

# CHAPTER 6. PROCEDURES

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## 6.10 Permit Application Filing and Processing

### Sections:

- 6.10.010 - Purpose
- 6.10.020 - Authority for Land Use and Zoning Decisions
- 6.10.030 - Application Preparation and Filing
- 6.10.040 - Application Review
- 6.10.050 - Development Evaluation and Staff Reports
- 6.10.060 - Application Fees
- 6.10.070 - Indemnification

### 6.10.010 Purpose

The purpose of this Section is to set forth permit procedures and requirements for the preparation, filing, and processing of development applications required by this Development Code. The development review process is designed to provide a consistent and efficient method for the City to implement its General Plan and other adopted goals, policies, and standards.

### 6.10.020 Authority for Land Use and Zoning Decisions

Table 6.1 (Review Authority), below, identifies the Review Authority responsible for reviewing and making decisions on each type of development application required by this Development Code.

Type of Action	Code Section	Review Authority <sup>6</sup>		
		Director	Commission	Council
General Plan Amendment	7.30	Recommend	Recommend	Decision
Local Coastal Program Amendment	7.30	Recommend	Recommend	Decision <sup>1</sup>
Development Code Amendment	7.30	Recommend	Recommend	Decision
Financial Assistance	Council Policy	Recommend	No action	Decision
Administrative Development Permit	6.20.020	Decision	Appeal	Appeal
Coastal Development Permit	6.20.040	Recommend <sup>2</sup>	Decision	Appeal
Development Permit	6.20.060	Recommend	Decision	Appeal
Modification to Standards	6.20.072	Decision <sup>7</sup>	Appeal <sup>7</sup>	Appeal
Use Permit	6.20.090	Recommend	Decision <sup>4</sup>	Appeal <sup>4</sup>
Variance	6.20.100	Recommend	Decision	Appeal
Zoning Clearance	6.20.110	Decision <sup>5</sup>	--	--
Home Occupation Permit	6.20.070	Decision	Appeal	Appeal
Short-Term Rental Permit	4.10.185	Decision	Appeal	Appeal
Temporary Use Permit	6.20.080	Decision	Appeal	Appeal
Interpretations	1.20.050	Decision	Appeal	Appeal

Table 6.1 Review Authority				
Type of Action	Code Section	Review Authority <sup>6</sup>		
		Director	Commission	Council
<p>Note:</p> <ol style="list-style-type: none"> <li>1. The decision by the City Council does not take effect until it is certified by the California Coastal Commission.</li> <li>2. The Director may approve a Coastal Development Permit in compliance with Section 6.20.040.</li> <li>3. For projects subject to a Zoning Clearance with a Subdivision Map or a Tentative Parcel Map, the Director shall be the Review Authority.</li> <li>4. The City Council shall be the Review Authority for Use Permits for Commercial Cannabis Retailer and Microbusinesses with retailer uses.</li> <li>5. The Director's decision under a Zoning Clearance is a ministerial action and not subject to an appeal.</li> <li>6. The Review Authority responsible for reviewing and making decisions on each type of permit shall be responsible for making any applicable CEQA determination. A CEQA determination may be appealed to the Council.</li> <li>7. Items subject to Director review are listed in Section 6.20.072.B.1-7; items subject to Planning Commission review are listed in Section 6.20.072.B.8. Modifications to two or more items listed in Subsection B.1-7 shall be reviewed by the Planning Commission.</li> </ol>				

## 6.10.030 Application Preparation and Filing

### A. Pre-application conference.

1. An applicant may submit a pre-application review with the Director before completing and filing a development application for major development applications (e.g., residential subdivisions greater than 10 units, mixed-use projects, large non-residential projects, etc.), or to ensure conformity with objective design standards prior to building permit submittal for projects that may be approved with a Zoning Clearance (Section 6.20.110).
2. The purpose of the review for a major development project is to:
  - a. Inform the applicant of development and design standards as they apply to the proposed development;
  - b. Review the City's permit process, possible development alternatives, or modifications; and
  - c. Identify information and materials the City typically requires for similar applications, and any necessary technical studies and information relating to the environmental review of the development (if applicable).
  - d. Allow for a presentation to the City Council to receive feedback on a conceptual project design.
3. The purpose of the review for a project that requires a Zoning Clearance is to provide verification that the proposed project is in conformance with objective development and design standards or identify which standards are not in compliance with the Development Code. The applicant may re-submit for an additional review and pay the required fee as established in the Master Fee Schedule.

4. Failure by City staff to identify all required studies or all applicable standards does not constitute a waiver of those studies or standards.
  5. The pre-application review shall not be construed as either a recommendation for approval or denial of the application by the City.
- B. **Application content.** All development applications shall be filed with the Department on a City application form, together with all required fees and/or deposits and all other information and materials specified in the Department's handouts and/or checklists submittal requirements for the specific type of application and any additional instructions provided by the Director. The Department will prepare required forms and checklists.
- C. **Eligibility.** An application may only be filed by the owner of the property, an authorized agent of the owner, a person acting in compliance with a purchase contract or other written consent, or the Director on behalf of the Council.
- D. **SB 330 Preliminary Application.** The SB 330 Preliminary Application review process was established under the State's Housing Crisis Act of 2019 and is a specific type of review by the Director. The process provides early identification of all standards and requirements applicable to a project, offering a vesting of standards relative to the time an SB 330 Preliminary Application is submitted. A review under this procedure is subject to all requirements and information and materials listed on the City's SB 330 Preliminary Application. The availability of this type of review shall sunset on January 1, 2030, unless extended by the State legislature. The preliminary application review process is at the option of a project proponent and may only be implemented when all requirements are satisfied, including all timeframes required for submittal of a formal application. The following outlines the process to be followed:
1. In compliance with Government Code Section 65941.1, a proponent of a multi-unit residential development or mixed-use development with a residential component has the option of submitting a Preliminary Application. All of the information listed in City's SB 330 Preliminary Application form and payment of the Preliminary Application processing fee shall be submitted to the City.
  2. If the City determines that the Preliminary Application for the development project is incomplete, the project proponent must submit the specific information needed to complete the application within 90 days of receiving the City's written identification of the necessary information. If the project proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect, and if any portion of the ministerial design review was completed or approved, it shall be deemed null and void.
  3. After submittal of all of the information required, if the project proponent revises the project to change the number of residential units or square footage of construction changes by 20 percent or more, excluding any increase resulting

from Density Bonus Law, the development proponent must resubmit the required information so that it reflects the revisions.

4. The project proponent shall submit a formal application for a development project within 180 calendar days of submitting a complete preliminary application. If the City determines that the formal application for the development project is incomplete, the project proponent shall submit the specific information needed to complete the application within 90 days of receiving the City's written identification of the necessary information. If the project proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect, and any such ministerial design review approval shall be deemed null and void.
5. If the applicant revises the project between the Preliminary Application phase and the formal application phase such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, the project shall not be deemed to have submitted a Preliminary Application, in satisfaction of State and City requirements, until the project proponent resubmits the required information.

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### 6.10.040 Application Review

- A. **Determination of completeness.** The Director shall review each application for completeness and accuracy before it is considered officially filed. The Director's determination of completeness shall be based on the Department's submittal requirements and any additional instructions provided by the Director.
  1. Notification of Applicant. As required by Government Code Section 65943, within 30 calendar days of application filing, the applicant shall be informed in writing that the application is complete and has been accepted for processing or that the application is incomplete and that additional information shall be provided to complete the application process.
  2. Appeal of determination. Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Director is not required, the applicant may appeal the determination in compliance with Section 7.20 (Appeals).
  3. Time for submittal of additional information. When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur.
  4. Expiration of application. If an applicant fails to provide the additional information specified in the incompleteness letter within six months, the application shall expire and be deemed withdrawn. At which time, the Director may authorize a

partial refund based upon the pro-rated costs to-date at the time of withdrawal. The Director may grant one six-month extension, if requested in writing by the applicant prior to the date of expiration. After the expiration of an application, development approval shall require the submittal of a new, complete application, together with all required deposits and/or fees.

5. Environmental information. After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the development.

- B. **Determination of Coastal Development Permit notice and hearing.** For developments proposed within the Coastal Zone (Section 6.20.040 Coastal Development Permits), the Director shall make the determination as to whether the development is categorically excluded, non-appealable, or appealable for the purposes of notice, hearing, and appeal procedures, at the same time that completeness review occurs in compliance with Subsection A.

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## 6.10.050 Development Evaluation and Staff Reports

- A. **Staff evaluation.** The Director shall review applications to determine whether they are consistent with the General Plan, this Development Code, and other City goals, policies, and standards, as applicable.
- A. **Referral of application.** At the discretion of the Director, or where otherwise required by this Development Code or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed development.
- B. **Concurrent applications.**
  1. Concurrent filing. An applicant for a development that requires the filing of more than one application (e.g., Tentative Subdivision Map, Use Permit, etc.), shall file all related applications concurrently, together with all application fees and/or deposits required by Section 6.10.060 (Application Fees).
  2. Concurrent processing. Multiple development applications for the same project shall be processed concurrently and reviewed and approved or denied by the highest Review Authority designated in Table 6.1 (e.g., a development for which applications for Development Code Amendment and a Use Permit are filed shall have both applications decided by the Council, instead of the Commission acting upon the Use Permit as otherwise provided by Table 6-1).
- C. **Staff report.** Where appropriate, the Director shall provide a written recommendation to the applicable Review Authority on the disposition of the application.

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**6.10.060 Application Fees**

- A. **Fee schedule.** The Council shall establish a schedule of fees for the processing of the applications required by this Development Code, which shall be listed in the City's Master Fee Schedule. Fees are intended to allow recovery of all costs incurred by the City in processing development applications.
- B. **Timing of payment.** The City will not process an application until all required fees or deposits have been paid. If at any time during the review process deposits are insufficient to cover the City's costs of processing the application, the City shall cease processing until additional funds are submitted.
- C. **Refunds and withdrawals.** Application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Fees are not refundable in the event of denial by the Review Authority. In the case of a withdrawal, the Director may authorize a partial refund based upon the pro-rated costs to-date at the time of withdrawal.

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**6.10.070 Indemnification**

- A. **Applicant agreement.** At the time of submitting a development application, the applicant shall agree to defend, indemnify, and hold harmless the City and its agents, attorneys, employees, and officers, from any action, claim, loss, or proceeding brought against the City or its agents, employees, and officers to attack, set aside, void, or annul a discretionary land use approval of the City. The required indemnification shall include damages awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with the action.
- B. **City notification of applicant.** In the event that an action, claim, or proceeding referred to in Subsection A. above is brought, the City shall promptly notify the applicant of the existence of the action, claim, or proceeding and shall cooperate fully in the defense of the action, claim, or proceeding.
- C. **City participation in defense.** Nothing in this Section shall prohibit the City from participating in the defense of any action, claim, or proceeding, if the City elects to bear its own attorney's fees and costs.



## 6.20 Permit Review and Decisions

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### Sections:

- 6.20.010 - Purpose
- 6.20.020 - Administrative Development Permit
- 6.20.030 - Reserved
- 6.20.040 - Coastal Development Permit
- 6.20.050 - Emergency Coastal Development Permit
- 6.20.060 - Development Permit
- 6.20.070 - Home Occupation Permit
- 6.20.075 – Short-Term Rental Permit
- 6.20.080 - Temporary Use Permit
- 6.20.090 - Use Permit
- 6.20.100 - Variance
- 6.20.110 - Zoning Clearance
- 6.20.120 - Modifications to Standards

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### 6.20.010 Purpose

This Section provides procedures for the review and approval or denial of development applications and other review requirements established by this Development Code. The procedures of this Section are carried out after those described in Section 6.10 (Permit Application Filing and Processing).

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### 6.20.020 Administrative Development Permit

A. **Purpose.** This Section establishes procedures for Administrative Development Permits for minor additions and alterations to ensure that development and design standards are met.

B. **Applicability**

An Administrative Development Permit is required to authorize the following types of projects:

1. Additions to non-residential buildings no greater than 1,000 square feet.
2. Alterations to non-residential building elevations that are visible from a public street.
3. Alterations to non-residential sites (e.g., landscaping, parking).
4. Grading permits when not associated with a building permit or other development permits.
5. As required by other Sections of this Development Code.

- C. **Review Authority.** The Director shall approve, conditionally approve, or deny an Administrative Development Permit application. The Director may also refer the application to the Commission.
- D. **Application requirements.** An application for an Administrative Development Permit shall be prepared, filed, and processed in compliance with Section 6.10 (Permit Application Filing and Processing).
- E. **Public Notice, Hearing, and Appeals for Administrative Development Permits.**
1. **Notice Required.** Notice of the intent by the Director to approve an Administrative Development Permit application, or approve with conditions, shall be mailed by the Director to the applicant and all owners of property within 100 feet of the exterior boundaries of the subject property. The notice shall state that any interested party may file an appeal to the Planning Commission of the Director's intended decision within the 10-day period stated in the notice. In the event the Director acts to deny the application, no public notice shall be required. However, the Director shall notify the applicant of the right to appeal the denial to the Planning Commission.
  2. **Appeals.** If an appeal is received, the Director shall schedule the appeal for a public hearing before the Planning Commission at the next available Commission hearing in accordance with Section 7.10 (Public Hearings). The person filing the appeal shall pay the fee as established in the Master Fee Schedule.
  3. **Hearings.** No public hearing shall be required for a Director-approved Administrative Development Permit.
- F. **Findings.** The Director may approve an Administrative Development Permit only after making all of the following findings:
1. The proposed development is consistent with the General Plan, this Development Code, and other City goals, policies, and standards, as applicable.
  2. For non-residential development, the subject site is physically suitable in terms of design, operating characteristics, shape, size, and topography.
  3. The proposed development will not constitute a hazard to the public, health, safety, or welfare.
- G. **Conditions of Approval.** In approving an Administrative Development Permit, the Director may impose conditions of approval to ensure that the development will comply with the findings required by Subsection F (Findings).

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**6.20.030 Reserved**

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## 6.20.040 Coastal Development Permit

- A. **Purpose.** This Section establishes the process for the review of all development that requires a Coastal Development Permit to ensure that it will be consistent with the provisions of the City's Local Coastal Program, the California Coastal Act and the California Code of Regulations Title 14 Division 5.5.
- B. **Applicability.**
1. Coastal Development Permit required. A Coastal Development Permit is required to authorize any development located in the Coastal Zone in accordance with the provisions of this Section, except as otherwise provided in Subsection 2 (Exemptions). "Development" for purposes of this Section is defined in Section 9.10.030 (Coastal Act Definitions). The requirements for obtaining a Coastal Development Permit shall be in addition to requirements to obtain any other permits required by this Development Code.
  2. Exemptions. The following projects shall not require a Coastal Development Permit.
    - a. Occupancy permits.
    - b. Development exempted by Public Resources Code Section 30106 and 30610, except as otherwise specified by the Coastal Commission in Title 14 of the California Code of Regulations, Chapter 6, Section 13250, 13252, and 13253 and any amendments thereafter adopted.
    - c. Harvesting of agricultural crops.
- C. **Review Authority.** The Commission is authorized to issue Coastal Development Permits for appealable and non-appealable projects that require a public hearing. The Director is authorized to issue Coastal Development Permits for non-appealable projects that do not require a public hearing.

The City does not have jurisdiction to issue Coastal Development Permits for the following:

1. Development projects located in tidelands, submerged lands, and public trust lands as described in Section 30519(b) of the Public Resources Code and described as areas of Coastal Commission Permit Jurisdiction illustrated on the Local Coastal Program Post-Certification Permit and Jurisdiction Map as amended.
2. Coastal Development Permits issued by the Coastal Commission including condition compliance. Where either new development, or a modification to existing development, is proposed on a site where development was authorized in a Coastal Commission issued Coastal Development Permit either prior to certification of the LCP or through a de novo action on an appeal of a City

approved Coastal Development Permit and the permit has not expired or been forfeited, the applicant shall apply to the City for the Coastal Development Permit except for:

- a. Requests for extension, reconsideration and revocation of the Coastal Commission issued permits;
- b. Development that would lessen or negate the purpose of any specific permit condition, any mitigation required by recorded documents, any recorded offer to dedicate or grant of easement or any restriction/limitation or other mitigation incorporated through the project description by the permittee of a Coastal Commission issued Coastal Development Permit.

In any of these circumstances, the applicant must seek to file an application with the Coastal Commission for an amendment to the Coastal Commission issued Coastal Development Permit and authorization for the proposed new development or modification to existing development. The Coastal Commission will determine whether the application for amendment shall be accepted for filing pursuant to the provisions of Title 14 California Code of Regulations, Section 13166.

- D. **Application Requirements.** An application for a Coastal Development Permit shall be prepared, filed, and processed in compliance with Section 6.10 (Permit Application Filing and Processing).
- E. **Determination of permit category.** The Director shall determine if the proposed project requires a Coastal Development Permit and, if so, determine whether the project is appealable to the Coastal Commission, and determine the applicable review procedures as established herein. This determination may be appealed in compliance with Subsection 1 (Appeal of permit category determination).
  1. Appeal of permit category determination. Where an applicant or interested person, including the City and the Coastal Commission staff have a question as to whether a development is exempted, excluded, non-appealable, or appealable, the following procedures shall establish whether a development is exempted, excluded, non-appealable or appealable:
    - a. The Director shall make a determination as to what type of development is being proposed (i.e. appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.
    - b. If the determination of the Director is challenged by the applicant or an interested person, or if the City wishes to have a Coastal Commission determination as to the appropriate designation, the Director shall notify the District Director of the Central Coast District Office of the Coastal Commission by telephone or in writing of the dispute/question and shall request the Executive Director's determination as to whether the development is categorically excluded, non-appealable or appealable.

- c. The Executive Director of the Coastal Commission shall, within two working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit a determination as to whether the development is categorically excluded, non-appealable or appealable.
  - d. Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the City Director's determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the Executive Director's determination.
- F. **Public hearing.** At least one public hearing shall be held by the Commission on each application for appealable development as defined in Section 9.10 (Definitions) of this Development Code.
1. Such hearing shall occur no earlier than 10 calendar days following the mailing of the notice required in Subsection G. The public hearing may be conducted in accordance with existing City procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.
  2. If a decision on a Coastal Development Permit is continued by the City to a time which is neither (a) previously stated in the notice provided pursuant to Subsection G, nor (b) announced at the hearing as being continued to a time certain, the City shall provide notice of the further hearings (or action on the proposed development) in the same manner, and within the same time limits as established in Subsection G.
  3. Any person may submit written comments to the Director on an application for a Coastal Development Permit, or on an appeal of a Coastal Development Permit, at any time prior to the close of the public hearing. If no public hearing is required, written comments may be submitted prior to the decision date specified in the public notice. The Director shall forward the written comments to the appropriate Review Authority and the applicant.
- G. **Public notice.**
1. Notice of Appealable & Non-Appealable Developments – Public Hearing Required.
    - a. Notice of an application for a Coastal Development Permit that is appealable or non-appealable and requires a public hearing shall be provided at least 10 calendar days prior to the first public hearing on the development proposal as follows:
      - i. Notice shall be published in a newspaper of general circulation;

- ii. Notice by first class mail to any person who has filed a written request to be on the mailing list for that development project or for coastal decisions within the City; or any local, regional and state agencies known to be interested in the project;
    - iii. Notice by first class mail to all property owners within 300 feet and to all residents within 100 feet of the proposed project;
    - iv. Notice by first class mail to the Central Coast District of the Coastal Commission.
  - b. The notice shall contain the following information:
    - i. A statement that the development is within the Coastal Zone;
    - ii. The name of the applicant;
    - iii. The application number;
    - iv. A description of the development and its proposed location;
    - v. The date, time and place at which the application will be heard by the city Review Authority;
    - vi. A brief description of the general procedure concerning the conduct of hearing and local actions;
    - vii. The procedures for filing local and Coastal Commission appeals, if applicable, including any local fees required.
2. Notice of Non-Appealable Developments – No Public Hearing Required
  - a. Notice of an application for a Coastal Development Permit that is not appealable and does not require a public hearing shall be provided at least 10 calendar days prior to the Director taking action on the development proposal as follows:
    - i. Notice by first class mail to all property owners and residents within 100 feet of the proposed project;
    - ii. Notice by first class mail to any person who has filed a written request to be on the mailing list for that development project or for coastal decisions within the City;
    - iii. Notice by first class mail to the Central Coast District of the Coastal Commission.
  - b. The notice shall contain the following information:
    - i. A statement that the development is within the Coastal Zone;
    - ii. The name of the applicant;
    - iii. The application number;
    - iv. A description of the development and its proposed location;

- v. The date the application will be acted upon by the Review Authority;
- vi. The general procedure for submitting comments prior to the Review Authority taking action on the proposed development;
- vii. A statement that any comments must be received within ten calendar days of the notice date.

H. **Required findings.** The approval shall require that the Review Authority make all of the following findings:

- a. The proposed development as modified by any conditions of approval, is in conformity with the City's certified Local Coastal Program and will not adversely affect coastal resources;
  - b. If the project is located between the first public road and the sea, that the project is in conformity 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);
  - c. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment;
  - d. The proposed development is consistent with the General Plan, this Development Code, and other City goals, policies, and standards, as applicable.
  - e. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and
  - f. Public services are adequate to serve the proposed development.
2. Conditions of approval. The Review Authority may impose any reasonable conditions to ensure that the approval will comply with the findings required by Subsection H.

I. **Final City Action on a Coastal Development Permit.**

- 1. Finality of City action. The City's decision on an application for a Coastal Development Permit shall not be deemed final until:
  - a. The City's decision on the application has been made;
  - b. All required findings have been adopted that the proposed development is or is not in compliance with the certified Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act; and
  - c. All rights of local appeal identified in Section 7.020.040 (Appeals to the Coastal Commission) have been exhausted.

2. Notice procedures of Final City Action.
  - a. Final City action. Within seven calendar days of a final City action on a Coastal Development Permit application, the City shall provide notice of its action by first class mail to the Central Coast District office of the Coastal Commission and to any person who specifically requested this notice. The notice shall include the conditions of approval, written findings, and the procedures for appeal of the local decision to the Coastal Commission, if applicable.
  - b. Failure of City to act in a timely fashion. If the applicant believes that the City failed to act on an application within the time limits in Government Code Sections 65950 through 65957.1, which provide that permit applications are deemed approved if the permitting agency has not acted within specified deadlines, and which further provide that a project cannot be deemed approved without the public notice required by law, the applicant shall notify the City, all interested persons, and the Coastal Commission, in writing, of the claim that the development has been approved by operation of law. The notice shall specify the application that is claimed to be approved, the time, date, and place when the application was filed and deemed complete, and language stating the permit will be approved if the City does not act within 60 days.
  - c. Notice of City failure to act. When the City receives a notice that the time limits established in compliance with Government Code Sections 65950 through 65957.1 have expired, the City shall act on the application within 60 days of receipt of the notice required by law. If the City fails to act within 60 days of receipt of the notice required by law, the City shall notify the Commission and any person entitled to receive notice that the application has been locally approved by operation of law in compliance with Government Code Sections 65950 through 65957.1. The appeal period to the Coastal Commission for a project locally approved by operation of law shall begin to run only upon the receipt of the City notice in the Coastal Commission's office.
3. Effective date. The final action by the City on a Coastal Development Permit application for appealable development shall become effective after the 10 working day Coastal Commission appeal period, unless either of the following occur:
  - a. An appeal is filed in compliance with Section 7.20.040 (Appeals to the Coastal Commission);
  - b. The notice of final City action does not comply with the requirements of Subsection 2.a.
  - c. When either of the circumstances in (a) or (b) occur, the Coastal Commission shall, within five calendar days of receiving notice of that circumstance, notify



the City and the applicant that the effective date of the City action has been suspended.

**J. Waiver of Coastal Permit Public Hearing for Minor Development**

This Section provides for the waiver of a public hearing on a Coastal Development Permit for development that is appealable to the Coastal Commission, in compliance with Public Resources Code Section 30624.9. This Section shall not be used to waive the requirement for a public hearing on any other permit required by this Development Code to have a public hearing.

1. **Applicability.** The Director may waive the requirement for a public hearing on a Coastal Development Permit application for a minor development that is appealable to the Coastal Commission. For purposes of this section, "minor development" means a development which the City determines satisfies all of the following requirements:
    - a. Is consistent with the certified Local Coastal Program;
    - b. Requires no discretionary approval other than a Coastal Development Permit; and
    - c. Has no adverse effects, either individually or cumulatively, on coastal resources or public access to the shoreline or along the coast.
  2. **Criteria for waiver.** A public hearing may be waived for minor development only if both of the following occur:
    - a. Notice that a public hearing shall be held upon request by any person is provided by the City to all persons who would otherwise be required to be notified of a public hearing by Section 7.10 (Public Hearings), as well as any other persons known to be interested in receiving notice; and
    - b. No request for public hearing is received by the City within 15 working days from the date of the City sending the notice required by paragraph (a). (Am. Ord. 14-04)
  3. **Content of notice.** The notice required by Subsection 2.a shall include a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the City on a development application.
  4. **Second residential units do not require a public hearing consistent with the applicable provisions of Government Code Section 65852.2**
- K. Coastal Development Permit Amendments.** Upon application by the permittee, a Coastal Development Permit may be amended. Application for an amendment shall be accomplished in the same manner specified by this Section for the initial application of the Coastal Development Permit.
- L. Post approval procedures.** The procedures and requirements in Section 7.30 (Permit Implementation, Time Limits, Extensions, and Revocations), and those

related to appeals in Chapter 7 (Administration), shall apply following the decision on an application for a Coastal Development Permit.

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### 6.20.050 Emergency Coastal Development Permit

- A. **Purpose.** This Section provides procedures for the issuance of Emergency Coastal Development Permits deemed necessary to perform work to resolve problems resulting from a situation falling within the term “emergency” as defined in Section 9.10.030 (Definitions).
- B. **Applicability.** When immediate action by a person or public agency is required to resolve an emergency, requirements to obtain the otherwise appropriate development application may be waived by the Director upon receiving notification of the emergency, identification of the type of work required to resolve the emergency, and the location of work to be performed.
1. The Director shall not issue an Emergency Coastal Development Permit for any work to be conducted on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled. Requests for emergency work in these areas shall be referred directly to the Coastal Commission.
- C. **Review Authority.** The Director, Public Works Director or City Manager shall have the discretion to grant Emergency Coastal Development Permits in compliance with this Section.
- D. **Method and content of notification.** Notification of the emergency to the Director shall be by letter or facsimile, if time allows, or by telephone or personal contact, if time does not allow. The person notifying the Director shall report to their best knowledge:
1. The nature and location of the emergency;
  2. The cause of the emergency, insofar as this can be established;
  3. The remedial, protective, or preventative work required to resolve the emergency;
  4. The circumstances during the emergency that appeared to justify the proposed courses of action; and
  5. The probable consequences of failing to take the actions necessary to resolve the emergency.
- E. **Verification.**
1. The Director shall verify that an emergency does exist, insofar as time allows.
  2. The Director and the person or public agency that made the notification shall document the facts related to the emergency.

- F. **Public notice.** The Director shall provide public notice of the proposed emergency actions as determined to be appropriate by the Director based on the nature of the emergency.
- G. **Findings.**
1. Required findings. The Director may approve an Emergency Coastal Development Permit upon reasonable terms and conditions, including an expiration date and the necessity for a regular Coastal Development Permit application later, if the Director finds that:
    - a. An emergency exists that requires action more quickly than allowed by City procedures customarily required for the processing of appropriate development application and the development shall be completed within 30 days, unless otherwise specified in the terms of the permit (Am. Ord. 14-04);
    - b. Public comment has been considered regarding the emergency and the proposed actions, if time allows;
    - c. The work is consistent with the nature of the emergency, and the requirements of the certified Local Coastal Program; and
    - d. 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.
  2. Conditions of approval. If granted, an Emergency Coastal Development Permit shall be subject to reasonable and necessary terms and condition and shall be a written document that includes the following information:
    - a. Language clearly indicating that the work accomplished under an Emergency Coastal Development Permit is considered temporary until authorized by a follow-up regular Coastal Development Permit and that issuance of an Emergency Coastal Development Permit shall not constitute an entitlement to the erection of permanent development or structures;
    - b. The date of issuance and an expiration date for the Emergency Coastal Development Permit;
    - c. The scope of work to be performed;
    - d. Terms and conditions of the permit;
    - e. A provision stating that within 90 days of issuance of the Emergency Coastal Development Permit, a regular Coastal Development Permit application shall be submitted and properly filed consistent with the requirements of this Chapter; and

- f. A provision that states that: The development authorized in the Emergency Coastal Development Permit must be removed unless a complete application for a regular Coastal Development Permit is filed within 90 days of approval of the emergency permit and said regular permit is approved. If a regular Coastal Development Permit authorizing permanent retention of the development is denied, then the development that was authorized in the Emergency Coastal Development Permit, or the denied portion of the development, must be removed. The Emergency Coastal Development Permit may contain conditions for removal of development or structures if they are not authorized in a regular Coastal Development Permit, or the emergency permit may require that a subsequent permit must be obtained to authorize the removal.

The violation of any condition of approval shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

#### H. **Reporting.**

1. The Director shall report, in writing or orally, to the Council at each regular meeting of the Council while an Emergency Permit is in effect. The report shall state the nature of the emergency, the progress of the work to resolve the emergency, and any other pertinent information.
2. The Director shall report, in writing, the issuance of Emergency Permits to the Coastal Commission within three days following the date of issuance.
3. Copies of any written report shall be available at the Council meetings and shall be mailed to all persons who have requested notification and associated reports in writing.

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### 6.20.060 Development Permit

- A. **Purpose.** This Section establishes procedures for Development Permits for new development and major additions to ensure that all development and design standards are met that may be appropriate on particular sites and/or may need to be carefully designed to avoid or minimize potential negative impacts on the surrounding area.
- B. **Applicability.** The following types of projects require approval of a Development Permit (a Use Permit approval may also be required for a defined land use within this Development Code):
  1. Residential development projects with five or more dwelling units.
  2. Mixed-use development projects with 10 or more dwelling units.
  3. New non-residential development or redevelopment.
  4. Additions to non-residential buildings greater than 1,000 square feet.

5. Conversion of a residential dwelling to a commercial use.
  6. Conversion of existing multi-unit dwellings using fractional density into ten or more additional dwelling units.
  7. As required by other Sections of this Development Code.
- C. **Review Authority.** The Commission is authorized to approve, conditionally approve, or deny Development Permit applications.
- D. **Application requirements.** An application for a Development Permit shall be prepared, filed, and processed in compliance with Section 6.10 (Permit Application Filing and Processing).
- E. **Notice and hearing.** Notice of the public hearing shall be provided and the hearing shall be conducted in compliance with Section 7.10 (Public Hearings).
- F. **Findings.** The Commission may approve a Development Permit application only after making all of the following findings:
1. The proposed development is consistent with the General Plan, this Development Code, and other City goals, policies, and standards, as applicable.
  2. For non-residential development, the subject site is physically suitable in terms of design, operating characteristics, shape, size, and topography.
  3. The development will not constitute a hazard to the public, health, safety, or welfare.
- G. **Conditions of Approval.** In approving a Development Permit, the Commission may impose conditions of approval to ensure that the development will comply with the findings required by Subsection F (Findings).

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## 6.20.070 Home Occupation Permit

- A. **Purpose.** This Section establishes procedures and standards for Home Occupation Permits for legal commercial enterprise conducted by an occupant(s) of a dwelling as specified in this Section. These activities may be acceptable if reviewed and appropriately conditioned in compliance with this Section.
- B. **Applicability.** The Home Occupation Permit is intended to permit and regulate home occupations that are conducted within a legally established dwelling. The Home Occupation Permit is only valid for the person to whom it is issued at the application address.
- C. **Review Authority.**
1. The Director is authorized to issue Home Occupation Permits. The Director shall approve, conditionally approve, or deny Home Occupation Permits.
  2. In conjunction with the Home Occupation Permit, the applicant shall obtain a Business Tax Certificate in compliance with Municipal Code Article X.

- D. **Application requirements.** An application for a Home Occupation Permit shall be prepared, filed, and processed in compliance with Section 6.10 (Permit Application Filing and Processing). It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection I below.
- E. **General standards.** Home occupations shall conform to the following standards:
1. The home occupation shall be clearly an accessory use to the full-time use of the property as a residence.
  2. A home occupation may have a maximum of one employee on-site in addition to the full-time residents of the dwelling.
  3. All home occupation activities shall not occupy more than 25 percent of the total floor area of the dwelling, or a maximum of 500 square feet, whichever is less. A garage may be used for home occupation purposes only if the required off-street parking spaces are continually maintained.
  4. There shall be no signs posted on the property associated with the home occupation.
  5. There shall be no window display or outdoor storage or display of equipment, materials, or supplies associated with the home occupation.
  6. There shall be no motor vehicles used or kept on the premises, except residents' passenger vehicles and/or one commercial vehicle not exceeding an unladen weight of 4,500 pounds. The vehicle shall be parked on-site (i.e., the vehicle shall not be parked on the street) within an allowed parking area.
  7. No home occupation activity shall create or cause dust, electrical interference, fumes, gas, glare, light, noise, odor, smoke, toxic/hazardous materials, vibration, or other hazards or nuisances as determined by the Director.
  8. Activities conducted and equipment or materials used shall not change the fire safety or occupancy classifications of the property. The use shall not employ the storage of explosive, flammable, or hazardous materials beyond those normally associated with a residential use.
  9. The use shall not require any exterior modifications to the structure not customarily found in a dwelling, nor shall the home occupation activity be visible from a public street or surrounding properties.
- F. **Permitted Uses.** The following uses shall be considered permitted:
1. Office-only uses (e.g., professional services, electronic commerce, etc.) where the business activity typically includes phone calls, use of computers, and paperwork.
  2. Arts and crafts work (e.g., small handcrafted items, painting, photography, etc.).
  3. Repair of small non-hazardous items (e.g., sewing, jewelry, clocks, computer repair, etc.) for mobile businesses where customers do not visit the dwelling.

4. Music, dance, physical and educational instruction limited to five students or less and no more than three classes per day between the hours of 7:00 a.m. and 10:00 p.m. conducted within the residence (i.e., not within a garage, accessory structure or outdoors).
  5. Other uses similar to the above uses as determined by the Director.
- G. **Prohibited Uses.** The following uses shall be prohibited:
1. On-site sales of products or services, unless otherwise specifically allowed in this Section.
  2. Automotive and other vehicle repair (e.g., boats, motorcycles, trucks, etc.) and service (body or mechanical), detailing, painting, storage, or upholstery.
  3. Welding and machine shop operations.
  4. Personal services and personal services-restricted (as defined in Chapter 9 Definitions).
  5. Uses that require explosives, highly combustible materials, or toxic materials.
  6. Carpenter, wood working, or cabinet making.
  7. Wood cutting businesses.
  8. Medical and dental offices.
  9. Veterinary clinics, animal hospitals and animal boarding.
  10. Construction contractor facilities and/or outside storage. An office only use is allowed in compliance with Subsection F.1.
  11. Adult businesses.
  12. Other uses determined by the Director to be similar to those listed above and/or not compatible with residential uses.
- H. **Notice and hearing.** A public notice and hearing shall not be required for the Director's decision on a Home Occupation Permit.
- I. **Findings.** The Director may approve a Home Occupation Permit subject to all of the following findings:
1. The proposed use is compatible with the surrounding residential uses.
  2. The proposed use is clearly an accessory use to the primary use as a full-time residence.
  3. The proposed use does not alter the residential character of the dwelling and property.
  4. The proposed use will not constitute a hazard to the public, health, safety, or welfare.
- J. **Conditions of Approval.** In approving a Home Occupation Permit application, the Director may impose conditions or terms deemed reasonable and necessary to

ensure that the approval would be in compliance with the purpose of this Section. If the Home Occupation Permit application is not operated consistent with the requirements of this Section, it may be revoked as specified in Section 6.30.080 (Permit Revocations).

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## 6.20.072 Modification to Standards

- A. **Purpose.** This purpose of this Section is to provide the flexibility necessary to allow for minor deviations or exceptions from development standards and/or objective design standards applicable to development to respond to unique conditions of a property or project or to the conditions on adjacent properties, that constitute a reasonable use or development of a property that will be compatible with surrounding uses and development.
- B. **Applicability.** An application for Modification to Standards may only be submitted for the following:
1. Decrease of up to 20 percent of a front or street side setback, but in no event shall a structure be located closer than three feet from the property line.
  2. Increase of up to one foot in the height of a fence or wall located in a side or rear setback.
  3. An increase of up to eight feet above the maximum building height for architectural features, mechanical equipment, and an elevator shaft or stairway.
  4. Decrease of up to 10 percent in the dimensions for aisles, driveways, or parking spaces.
  5. Decrease in the required landscape coverage.
  6. Increase in allowed paving for parking in front and street side setback areas in residential zones to accommodate required parking.
  7. For additions and alterations to existing dwelling unit(s), an alteration, relief, or substitution required by an objective design standard listed in Section 4.25 (Residential Objective Design Standards).
  8. For new dwelling unit(s), an alteration, relief, or substitution required by an objective design standard listed in Section 4.25 (Residential Objective Design Standards).
- C. **Review Authority**
1. Outside of Coastal Zone. The Director is authorized to approve, conditionally approve, or deny Modification to Standards for a singular minor exception to a development standard pursuant to Subsection B (items 1 through 7). Only the Planning Commission is authorized to approve, conditionally approve, or deny Modification to Standards seeking any type of exception from an objective design



standard pursuant to Subsection B.8 and/or more than two minor exceptions to development standards.

2. Within Coastal Zone. A Coastal Development Permit (Section 6.20.040) is required to authorize any Modification to Standards for development located in the Coastal Zone.

D. **Application Requirements.** An application for a Modification to Standards shall be prepared, filed, and processed in compliance with Section 6.10 (Permit Application Filing and Processing).

E. **Public Notice, Hearing, and Appeals for Modification Reviewed by Director.**

1. Notice Required. Notice of the intent by the Director to approve a Modification application, or approve with conditions, shall be mailed by the Director to the applicant and all owners of property within 100 feet of the exterior boundaries of the subject property. The notice shall state that any interested party may file an appeal to the Planning Commission of the Director's intended decision within the 10-day period stated in the notice. In the event the Director acts to deny the application, no public notice shall be required. However, the Director shall notify the applicant of the right to appeal the denial to the Planning Commission.
2. Appeals. If an appeal is received, the Director shall schedule the appeal for a public hearing before the Planning Commission at the next available Commission hearing in accordance with Section 7.10 (Public Hearings). The person filing the appeal shall pay the fee as established in the Master Fee Schedule.
3. Hearings. No public hearing shall be required for a Director-approved Modification to Standards. For Modification to Standards applications that require Planning Commission review, notice of the public hearing shall be provided and the hearing shall be conducted in compliance with Section 7.10 (Public Hearings).

F. **Approval.** A Modification to Standards shall be approved only after the Review Authority makes all the following findings:

1. The Modification to Standards is consistent with the purpose, intent, goals, policies, programs, and land use designation of the General Plan, Development Code, and any applicable specific plan.
2. The Modification to Standards will not be detrimental to the health, safety, or general welfare of the persons within the vicinity.
3. For exceptions to objective design standards pursuant to Section 6.20.120.B.7 and 6.20.120.B.8, the Modification to Standards will result in a superior design approach suited to the type of development, circumstances at the property or adjacent property(ies), and/or constitutes a reasonable design solution that improves compatibility with surrounding development.

- G. **Conditions of Approval.** In approving a Modification to Standards, the Review Authority may impose conditions of approval to ensure that the development will comply with the findings required by Subsection F.

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### 6.20.075 Short-Term Rental Permit

Refer to Section 4.10.185

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### 6.20.080 Temporary Use Permit

- A. **Purpose.** This Section establishes procedures and standards for Temporary Use Permits for the short-term activities specified in this Section. These are activities that may not comply with particular standards of the applicable zone, but may otherwise be acceptable because of their temporary nature, if reviewed and appropriately conditioned in compliance with this Section.
- B. **Applicability.** A Temporary Use Permit is required to permit the short-term activities specified in this Section.
- C. **Review Authority.** The Director is authorized to issue Temporary Use Permits. The Director shall approve, conditionally approve, or deny Temporary Use Permits.
- D. **Application requirements.** An application for a Temporary Use Permit shall be prepared, filed, and processed in compliance with Section 6.10 (Permit Application Filing and Processing).
- E. **Exempt short-term activities.** The following activities are allowed without a Temporary Use Permit, but may require other permits as specified.
1. Construction yards - On-site. On-site contractor's construction yard for an approved construction project including storage or cargo containers. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the project construction, whichever occurs first.
  2. Fund-raising events.
    - a. Fund raising events (e.g., bake sales, yard sales, car washes, etc.) conducted on property within a non-residential zone, limited to a maximum of two days per month for each sponsoring organization.
    - b. Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Revenue and Taxation Code.
  3. Garage sales. Garage sales may be held in compliance with Section 4.10.077 (Garage Sales).

4. Public right-of-way. Activities conducted within the public right-of-way that are authorized by an Encroachment Permit.
  5. Special Events. A Special Events Permit shall be required in compliance with Municipal Code Article III if an event is anticipated or planned to be attended by more than 100 people.
  6. Meeting halls or public assembly facilities. Events that occur at permanent meeting halls or public assembly facilities, unless the activity involves resale goods as defined in Chapter 9 (Definitions), which shall require a Temporary Use Permit to comply with the requirements of Section 4.10.160 (Resale Stores).
- F. Allowed short-term activities.** A Temporary Use Permit may authorize the following short-term activities within the specified time limits, but in no event for more than 12 months. Other activities that are proposed to occur for no more than 12 months, but do not fall within the categories defined below shall instead comply with the Development Permit requirements and development standards that otherwise apply to the property.
1. Events. Art and craft exhibits, carnivals, circuses, fairs, farmer's markets, festivals, flea markets, food events, open-air theaters, outdoor entertainment/sporting events, promotional events, rummage sales, swap meets, and other special events.
  2. Seasonal sales lots. Seasonal sales activities (e.g., Christmas tree lots, pumpkins, agricultural products grown on the premises, etc.) including temporary residence/security trailers.
  3. Mobile Vendors on private property. A mobile vendor may operate a maximum of 10 days per calendar month on private property, subject to the following operating requirements:
    - a. Access and Circulation. Mobile vending operations shall be located in an area that does not impede safe vehicular, bicycle, or pedestrian traffic or does not provide adequate sight distance at a corner in compliance with Section 3.10.030.E. Obstruction of access or circulation through any parking lot, or obstruction of access to any public sidewalk or street is prohibited.
    - b. Location of Mobile Vendor. Mobile vendors shall be parked, stopped, or standing on an asphalt, concrete, or all-weather surface (as approved by the City Engineer) and outside of any designated fire lane, or loading space. Mobile vendors are prohibited on undeveloped lots except when operating as an ancillary use for a special event.
    - c. Seating Areas. Seating areas may be provided as authorized by the Temporary Use Permit.
    - d. Display of merchandise. The display of merchandise is prohibited and includes placement of goods outside of the vehicle and attached to the vehicle.

- e. County Health Permit. Mobile vendors selling food or other consumable, ingestible products shall have a valid permit issued by the County Department of Public Health. All required County health permits must be in possession of the mobile vendor operator when operating in the city.
  - f. Hours of operations. Mobile vendors shall be prohibited from operating between the hours of 10:00 p.m. to 7:00 a.m., including set up and clean up.
  - g. Litter Removal. Mobile vendors shall remove litter caused by its products from any public and private property within a 25 foot radius of the vending vehicle's location.
  - h. Noise. Mobile vendors shall comply with Municipal Code Article III, Chapter 1.01 (Noise Standards).
  - i. Signage. Mobile vendors shall comply with Section 3.60 (Sign Regulations).
  - j. Events. The Director may allow more than one mobile vendor if associated with a special or promotional event of no greater than three consecutive days.
  - k. Waste Management.
    - i. Mobile vendors shall not discharge any liquid (e.g., water, grease, oil, etc.) onto or into city streets, storm drains, catch basins, or sewer facilities. All discharges shall be contained and properly disposed of by the operator.
    - ii. Mobile vending operations shall provide separate and clearly marked receptacles for trash, recycling and/or compost, according to the collection services available at the operating site. Operators shall properly dispose of all trash, recycling and/or compost generated by their operations daily.
4. Model homes & sales office. A model home(s) and/or sales office associated with a residential project. This may include off-site directional signs located on private property with written permission from the property owners. The maximum sign area shall be 36 square feet for each sign and a maximum sign height of six feet.
  5. Temporary structures. A temporary classroom, office, or similar structure (not for storage), including a manufactured or mobile unit, may be approved as an accessory use for a maximum of 12 months.
  6. Temporary storage containers. A temporary storage or cargo container not associated with an active building permit may be approved for a maximum of 30 days. The storage container shall be located on-site.
  7. Temporary office and living quarters. A trailer or mobile home used as a temporary work and/or living quarters when associated with an active construction site.

8. Construction yards - Off-site. Off-site contractors' construction yards, for an approved non-City construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the project, whichever occurs first.
  9. Similar short-term activities. A short-term activity that the Director determines is similar to the other activities listed in this Section, and compatible with the applicable zone and surrounding land uses.
- G. **Notice and hearing.** A public notice and hearing shall not be required for the Director's decision on a Temporary Use Permit.
- H. **Findings.** The Director may approve a Temporary Use Permit subject to making all of the following findings:
1. The location, operation and time period of the temporary use will not constitute a hazard to the public interest, health, safety, or general welfare.
  2. The operation of the temporary use will not be detrimental to adjoining properties through the creation of excessive dust, light, noise, odor, or other objectionable characteristics.
  3. The proposed lot is adequate in size and shape to accommodate the temporary use without detriment to the enjoyment of other properties located adjacent to and in the vicinity of the subject lot.
  4. The proposed lot is adequately and safely served by streets having sufficient capacity and improvements to accommodate the quantity of traffic that the temporary use will or could reasonably be expected to generate.
  5. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at an acceptable off-site location.
- I. **Conditions of Approval.** In approving a Temporary Use Permit application, the Director may impose conditions that are deemed reasonable and necessary to ensure that the permit would be in full compliance with the findings required by Subsection H. This may include conditions from other City departments (e.g., Police, Fire, and Public Works) that may have a direct effect on the operation of the temporary use. Conditions may address any pertinent factors affecting the operation of the temporary event, or use, and may include the following:
1. Regulating the length of time for operations, operating hours and days.
  2. Provision for adequate temporary pedestrian and vehicular circulation, and parking facilities.
  3. Regulation of nuisance factors including mitigation of glare or direct illumination, dirt, dust, noise, odors, smoke, trash, and vibration on adjacent lots.
  4. Regulation of temporary structures and facilities, including placement, height, size, and location of equipment.
  5. Provision to meet City building and fire code requirements.

6. Provision for sanitary and medical facilities, as appropriate.
7. Provision for solid, hazardous, and toxic waste collection, recycling, and/or disposal.
8. Provision for police/security and safety measures, as appropriate.
9. Regulation of signs.
10. Other conditions that would ensure that the operation of the proposed temporary use would be conducted in an orderly manner, and in full compliance with the purpose of this Section.

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### 6.20.090 Use Permit

- A. **Purpose.** This Section establishes procedures for Use Permits for developments and uses that may only be appropriate on particular sites and/or may need to be carefully designed to avoid or minimize potential negative impacts on the surrounding area.
- B. **Applicability.** A Use Permit is required to authorize land uses as specified in Chapter 2 (Zones and Allowable Land Uses) or as required by other Sections of this Development Code.
- C. **Review Authority.** The Commission is authorized to approve, conditionally approve, or deny Use Permit applications.
- D. **Application requirements.** An application for a Use Permit shall be prepared, filed, and processed in compliance with Section 6.10 (Permit Application Filing and Processing).
- E. **Notice and hearing.** Notice of the public hearing shall be provided and the hearing shall be conducted in compliance with Section 7.10 (Public Hearings).
- F. **Findings.** The Commission may approve a Use Permit only after making all of the following findings:
  1. The proposed development is consistent with the General Plan, this Development Code, and other City goals, policies, and standards, as applicable.
  2. For non-residential uses, the subject site is physically suitable in terms of design, operating characteristics, shape, size, and topography.
  3. The type, and intensity of use being proposed will not constitute a hazard to the public, health, safety, or welfare.
- G. **Conditions of Approval.** In approving a Use Permit, the Review Authority may impose conditions of approval to ensure that the development will comply with the findings required by Subsection F (Findings).

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**6.20.100 Variance**

- A. **Purpose.** This Section establishes procedures for a Variance to waive or modify standards of this Development Code when the strict application of the development standards would deny the applicant privileges enjoyed by other applicants in the vicinity and in the same zone because of special circumstances of the subject property including location, shape, size, surroundings, topography, or other physical features.
- B. **Applicability.** A Variance may be granted to waive or modify any requirement of this Development Code except: allowed land uses, residential density, specific prohibitions (for example, prohibited signs), the application of hazard or ESHA setback requirements, or procedural requirements. (Am. Ord. 14-04)
- C. **Review Authority.** The Commission is authorized to approve, conditionally approve, or deny Variance applications.
- D. **Application requirements.** An application for a Variance shall be prepared, filed, and processed in compliance with Section 6.10 (Permit Application Filing and Processing).
- E. **Notice and hearing.** Notice of the public hearing shall be provided and the hearing shall be conducted in compliance with Section 7.10 (Public Hearings).
- F. **Findings.** The Commission may approve a Variance only after making all of the following findings in compliance with Government Code Section 65906.
1. There are special circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features, etc.) that do not apply generally to other properties in the vicinity in the same zone.
  2. Strict compliance with Development Code standards would deprive the subject property of privileges enjoyed by other property in the vicinity and in the same zone.
  3. Approving the Variance would not constitute a granting of special privilege inconsistent with the limitations on other properties in the same vicinity and zone.
  4. The requested Variance would not allow a use or activity that is not otherwise expressly authorized by the regulations governing the subject parcel.
- G. **Conditions of Approval.** In approving a Variance, the Commission may impose conditions of approval to ensure that the development will comply with the findings required by Subsection F.

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**6.20.110 Zoning Clearance**

- A. **Purpose.** This Section provides a procedure for issuing Zoning Clearances, which are used to verify that a proposed land use or structure complies with the allowed uses and development standards applicable to the type of use or the zone of the subject parcel.
- B. **Applicability.** Zoning Clearance is required to verify that all requirements of this Development Code have been satisfied for any permitted (“P”) land use allowed by Chapter 2 (Zones and Allowable Land Uses) and where no discretionary permit approval to establish the use or development is required. In addition, the following require Zoning Clearance:
1. Additions to existing dwelling units.
  2. Additions to existing multi-unit dwellings.
  3. Conversion of a commercial unit to a residential dwelling.
  4. Residential projects with four or fewer dwelling units.
  5. Mixed-use projects with nine or fewer dwelling units.
  6. Conversion of existing multi-unit dwellings using fractional density into nine or fewer additional dwelling units.
  7. Affordable housing projects that provide 25 percent or more of the dwelling units as deed restricted to very low- and/or low-income households.
  8. A “reconfiguration” of an architectural feature which does not modify the previously approved theme or plan for an approved development application.
  9. Restriping of a parking lot which does not decrease the number of parking spaces required for an approved development project nor change the vehicle circulation patterns, unless otherwise required to comply with Americans with Disabilities Act (ADA) requirements.
  10. Color and material board changes that are consistent with the original approval for a completed residential, commercial, or industrial development project.
  11. Upper story/rooftop decks that are in compliance with Section 3.10.080 (Upper Story/Rooftop Decks) and all applicable objective design standards of this Development Code.
  12. As otherwise required by this Development Code.
- C. **Review Authority.**
1. Outside of Coastal Zone. Zoning Clearance is conducted by the Director and not subject to an appeal.



2. Within Coastal Zone. A Coastal Development Permit (Section 6.20.040) is required to authorize any Zoning Clearance for an expansion of use or development located in the Coastal Zone.
- D. **Application Requirements.** An application for Zoning Clearance shall be prepared, filed, and processed in compliance with Section 6.10 (Permit Application Filing and Processing) to comply with the following:
1. A Zoning Clearance shall be filed concurrently with the Building Permit application, if applicable. An applicant may file a Pre-Application (Section 6.10.030) for a preliminary assessment of whether a contemplated project would comply with the objective development and design standards of the Development Code.
  2. No person shall alter, install, occupy, or use any newly constructed or modified structure, or change or occupy any newly initiated or modified use, or type or class of use without first applying for and obtaining the required Zoning Clearance.
- E. **Notice and Hearing.** A public notice and hearing shall not be required for the Director's decision on Zoning Clearances.
- F. **Approval.** The Director shall issue the Zoning Clearance after first determining that the proposed development or improvement:
1. Complies with all of the applicable provisions, requirements, and standards for the category of use and the zone of the subject parcel;
  2. Demonstrates compliance with any previously issued conditions of approval affecting the use on the subject parcel;
  3. Demonstrates compliance with the Development Code and other applicable City standards; and
  4. Is consistent with the General Plan and any applicable specific plan.
- G. **Conditions of Approval.** The Director's decision on a Zoning Clearance shall not impose any conditions of approval.

## 6.30 Permit Implementation, Time Limits, Extensions, and Revocations

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### Sections:

- 6.30.010 - Purpose
- 6.30.020 - Effective Date of Permits
- 6.30.030 - Applications Deemed Approved
- 6.30.040 - Permit to Run With the Land
- 6.30.050 - Performance Guarantees
- 6.30.060 - Time Limits and Extensions
- 6.30.070 - Changes to an Approved Development
- 6.30.080 - Permit Revocations

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### 6.30.010 Purpose

This Section provides requirements for the implementation of the development applications or approvals required by this Development Code, including time limits and procedures for approving extensions of time.

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### 6.30.020 Effective Date of Permits

- A. **Permits not within the coastal zone.** The approval of a discretionary development application for a development shall become effective after the 10<sup>th</sup> working day following the date of application approval by the Review Authority, where no appeal of the Review Authority's action has been filed in compliance with Section 7.20 (Appeals).
- B. **Permits non-appealable to the Coastal Commission.** The approval of a development application for a development that is not appealable to the Coastal Commission shall become effective after the 10<sup>th</sup> working day following the date of approval by the Review Authority, where no appeal of the Review Authority's action has been filed in compliance with Section 7.20 (Appeals).
- C. **Permits appealable to the Coastal Commission.** The approval of a development application that is appealable to the Coastal Commission shall become effective upon the expiration of the Coastal Commission's 10 working day appeal period which begins the day after the receipt by the California Coastal Commission of notice of the City's final action, and where no appeal of the Review Authority's action has been filed by two Coastal Commissioners, the applicant, or any aggrieved person in compliance with the Coastal Act, but not if the notice of final local action does not meet the requirements of California Code of Regulations 13571.

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### **6.30.030 Applications Deemed Approved**

A development application deemed approved in compliance with Government Code Section 65956(b) shall be subject to all applicable provisions of the General Plan, this Development Code, and other applicable City policies and standards before a building permit is issued or a land use not requiring a building permit is established.

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### **6.30.040 Permit to Run With the Land**

Unless otherwise specified, development applications and approvals granted in compliance with this Chapter shall run with the land, and shall continue to be valid upon a change of ownership of the site or structure to which it applies, with the exception of Home Occupation Permits.

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### **6.30.050 Performance Guarantees**

#### **A. Deposit of security**

1. The Review Authority or the Director may require the execution of a covenant or other agreement to deposit security in a reasonable amount to ensure the faithful performance of one or more of the conditions of approval.
2. The security shall, as required by law or otherwise at the option of the City, be in a form which includes but is not limited to cash, a certified or cashier's check, letter of credit, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the City.
3. The security shall remain in effect until all of the secured conditions have been performed to the satisfaction of the Director.
4. Security required in compliance with this Section shall be payable to the City.

**B. Release of security.** Upon satisfactory compliance with all applicable provisions of this Section, the security deposit shall be released.

#### **C. Failure to comply**

1. Upon failure to perform any secured condition(s), the City may perform the condition, or cause it to be done, and may collect from the obligor all costs incurred, including administrative, engineering, legal, and inspection costs.
2. Any unused portion of the security shall be refunded to the obligor after deduction of the cost of the work.

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## 6.30.060 Time Limits and Extensions

### A. Time limits

1. Unless a condition of approval or other provision of this Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B.
2. If a development is to be constructed in approved phases, each subsequent phase shall be exercised within 24 months from the date that the previous phase was exercised, or the permit shall expire and become void, except where an extension of time is approved in compliance with Subsection B.
3. The permit shall not be deemed "exercised" until the applicant has substantially commenced construction of the approved development or actually commenced the allowed use on the site in compliance with the conditions of approval.

### B. Extensions

1. Filing and review of request
  - a. Time for filing. The Applicant shall file an application for an extension of time with the Director before the expiration of the permit, together with the filing fee required by the City's Master Fee Schedule. The permit shall be automatically extended for 60 days, or until the application for the extension is approved, conditionally approved, or denied, whichever occurs last.
  - b. Evidence to be provided. The Review Authority shall determine whether the applicant has made a good faith effort to exercise the permit. The burden of proof is on the applicant to establish that circumstances beyond the control of the applicant (e.g., demonstrated problems with completing the acquisition of the lot, poor weather during periods of planned construction, financial circumstances, etc.) have prevented exercising the permit.
  - c. Public hearing. If the original approval required a public hearing, the Review Authority shall hold a public hearing on a proposed extension of time, after providing notice of the public hearing in compliance with Section 7.10 (Public Hearings). If the original approval did not require a public hearing, the Director may approve the extension of time.
2. Action on extension request.
  - a. A permit may be extended for three additional 12-month periods beyond the expiration of the original approval; provided, the Review Authority finds that there have been no changes in the conditions or circumstances of the site or development.

- b. If a project requires the issuance of a permit by the federal or state governments, or a local agency other than the City in order to be constructed, additional extensions may be granted beyond the extensions allowed in subsection 2.a, if the review authority can make a finding the delay in the project was not caused by the Applicant's actions or failure to use due diligence in pursuing the required permits necessary to move forward with construction of the project.

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## 6.30.070 Changes to an Approved Development

### A. Application.

1. A development or new land use allowed through a permit or approval granted in compliance with this Development Code shall be in substantial compliance with the approved drawings and plans, and any conditions of approval imposed by the Review Authority, except where changes to the development are approved in compliance with this Section.
2. An Applicant shall request desired changes in writing, and shall also furnish appropriate supporting materials and an explanation of the reasons for the request. Requested changes may involve changes to one or more conditions imposed by the Review Authority or actual changes to the development (e.g., hours of operation, expansion of a use, etc.) as originally proposed by the Applicant or approved by the Review Authority.
3. Changes shall not be implemented until first approved by the applicable Review Authority, and may be requested either before or after construction or establishment and operation of the approved use.

- B. **Notice and hearing.** If the matter originally required a noticed public hearing, the Review Authority shall hold a public hearing in compliance with Section 7.10 (Public Hearings), except for the minor changes outlined in Subsection C. below.

- C. **Minor changes by Director.** The Director may authorize minor changes to an approved development application or other approval only if the changes:

1. Are consistent with all applicable provisions of this Development Code and the spirit and intent of the original approval; and
2. Do not involve a feature of the development that was:
  - a. A basis for findings in a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report for the development;
  - b. A basis for conditions of approval for the development; or
  - c. A specific consideration by the Review Authority (e.g., the Director, Commission, or Council) in approving the permit; and

3. Do not involve any expansion of the use of more than 10 percent, if located east of Highway 1, and do not involve expansion of the use by any amount, if located west of Highway 1.

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### 6.30.080 Permit Revocations

- A. **Permit Revocations.** The City's action to revoke a permit or approval shall have the effect of terminating the permit or approval and denying the privileges granted by the original approval.
- B. **Hearing and notice required.** The Commission shall hold a public hearing to revoke a permit or approval granted in compliance with the provisions of this Development Code. The hearing shall be noticed and conducted in compliance with Section 7.10 (Public Hearings).
  1. Ten days before the public hearing, notice shall be mailed or delivered to the applicant being considered for revocation and the property owner of the site.
  2. Exceptions.
    - a. Temporary Use Permits.
    - b. Short-Term Rental Permits.
- C. **Findings**
  1. Permits. A Use Permit or other development application or approval (except a Variance, see Subsection 2., below) may be revoked by the Commission, if it makes any one of the following findings:
    - a. Circumstances under which the permit or approval was granted have been changed by the applicant to an extent that one or more of the findings that justified the original approval can no longer be made, and the public health, safety, and welfare require revocation.
    - b. The permit or other approval was granted, in whole or in part, on the basis of a fraud, misrepresentation, or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or approval.
    - c. One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated.
    - d. The approved use or structure has ceased to exist or has been suspended for a period in excess of 12 months.
    - e. An improvement authorized in compliance with the permit or approval is in violation of any applicable code, law, ordinance, regulation, or statute.

- f. The improvement/use allowed by the permit or approval has become detrimental to the public health, safety, or welfare or the manner of operation constitutes or is creating a nuisance.
2. Variances. A Variance may be revoked by the Commission, if the Commission makes any one of the following findings, in addition to any one of the findings specified in Subsection 1, above:
    - a. Circumstances under which the original approval was granted have been changed by the applicant to a degree that one or more of the findings contained in the original approval can no longer be made in a positive manner, and the grantee has not substantially exercised the rights granted by the Variance.
    - b. One or more of the conditions of the Variance have not been met, or have been violated, and the grantee has not substantially exercised the rights granted by the Variance.

## 6.40 Affordable Housing Streamlined Review

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### Sections:

- 6.40.010 - Purpose
- 6.40.020 - Eligibility
- 6.40.030 - Exclusions
- 6.40.040 - Certifications
- 6.40.050 - Review Procedure

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### 6.40.010 Purpose

This Section provides requirements for the implementation of Government Code Section 65913.4 establishing Affordable Housing Streamlined Review of qualifying multi-unit housing development and mixed-use development projects.

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### 6.40.020 Eligibility

- A. **To be eligible for streamlined processing under this Section, the development project must satisfy all of the following criteria:**
1. **Multi-Unit or Mixed-Use.** The project must be a multi-unit housing development that contains at least two residential units or a mixed-use development with at least two-thirds residential component in terms of development square footage and comply with the minimum and maximum residential density range permitted for the site, plus any applicable density bonus.
  2. **Required Affordable Units.** If more than 10 residential units are proposed, at least 10 percent of the project's units must be dedicated as affordable to households making below 80 percent of the area median income. If the project will contain subsidized units, the applicant has recorded or is required by law to record a land use restriction for either a minimum of 55 years for rental type units, or a minimum of 45 years for ownership type units
  3. **Legal Parcel Adjacent to Urban Uses.** The project must be located on a legal parcel or parcels within the incorporated City limits. At least 75 percent of the perimeter of the site must adjoin parcels that are developed with urban uses, which means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. Legal parcels that are only separated by a street or highway shall be considered adjoined.
  4. **Conforms with General Plan and Zoning.** The project must be located on a property or properties either zoned or has a General Plan designation allowing for multi-unit residential development or mixed-use development with a residential component.



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5. **Objective Design and Development Standards.** The project must meet all objective design and development standards in effect at the time the application is submitted.
6. **Parking.** The project must provide at least one parking space per unit without regard to unit size, number of bedrooms, or guest parking spaces; however, no parking is required if the project meets any of the following criteria:
  - a. The project is located within one-half mile of public transit.
  - b. The project is located within an architecturally and historically significant historic district.
  - c. On-street parking permits are required but not offered to the occupants of the project.
  - d. There is a car share vehicle within one block of the development.
- B. **Subdivision.** The project does not involve an application to create separately transferable parcels under the Subdivision Map Act.

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#### 6.40.030 Exclusions

The following types of property or property characteristics are excluded from consideration or application for streamlined processing under this Section:

- A. **Farmland.** Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by the City.
- B. **Wetlands.** Wetlands, as defined in the United States Fish and Wildlife Service
- C. **Fire Hazards.** A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.
- D. **Hazardous Waste Site.** A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed-uses.
- E. **Fault Zones.** A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California

Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

- F. Floodplain. A floodplain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development application pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
- G. Floodway. A floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.
- H. Conservation/Resource Protection. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the Federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.
- I. Protected Habitat. Habitat for protected species identified as candidate, sensitive, or species of special status by State or Federal agencies, fully protected species, or species protected by the Federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
- J. Conservation. Lands under conservation easement.
- K. Rent Restricted. A site that would require demolition of housing that is subject to recorded restrictions or law that limits rent to levels affordable to moderate, low, or very-low-income households; subject to rent control; or currently occupied by tenants or that was occupied by tenants within the past ten years.
- L. Tenancy. A site that previously contained housing occupied by tenants that was demolished within the past 10 years.
- M. Mobilehome. A parcel of land or site governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.

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**6.40.040 Certifications**

The project proponent must certify to at least one of the following:

- A. **Public Work.** The entirety of the project is a public work as defined in Government Code Section 65913.4(8)(A)(i).
- B. **Prevailing Wage.** The project is not in its entirety a public work and all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.
- C. **Ten or Fewer Units.** The project includes 10 or fewer units, is not a public work, and does not require subdivision.
- D. **Skilled Workforce.** If the project consists of 50 or more units that are not 100 percent subsidized affordable housing, the project proponent must certify that it will use a skilled and trained workforce, as defined in Government Code section 65913.4(8)(B)(ii).

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**6.40.050 Review Procedure**

- A. **Application.** A developer shall submit a notice of intent to the City that a project should be considered under the Senate Bill 35 eligibility criteria as outlined in this Section. Such notice shall include information and materials as listed on the City's SB 35 Application (Affordable Housing Streamlined Review) and shall be submitted for review by the Director to determine eligibility.
- B. **Determination of Complete Application.** The Director has the authority to review applications for completeness and compliance with the provisions of this Section.
- C. **Ineligible Application.** If the Director determines a project ineligible under this Section, the review of the project shall be subject to all application types, reviews and procedures as outlined in Chapter 6 (Procedures).
- D. **Ministerial Action.** The review of and action on the application for multi-unit residential development or mixed-use development with a residential component that complies with all the provisions of this Section is a ministerial action not subject to further discretionary review or action.
- E. **CEQA.** A qualifying project approved by ministerial action pursuant to this Section shall not be subject to additional review or determination under the California Environmental Quality Act (CEQA) pursuant to the general rule that CEQA is inapplicable to ministerial actions of the City.