

### 17.32.010 Purpose

This Chapter provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

### 17.32.020 Applicability

- A. A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a requirement of this Title or other city requirement, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or developmental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the Acts.
- B. A request for reasonable accommodation may include a change or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
- C. A reasonable accommodation is granted to the household that needs the accommodation and does not apply to successors in interest to the property.
- D. A reasonable accommodation may be granted in compliance with this chapter without the need for the approval of a variance.
- E. Requests for reasonable accommodation shall be as described in the following section.

### 17.32.030 Review Authority

- A. **Community Development Director.** Requests for reasonable accommodation shall be reviewed by the Community Development Director if no approval is sought other than the request for reasonable accommodation. The written determination to grant, grant with changes, or deny the request for reasonable accommodation shall be made in accordance with the Findings and Decision as established below.

- B. **Other Review Authority.** Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority responsible for reviewing the discretionary land use application. The written determination to grant, grant with changes, or deny the request for reasonable accommodation shall be made in accordance with the Findings and Decision as established below.

#### 17.32.040 Application

- A. **Application.** Requests for reasonable accommodation shall be submitted in the form of a letter to the Community Development Director and shall contain the following information:
1. The applicant's name, address and telephone number;
  2. Address of the property for which the request is being made;
  3. The current actual use of the property;
  4. The basis for the claim that the individual is considered disabled under the Acts;
  5. The Zoning Code provision, regulation or policy from which reasonable accommodation is being requested; and
  6. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.
- B. **Review with Other Land Use Applications.** If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (e.g., conditional use permit, coastal development permit, etc.), then the applicant shall file the application for discretionary approval together with the information required by Subsection A above for concurrent review.

#### 17.32.050 Required Findings

The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

- A. Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts;
- B. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts;
- C. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City;
- D. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use, zoning, or the Local Coastal Program;
- E. Potential impact on surrounding uses;
- F. Physical attributes of the property and structures; and
- G. Alternative reasonable accommodations that may provide an equivalent level of benefit.

### **17.32.060 Conditions of Approval**

In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required herein. The conditions shall also state whether the accommodation granted shall be rescinded in the event that the person for whom the accommodation was requested no longer resides on the property.

## Chapter 17.33 Variances

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### Sections:

- 17.33.010 Purpose
- 17.33.020 Applicability
- 17.33.030 Review Authority
- 17.33.040 Application
- 17.33.050 Public Notice
- 17.33.060 Public Hearing
- 17.33.070 Required Findings
- 17.33.080 Conditions of Approval
- 17.33.090 Appeals; Expirations, Extensions, and Revisions; Revocation

### **17.33.010 Purpose**

This Chapter is intended to provide a mechanism for relief from the strict application of this Title where this will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions.

### **17.33.020 Applicability**

Variances may be granted to vary or modify dimensional and performance standards, but Variances may not be granted to allow uses or activities that this Title does not authorize for a specific lot or site.

### **17.33.030 Review Authority**

The Planning Commission shall approve, conditionally approve, or deny applications for Variances based on consideration of the requirements of this Chapter.

### **17.33.040 Application**

Applications for a Variance shall be filed with the Planning Division on the prescribed application forms in accordance with the procedures in Chapter TBD, Common Procedures. In addition to any other application requirements, the application for a Variance shall include data or other evidence showing that the requested Variance conforms to the required findings set forth in Section TBD, Required Findings.

### **17.33.050 Public Notice**

An application for a Variance shall require public notice pursuant to Section TBD, Public Notice.

### 17.33.060 Public Hearing

An application for a Variance shall require a public hearing before the Planning Commission pursuant to Section TBD, Conduct of Public Hearing.

### 17.33.070 Required Findings

The Review Authority must make all of the following findings in order to approve or conditionally approve a Variance application. The inability to make one or more of the findings is grounds for denial of an application.

- A. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the vicinity and identical zoning district, and that the granting of a Variance will not constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and identical zone district;
- B. The granting of the Variance is necessary to prevent a physical hardship which is not of the applicant's own actions or the actions of a predecessor in interest;
- C. The granting of the Variance will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare or convenience; and
- D. The granting of the Variance will be consistent with the general purposes and objectives of this Title, any applicable specific plans, and of the General Plan.

### 17.33.080 Conditions of Approval

In approving a Variance, the Planning Commission may impose reasonable conditions deemed necessary to ensure compliance with the findings required in Section TBD, Required Findings, above and may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

### 17.33.090 Appeals; Expirations, Extensions, and Revisions; Revocation

- A. **Appeals.** The applicant or any other aggrieved party may appeal a decision on a Variance pursuant to the provisions of Section TBD, Appeals.
- B. **Expiration, Extensions and Revision.** Variances are effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Approval of a Variance may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

## Chapter 17.34 Emergency Permits (IP)

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### Sections:

- 17.34.010 Purpose
- 17.34.020 Applicability
- 17.34.030 Review Authority
- 17.34.040 Application
- 17.34.050 Verification of Emergency
- 17.34.060 Coordination and Public Notice
- 17.34.070 Issuance
- 17.34.080 Format of Permit
- 17.34.090 Notice to the City Council

### 17.34.010 Purpose

The purpose of this Chapter is to establish procedures for the issuance of Emergency Permits.

### 17.34.020 Applicability

The procedures of this Chapter apply where persons or public agencies seek a permit for emergency work where the circumstances of an emergency do not allow sufficient time for the permit process otherwise applicable to the work needed to address an emergency and, where persons or public agencies seek a permit for emergency work in the Coastal Zone, pursuant to Section 30624 of the California Public Resources Code.

### 17.34.030 Review Authority

The Director is the Review Authority for Emergency Permits.

- A. **Coastal Zone.** In the Coastal Zone, the Director may issue an Emergency Permit without compliance with the procedures for the issuance of a Coastal Development Permit in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code.

### 17.34.040 Application

Applications for permits for emergency work shall be made to the Director by letter or facsimile during business hours if time allows, or by telephone or in person if time does not allow. The information to be reported during the emergency, if it is possible to do so, or to be reported fully in any case after the emergency, shall include the following:

- A. The nature of the emergency;
- B. The cause of the emergency, insofar as this can be established;
- C. The location of the emergency;

- D. The remedial, protective, or preventive work required to deal with the emergency;
- E. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action; and
- F. Any other information deemed necessary by the Director.

#### **17.34.050 Verification of Emergency**

The Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows.

#### **17.34.060 Coordination and Public Notice**

Prior to issuance of an Emergency Permit, when feasible, the Director shall provide public notice of the emergency work with the extent and type of notice determined on the basis of the nature of the emergency itself.

- A. **Coastal Zone.** In the Coastal Zone, the Director also shall notify, and coordinate with, the Central Coast District Office of the California Coastal Commission as to the nature of the emergency and the scope of the work to be performed. This notification shall be in person or by telephone.

#### **17.34.070 Issuance**

The Director may grant a permit for emergency work upon reasonable terms and conditions, including an expiration date and the requirement for a regular permit application later, if the Director finds that:

- A. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits, and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit; and
- B. Public comment on the proposed emergency action has been reviewed if time allows.
- C. In the Coastal Zone, the Director shall also make the following findings:
  - 1. The work proposed would be consistent with the requirements of the City's Local Coastal Program;
  - 2. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency. This finding shall be made with the maximum information and analysis possible given the expedited review demanded by the emergency situation; and
  - 3. The work does not fall within the provisions of Public Resources Code Section 30519(b) since a Coastal Development Permit application for this type of work must be reviewed by the California Coastal Commission pursuant to the provisions of Public Resources Code Sections 30519(b) and 30600(d).

### **17.34.080 Format of Permit**

The Emergency Permit shall be a written document that includes the following information:

- A. The date of issuance;
- B. An expiration date;
- C. The scope of work to be performed; and
- D. Terms and conditions of the permit.
- E. In the Coastal Zone, the Emergency Permit shall also include the following:
  - 1. The Emergency Permit may contain conditions for removal of existing development or structures if they are not authorized in a Coastal Development Permit, or the Emergency Permit may require that a subsequent Coastal Development Permit must be obtained to authorize the removal of such existing unpermitted development or structures;
  - 2. A provision stating that within 90 days of issuance of the Emergency Permit, a Coastal Development Permit application shall be submitted and properly filed consistent with the requirements of this Chapter seeking authorization to retain structures erected pursuant to the Emergency Permit, to remove such structures, or some other alternative;
  - 3. A provision stating that any development or structures constructed pursuant to an Emergency Permit shall be considered temporary until authorized by a subsequent Coastal Development Permit and that issuance of an Emergency Permit shall not constitute an entitlement to the erection of permanent development or structures; and
  - 4. A provision that states that the development authorized in the Emergency Permit must be removed unless a complete application for a Coastal Development Permit is filed within 90 days of approval of the Emergency Permit. If all or any portion of the application for the Coastal Development Permit seeking authorization for permanent retention of the development authorized pursuant to the Emergency Permit is denied, the portion of the development that is denied must be removed.

### **17.34.090 Notice to the City Council**

- A. The Director shall report on the granting of an Emergency Permit in writing to the City Council. The report shall contain a description of the nature of the emergency and the work involved. Copies of this report shall be available at the meeting and shall have been mailed at the time the application summaries and staff recommendations are normally distributed to all persons who have requested such notification in writing. In the Coastal Zone, copies of this report shall also be sent to the Central Coast District Office of the California Coastal Commission.
- B. The report of the Director shall be informational only. The decision to issue an Emergency Permit is solely at the discretion of the Director.

## Chapter 17.35 Development Agreements

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### Sections:

- 17.35.010 Purpose
- 17.35.020 Applicability
- 17.35.030 Review Authority
- 17.35.040 Application Requirements
- 17.35.050 Contents of Development Agreements
- 17.35.060 Public Notice
- 17.35.070 Planning Commission Action
- 17.35.080 City Council Action
- 17.35.090 Required Findings
- 17.35.100 Recordation of Development Agreement
- 17.35.110 Annual Review
- 17.35.120 Amendment or Cancellation
- 17.35.130 Effect of Approved Agreement
- 17.35.140 Enforcement

### 17.35.010 Purpose

This Chapter establishes a process for consideration and review of Development Agreements consistent with Section 65864 et seq., of the Government Code. Development Agreements are legally binding agreements that grant assurance that an applicant may proceed with development in accord with policies, rules, and regulations in effect at the time of approval subject to conditions to promote the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and ensure that appropriate measures to enhance and protect the environment are achieved.

### 17.35.020 Applicability

- A. The City incorporates by reference the provisions of Government Code Sections 65864-65869.5. In the event of any conflict between these statutory provisions and this Chapter, this Chapter shall control.
- B. A Development Agreement may be considered for a proposed development that will require a developer to make a substantial investment at the early stages of the project for planning and engineering for the entire project and for public facilities and services.

### 17.35.030 Review Authority

- A. The Director shall negotiate the specific components and provisions of the Development Agreement on behalf of the City for review by the Planning Commission and recommendation to the City Council.

- B. The Planning Commission shall review the Development Agreement and provide recommendation to the City Council.
- C. The City Council shall have the exclusive authority to approve a Development Agreement.

#### 17.35.040 Application Requirements

Applications for Development Agreements shall be filed with the Community Development Department in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a Development Agreement shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

#### 17.35.050 Contents of Development Agreements

- A. **Required Contents.** A Development Agreement shall specify its duration; the permitted uses of the subject property; the general location and density or intensity of uses; the general location, maximum height and size of proposed buildings; and provisions for reservation or dedication of land for public purposes. It shall contain provisions concerning its transferability.
- B. **Additional Contents.** Development Agreements may also include the following:
  - 1. **Improvements and Fees.** A Development Agreement may include requirements for construction and maintenance of onsite and offsite improvements or payment of fees in lieu of such dedications or improvements.
  - 2. **Conditions.** A Development Agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions but does not eliminate the applicant's responsibility to obtain all required land use approvals.
  - 3. **Phasing.** A Development Agreement may provide that the project be constructed in specified phases, that construction shall commence within a specified time, and that the project or any phase thereof be completed within a specified time.
  - 4. **Financing.** If the Development Agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.
  - 5. **Indemnity.** A Development Agreement may contain an indemnity clause requiring the applicant to indemnify and hold the City harmless against claims arising out of or in any way related to the actions of applicant in connection with the application or the development process, including all legal fees and costs.
  - 6. **Performance Obligation Fees.** A Development Agreement may include provisions to guarantee performance of obligations stated in the agreement.
  - 7. **Other Items.** Other components and provisions as negotiated by City.

#### 17.35.060 Public Notice

A proposed Development Agreement shall be signed by the Applicant before it is placed before the Planning Commission and the City Council for consideration at a public hearing. Public notice

of hearings by the Planning Commission and City Council for a Development Agreement shall be given as specified in Section TBD, Public Notice. Notice of the hearing shall also be mailed or delivered at least 10 days before the hearing to any other local agency expected to provide essential facilities or services to the property that is the subject of the Development Agreement.

#### **17.35.070 Planning Commission Action**

- A. **Hearing.** The Planning Commission shall conduct a public hearing for the purpose of making recommendations to the City Council in conformance with the provisions of Section TBD, Conduct of Public Hearings.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a written recommendation on the proposed Development Agreement. The Community Development Director shall transmit the Planning Commission's written recommendation and record of the application to the City Council.
- C. **Denial.** If the Planning Commission has recommended against the Development Agreement, the Development Agreement is not forwarded to the City Council unless an appeal is filed in accordance with Section TBD, Appeals or the City Council call for review.

#### **17.35.080 City Council Action**

- A. **Hearing.** After receiving the report from the Planning Commission but no later than the time specified by Section 65943 of the Government Code, the City Council shall hold a public hearing in conformance with the provisions of Chapter TBD, Common Procedures.
- B. **Decision.** After the conclusion of the hearing, the City Council shall approve, revise, or disapprove the Development Agreement. Approval of a Development Agreement shall be by ordinance. Matters not previously considered by the Planning Commission during its hearing may, but need not, be referred back to the Planning Commission for report and recommendation. The Planning Commission is not required to hold a public hearing. Failure of the Planning Commission to provide a report to the City Council within 45 days after the referral, shall be deemed a recommendation for approval.

#### **17.35.090 Required Findings**

The City Council shall find that the project is deemed essential or desirable to the public convenience or welfare and is consistent with the General Plan, Local Coastal Plan, and any applicable specific plan in order to approve or conditionally approve a Development Agreement.

#### **17.35.100 Recordation of Development Agreement**

Within 10 days of City Council approval of the Development Agreement, the Director shall execute the Development Agreement on behalf of the City, and the City Clerk shall record the Development Agreement with the County Recorder.

#### **17.35.110 Annual Review**

The applicant shall be required to demonstrate compliance with the provisions of the Development Agreement at least once a year at which time the Director shall review each approved Development Agreement.

- A. **Finding of Compliance.** If the Director, on the basis of substantial evidence, finds compliance by the applicant with the provisions of the Development Agreement, the Director shall issue a finding of compliance, which shall be in recordable form and may be recorded with the County Recorder after conclusion of the review.
- B. **Finding of Noncompliance.** If the Director finds the applicant has not complied with the provisions of the Development Agreement, the Director may issue a finding of noncompliance which may be recorded by the City with the County Recorder after it becomes final. The Director shall specify in writing to the applicant the respects in which applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance. If applicant does not comply with any terms of compliance within the prescribed time limits, the Development Agreement shall be subject to termination or revision pursuant to this Chapter.
- C. **Appeal of Determination.** Within seven days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the Director and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final.

#### 17.35.120 Amendment or Cancellation

- A. **After Finding of Noncompliance.** If a finding of noncompliance does not include terms of compliance, or if applicant does not comply with the terms of compliance within the prescribed time limits, the Director may refer the Development Agreement to the City Council for termination or revision. The City Council shall conduct a public hearing. After the public hearing, the City Council may terminate the Development Agreement, revise the finding of noncompliance, or rescind the finding of noncompliance, and issue a finding of compliance.
- B. **Mutual Agreement.** Any development may be canceled or amended by mutual consent of the parties following compliance with the procedures specified in this section. A Development Agreement may also specify procedures for administrative approval of minor amendments by mutual consent of the applicant and Director.
- C. **Recordation.** If the parties to the agreement or their successors in interest amend or cancel the Development Agreement, or if the City terminates or revises the Development Agreement for failure of the applicant to fully comply with the provisions of the Development Agreement, the City Clerk shall record notice of such action with the County Recorder.
- D. **Rights of the Parties After Cancellation or Termination.** In the event that a Development Agreement is cancelled or terminated, all rights of the applicant, property owner or successors in interest under the Development Agreement shall be terminated. If a Development Agreement is terminated following a finding of noncompliance, the City may, in its sole discretion, determine to return any and all benefits, including reservations or dedications of land, and payments of fees, received by the City.

### 17.35.130 Effect of Approved Agreement

- A. **Existing Rules and Regulations.** Unless otherwise specified in the Development Agreement, the City's rules, regulations and official policies governing permitted uses of the property, density and design, and improvement standards and specifications applicable to development of the property shall be those City rules, regulations and official policies in force on the effective date of the Development Agreement.
- B. **Future Rules and Regulations.** A Development Agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations and policies that do not conflict with those rules, regulations and policies applicable to the property as set forth in the Development Agreement. A Development Agreement shall not prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the project on the basis of such existing or new rules, regulations, and policies.
- C. **State and Federal Rules and Regulations.** In the event that state or federal laws or regulations, enacted after a Development Agreement has been entered into, prevent or preclude compliance with one or more provisions of the Development Agreement, such provisions of the agreement shall be revised or suspended as may be necessary to comply with such state or federal laws or regulations.

### 17.35.140 Enforcement

The procedures for enforcement, amendment, revision, cancellation or termination of a Development Agreement specified in this Chapter and in Government Code Section 65865.4 or any successor statute, are nonexclusive. A Development Agreement may be enforced, amended, revised, cancelled or terminated by any manner otherwise provided by law or by the provisions of the Development Agreement.

## Chapter 17.36 Amendments to the General Plan, Zoning Code, and Zoning Map

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### Sections:

- 17.36.010 Purpose
- 17.36.020 Applicability
- 17.36.030 Initiation
- 17.36.040 Application Requirements
- 17.36.050 Maximum Number of General Plan Amendments
- 17.36.060 Review Procedures and Public Notice
- 17.36.070 Planning Commission Hearing and Recommendation
- 17.36.080 City Council Hearing and Action
- 17.36.090 General Plan Consistency Required for Zoning Amendments

### 17.36.010 Purpose

This Chapter establishes a process for consideration and review of General Plan and Zoning Amendments. More specifically, the purpose of this Chapter is to:

- A. Establish procedures for making changes to the General Plan to address changes in applicable law and problems and opportunities that were unanticipated at the time of General Plan adoption or the last amendment.
- B. Establish procedures for making changes to the text of this Title or to the Zoning Map whenever the public necessity, convenience, general welfare, or good zoning practice justify such amendment, consistent with the General Plan.

### 17.36.020 Applicability

The procedures in this Chapter shall apply to:

- A. All proposals to change the text of the General Plan and the maps that illustrate the application of its provisions, and
- B. All proposals to change the text of this Title, a zoning district classification, or a zoning district boundary line shown on the Zoning Map.

### 17.36.030 Initiation

An amendment to the General Plan, Zoning Code, or Zoning Map may be initiated by any qualified applicant identified in Section TBD, Application Forms and Fees, or a motion of the City Council.

#### **17.36.040 Application Requirements**

Applications for a General Plan or Zoning Amendment shall be filed with the Director in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a General Plan or Zoning Amendment shall include such additional information and supporting data as considered necessary to process the application.

#### **17.36.050 Maximum Number of General Plan Amendments**

Except as otherwise provided by applicable law, no mandatory element of the General Plan can be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the City Council. Each amendment may include more than one change to the General Plan.

#### **17.36.060 Review Procedures and Public Notice**

- A. **Staff Report.** The Director shall prepare a report and recommendation to the Planning Commission on any application for an amendment. The report shall include, but is not limited to, a discussion of how the proposed amendment complies with the purposes of this Chapter, a determination as to whether the proposed amendment is consistent with other plans that the City Council has adopted, and an environmental document prepared in compliance with the California Environmental Quality Act.
- B. **Public Hearing Required.** All amendments shall be referred to the Planning Commission, which shall hold at least one public hearing on any proposed amendment.
- C. **Public Notice.** At least 10 days before the date of the public hearing, the Planning Division shall provide notice consistent with Section TBD, Public Notice. Notice of the hearing also shall be mailed or delivered at least 10 days prior to the hearing to the San Luis Coastal Unified School District and any other local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment.

#### **17.36.070 Planning Commission Hearing and Recommendation**

- A. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing in conformance with Section TBD, Conduct of Public Hearings.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a recommendation on the proposed amendment to the City Council. Such recommendation shall include the reasons for the recommendation, findings related to supporting the recommendation, and the relationship of the proposed amendment to applicable plans, and shall be transmitted to the City Council in the form of a Council staff report, prepared by Planning Staff, with a copy of the approved minutes from the Planning Commission meeting.

#### **17.36.080 City Council Hearing and Action**

- A. **City Council Hearing.** After receiving the report from the Planning Commission, the City Council shall hold at least one duly-noticed public hearing. The notice shall include a summary of the Planning Commission recommendation. If the Planning Commission has

recommended against the adoption of such amendment, the City Council is not required to take any further action unless an interested party files a written request for a hearing with the City Clerk within 10 days after the Planning Commission action.

- B. **City Council Action.** After the conclusion of the hearing, the City Council may approve, revise, or deny the proposed amendment. If the Council proposes any substantial revision not previously considered by the Planning Commission during its hearings, the revision shall first be referred back to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing. The failure of the Planning Commission to report within 45 days after the referral, shall be deemed a recommendation to approve and the amendment shall be returned to Council for adoption.

### **17.36.090 General Plan Consistency Required for Zoning Amendments**

The Planning Commission shall not recommend and the City Council shall not approve a Zoning Amendment unless the proposed amendment is found to be consistent with the General Plan.

## Chapter 17.37 Amendments to the Local Coastal Program (IP)

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### Sections:

- 17.37.010 Purpose and Applicability
- 17.37.020 Initiation
- 17.37.030 Review and Processing
- 17.37.040 California Coastal Commission Certification

### **17.37.010 Purpose and Applicability**

This Chapter establishes a process for consideration and review of Local Coastal Program Amendments, consistent with the Coastal Act, including changes in the land use and/or zoning designation on properties where such change is warranted by consideration of location, surrounding development and timing of development; text or policy amendments to the City's Local Coastal Plan as the City may deem necessary or desirable; and amendments to any ordinances or other implementation measures carrying out the provisions of the City's Local Coastal Plan.

### **17.37.020 Initiation**

An amendment to the Local Coastal Program may be initiated by any qualified applicant identified in Section TBD, Application Forms and Fees, or a motion of the City Council.

### **17.37.030 Review and Processing**

Amendments to the certified Local Coastal Program shall be reviewed and processed as pursuant to Chapter TBD, Amendments to the General Plan, Zoning Code, and Zoning Map.

### **17.37.040 California Coastal Commission Certification**

- A. An amendment to the Local Coastal Program shall not take effect until it has been certified by the Coastal Commission pursuant to Chapter 6, Article 2 or the California Coastal Act.
- B. Approval by the City Council of such a proposed amendment to the Local Coastal Program shall be submitted to the Coastal Commission by the City Council in accordance with Sections 30512, 30513, and 30514 of the Coastal Act.
- C. Denial of an amendment request by the City Council shall be final and there is no appeal to the Coastal Commission. However, any person proposing a public works project or a major energy facility development for which an amendment request was denied by the City Council may file with the Coastal Commission a request for an amendment pursuant to Public Resources Code Section 30515.

## Chapter 17.38 Zoning Upon Annexation

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### Sections:

- 17.38.010 Purpose
- 17.38.020 Applicability
- 17.38.030 Procedure
- 17.38.040 Effective Date of Zoning and Time Limit

### **17.38.010 Purpose**

The purpose of this Chapter is to establish a procedure for zoning property upon annexation.

### **17.38.020 Applicability**

Unincorporated territory adjoining the City may be pre-zoned for the purpose of determining the zoning that will apply to such property upon annexation.

### **17.38.030 Procedure**

Zoning of property to be annexed shall be established through initiation and processing according to the procedures established under Chapter TBD, Amendments to the General Plan, Zoning Code, and Zoning Map and, if applicable, Chapter TBD, Amendments to the Local Coastal Program.

### **17.38.040 Effective Date of Zoning and Time Limit**

The zoning of the property to be annexed shall become effective at the time that annexation to the City becomes effective pursuant to Government Code Section 56000 et. seq. If the subject area has not been annexed to the City within five years of the date of zoning approval, the zoning approval is subject to reconsideration.

## Chapter 17.39 Enforcement

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### Sections:

- 17.39.010 Purpose
- 17.39.020 Enforcement Responsibility
- 17.39.030 Nuisance Defined
- 17.39.040 Right of Entry
- 17.39.050 Notice of Violation and Opportunity to Cure
- 17.39.060 Penalties
- 17.39.070 Remedies
- 17.39.080 Revocation
- 17.39.090 Recording a Notice of Violation
- 17.39.100 Order to Appear in Court
- 17.39.110 Nuisance Abatement
- 17.39.120 Civil Remedies

### **17.39.010 Purpose**

This Chapter establishes the responsibilities of various departments, officials, and public employees of the City to enforce the requirements of this Title and establishes uniform procedures the City will use to identify, abate, remove, and enjoin uses, buildings, or structures that are deemed to be in violation of this Title.

### **17.39.020 Enforcement Responsibility**

All departments, officials and public employees of the City vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this Title and shall issue no permit or license for uses, buildings or purposes in conflict with the provisions of this Title; and any such permit or license issued in conflict with the provisions of this Title shall be null and void.

- A. It shall be the duty of the Director to enforce each and all provision of this Title. The Chief of Police shall render such assistance in the enforcement of this Title as may from time to time be required.

### **17.39.030 Nuisance Defined**

Public nuisances are as designated in Section 8.14.020, Definitions, of the Morro Bay Municipal Code. Any building, structure, or planting set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Title, any use of any land, building, or premises established, conducted, operated, or maintained contrary to the provisions of this Title, and failure to comply with any of the conditions of a permit granted under this Title is declared to be unlawful and a public nuisance.

### 17.39.040 Right of Entry

The Director or designee shall have the same right-of-entry as that set out in Section 8.14.060, Right of Entry, of the Morro Bay Municipal Code.

### 17.39.050 Notice of Violation and Opportunity to Cure

Following identification of a violation of this Title or of a public nuisance, the Director shall issue a Notice of Violation to the property owner and occupant of the subject property. The notice shall specify the exact violation or nuisance that has been identified, a date by which the nuisance must be corrected, provisions regarding re-inspection and any fees that may apply, and the name and contact information of the Director or designee. Prior to initiation of nuisance abatement, the property owner shall have the opportunity to cure the violation within the specified time period. The Director may authorize additional re-inspections if there is substantial progress in curing the violation, and all re-inspection fees are paid as required by the adopted City fee schedule.

### 17.39.060 Penalties

- A. **Misdemeanor/Infraction.** Any person who violates any provisions of this Title shall be deemed guilty of a misdemeanor/infraction and upon conviction thereof, shall be punishable as provided in Title 1, General Provisions, the Morro Bay Municipal Code.
- B. **Penalty Limits.** The imposition of one penalty shall not exclude the violation or permit such violations to continue.
- C. **Time Requirements.** Any person who violates any provision of this title shall be required to correct or remedy such violations within a reasonable period of time.
- D. **Additional Offenses.** When not otherwise specified, the existence of a zoning violation for each and every day after service of reasonable written notice shall be deemed a separate and distinct offense.

### 17.39.070 Remedies

The remedies provided for herein shall be cumulative and not exclusive. Upon a finding of nuisance pursuant to this Chapter, and after giving the property owner an opportunity to cure the nuisance and determining that the nuisance still exists, the Planning Commission or City Council may impose any remedy available at law or in equity, which shall include, but is not limited to, any of the following or combination thereof:

- A. Ordering the cessation of the use in whole or in part;
- B. Imposing reasonable conditions upon any continued operation of the use, including those uses that constitute existing non-conforming uses;
- C. Requiring continued compliance with any conditions so imposed;
- D. Requiring the user to guarantee that such conditions shall in all respects be complied with;  
or
- E. Imposing additional conditions or ordering the cessation of the use in whole or in part upon a failure of the user to comply with any conditions so imposed.

### 17.39.080 Revocation

Any permit granted under this Title may be revoked or revised for cause if any of the conditions or terms of the permit are violated or if any law or ordinance is violated.

- A. **Initiation of Proceeding.** Revocation proceedings may be initiated by the City Council, Planning Commission, or Director.
- B. **Public Notice, Hearing, and Action.** After conducting a duly-noticed public hearing, the Planning Commission shall act on the proposed revocation.
- C. **Required Findings.** The Planning Commission may revoke or revise the permit if it makes any of the following findings:
  - 1. The approval was obtained by means of fraud or misrepresentation of a material fact;
  - 2. The use, building, or structure has been substantially expanded beyond what is set forth in the permit or substantially changed in character;
  - 3. The nonresidential use in question has ceased to exist or has been suspended for 12 months or more. No lawful residential use can lapse regardless of length of time of vacancy;
  - 4. There is or has been a violation of or failure to observe the terms or conditions of the permit or Variance, or the use has been conducted in violation of the provisions of this Title, or any applicable law or regulation; or
  - 5. The use to which the permit or Variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.
- D. **Notice of Action.** Within seven days of a Planning Commission action to revoke or revise a permit, the Director shall issue a Notice of Action describing the Commission's action, with its findings. The Director shall mail notice to the permit holder and to any person who requested the revocation proceeding.
- E. **Appeal.** A decision on a revocation of a permit may be appealed pursuant to Section TBD, Appeals.

### 17.39.090 Recording a Notice of Violation

- A. If compliance is not had with an order of the Director to correct violations of this Title within the time specified therein, the Director may file with the County Recorder, a certified statement describing the property and certifying that:
  - 1. The property and/or structure is in violation of this Title; and
  - 2. The owner has been so notified. The notice shall specifically describe the violations and a proof of service shall also be recorded with the Notice and Order.
- B. Whenever the corrections ordered have been completed, the Director shall file a new certified statement with the County Recorder certifying that all required corrections have been made so that the property and/or structure is no longer in violation of this Title.

### **17.39.100 Order to Appear in Court**

The Director may cause a notice to appear in court to an owner or occupant for a violation pursuant to Section 8.14.080, Citations, of the Morro Bay Municipal Code.

### **17.39.110 Nuisance Abatement**

The City may abate nuisances pursuant to the procedures of Section 8.14.090, Nuisance Abatement, of the Morro Bay Municipal Code.

### **17.39.120 Civil Remedies**

The City Attorney may apply to such court or courts as may have jurisdiction to grant such relief as will abate or correct any violation of this Title, or restrain and enjoin any person from continuing a violation of this Title.