

ARTICLE 9

Development Code Administration

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CHAPTER 17.90 - NONCONFORMING USES, STRUCTURES, AND PARCELS

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- 17.90.070 - Nonconforming Due to Lack of Use Permit

17.90.010 - Purpose

- A. **Nonconforming regulations.** This Chapter provides regulations for nonconforming land uses, structures, and parcels that were lawful before the adoption, or amendment of this Development Code, but which would be prohibited, regulated, or restricted differently under the current terms of this Development Code or an amendment that changed the applicable requirements.
- B. **Discourage long-term continuance.** It is the intent of this Development Code to discourage the long-term continuance of nonconformities other than residential uses, generally providing for their eventual elimination, while allowing them to exist under the limited conditions identified in this Chapter.

17.90.020 - Definitions

- A. **Nonconforming parcel.** A parcel that was legally created before the adoption of this Development Code or amendment, but does not comply with the current area, width, depth, or other applicable requirements of this Development Code.
- B. **Nonconforming sign.** A sign that lawfully existed before the effective date of this Development Code or amendment, but does not comply with the current sign regulations of this Development Code.
- C. **Nonconforming structure.** A structure that was legally constructed before the adoption or amendment of this Development Code, but does not comply with the current setback, height limit, off-street parking, and/or other applicable requirements of this Development Code.
- D. **Nonconforming use.** A use of land, and/or within a conforming or nonconforming structure that was legally established and maintained before the adoption of this Development Code or amendment, but does not conform to the current Development Code requirements for allowable land uses within the applicable zone.

17.90.030 - Restrictions on Nonconforming Uses and Structures

A nonconforming land use and the use of a nonconforming structure may be continued, including transfers of ownership; provided, their continuation shall comply with the requirements of this Section. See Section 17.90.040. below for exceptions regarding certain residential uses and structures.

A. Nonconforming use of land.

1. **General rule.** A nonconforming use of land may be continued, including through a transfer of ownership; provided that the use shall not be enlarged or increased, nor be extended to occupy a greater area of land than it lawfully occupied before becoming nonconforming.
2. **Nonconforming use in a conforming structure.** A nonconforming land use within a conforming structure may be expanded or replaced with a similar use with Minor Use Permit approval, as follows:
 - a. **Expansion of use.** A nonconforming use within a portion of a structure may be extended throughout the structure; and
 - b. **Substitution of use.** A nonconforming use within a structure may be changed to another nonconforming use of the same type, or a use that is required by this Development Code to have less parking; except that if a nonconforming use is changed to a conforming use, no nonconforming use may be established thereafter.

B. Nonconforming structure. A nonconforming structure may continue to be used as follows:

1. **Changes to, or expansion of a structure.** A nonconforming structure may be changed or expanded as follows:
 - a. **Nonresidential or multi-family structure.** A nonconforming structure may be enlarged, extended, reconstructed, or relocated on the site with Minor Use Permit approval, if the changes comply with all applicable provisions of this Development Code; provided that the review authority first finds that the additional work is compatible with neighboring uses and would not adversely impact neighboring properties; and
 - b. **Single dwelling.** A single dwelling, including its garage, that is nonconforming with respect to setback requirements, height limits, or other development standards may undergo interior modifications in compliance with Building Code requirements without limitation by this Chapter. Exterior modifications that go beyond the prior structure footprint may be allowed as follows:
 - (1) The Director may approve an addition to a nonconforming single-family dwelling where the addition complies with applicable setback requirements; and
 - (2) An addition that encroaches into a required setback no further than an existing nonconforming portion of the structure may be allowed with Minor Use Permit approval; provided, the addition is less than 25 percent of the total floor area of the existing structure; it complies with Building Code requirements; and the review authority first determines that the addition will not adversely affect any neighboring property.

2. **Conversion of existing nonconforming structure to residential unit.** Within a residential zone, a nonconforming accessory structure within a rear yard may be converted to a second unit, and a nonconforming residential structure within a rear yard may be rehabilitated and expanded; provided, that:
 - a. The height of the structure does not exceed one story;
 - b. The conversion and/or expansion complies with Subparagraph B.1.b., above; and
 - c. The converted second unit complies with the standards identified in Section 17.44.190 (Second Units).
3. **Ordinary maintenance and repair.** A nonconforming structure may undergo ordinary maintenance and repair.
4. **Seismic retrofitting and Building Code compliance.** A nonconforming structure may undergo alterations, reconstruction, or repair to reinforce unreinforced masonry or to comply with Building Code requirements; provided, the work is exclusively to comply with applicable earthquake safety standards and the Building Code, and does not change the structure's footprint or height.

17.90.040 - Residential Exceptions

- A. **Reconstruction or replacement.** An involuntarily damaged or destroyed single- or multi-unit nonconforming dwelling may be reconstructed or replaced with a new structure with the same footprint, height, and number of dwelling units, in compliance with current Building and Fire Code requirements.
- B. **Substantial expansion, rehabilitation, or renovation.** Substantial expansion, rehabilitation, or renovation of an existing dwelling unit in a zone where residences are a nonconforming use may be allowed with Minor Use Permit and Development Review Permit approval, in compliance with Sections 17.72.060 and 17.72.030.
 1. **Substantial expansion, rehabilitation, or renovation defined.** Substantial expansion, rehabilitation, or renovation occurs when at least 25 percent of the floor area of the existing residential structure is proposed to be added to the structure and/or a Building Permit for construction valued at 50 percent or more of the assessed value of the structure before expansion, rehabilitation, or renovation is requested.
 2. **Protection of community and neighborhood character.** Within the traditional community development zones (Chapter 17.21), the review authority shall ensure that Minor Use Permit and Development Review approval for a substantial expansion, rehabilitation, or renovation shall maintain public health, safety, and welfare, maintain neighborhood character, and encourage mixed-use development.

17.90.050 - Loss of Nonconforming Status

- A. **Termination by discontinuance.**
 1. If a nonconforming use of land or a nonconforming use of a conforming structure is discontinued for a continuous period of 12 months or more, all rights to legal nonconforming status shall terminate.
 2. The Director shall base a determination of discontinuance on evidence including the removal of equipment, furniture, machinery, structures, or other components of the nonconforming use, disconnected or discontinued utilities, or no business records to document continued operation.

3. The Director may grant a Minor Use Permit to allow an extension of the 12-month period for a period not to exceed an additional 12 months if the Director finds that circumstances of a significant or unusual nature prevent or have prevented the timely reestablishment of the use or structure. The applicant shall file an application for the Minor Use Permit for the extension of time before expiration of the original 12-month period in compliance with Section 17.72.060.
4. Once the rights to a legal nonconforming status have terminated, any further use of the site or structure shall comply with the regulations of the applicable zone and all other applicable provisions of this Development Code.

B. Termination by destruction. Nonconforming status shall terminate if a nonconforming structure, or a conforming structure occupied by a nonconforming use, is involuntarily damaged or destroyed; except as provided by Section 17.90.040 (Residential Exceptions), above for dwellings, and except as follows.

1. If the cost of repairing or replacing the damaged portion of the structure is 50 percent or less of the assessed value of the structure immediately before damage, the structure may be restored to no more than the same size and use, and the use continued, if the restoration is started within 12 months following the date of damage and is diligently pursued to completion.
2. Minor Use Permit approval shall be required if the cost of repairing or replacing the damaged portion of the structure is more than 50 percent of the assessed value of the structure immediately before the damage. Minor Use Permit approval shall require a finding, in addition to those contained in Section 17.72.060, that the benefit to the public health, safety, or welfare exceeds the detriment inherent in the restoration and continuance of a nonconformity.

17.90.060 - Nonconforming Parcels

A. Legal building site. A nonconforming parcel that does not comply with the applicable area, width, or depth requirements of this Development Code shall be considered a legal building site if it meets at least one of the following criteria, as documented to the satisfaction of the Director by evidence furnished by the applicant:

1. **Approved subdivision.** The parcel was created by a recorded subdivision;
2. **Individual parcel legally created by deed.** The parcel is under one ownership, was legally created by a recorded deed before the effective date of the amendment that made the parcel nonconforming, and can be confirmed by a Certificates of Compliance issued in compliance with Section 17.84.020;
3. **Variance or lot line adjustment.** The parcel was approved through the Variance procedure or resulted from a lot line adjustment; or
4. **Partial government acquisition.** The parcel was created in compliance with the provisions of this Development Code, but was made nonconforming when a portion was acquired by a governmental entity so that the parcel size is decreased not more than 20 percent and the yard facing a public right-of-way was decreased not more than 50 percent.

B. Subdivision of a nonconforming parcel. No subdivision shall be approved that would increase the nonconformity of an existing parcel.

17.90.070 - Nonconforming Due to Lack of Use Permit

- A. Conformity of uses requiring a Use Permit.** A use lawfully existing without the approval of a Use Permit or Minor Use Permit that would otherwise be required by Article 2 (Zones, Allowable Land Uses, and Zone Standards) of this Development Code shall be deemed conforming only to the extent of its previous lawful use (e.g., maintaining the same site area boundaries, hours of operation, etc.).
- B. Previous planning permits in effect.** A use that was authorized by a Use Permit or Minor Use Permit but is not allowed by this Development Code in its current location may continue, but only in compliance with the original Use Permit or Minor Use Permit (e.g., maintaining the same site area boundaries, hours of operation, etc.).

CHAPTER 17.91 - APPEALS

Sections:

- 17.91.010 - Purpose
- 17.91.020 - Appeal Subjects and Jurisdiction
- 17.91.030 - Filing and Processing of Appeals
- 17.91.040 - Judicial Review of City Decision
- 17.91.050 - Finality of Council Actions

17.91.010 - Purpose

This Chapter establishes procedures for the appeal and review of determinations or final actions of the applicable review authority (e.g., Director, Development Review Committee, Commission, or Council).

17.91.020 - Appeal Subjects and Jurisdiction

- A. **Code administration and interpretation.** The following determinations and actions of the Director and Department staff may be appealed to the Commission:
 - 1. Any determination on the meaning or applicability of the regulations contained in this Development Code that are believed to be in error, and cannot be resolved with the Director;
 - 2. Any determination that a permit application or information submitted with the application is incomplete, in compliance with Government Code Section 65943; and
 - 3. Any action of the Director or Department staff regarding an enforcement matter in compliance with Chapter 17.98 (Enforcement).
- B. **Director decisions.** Decisions of the Director on a Development Review Permit, Limited Term Permit, Minor Use Permit, Minor Variance, or Sign Permit may be appealed to the Commission.
- C. **Development Review Committee decisions.** Decisions of the Development Review Committee, other than a staff level decision, may be appealed to the Commission.
- D. **Commission decisions.** Decisions of the Commission may be appealed to the Council.

17.91.030 - Filing and Processing of Appeals

- A. **Eligibility.**
 - 1. **Eligible person defined.** An appeal in compliance with this Chapter may be filed by any aggrieved person, except that in the case of a decision on a Use Permit, Variance, and/or other Commission decision that followed a public hearing, an appeal may only be filed by a person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of their concerns before the hearing.
 - 2. **Appeal by Council member.** A determination or final action by the Director or Commission in compliance with this Development Code may be appealed by a Council member acting as an individual, but the Council member shall not vote when the appeal is considered by the Council.

- B. Timing and form of appeal.** An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal.
- 1. Timing of appeal.** An appeal shall be filed with the Department or City Clerk, as applicable, within 15 calendar days following the date the decision was rendered.
 - a. Effective date.** A determination or final action shall become effective on the 16th day following the date of action by the appropriate review authority, where no appeal of the review authority's action has been filed in compliance with this Chapter.
 - b. 15-day period defined.** The 15-day period (also known as the "appeal" period in compliance with this Chapter) begins the first full day after the date of decision that the City Hall is open for business, and extends to the close of business (5:00 p.m.) on the 15th day, or the very next day that the City Hall is open for business.
 - c. Appeals to the Commission.** Appeals addressed to the Commission shall be filed with the Department.
 - d. Appeals to the Council.** Appeals addressed to the Council shall be filed with the City Clerk.
 - 2. Fee required.** An appeal shall be accompanied by the filing fee identified in the City's Planning Fee Schedule.
 - 3. Effect of filing appeal.** The filing of any appeal under the provision of this Chapter shall stay the effective date of any determination or final action of the Director or Commission until the applicable review authority has acted upon the appeal.
 - 4. Refund of fee.** The appeal fee may be refunded (either partially or entirely) if the appeal of the applicant is sustained by the Council in compliance with the City's Planning Fee Schedule.
- C. Scope of planning permit appeals.**
1. An appeal of a decision on a planning permit shall be limited to issues raised at the public hearing, or in writing before the hearing, or information that was not known at the time of the decision that is being appealed.
 2. The appellant shall have the burden to prove, to the satisfaction of the applicable review authority, that the issues raised in the appeal comply with the limitations identified in Subparagraph 1., above.
- D. Report and scheduling of hearing.**
- 1. Director shall prepare a report.** When an appeal has been filed, the Director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority identified in Section 17.91.020 (Appeal Subjects and Jurisdiction), above.
 - 2. Notice of hearing required.** Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 17.92 (Public Hearings). Any interested party may appear and be heard regarding the appeal.

E. Decision.

1. **Action by review authority.** At a hearing on the appeal the review authority may consider any issue involving the matter that is the subject of the appeal ("de novo"), in addition to the specific grounds for the appeal. The review authority may:
 - a. Affirm, affirm in part, or reverse the action, decision, or determination that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or non-compliance of the subject of the appeal with this Development Code;
 - b. Adopt additional conditions of approval, that may address issues or concerns other than the subject of the appeal (e.g., additional mitigation measures identified during the CEQA review by the review authority); or
 - c. Deny the planning permit approved by the previous review authority, even where the appellant only requested a modification or elimination of one or more conditions of approval.
2. **Referral for further consideration.** If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the Director or Commission for further consideration to determine if the new or different evidence would alter the action of the original review authority.
3. **Decision within 60 days.** Within 60 days of the initial public hearing on the appeal, the review authority shall render its decision on the appeal, unless it is continued for good cause (e.g., additional CEQA review is required).
4. **Tie vote.** In the event of a tie vote by the review authority on an appeal, the decision being appealed shall stand.

F. Effective date of appeal decision.

1. **Commission decision.** A decision by the Commission is effective on the 16th day after the decision is rendered, as defined in Subparagraph B.1.b, above, when no appeal to the decision has been filed with the Council.
2. **Council decision.** A decision by the Council is final and shall be effective on the date the decision is rendered.

17.91.040 - Judicial Review of City Decision

No person shall seek judicial review of a City decision on a planning permit or other matter in compliance with this Development Code until all appeals to the Commission and Council have been first exhausted in compliance with this Chapter.

17.91.050 - Finality of Council Actions

- A. Action shall be commenced within 30 calendar days.** Any action or proceeding to annul, attack, review, set aside, or void any decision or action of the Council in regard to any alteration, amendment, change in zones under, or in regard to an appeal filed in compliance with this Chapter, or concerning any of the acts, determinations, or proceedings done, made, or taken to the decision, or to determine the reasonableness, legality, or validity of any conditions attached thereto, shall not be maintained by any person unless the action or proceeding is commenced within 30 calendar days after the date of the decision or action of the Council.
- B. Final within 30 calendar days.** The action or decision of the Council shall be final, unless an action or proceeding is filed within 30 calendar days after the date of the action or decision.

CHAPTER 17.92 - PUBLIC HEARINGS

Sections:

- 17.92.010 - Purpose
- 17.92.020 - Notice of Hearing
- 17.92.030 - Scheduling of Hearing
- 17.92.040 - Hearing Procedures
- 17.92.050 - Recommendation by Commission
- 17.92.060 - Decision and Notice

17.92.010 - Purpose

This Chapter provides procedures for public hearings required by this Development Code. When a public hearing is required, advance notice of the hearing shall be given, and the hearing shall be conducted, in compliance with this Chapter.

17.92.020 - Notice of Hearing

When this Development Code requires a public hearing before a decision on a permit, or for another matter, the public shall be provided notice of the hearing in compliance with Government Code Sections 65090, 65091, 65094 and 66451.3, and Public Resources Code 21000 et seq., and as required by this Chapter.

- A. **Content of notice.** Notice of a public hearing shall include all of the following information, as applicable.
1. **Hearing information.** The date, time, and place of the hearing and the name of the review authority; a brief description of the City's general procedure concerning the conduct of hearings and decisions (e.g., the public's right to appear and be heard); and the phone number and street address of the Department, where an interested person could call or visit to obtain additional information.
 2. **Project information.** The name of the applicant; a brief description of the project; the City's file number assigned to the application; a general explanation of the matter to be considered (e.g., Planned Development or Use Permit); a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing.
 3. **Statement on environmental document.** If a proposed Negative Declaration or final Environmental Impact Report has been prepared for the project in compliance with the City's *Environmental Review Guidelines*, the hearing notice shall include a statement that the review authority will also consider approval of the proposed Negative Declaration or certification of the final Environmental Impact Report.
- B. **Method of notice distribution.** Notice of a public hearing required by this Chapter for a planning permit, amendment, or appeal shall be given as follows, as required by Government Code Sections 65090 and 65091.
1. **Mailing.** Notice shall be mailed or delivered at least 10 days before the hearing to the following:
 - a. **Site owners.** The owners of the property being considered in the application, or the owner's agent, and the applicant;

17.92.050 - Recommendation by Commission

- A. Recommendation for approval.** After a public hearing on a proposed amendment to the General Plan, this Development Code, the Zoning Map, a development agreement, or a specific plan, and the Commission has recommended approval of the application, the recommendation and findings of the Commission shall be forwarded to the Council.
- B. Recommendation for denial.** After a public hearing on a proposed amendment to the General Plan, this Development Code, the Zoning Map, a development agreement, or a specific plan, and the Commission has recommended denial of the application, the following procedures shall apply.
- 1. If initiated by the filing of an application.** If initiated by the filing of an application, the Council shall not be required to take any further action unless an interested party requests a hearing by filing a written request with the City Clerk in compliance with Chapter 17.91 (Appeals).
 - 2. If initiated by the City.** If initiated by the City, the recommendation and findings of the Commission shall be forwarded to the Council.
- C. Mailing of Commission's recommendation.** A copy of the Commission's recommendation shall be mailed to the applicant at the address shown on the application.

17.92.060 - Decision and Notice

- A. Decision.**
1. The review authority may announce and record their decision on the matter being considered at the conclusion of a scheduled hearing, or defer action and continue the matter to a later meeting agenda in compliance with Section 17.92.040 (Hearing Procedure), above.
 2. At the conclusion of a hearing conducted by the Director, the Director may instead refer the matter to the Commission for a determination.
 3. The decision of the Council on any matter shall be final.
- B. Notice of decision.**
- 1. Provision of notice.** Within 10 days of a final decision on an application for a permit or other approval required by this Development Code, the City shall provide notice of its final action to the applicant and to any person who specifically requested notice of the City's final action.
 - 2. Contents of notice.** The notice of the final decision shall contain the summary of action taken, conditions of approval, reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City, and the procedure for appeal.

CHAPTER 17.94 - AMENDMENTS

Sections:

- 17.94.010 - Purpose
- 17.94.020 - Initiation of Amendment
- 17.94.030 - Processing, Notice, and Hearing
- 17.94.040 - Commission Action on Amendment
- 17.94.050 - Council Action on Amendment
- 17.94.060 - Findings and Decision
- 17.94.070 - Conditions on Zoning Map Amendments
- 17.94.080 - Effective Dates

17.94.010 - Purpose

This Chapter provides procedures for the amendment of the General Plan, this Development Code, and the Zoning Map whenever the Council determines public necessity and general welfare require an amendment.

17.94.020 - Initiation of Amendment

An amendment of the General Plan, this Development Code, or the Zoning Map may be initiated by the Commission or Council, proposed by the Director, or:

- A. **General Plan or Zoning Map amendments.** In the case of the General Plan or Zoning Map, an amendment may also be initiated by the filing of an amendment application with the Department by the owner or authorized agent of property for which the amendment is sought. If the property is under more than one ownership, all owners or their authorized agents shall join in filing the application.
- B. **Development Code.** In the case of the Development Code, the Council may also adopt an urgency measure as an interim ordinance in compliance with Government Code Section 65858.

17.94.030 - Processing, Notice, and Hearing

- A. **Application filing.** If the amendment is initiated by the filing of an amendment application, the application shall be accompanied by the information identified in the Department handout for amendment applications, and any applicable fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.94.060 (Findings and Decision), below.
- B. **Application processing.** After the filing and initial processing of a proposed amendment in compliance with Chapter 17.70 (Permit Application Filing and Processing), the Commission and Council shall each conduct one or more public hearings regarding the amendment.
- C. **Notice and hearings.** Notice of a public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 17.92 (Public Hearings).

17.94.040 - Commission Action on Amendment

- A. **Recommendation for approval.** After a public hearing on the proposed amendment to the General Plan, this Development Code, or the Zoning Map, and the Commission has recommended approval of the amendment, the recommendation and findings of the Commission, identified in Section 17.94.060 (Findings and Decision), below, shall be forwarded to the Council.

- B. Recommendation for denial.** After a public hearing on the proposed amendment to the General Plan, this Development Code, or the Zoning Map, and the Commission has recommended denial of the amendment, the following procedures shall apply.
- 1. If initiated by the filing of an application.** If the amendment was initiated by the filing of an application, the Council shall not be required to take any further action unless an interested party requests a hearing by filing a written request with the City Clerk in compliance with Chapter 17.91 (Appeals).
 - 2. If initiated by the City.** If the amendment was initiated by the City, the recommendation and findings of the Commission, identified in Section 17.94.060 (Findings and Decision), below, shall be forwarded to the Council.
- C. Mailing of Commission's recommendation.** A copy of the Commission's recommendation shall be mailed to the applicant at the address shown on the application.

17.94.050 - Council Action on Amendment

- A. Council's action.** Upon receipt of the Commission's recommendation in compliance with Section 17.94.040 (Commission Action on Amendment), above, the Council shall conduct a public hearing and either approve, approve in modified form, or deny the proposed amendment based on the findings identified in Section 17.94.060 (Findings and Decision), below.
- B. Referral to Commission.** If the Council proposes to adopt a substantial modification to the amendment not previously considered by the Commission, the proposed modification shall be first referred to the Commission for its recommendation, in compliance with Government Code Sections 65356 and 65857.

17.94.060 - Findings and Decision

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

- A. Findings for General Plan amendments.**
1. The amendment is internally consistent with all other provisions of the General Plan and any applicable specific plan;
 2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
 3. The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the proposed or anticipated uses and/or development would not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

B. Findings for Development Code and Zoning Map amendments.**1. Findings required for all Development Code and Zoning Map amendments:**

- a. The proposed amendment is consistent with the General Plan and any applicable specific plan; and
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

2. Additional finding for Development Code amendments: The proposed amendment is internally consistent with other applicable provisions of this Development Code.**3. Additional finding for Zoning Map amendments:** The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the requested zone designation and the proposed or anticipated uses and/or development would not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.**17.94.070 - Conditions on Zoning Map Amendments**

The Council may impose conditions on a Zoning Map amendment (e.g., to the land use reclassification of property) where it finds that the conditions are reasonable and necessary to ensure that the Council is able to make the findings identified in Section 17.94.060 (Findings and Decision), above, and that approval of the amendment would not create problems considered harmful to the public health, safety, and general welfare of the City.

17.94.080 - Effective Dates

- A. General Plan.** A General Plan amendment shall become effective immediately upon the adoption of a resolution by the Council.
- B. Development Code/Zoning Map.** A Development Code/Zoning Map amendment shall become effective on the 31st day following the date of adoption of an ordinance by the Council.

CHAPTER 17.98 - ENFORCEMENT

Sections:

- 17.98.010 - Purpose
- 17.98.020 - Enforcement Procedures
- 17.98.030 - Revocations and Modifications

17.98.010 - Purpose

This Chapter establishes provisions which are intended to ensure compliance with the requirements of this Development Code and any conditions of planning permit or subdivision approval, to promote the City's planning efforts, and for the protection of the public health, safety, and general welfare of the City.

17.98.020 - Enforcement Procedures

- A. **Compliance with Development Code required.** All departments, officials, and public employees of the City which are vested with the authority or duty to issue licenses or permits shall comply with the provisions of this Development Code and shall not issue a license or permit for purposes, structures, or uses which would be in conflict with the provisions of this Development Code.
- B. **Compliance with Municipal Code Chapters 1.10 through 1.15 required.** The enforcement of this Development Code, and any condition of a planning permit or subdivision approval imposed in compliance with this Development Code, shall comply with Municipal Code Chapters 1.10 through 1.15.

17.98.030 - Revocations and Modifications

- A. **Purpose.** Discretionary permits or approvals issued in compliance with this Development Code may be revoked or modified in compliance with this Section.
- B. **Procedures.** This Section provides procedures for securing punitive revocation or modification of previously approved permits or approvals.
- C. **Revocations.** The City's action to revoke a permit or approval shall have the effect of terminating the permit and denying the privileges granted by the original approval.
- D. **Modifications.** City modification of a permit or approval instead of revocation may include any of the operational aspects of the project, including buffers, duration of the permit or entitlement, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect/condition determined to be reasonable and necessary to ensure that the permit is operated in a manner consistent with the original findings for approval.
- E. **Hearings and notice.**
 - 1. The appropriate review authority (e.g., Director, Commission, or Council) that originally granted the permit or approval shall hold a public hearing to revoke or modify a permit or approval granted in compliance with the provisions of this Development Code.
 - 2. Ten days before the public hearing, notice shall be delivered in writing to the applicant for the permit or approval being considered for revocation, and/or owner of the property for which the permit was granted. The only exception to the 10-day notice provision shall be for Limited Term

Permits which, because of their short term nature, shall only require a 24-hour notice.

3. Notice shall be deemed delivered two days after being mailed, certified and first class, through the United States Postal Service, postage paid, to the owner as shown on the County's current equalized assessment roll and to the project applicant, if not the owner of the subject property.

F. Review authority action.

1. **Permits.** A permit or approval may be revoked or modified by the appropriate review authority that originally approved the permit, if the review authority first 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 general welfare require the revocation or modification;
- b. The permit or other approval was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or 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 has ceased to exist or has been suspended for at least 12 months; or
- e. The improvement/use allowed by the permit has become detrimental to the public health, safety, or general welfare, or the manner of operation constitutes or is creating a nuisance as defined in Municipal Code Section 9.28.

2. **Variances.**

- a. A Variance or Minor Variance may be revoked or modified by the appropriate review authority that originally approved the Variance or Minor Variance, if the review authority first makes any one of the following findings, in addition to the findings in Subsection F.1., above:
 - (1) 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 or Minor Variance; or
 - (2) One or more of the conditions of the Variance or Minor Variance have not been met, or have been violated, and the grantee has not substantially exercised the rights granted by the Variance or Minor Variance.
- b. If the grantee has substantially exercised the rights granted by the Variance or Minor Variance as identified in Subsections F.2.a(1) and F.2.a(2) above, the appropriate action would be to modify rather than revoke the Variance or Minor Variance.

3. **Appeal.** The revocation or modification of a permit or approval in compliance with this Section may be appealed in compliance with Chapter 17.91 (Appeals).