# Article 7

## Administration

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# Chapter 17.700 — Administrative Responsibility

**Sections:**

17.700.010 – Purpose
17.700.020 – Planning Agency Defined
17.700.030 – City Council
17.700.040 – Planning Commission
17.700.050 – Planning Director
17.700.060 – Development Review Committee

## 17.700.010 – Purpose

The purpose of this Chapter is to describe the authority and responsibilities of the Council, Commission, Director, Development Review Committee, Department, and Department staff in the administration of this Development Code.

## 17.700.020 – Planning Agency Defined

As provided by State law, the Commission is designated as the Planning Agency and as the Advisory Agency, when required or authorized. The Director shall perform the functions of an Advisory Agency, as assigned, in compliance with State Law.

## 17.700.030 – City Council

The City Council, referred to in this Development Code as the Council, in matters related to the City's planning process shall perform the duties and functions prescribed in this Development Code, which include the following:

**A.** **Review authority on specified planning matters.** Final decisions on development agreements, Development Code amendments, General Plan amendments, specific plans and amendments, Zoning Map amendments, environmental documents related to any of the forgoing, and other applicable policy or Development Code matters related to the City's planning process;

**B.** **Appeals.** The review of appeals filed from Commission decisions; and

**C.** **Compliance.** The above listed functions shall be performed in compliance with Table 6-1 (Review Authority), Article 6, and the California Environmental Quality Act (CEQA).

## 17.700.040 – Planning Commission

**A. Establishment.** The Planning Commission, referred to in this Development Code as the Commission, is hereby established.

**B. Appointment.** The Commission shall consist of five members who shall be appointed by the Council in compliance with Municipal Code Chapter 2.32 (Planning Commission).

**C. Duties and authority.** The Commission shall perform the duties and functions prescribed by this Development Code, and the Council may, from time to time by resolution, prescribe additional powers and duties not inconsistent with State Law, including the following:

1. The review of development projects, including referrals from the Director;

2. The review of appeals from the Director's decisions;

3. The recommendation, to the Council for final decisions, on development agreements, Development Code amendments, General Plan amendments, specific plans and amendments, Zoning Map amendments, environmental documents related to any of the forgoing, and other applicable policy or regulatory matters related to the City's planning process; and

4. The above listed functions shall be performed in compliance with Table 6-1 (Review Authority), Article 6 (Permit Procedures), and the California Environmental Quality Act (CEQA).

**D. Meeting rules.** The Commission shall conduct public hearings and meetings in compliance with the Municipal Code and Chapter 17.710 (Public Hearings).

## 17.700.050 – Planning Director

**A. Appointment.** The Planning Director, referred to in this Development Code as the Director, shall be appointed by the City Manager in compliance with Municipal Code Section 2.12.060 (Powers and Duties Generally).

**B. Definition of the term "Director."** When used in this Development Code or any permit or condition approved in compliance with this Development Code, the term "Director" shall be as follows and as defined in Article 8 (Definitions): "The Planning Director, referred to in this Development Code as the 'Director' or designee(s) of the Director."

**C. Duties and authority.** The Director shall:

1. Have the responsibility to perform all of the functions designated by State law, including, but not limited to the following:

   a. Annual report related to implementation of the General Plan in compliance with Government Code Section 65400;

   b. Review of public works projects for conformity to the General Plan in compliance with Government Code Section 65401; and

   c. Review of acquisition of property for conformity to the General Plan in compliance with Government Code Section 65402.

2. Perform the duties and functions prescribed in this Development Code, including the review of administrative development projects, in compliance with Table 6-1 (Review Authority), Article 6 (Permit Procedures), Government Code Section 65901 et seq., and the California Environmental Quality Act (CEQA);

3. Perform other responsibilities assigned by the Council, Commission, or City Manager;

4. Delegate the responsibilities of the Director to Department staff under the supervision of the Director; and

5. Serve in an advisory capacity for proposed subdivisions, in compliance with Subdivision Map Act Section 66415 et seq. In this capacity, the Director is charged with the responsibility of making investigations and reports on the design and improvement of proposed divisions of real property.

## 17.700.060 – Development Review Committee

**A. Appointment.** The Development Review Committee shall be appointed by the City Manager in compliance with Municipal Code Section 2.12.060 (Powers and Duties Generally).

**B. Membership.** The Development Review Committee shall consist of the following individuals or their designated representatives:

1. Building Official;

2. Chief of Police;

3. City Engineer;

4. Fire Chief;

5. Planning Director; and

6. Public Works Director.

**C. Duties and authority.** The Development Review Committee shall be responsible for the following:

1. The review and final decision on Site Plan and Design Reviews in compliance with Chapter 17.630 and Table 6-2 (Review Authority for Site Plan and Design Review), Article 6; and

2. Other responsibilities assigned by the Council, Commission, or City Manager.

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# Chapter 17.705 — Nonconforming Parcels, Structures, and Uses

**Sections:**

17.705.010 – Purpose and Intent
17.705.020 – Definitions
17.705.030 – Time of Beginning of Nonconformity
17.705.040 – Proof of Legal Nonconformity
17.705.050 – Restrictions on Nonconforming Uses and Structures
17.705.060 – Residential Exemptions
17.705.070 – Loss of Nonconforming Status
17.705.080 – Nonconforming Parcels and Merger of Parcels
17.705.090 – Effect of Conditional/Minor Use Permit Requirements
17.705.100 – Nonconforming Drive-Through Businesses and Service Stations
17.705.110 – Nonconforming Parking
17.705.120 – Nonconforming Adjustments

## 17.705.010 – Purpose and Intent

**A.** **Purpose.** 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 applicable requirements.

**B.** **Intent.**

1. In order to limit the number and extent of nonconforming uses, structures, parcels, parking, signs, and characteristics of use created by adoption of this Development Code, it is the City's intent to generally allow nonconformities to continue until they are removed, but not to encourage their survival.

2. It is further the intent of this Chapter that nonconformities shall not be altered, enlarged, expanded, extended, moved, reestablished, or changed to another nonconforming use after abandonment or discontinuance or restored after involuntary destruction, except in compliance with this Chapter.

3. The eventual intent is that nonconformities, including certain classes of nonconforming uses, nonconforming structures of nominal value, and certain uses not meeting screening, performance, or parking standards, are altered to conform.

4. This Chapter shall not apply to any use or structure established in violation of the previously adopted Zoning Ordinance for the City, unless the use or structure presently conforms with the provisions of this Development Code.

## 17.705.020 – Definitions

**A.** **Cessation or discontinuance.** Cessation or discontinuance of a nonconforming use shall be defined as an abandonment of the use, irrespective of the owner's or occupant's intent.

**B.** **Illegal nonconformity.** A parcel, sign, structure, or use that was illegally constructed, created, installed, or initiated without proper City issued permits or approvals, does not comply with the provisions of the previous Zoning Ordinance or this Development Code, and is not eligible for any of the protections provided by this Chapter.

**C.** **Nonconforming parcel.** A parcel that was legally created before the effective date of this Development Code or amendment, and does not comply with the minimum area, depth, width, or other applicable requirements of this Development Code.

**D.** **Nonconforming sign.** A sign that legally existed before the effective date of this Development Code or amendment, and does not comply with the minimum sign regulations of this Development Code.

**E.** **Nonconforming structure.** A structure that legally existed before the effective date of this Development Code or amendment, and does not conform to the present requirements of the zone in which it is located.

**F.** **Nonconforming use.** A use of land and/or a structure (either conforming or nonconforming) that legally existed before the effective date of this Development Code or amendment, but which is no longer allowed in the zone in which it is located.

**G.** **Nonconformity upon annexation.** A parcel, sign, structure, or use that legally existed in the unincorporated territory and after annexation does not comply with the provisions of this Development Code.

## 17.705.030 – Time of Beginning of Nonconformity

**A.** **Development Code or previous Zoning Ordinance.** The effective date of this Development Code or previous Zoning Ordinance shall determine the time of beginning for all existing nonconformities.

**B.** **Zoning Map amendments.** The effective date of Zoning Map amendments and related boundary adjustments shall determine the time of beginning of a nonconforming use, structure, or nonconformity with screening, performance, or parking standards.

**C. Annexations.** The effective date of an annexation shall determine the time of beginning for a nonconformity in a newly annexed area.

## 17.705.040 – Proof of Legal Nonconformity

The property owner has the burden to prove the claim of legal nonconformity and the related protected status that comes with that claim as specified in this Chapter.

**A. Property owner's responsibility.** The property owner shall provide sufficient evidence to the satisfaction of the Director that the subject property or use is a legal nonconformity as specified in this Chapter.

**B. City is not responsible.** The City is not responsible to prove the absence of legal nonconformity.

**C. Director's determination.**

1. The process begins with the property owner submitting sufficient written evidence to the Director justifying that the nonconformity is legal and subject to the protected status specified in this Chapter.

2. The Director shall conduct an administrative hearing on the matter and provide notice of the hearing to the property owner in compliance with Chapter 17.710 (Public Hearings).

3. The property owner shall have the opportunity to appear before the Director and provide oral testimony justifying that the nonconformity is legal and subject to the protected status specified in this Chapter.

4. The Director shall consider the evidence and make a determination as to the legality of the nonconformity and the available protections provided by this Chapter.

5. The Director's determination of legal nonconformity shall be appealable in compliance with Chapter 17.715 (Appeals).

## 17.705.050 – Restrictions on Nonconforming Uses and Structures

A legal nonconforming land use and the use of a legal nonconforming structure, as those terms are defined in Section 17.705.020 (Definitions), above, may be continued, including transfers of ownership; provided that their continuation shall comply with the requirements of this Section. See Section 17.705.060 (Residential Exemptions), below for exceptions regarding certain residential uses and structures.

**A. Nonconforming uses.** The continuance of a legal nonconforming use shall be allowed subject to the following provisions:

1. **Change of ownership.** Change of management, ownership, or tenancy of a nonconforming use shall not affect its nonconforming status; provided, the use and intensity of use, as determined by the Director, does not change.

2. **Additional development.** Additional development of any property on which a nonconforming use exists shall require that all new uses be in compliance with the applicable provisions of this Development Code.

3. **Conversion of a nonconforming use.** If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed.

4. **Changes to a nonconforming use.** A nonconforming use shall not be established or replaced by another nonconforming use, nor shall any nonconforming use be expanded or changed, except as provided in Section 17.705.120 (Nonconforming Adjustments), below.

5. **Nonconforming uses within a commercial or industrial development.** A nonconforming use located within a commercial or industrial development may be established or replaced by another similar nonconforming use only after the Director first finds all of the following:

   a. The nonconforming use is similar to or less intensive than the use originally allowed in the development;

   b. The nonconforming use generally adheres to the intent of the General Plan and any applicable specific plan;

   c. The nonconforming use will not adversely affect or be materially detrimental to adjoining properties; and

   d. The use of the entire development has not been ceased or discontinued for a period of 180 or more consecutive days.

**B. Nonconforming structures.** A legal nonconforming structure may be maintained in compliance with the following.

1. **Ordinary maintenance and repairs.** A nonconforming structure may undergo ordinary maintenance and repairs.

2. **Involuntary damage to a nonconforming structure.** A nonconforming structure that is involuntarily damaged to an extent of 50 percent or more of its appraised value of the structure immediately before the damage may be restored only if

made to conform to all applicable provisions of this Development Code. However, any residential structure(s), including multi-family, in a residential zone destroyed by a catastrophe, including natural disaster (e.g., earthquakes, firestorms, windstorms, etc.) and official states of emergency, may be reconstructed up to the original size, placement, and density (See Section 17.705.060 [Residential Exemptions], below). Reconstruction shall commence within 180 days after the date of the damage or catastrophe and shall be diligently pursued to completion. (See Section 17.705.070 [Loss of Nonconforming Status], below)

3. **Nonstructural alterations to residential structure(s).** Necessary repairs and desired alterations that are not structural may be made to a nonconforming residential structure(s), including multi-family, located in a residential zone only when the Building Official first determines that the repairs are necessary for public safety purposes and the cost does not exceed 50 percent of the appraised value of the nonconforming structure.

4. **Additions to nonconforming residential structures.** Additions may be made to residential structures that are nonconforming due to their placement on the parcel as long as the additions are in compliance with the current applicable regulations of this Development Code.

5. **Conversion to a second dwelling unit.** Within a residential zone, a nonconforming accessory structure located within a rear setback may be converted to a second dwelling unit, in compliance with Section 17.430.300 (Second Dwelling Units).

6. **Nonstructural alterations to commercial, industrial, mixed-use, or institutional structure(s).** Necessary repairs and desired alterations may be made to nonconforming commercial, industrial, mixed-use, or institutional structures; provided, that no structural alterations shall be made that would prolong the life of the supporting members of a structure (e.g., beams, bearing walls, columns, girders, etc.). Structural elements may be modified or repaired only if the Building Official first determines that the modification or repair is immediately necessary to protect the health and safety of the public or occupants of the nonconforming structure, or adjacent property and the cost does not exceed 50 percent of the appraised value of the nonconforming structure. However, improvements required to reinforce non-reinforced masonry structures shall be allowed without replacement cost limitations, provided the retrofitting is strictly limited to compliance with earthquake safety standards.

7. **Interior partitions or other nonstructural improvements.** Changes to interior partitions or other nonstructural improvements and repairs may be made to a nonconforming commercial, industrial, mixed-use, or institutional structure;

provided that the cost of the desired improvement or repair shall not exceed 50 percent of the appraised value of the nonconforming structure over any consecutive five-year period.

8. **Development of a parcel with a nonconforming structure(s).** Any additional development of a parcel with a nonconforming structure shall require that all new structures be in compliance with this Development Code.

9. **Appraised values.** All appraised values referred to in this Section shall be determined by a State licensed appraiser and confirmed by the Building Official.

## 17.705.060 – Residential Exemptions

A. **Reconstruction or replacement – single-family dwelling.** An involuntarily damaged or destroyed single-family nonconforming dwelling may be reconstructed or replaced with a new structure with the same footprint (including preexisting nonconforming setbacks) and height in compliance with current Building and Fire Code requirements.

B. **Reconstruction or replacement – multi-family dwelling.** An involuntarily damaged or destroyed multi-family nonconforming dwelling unit(s) may be reconstructed or replaced with a new structure with the same footprint (including preexisting nonconforming setbacks), height, and number of dwelling units, in compliance with current Building and Fire Code requirements and Government Code Sections 65852.25 and 65863.4.

C. **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 approval, in compliance with Chapter 17.605.

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 appraised value of the structure before expansion, rehabilitation, or renovation is requested.

2. **Protection of community and neighborhood character.** The review authority shall ensure that Minor Use Permit approval for a substantial expansion, rehabilitation, or renovation shall maintain public health, safety, and welfare, and maintain the prevailing neighborhood character.

## 17.705.070 – Loss of Nonconforming Status

**A. Termination by discontinuance.**

1. **Nonconforming use.** If a nonconforming use is ceased or discontinued for a continuous period of 180 or more consecutive days, the use shall lose its legal nonconforming status, and the continued use of the property shall be required to be in compliance with the applicable provisions of this Development Code.

2. **Nonconforming structure.** If the use of a nonconforming structure is ceased or discontinued for a continuous period of 180 or more consecutive days, the structure shall lose its legal nonconforming status, and shall be removed or altered to conform to the applicable provisions of this Development Code.

3. **Cessation or discontinuance.** A nonconforming use or structure shall be considered ceased or discontinued when any of the following apply:

   a. Cessation or discontinuance of a nonconforming use shall be deemed as an abandonment of the use, irrespective of the owner's or occupant's intent.

   b. Discontinuance shall include cessation of a use regardless of intent to resume the use.

   c. The intent of the owner to cease or discontinue use of the nonconforming structure is apparent, as determined by the Director.

   d. Where characteristic furnishings and equipment associated with the use have been removed and not replaced with equivalent furnishings and equipment during this time, and where normal occupancy and/or use has been ceased or discontinued for a period of 180 or more consecutive days.

   e. Where there are no business receipts or utility payments available for the 180-day period.

4. **Nonconforming dwelling units or agricultural uses.** This Section shall not apply to nonconforming dwelling units or agricultural uses. These nonconforming uses shall be treated in the following manner:

   a. Whenever a nonconforming dwelling unit outside a residential zone has been abandoned, discontinued, or changed to a conforming use for 12 months or more, the nonconforming use shall not be reestablished, and the structure or site shall only be used in compliance with the regulations for the zone in which it is located.

b. Whenever a nonconforming agricultural use has been abandoned, discontinued, or changed to a conforming use for two years or more, the nonconforming use may only be reestablished in compliance with Article 2 (Zones, Allowable Land Uses, and Zone Specific Standards).

**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 as a result of an accident or by earthquake, fire, flood, or other act of nature; except as provided by Section 17.705.060 (Residential Exemptions), above, and except as follows.

**1. 50 percent or less.** If the cost of repairing or replacing the damaged portion of the structure is 50 percent or less of the appraised value of the structure immediately before the 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 180 days following the date of damage and is diligently pursued to completion.

**2. Exceeds 50 percent.** If the cost of repairing or replacing the damaged portion of the structure exceeds 50 percent of the appraised value of the structure immediately before the damage, or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full compliance with the applicable regulations for the zone in which it is located and the nonconforming use shall not be resumed.

**3. Appraised and estimated values.** All appraised values referred to in this Section shall be determined by a State licensed appraiser and confirmed by the Building Official. Estimates of repairing or replacing the damaged portion of the structure for purposes of this Section shall be made by or shall be reviewed and approved by the Building Official and shall be based on the minimum cost of construction in compliance with the Building Code.

**C. Timing of termination.** The nonconforming status shall terminate in compliance with the following:

1. A nonconforming use and/or structure may continue or remain until there has been a structural alteration, an enlargement or increase in space occupied, change in the nonconforming use, moving of the nonconforming structure, cessation or discontinuance of the nonconforming use, damage in compliance with Subsection B. (Termination by destruction), above, or the use has been determined to be a nuisance by the Council.

2. The nonconforming use and/or structure shall be deemed terminated on the first happening of either one of the events or situations identified in Subparagraph 1., above.

**D. Physically unsafe or unlawful structures.**

1. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by the Building Official to be unsafe or unlawful by reason of physical conditions, it may be ordered demolished or rebuilt/repaired and shall not be rebuilt, repaired, or restored except in full compliance with the applicable regulations of the zone in which it is located.

2. Nothing in this Chapter shall be deemed to prevent the restoring or strengthening to a safe condition of any structure or part thereof declared to be unsafe by the Building Official.

**E. Termination by operation of law.**

**1. Elimination of nonconformities.** Except as allowed by Subparagraph 2. (Exceptions to provisions for elimination of nonconformities), nonconforming uses and structures shall be discontinued and removed from their sites, altered to conform, or altered as specified to decrease the degree of nonconformity, within the specified time after first become nonconforming in compliance with Table 7-1 (Amortization Schedule).

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**Table 7-1**
**Amortization Schedule**

| Description of Nonconformity | Length of Amortization (1) |
|---|---|
| Nonconforming uses. In any zone, removal of a nonconforming use that does not occupy a structure and does not have an approved site plan or a use occupying a structure having an actual value as determined by the County Assessor's Office of less than $5,000. | Two years |
| Nonconforming structures. Removal or alteration of a nonconforming structure having an actual value as determined by the County Assessor's Office of less than $5,000. | Two years |
| Off-Street Parking and Landscaping. Elimination of nonconformity as far as required amount of off-street parking, surfacing, and landscaping for all but residential uses. (Except when a change increases the amount of off-street parking required, in which case parking shall be provided immediately.) | 10 years |
| Screening and Performance Standards. Elimination of nonconformity with screening requirements and performance standards in all commercial and industrial zones. | Two years |
| Signs. (Excepting any sign that is relocated, changed structurally, or receives new sign face shall be made to conform immediately) | Five years |
| Nonconforming uses and structures.<br>1. In a residential zone a use that is neither an allowed use nor a conditional use.<br>2. In a commercial or industrial zone, a use that is neither an allowed use nor a conditional use.<br>3. Structures over $5,000 in actual valuation (except for dwellings in a nonresidential zone) | |
| Type I and Type II structures (fire resistive) (3) | 20 years |
| Type III (heavy timber construction and ordinary masonry construction). (3) | 15 years |
| Type IV and Type V structures (light incombustible frame and wood frame construction). (3) | 10 years |

*Notes.*
(1) The length of amortization shall be measured from the effective date, or operative date where later, of the ordinance or amendment establishing the nonconformity.
(2) The length of amortization shall be five years from the date the use first becomes nonconforming.
(3) Type of construction, as defined in the Building Code.

2. **Exceptions to provisions for elimination of nonconformities.** The following nonconforming uses need not be removed and under certain conditions may be expanded; provided that they shall be subject to the other applicable provisions of this Section (e.g., destruction, discontinuance, etc.).

   a. In any zone, a residential use may be continued and the floor area expanded by no more than 200 square feet; provided that the number of dwelling units shall not be increased.

   b. In a residential zone, a nonresidential use that is an allowed use or a conditional use may be continued and a Conditional Use Permit may be

approved for expansion of the floor area or the site area occupied by the use by not more than 10 percent within a five year period. Landscaping, parking, and screening shall be required in compliance with Article 3 (Site Planning and Development Standards).

c. In a commercial zone, a use that is an allowed use or a conditional use in a commercial or industrial zone may be continued and a Conditional Use Permit may be approved for expansion of the floor area or the site area occupied by the use by no more than 25 percent within any five year period. Landscaping, parking, and screening shall be required in compliance with Article 3 (Site Planning and Development Standards).

d. In a commercial or industrial zone, a use that is an allowed use or a conditional use in an industrial zone may be continued; provided that nonconformity with screening, performance, parking and landscaping requirements shall be eliminated. A Conditional Use Permit may be approved for the expansion of the floor area or the site area.

e. Nothing in this Chapter shall be construed or applied to require the cessation, discontinuance, removal, or termination or to prevent the alteration, maintenance, modernization, rebuilding, reconstruction, repair, or replacement and continued use of public utility structures, equipment, and facilities; provided that there is no change of use nor enlargement of those uses.

f. A Conditional Use Permit may be approved to extend the life of nonconforming sign for no more than five additional years.

## 17.705.080 – Nonconforming Parcels and Merger of Parcels

**A. Legal building site – single nonconforming parcel.** A single nonconforming parcel that does not comply with the applicable area, depth, or width, 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 single ownership and was legally created by a recorded deed before the effective date of the amendment that made the parcel nonconforming;

**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 or any nonconforming use on the parcel.

**C. Mandatory merger – two or more nonconforming contiguous parcels.**

1. **Involuntarily merger required.** Nonconforming contiguous parcels held by the same owner shall be involuntarily merged if one or more of the parcels does not conform to the minimum parcel size to allow use or development in compliance with this Development Code, and if all of the following requirements are satisfied in compliance with Government Code Section 66451.11(b):

   a. At least one of the affected parcels is not developed with any structure for which a Building Permit was issued or for which a Building Permit was not required at the time of construction, or is developed only with an accessory structure(s), or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel.

   b. With respect to any affected parcel, one or more of the following conditions exist:

      (1) Comprises less than 5,000 square feet in area at the time of the determination of merger.

      (2) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.

      (3) Does not meet current standards for sewage disposal and domestic water supply.

      (4) Does not meet slope stability standards.

      (5) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.

      (6) Its development would create health or safety hazards.

(7) Is not in compliance with the applicable General Plan and any applicable specific plan, other than minimum parcel size or density standards.

**2. Does not apply.** Subparagraph C. 1., above, shall not apply if any of the conditions specified in Government Code Sections 66451.11(b) (3) (A), (B), (C), (D) or (E) exist.

**3. Proceedings for notice of intention to determine status.**

a. Whenever the Director has knowledge that real property has merged in compliance with this Subsection, the Director shall mail, by certified mail, to the current record owner(s) of the property a notice of intention to determine status.

(1) The notice of intention shall state that the affected parcels may be merged in compliance with this Subsection; that the owner may request, within 30 days from the date the notice of intention was recorded, a hearing before the Commission to present evidence that the property does not meet the standards for merger; and that the notice of intention was recorded with the County Recorder on the date the notice of intention was mailed to the property owner(s).

(2) Upon receipt of a request for a hearing, the Director shall set the hearing for a date not less than 30 days but not more than 60 days from the date of receipt of the request.

(3) The property owner shall be notified of the hearing by certified mail.

(4) After the hearing, the Commission shall determine whether the affected property has merged in compliance with this Subsection.

(5) A determination of non-merger may be made whether or not the affected property meets the standards for merger specified in Subparagraph C. 1. (Involuntarily merger required), above.

(6) The determination shall be made and notification of the determination shall be mailed to the property owner(s) within five working days following the date of the hearing.

b. If the parcels have merged, the Director shall file a notice of merger with the County Recorder within 30 days following the date of the hearing,

unless the determination has been appealed in compliance with Subparagraph c., below, and Chapter 17.715 (Appeals).

(1) The notice of merger shall specify the name(s) of the record owner(s) and shall particularly describe the real property.

(2) If the parcels have not merged, the Director shall record a release of the notice of intention within 30 days following the date of the determination, and shall mail a copy of the release to the owner(s).

(3) If no hearing is requested, the determination shall be made not later than 90 days after the mailing of the notice of the opportunity for a hearing.

c. If the owner(s) requested a hearing, the determination of the Commission may be appealed to the Council within 15 days following the date of mailing the notice of determination by filing a written appeal with the City Clerk, in compliance with Chapter 17.715 (Appeals).

(1) A fee in compliance with the City's Planning Fee Schedule shall be paid at the time of filing the appeal.

(2) Upon receipt of an appeal and payment of the fee, the City Clerk shall place the matter on the Council agenda not less than 30, but not more than 60, days following the date the appeal was filed.

(3) If, after a hearing, the Council grants the appeal, the City Clerk shall, within 30 days, record a release of the notice of intention with the County Recorder.

(4) If the appeal is denied, the City Clerk shall, within 30 days, record a notice of merger with the County Recorder.

(5) A copy of either the release or the notice of merger shall be sent to the property owner(s).

### 17.705.090 – Effect of Conditional/Minor Use Permit Requirements

**A. Absence of Conditional/Minor Use Permit.** A use lawfully existing without the approval of a Conditional Use Permit or Minor Use Permit that would be required by 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 Conditional/Minor Use Permit in effect.** A use that was authorized by a Conditional 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 Conditional Use Permit or Minor Use Permit conditions of approval.

### 17.705.100 – Nonconforming Drive-Through Businesses and Service Stations

**A. Drive-through businesses.** Within 12 months following the effective date of this Development Code all existing nonconforming drive-through businesses shall comply with Section 17.425.170 (Drive-Through Facilities).

**B. Service stations.**

1. Nonconforming service stations in existence before the effective date of this Development Code that become damaged or partially destroyed or that are proposed to be added to or structurally altered to the extent of more than 50 percent of the appraised value of the main structure in any 12-month period may not be occupied or used except in full compliance with the applicable provisions of this Chapter.

2. Within five years following the effective date of this Development Code all existing service station signs shall comply with Chapter 17.335 (Sign Standards).

### 17.705.110 – Nonconforming Parking

**A. Insufficient parking.** Where off-street parking spaces are provided and maintained in connection with a structure or use at the time this Development Code became effective and are now insufficient to meet the requirements for the use with which it is associated, or where no parking spaces have been provided, then the structure may be expanded only if off-street parking is provided for the existing structure or use as well as the expansion in compliance with the standards identified in Chapter 17.330 (Off-Street Parking and Loading Standards).

**B. Existing parking.** Existing parking may not be counted as meeting this requirement unless it meets or exceeds the requirements of this Development Code.

### 17.705.120 – Nonconforming Adjustments

**A. Nonconforming Adjustments.**

1. Nonconforming Adjustments provide a procedure for City review and decision on requests that propose to continue a legal nonconforming use, allow the substitution of one nonconforming use for another nonconforming use, or allow minor modifications of applicable Development Code standards to allow the expansion of the use or structure, and only when pertaining to existing uses or structures, and not the initiation or construction of new uses or structures.

2. The Nonconforming Adjustments are subject to the special findings identified in Subsection C. (Special findings for Nonconforming Adjustments), below.

**B. Authority to allow adjustments.**

1. A Nonconforming Adjustment application shall be reviewed, and approved or disapproved by the Commission.

2. The Commission shall conduct a public hearing on an application for a Nonconforming Adjustment before a decision. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 17.710 (Public Hearings).

3. The action of the Commission on a Nonconforming Adjustment may be appealed to the Council in compliance with Chapter 17.715 (Appeals).

**C. Special findings for Nonconforming Adjustments.** The review authority may approve a Nonconforming Adjustment, with or without conditions, only if it first makes all of the following findings:

1. The Nonconforming Adjustment is necessary because the subject use or structure was legal when it was originally initiated or constructed, but changes in this Development Code or the applicable zone development standards caused the use or structure to become legal nonconforming;

2. Approving the Nonconforming Adjustment for the subject use or structure will not pose a serious hazard to the public health or safety of persons residing or working on or adjacent to the subject parcel; and

3. The location, size, and operating characteristics of the legal nonconforming use or structure are compatible with the existing and future land uses in the vicinity.

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# Chapter 17.710 — Public Hearings

**Sections:**

17.710.010 – Purpose
17.710.020 – Notice of Hearing
17.710.030 – Scheduling of Hearing
17.710.040 – Hearing Procedure
17.710.050 – Recommendation by Commission
17.710.060 – Decision and Notice
17.710.070 – Effective Date of Decision

## 17.710.010 – 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.

## 17.710.020 – 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 through 65096, 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; the City's file number assigned to the application; a general explanation of the matter to be considered; and a general description, in text 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, Mitigated Negative Declaration, final Environmental Impact Report, or statement of exemption from the requirements of CEQA has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the

City's CEQA Guidelines, the hearing notice shall include a statement that the review authority will also consider approval (or recommendation of adoption/approval for an application requiring Council action) of the proposed Negative Declaration, Mitigated Negative Declaration, certification of the final Environmental Impact Report, or statement of exemption.

4. **Statement regarding challenges of City actions.** A notice substantially stating all of the following: "If you challenge the (nature of the proposed action) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the (public entity conducting the hearing) at, or before, the public hearing" in compliance with Government Code Section 65009(b)(2).

5. **Statement regarding Commission's recommendations.** For Council items that involve a recommendation from the Commission (e.g., legislative acts) the notice shall contain the Commission's recommendations.

B. **Method of notice distribution.** Notice of a public hearing required by this Chapter 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 scheduled hearing to the following:

a. **Project site owners, agent(s), and applicant.** The owners of the property being considered in the application, the owners' agent(s), and the applicant, in addition to the owner(s) of the mineral rights for maps in compliance with Government Code Section 65091(a)(2);

b. **Local agencies.** Any local agency expected to provide roads, schools, sewage, streets, water, or other essential facilities or services to the property which is the subject of the application;

c. **Affected owners.** All owners of real property as shown on the latest equalized assessment roll, located within a radius of 300 feet of the exterior boundaries of the parcel that is the subject of the hearing; and any other person whose property might, in the judgment of the Director, be affected by the proposed project; and

d. **Persons requesting notice.** Any persons, including any California Native American tribe who is on the contact list of the Native American Heritage Commission in compliance with Government Code Section 65092, who has filed a written request for notice with the Director or City Clerk and has paid the required fee for the notice.

2. **Alternative to mailing.** If the number of property owners to whom notice would be mailed in compliance with Subparagraph B. 1., above is more than 1,000, the Director may choose to provide the alternative notice allowed by Government Code Section 65091(a)(3).

3. **Publication.** In addition to the notice required by Subparagraphs B.1. or B.2., above, notice shall be published at least once in a newspaper of general circulation in the City at least 10 days before the scheduled hearing.

4. **Additional notice.** In addition to the types of notice required above, the Director may require any additional notice with content or using a distribution method (e.g., posting on the City's web site) as the Director determines is necessary or desirable.

### 17.710.030 – Scheduling of Hearing

After the completion of any environmental document required by the California Environmental Quality Act (CEQA), the City's CEQA Guidelines, and a Department staff report, a matter requiring a public hearing shall be scheduled on the next available agenda (Director, Commission, or Council, as applicable) reserved for public hearings, but no sooner than any minimum time period established by State law.

### 17.710.040 – Hearing Procedure

**A. Time and place of hearing.** A hearing shall be held at the date, time, and place for which notice was given.

**B. Continued hearing.** Any hearing may be continued from time to time without further notice; provided that the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.

**C. Deferral of final decision.**

1. The review authority may announce a tentative decision, and defer its action on a final decision until appropriate findings and/or conditions of approval have been prepared.

2. The date of the final action shall be as described in the motion, ordinance, or resolution that incorporates the findings and/or conditions.

**D. Formal rules of evidence or procedure not applicable.** Formal rules of evidence or procedure applicable in judicial actions and proceedings shall not apply in any proceeding subject to this Development Code, except as otherwise required by the Municipal Code, in compliance with Government Code Section 65010.

## 17.710.050 – Recommendation by Commission

**A. Recommendation and findings to the Council.** After a public hearing on a proposed amendment to this Development Code, the General Plan, the Zoning Map, a development agreement, or a specific plan, the recommendation and findings of the Commission shall be forwarded to the Council.

**B. Recommendation and findings to the applicant.** The recommendation and findings shall be mailed to the applicant at the address shown on the application.

**C. Recommendation included in notice.** The recommendation shall be included in the required notice of the Council's public hearing.

## 17.710.060 – Decision and Notice

**A. Decision.**

1. The review authority may announce and record its 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 17.710.040 (Hearing Procedure), above.

2. Unless otherwise required by law (i.e., votes by the Commission on a General Plan amendment in compliance with Government Code Section 65354), a majority of those entitled to vote or majority of quorum shall be required for any formal action by the applicable review authority.

3. Tie votes of the review authority for matters that legally require findings shall result in no action by the review authority.

4. At the conclusion of a hearing conducted by the Director, the Director may instead refer the matter to the Commission for review and final decision.

5. All decisions shall be in writing and, if required by law, shall contain written findings.

**B. Notice of decision.**

**1. Provision of notice.** Following the 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 applicable findings, 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.

3. **Delivery of notice.**

a. The notice of the final decision shall be delivered by first class, postage prepaid certified mail, return receipt requested.

b. An affidavit of mailing shall be prepared and a copy delivered with the decision.

c. The Department shall retain the original affidavit.

C. **Notifying County Assessor.** Whenever a Zoning Map amendment, Conditional Use Permit, Minor Use Permit, Minor Variance, or Variance is granted with respect to any property, the City shall, within 30 days, notify the County Assessor of the action in compliance with Government Code Section 65863.5.

## 17.710.070 – Effective Date of Decision

A. **Director's or Commission's decision.** The decision of the Director or Commission is final and effective after 5:00 p.m. on the 15th day following the actual date the final decision is rendered if no appeal of that decision has been filed in compliance with Chapter 17.715 (Appeals).

B. **Council's decision.**

1. **Adopted by ordinance.** A decision of the Council adopted by ordinance is final and shall become effective on the 31st day following the date the ordinance is actually adopted by the Council, unless otherwise provided in the adopting ordinance. For example, an ordinance adopted on October 1st will actually be effective on November 1st.

2. **Adopted by resolution.** A decision of the Council adopted by resolution is final and shall be effective on the date the decision is rendered.

3. **Contingent on future date or event.** The Council may take a final action and make it contingent on a future date or event.

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# Chapter 17.715 — Appeals

**Sections:**

17.715.010 – Purpose
17.715.020 – Appeal Subjects and Jurisdiction
17.715.030 – Calls for Review
17.715.040 – Filing and Processing of Appeals
17.715.050 – Judicial Review

## 17.715.010 – Purpose

This Chapter establishes procedures for the appeal and calls for review of determinations and decisions of the Director or Commission.

## 17.715.020 – 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 and then to the Council:

1. **Interpretations.** 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; and

2. **Enforcement action.** Any initial enforcement action conducted in compliance with Section 17.725.080 (Initial Enforcement Action).

**B. Planning permit decisions.**

1. **Director's decisions.** Decisions of the Director on a Home Occupation Permit, Minor Use Permit, Minor Variance, Nonconforming Use Determination, Reasonable Accommodation, Site Plan and Design Review, Sign Permit, Temporary Use Permit, or Zoning Clearance may be appealed to the Commission.

2. **Development Review Committee's decisions.** Any decision of the Development Review Committee on a Site Plan and Design Review may be appealed to the Commission.

3. **Commission's decisions.** Any decision of the Commission may be appealed to the Council.

## 17.715.030 – Calls for Review

**A. Commission or Council review.**

1. **Commission.** The Commission may call for a review of any determination or decision rendered by the Development Review Committee, Director, or Department staff.

2. **Council.** The Council may call for a review of any determination or decision rendered by the Commission, Development Review Committee, Director, or Department staff.

3. **Majority vote required.** A call for review may only be commenced by the affirmative vote of the majority of the members present of the applicable review authority.

**B. Process for calling for a review.**

1. **Initiation by Commissioners.** One or more Commissioners may initiate a call for review of a Director's determination or decision by filing a written request with the Department before the effective date of the action, which means within 15 days following the date of the determination or decision.

2. **Initiation by Council members.**

   a. One or more Council members may initiate a call for review of a Commission's or Director's determination or decision by filing a written request with the City Clerk before the effective date of the action, which means within 15 days following the date of the determination or decision.

   b. The Council may call for the review of a Director's determination or decision directly, or may direct the Commission to first consider the matter and provide a written recommendation to the Council.

3. **Consideration of call for review.** The Commission or Council, as applicable, shall consider the call for review at its next regularly scheduled meeting.

4. **Vote by review authority.** If the Commission or Council, as applicable, votes to review the determination or decision, a subsequent review hearing shall be scheduled to consider the merits of the review.

5. **Notice to applicant.** At the time the review authority votes to commence the review, the applicant shall be informed of the aspects of the application and the determination or decision that the review authority will consider.

6. **Effect of call for review.**

a. A request for a call for review by a member of a review authority shall stay the effective date of a determination or decision until the review authority can make a decision on the call for review request.

b. The timely filing of a call for review does not extend the time in which an appeal of a determination or decision shall be filed. The normal appeal period shall continue to run in compliance with Subsection 17.715.040.B. (Timing and form of appeal), below.

c. If the review authority decides to call for review of the subject determination or decision, then the previous determination or decision shall be vacated.

d. If the review authority decides not to call for review the subject determination or decision, then the determination or decision shall become final unless the appeal period has not expired.

**7. Filing of an appeal pending a call for review.**

**a. Right to file an appeal.** Any person may file a timely appeal in compliance with this Chapter even though a call for review has been filed in compliance with this Section.

**b. Effect of filing an appeal.** The filing of the appeal shall serve to protect the rights of the appellant(s) in the event the call for review is subsequently withdrawn or rejected.

**8. Withdrawal or failure of a call for review.** If a request for a call for review is withdrawn after filing, or is rejected, the remaining days of the call for review period shall start from the date on which the call for review is withdrawn or is rejected.

**9. Notice and public hearing.**

a. A call for review hearing shall be a public hearing if the original determination or decision required a public hearing.

b. Notice of the public hearing shall be the same as the original determination or decision, in compliance with Chapter 17.710 (Public Hearings).

c. The hearing shall be conducted in compliance with Chapter 17.710 (Public Hearings).

10. **Fees not required.** Fees shall not be required in conjunction with the filing of a call for review.

11. **Required votes.** The final action calling for review of a determination or decision shall require an affirmative majority vote of those members lawfully authorized to vote on the matter.

C. **Concurrent Commission recommendations.** When the Commission makes a recommendation to the Council on a legislative matter (e.g., development agreement, Development Code amendment, General Plan amendment, specific plan amendment, or Zoning Map amendment), any concurrent decision by the Commission on an approval, permit, or Variance, or other non-legislative land use permit application concerning, in whole or in part, the same parcel(s) shall also be deemed to be timely called up for review by the Council.

## 17.715.040 – Filing and Processing of Appeals

A. **Eligibility.**

1. An appeal in compliance with this Chapter may be filed by any person.

2. Any action or decision by the Commission, Director, or Department staff in compliance with this Development Code may be appealed by a Councilmember or Commissioner acting as an individual.

3. Any Councilmember or Commissioner filing an appeal as an individual shall not be authorized to participate in any decision concerning that action of decision.

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. The pertinent facts and the basis for the appeal shall include, at a minimum, the specific grounds for the appeal, where there was an error or abuse of discretion by the previous review authority (e.g., Commission, Development Review Committee, Director, or other City official) in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record.

2. The appeal shall be filed with the Department or City Clerk, as applicable, within 15 days following the actual date the decision was rendered.

   a. Appeals addressed to the Commission shall be filed with the Department;

   b. Appeals addressed to the Council shall be filed with the City Clerk.

3. The appeal shall be accompanied by the filing fee identified in the City's Planning Fee Schedule.

4. Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered.

**C. Scope of planning permit appeals.**

**1. All except for Conditional Use Permits – not de novo.** An appeal of a decision on a planning permit, except for a Conditional Use Permit, shall not be de novo, but instead 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. Conditional Use Permits only – de novo.** An appeal of a decision on a Conditional Use Permit shall de novo, and shall not 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.

**D. Report and scheduling of hearing.**

1. 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 17.715.020 (Appeal Subjects and Jurisdiction), above.

2. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 17.710 (Public Hearings).

3. Any interested party may appear and be heard regarding the appeal.

**E. Decision.**

1. During the appeal hearing, the review authority may:

   a. Affirm, affirm in part, or reverse the action, determination, or decision 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 or different project aspects or conditions of approval, that may address issues or concerns other than the subject of the appeal;

c. Disapprove the planning permit approved by the previous review authority, even where the appellant only requested a modification or elimination of one or more project aspects or conditions of approval; or

d. Refer the matter to any other review authority authorized to hear the matter.

2. Within 60 days following the initial public hearing, the review authority shall render its decision on the appeal, unless it is continued for good cause.

3. 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's decision.** A decision by the Commission is final and effective after 5:00 p.m. on the 15th day following the actual date the final decision is rendered, if no appeal to the decision has been filed with the Council or called up by the Council.

**2. Council's decision.**

**a. Adopted by ordinance.** A decision of the Council adopted by ordinance is final and shall become effective on the 31st day following the date the ordinance is actually adopted by the Council, unless otherwise provided in the adopting ordinance.

**b. Adopted by resolution.** A decision of the Council adopted by resolution is final and shall be effective on the date the decision is rendered.

## 17.715.050 – Judicial Review

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

# Chapter 17.720 — Amendments

**Sections:**

17.720.010 – Purpose
17.720.020 – Initiation of Amendment
17.720.030 – Processing, Notice, and Hearings
17.720.040 – Commission's Action on Amendment
17.720.050 – Council's Action on Amendment
17.720.060 – Findings and Decision
17.720.070 – Prezoning – Annexations
17.720.080 – Effective Dates

## 17.720.010 – Purpose

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

## 17.720.020 – Initiation of Amendment

An amendment may be initiated by Commission or Council action, proposed by the Director, or as follows.

**A.** **General Plan or Zoning Map amendment.** In the case of the General Plan or the Zoning Map, an amendment may also be initiated by the filing of an amendment application with the Department by the owner(s) or authorized agent of property for which the amendment is sought. If the property is under multiple ownerships, all owners or their authorized agents shall join in filing the application.

**B.** **Development Code amendment.** In the case of this Development Code, the Council may also adopt an urgency measure as an interim ordinance, in compliance with Government Code Section 65858.

## 17.720.030 – Processing, Notice, and Hearings

**A.** **Application filing and processing.** If initiated by the filing of an amendment application, the application shall be processed in compliance with Chapter 17.600 (Permit Application Filing and Processing). The application shall include the information and materials specified by the Department handout for amendment applications, together with the required fee in compliance with the City's Planning Fee Schedule. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.720.060 (Findings and Decision), below.

**B. Timing of General Plan amendments.**

**1. Mandatory elements.**

a. The mandatory elements of the General Plan may be amended up to four times in a single calendar year.

b. Amendments may be combined with one another for Council consideration/action.

**2. Nonmandatory elements.** The nonmandatory elements of the General Plan may be amended an unlimited number of times.

**C. Development Code/Zoning Map amendments – Compliance with Government Code Section 65853 required.**

1. A Development Code or Zoning Map amendment, which amendment changes any property from one zone to another or imposes any regulation(s) specified in Government Code Section 65850 not previously imposed or removes or modifies any specified regulation(s) previously imposed shall be adopted in compliance with Government Code Sections 65854 to 65857, inclusive and as specified in this Chapter.

2. Any other amendment to this Development Code may be adopted as other ordinances are adopted.

3. When the Council has requested the Commission to study and report upon an amendment which is within the scope of this Subsection and the Commission fails to act upon the request within a reasonable time, the Council may, by written notice, require the Commission to render its report within 40 days.

4. Upon receipt of the written notice the Commission, if it has not done so, shall conduct the public hearing as required by Government Code Section 65854.

5. Failure of the Commission to report to the Council within the time period specified in Subparagraph 3, above, shall be deemed to be approval of the proposed amendment in compliance with Government Code Section 65853.

**D. Notification and consultation with California Native American tribes required.**

1. In compliance with Government Code Section 65352.3 and before the adoption or amendment of the General Plan, proposed on or after March 1, 2005, the City shall conduct consultations with California Native American tribes that are on the contact list maintained by the Native American Heritage Commission for the purpose of preserving or mitigating impacts to features, objects, or places

described in Public Resources Code Sections 5097.9 and 5097.993 that are located within the City's jurisdiction.

2. From the date on which a California Native American tribe is contacted by the City in compliance with this Subsection, the tribe shall have 90 days in which to request a consultation, unless a shorter timeframe has been agreed to by that tribe.

3. Consistent with the guidelines developed and adopted by the State Office of Planning and Research in compliance with Government Code Section 65040.2, the City shall protect the confidentiality of information concerning the specific character, identity, location, and use of those features, objects, and places.

**E. Public hearings required.** The Commission and Council shall each conduct one or more public hearings regarding the amendment.

**F. Notice and hearing.** Notice of the public hearing shall be provided and the hearing shall be conducted in compliance with Chapter 17.710 (Public Hearings).

### 17.720.040 – Commission's Action on Amendment

**A. Commission's recommendation to Council.**

**1. All amendments.** After the public hearing, the Commission shall forward a written recommendation to the Council whether to approve, approve in modified form, or disapprove the proposed amendment, based on the findings identified in Section 17.720.060 (Findings and Decision), below.

**2. Recommendation for approval of Development Code or Zoning Map amendments.** A recommendation for approval or approval in modified form of a Development Code or Zoning Map amendment shall require only a majority vote.

**3. Recommendation for approval of General Plan amendments.** A recommendation for approval or approval in modified form of a General Plan amendment shall require the affirmative vote of not less than a majority of the total membership of the Commission in compliance with Government Code Section 65354.

**B. Recommendation of disapproval by Commission.** A recommendation against the proposed amendment shall require only a majority vote in compliance with Government Code Section 65354.

**C. Development Code or Zoning Map amendments.** For a Development Code or Zoning Map amendment, where the Commission has recommended against the adoption of the

amendment, the Council shall not be required to take any further action on the amendment unless an interested party files a written appeal with the City Clerk within five days after the Commission makes a recommendation to the Council in compliance with Government Code Section 65856(a) and Chapter 17.715 (Appeals).

**D. Appeal of Commission's recommendation.**

1. The action of the Commission may be appealed within five days after the Commission makes a recommendation to the Council in compliance with Government Code Section 65354.5.

2. The appeal shall be filed with the City Clerk in compliance with Government Code Section 65354.5 and Chapter 17.715 (Appeals).

## 17.720.050 – Council's Action on Amendment

**A. Council's action.**

1. **All amendments.** Upon receipt of the Commission's recommendation to approve or approve in modified form the proposed amendment, the Council shall conduct a public hearing and either approve, approve in modified form, or disapprove the proposed amendment based on the findings identified in Section 17.720.060 (Findings and Decision), below.

2. **Development Code or Zoning Map amendments.** The action by the Council to approve, or approve in modified form, the Commission's recommendation regarding a Development Code or Zoning Map amendment shall be by a majority vote of the members present and shall be final and conclusive.

3. **General Plan amendments.** The action by the Council to approve, or approve in modified form, the Commission's recommendation regarding a General Plan amendment shall require the affirmative vote of not less than a majority of the total membership of the Council in compliance with Government Code Section 65356 and shall be final and conclusive.

**B. Referral to Commission.**

1. If the Council proposes to adopt a substantial modification(s) 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 (General Plan amendments) and 65857 (Development Code or Zoning Map amendments).

2. Failure of the Commission to report back to the Council within the time limits specified in Government Code Sections 65356 (45 days) and 65857 (40 days)

following the referral shall be deemed approval by the Commission of the proposed modification(s).

## 17.720.060 – Findings and Decision

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

**A. Findings for General Plan and specific 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 will not be detrimental to the public interest, health, safety, convenience, or welfare of the City;

3. If an amendment to the Land Use Element, the affected site(s) 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 will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located; and

4. The City may reduce, require, or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in Government Code Section 65863, only if the following two additional findings are first made:

    a. The reduction is consistent with the adopted General Plan, including the Housing Element; and

    b. The remaining sites identified in the Housing Element are adequate to accommodate the jurisdiction's share of the regional housing needs in compliance with Government Code Section 65584.

**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 will 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 findings for Zoning Map amendments.**

a. The affected site(s) 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 zoning designation and the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

b. The two findings specified in Subparagraph A. 4., above, in compliance with Government Code Section 65863.

## 17.720.070 – Prezoning – Annexations

**A. Prezoning required.** Before the annexation to the City of any property, the sponsor of any annexations shall file an application for prezoning of the subject property to be annexed and the City shall establish the zoning which will be in effect on the effective date of the annexation.

**B. Same as Zoning Map amendments.** The process for prezoning property to be annexed to the City shall be the same as is specified in this Chapter for Zoning Map amendments.

**C. Compliance with General Plan.** The zoning shall be in compliance with the General Plan and any applicable specific plan.

## 17.720.080 – Effective Dates

**A. General Plan.** A General Plan amendment shall become effective immediately upon the adoption of a resolution by the Council, unless provided later in the resolution.

**B. Development Code and Zoning Map.** A Development Code or Zoning Map amendment shall become effective on the 31st day following the adoption of an ordinance by the Council, unless provided later in the ordinance.

**C. Notifying County Assessor.** Whenever the zoning covering a property is changed from one zone to another via a Development Code or Zoning Map amendment, the City shall, within 30 days, notify the County Assessor of the action in compliance with Government Code Section 65863.5.

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# Chapter 17.725 — Enforcement Provisions

**Sections:**

17.725.010 – Purpose
17.725.020 – Permits and Licenses
17.725.030 – Enforcement Responsibility
17.725.040 – Violations
17.725.050 – Remedies are Cumulative
17.725.060 – Inspections
17.725.070 – Revocation or Modifications
17.725.080 – Initial Enforcement Action
17.725.090 – Legal Remedies
17.725.100 – Recovery of Costs
17.725.110 – Additional Permit Processing Fees
17.725.120 – Reinspection Fees

## 17.725.010 – Purpose

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

## 17.725.020 – Permits and Licenses

All departments, officials, and public employees of the City who are assigned the authority or duty to issue certificates, licenses, or permits shall comply with the provisions of this Development Code.

**A.** **Permits in conflict with Development Code.** Certificates, licenses, or permits for uses or structures that would be in conflict with the provisions of this Development Code shall not be issued.

**B.** **Permits deemed void.** Any certificate, license, or permit issued in conflict with the provisions of this Development Code shall be void and of no effect.

## 17.725.030 – Enforcement Responsibility

**A.** **Responsibility of Director.** The Director shall exercise the authority provided in Section 836.5 of the California Penal Code through the Building Inspector(s), and issue notices of violation, stop work orders, and citations for any violations of this

Development Code pertaining to the use of any land, and the addition, alteration, construction, conversion, installation, moving, reconstruction, or use of any structure.

**B. Police Chief and City Attorney.** The Police Chief and City Attorney shall render any and all necessary assistance to the Director for the enforcement of this Development Code.

## 17.725.040 – Violations

**A. Violations of this Development Code.**

1. Any use of land or structures operated or maintained contrary to the provisions of this Development Code and any structure constructed or maintained contrary to the provisions of this Development Code are hereby declared to be a public nuisance and a violation of this Development Code and shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine, or by imprisonment for not to exceed 90 days, or by both the fine and imprisonment in compliance with Municipal Code Chapters 1.24 (General Penalty), 1.28 (Administrative Citations), and 8.44 (Nuisances).

2. The violation of any required condition imposed on a permit or approval shall constitute a violation of this Development Code and may constitute grounds for revocation or modification of the permit in compliance with Section 17.725.070 (Revocation or Modification), or any other remedy available to the City under the Municipal Code or this Development Code.

3. Any violations of this Development Code or any required condition(s) imposed on a permit or approval granted in compliance with this Development Code shall be treated as a strict liability offense regardless of intent.

**B. Public nuisance.** Any use or structure that is altered, constructed, converted, demolished, enlarged, established, erected, maintained, moved, or operated contrary to the provisions of this Development Code or any applicable condition(s) of approval imposed on a permit or approval, or any property that is found to be maintained in violation of Municipal Code Section 8.44.050, is hereby declared to be unlawful and a public nuisance, and shall be subject to the remedies and penalties established by Municipal Code Chapters 1.24 (General Penalty), 1.28 (Administrative Citations), and 8.44 (Nuisances).

**C. Criminal violation.** Any person, whether an agent, principal, or otherwise, violating, permitting, or causing the violation of any provision of this Development Code or any permit issued in compliance with this Development Code shall be guilty of a misdemeanor or an infraction at the election of the City and/or its prosecuting official, and upon conviction thereof, shall be punishable by the applicable fine(s) established by

Municipal Code Sections 1.24.020 (Misdemeanor—Penalty) or 1.24.030 (Infractions—Penalty).

**D.** **Misdemeanors.** Any offense that would otherwise be an infraction may, at the discretion of the City Attorney, be filed as a misdemeanor in compliance with Municipal Code Sections 1.24.010 (Misdemeanors) and 1.24.050 (Prosecution as misdemeanor or infraction).

**E.** **Continuing violation.** Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of this Development Code or any applicable condition of approval imposed on a permit is committed, continued, or allowed to continue and the violator shall be punished accordingly.

**F.** **Stop Work Order.**

1. Any construction in violation of this Development Code or any conditions imposed on a permit shall be subject to the issuance of a "Stop Work Order" or other similar notice issued by the City.

2. Any violation of a Stop Work Order or other similar notice shall constitute a misdemeanor and a public nuisance, and shall be subject to the remedies and penalties established by the Municipal Code and this Chapter.

### 17.725.050 – Remedies are Cumulative

**A.** **Cumulative, not exclusive.** All remedies contained in this Development Code for the handling of violations or enforcement of the provisions of this Development Code shall be cumulative and not exclusive of any other applicable provisions of City, County, or State law.

**B.** **Other remedies.** Should a person be found guilty and convicted of a misdemeanor or infraction for the violation of any provision of this Development Code, the conviction shall not prevent the City from pursuing any other available remedy to correct the violation(s).

### 17.725.060 – Inspections

**A.** **Pre-approval inspections.** Every applicant seeking a permit or any other approval in compliance with this Development Code shall allow the City officials handling the application access to any premises or property that is the subject of the application.

**B.** **Post approval inspections.** If the permit or other approval in compliance with this Development Code is approved, the owner or applicant shall allow appropriate City officials access to the premises in order to determine continued compliance with the approved permit and/or any conditions of approval imposed on the permit.

## 17.725.070 – Revocation or Modifications

This Section provides procedures for securing revocation or punitive modification of previously approved permits or approvals.

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

**B.** **Modifications.** The City's action to modify a permit or approval instead of revocation may include any operational aspect of the project, including buffers, duration of the permit or entitlement, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect/condition determined to be reasonable and necessary to ensure that the permit is operated in a manner consistent with the original findings for approval.

**C.** **Authority to revoke or modify.**

**1.** **Permits.** A Conditional Use Permit, Minor Use Permit, or other City planning permit or approval (except a Variance, see Subsection C. 2., below) may be revoked or modified by the review authority (e.g., Director, Commission, or Council) 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 welfare require the revocation;

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 or structure has ceased to exist or has been discontinued for at least 60 days. For purposes of this finding, the terms cessation or discontinuance of a use or structure shall be defined as an abandonment of the use or structure, irrespective of the owner's or occupant's intent;

e. An improvement authorized in compliance with the permit is in violation of any applicable code, law, ordinance, regulation, or statute; or

f. The improvement/use allowed by the permit 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 or Minor Variance may be revoked or modified by the review authority which originally approved the Variance or Minor Variance, if the review authority first makes any one of the following findings, in addition to any one of the findings specified in Subparagraph C.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 or Minor Variance; or

b. 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.

**D. Hearings and notice.**

1. The appropriate review authority shall hold a public hearing to consider revocation or modification of a permit or approval granted in compliance with the provisions of this Development Code.

2. At least 10 days before the public hearing, notice shall be delivered in writing to the original applicant for the permit or approval being considered for revocation or modification, and/or the original owner of the property for which the permit was granted. The only exception to the 10-day notice provision shall be for Temporary Use 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.

## 17.725.080 – Initial Enforcement Action

**A. Describes the procedures for initiating enforcement.** This Section describes the procedures for initiating enforcement action in cases where the Director has determined

that real property within the City is being used, maintained, or allowed to exist in violation of the provisions of this Development Code.

**B. Encourage voluntary cooperation.** It is the objective of these provisions to encourage the voluntary cooperation of responsible parties in the prompt correction of violations, so that the other enforcement measures provided by this Chapter may be avoided.

**C. Other steps necessary.** These provisions shall not limit or prevent the City from taking any other steps necessary to obtain compliance with this Development Code.

**D. Notice to responsible parties.** The Director shall provide the record owner of the subject site and any person in possession or control of the site with a written Notice of Violation, which shall include the following information:

1. A description of each violation and citations of applicable Development Code provisions being violated;

2. A time limit for correcting the violation(s) in compliance with Subsection E., below;

3. A statement that the City intends to charge the property owner for all administrative costs associated with the abatement of the violation(s) in compliance with Section 17.725.100 (Recovery of Costs), and/or initiate legal action as described in Section 17.725.090 (Legal Remedies); and

4. A statement that the property owner may request and be provided a meeting with the Director to discuss possible methods and time limits for the correction of the violation(s).

**E. Time limit for correction.**

1. The Notice of Violation shall state that the violation(s) shall be corrected within 14 days from the date of the notice to avoid further enforcement action by the City, unless the responsible party contacts the Director within that time to arrange for a longer period for correction.

2. The 14-day time limit may be extended by the Director upon a showing of good cause.

3. The Director may also require through the Notice of Violation that the correction occur within less than 14 days if the Director determines that the violation(s) constitutes a hazard to public health or safety.

**F. Use of other enforcement procedures.** The enforcement procedures of Section 17.725.090 (Legal Remedies) may be employed by the City after or instead of the

provisions of this Section where the Director determines that this Section would be ineffective in securing the correction of the violation(s) within a reasonable time.

### 17.725.090 – Legal Remedies

The City may choose, in addition to or in lieu of other actions, to undertake any one or all of the following legal actions to correct and/or abate any nuisances or violation(s) of this Development Code.

**A. Civil actions.**

1. **Injunction.** The City Attorney, upon order of the Council, may apply to the Superior Court for injunctive or other appropriate relief to terminate a violation(s) of this Development Code.

2. **Abatement proceedings.** The City Attorney, upon order of the Council, shall apply to the Superior Court for an order authorizing the City to undertake actions necessary to abate the violation(s) and require the violator to pay for the cost of the actions.

3. **Nuisance abatement.** The City may pursue any remedies or enforcement action(s), as provided in the Municipal Code or other applicable law for the abatement of a nuisance.

**B. Civil remedies and penalties.**

1. **Civil penalties.** Any person who violates the provisions of this Development Code or any permit issued in compliance with this Development Code shall be liable for a civil penalty of up to $1,000.00 for each day, or a portion of the day, that a violation(s) continues to exist.

2. **Costs and damages.** Any person violating any provisions of this Development Code or any permit issued in compliance with this Development Code, shall be liable to the City for the costs incurred and the damages suffered by the City, its agents, and agencies as a direct result of the violation(s), including reasonable attorney fees and costs.

3. **Procedure.** In determining the amount of the civil penalty to impose, the Court should consider all relevant circumstances, including the extent of the harm caused by the conduct constituting a violation(s), the nature and persistence of the conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the defendant, whether corporate or individual, and any corrective action taken by the defendant.

**C. Criminal actions and penalties.** See Subsection 17.725.040.C. (Criminal violations), above.

## 17.725.100 – Recovery of Costs

This Section establishes procedures for the recovery of administrative costs, including staff and City Attorney time expended on the enforcement of the provisions of this Development Code in cases where no permit is required in order to correct a violation. The intent of this Section is to recover City administrative costs reasonably related to enforcement in compliance with Code of Civil Procedure Section 1033.5, Municipal Code Section 1.24.060 (Recovery of costs), Municipal Code Section 8.44.190 (Cost of abatement), and this Section.

**A. Record of costs.**

1. The Department shall maintain records of all administrative costs incurred by responsible City departments, including City Attorney costs, associated with the processing of violations and enforcement of this Development Code, and shall recover the costs from the property owner in compliance with this Section.

2. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Council, or the actual rate charged to the City.

**B. Notice.** Upon investigation and a determination that a violation of any of the provisions of this Development Code or any condition(s) imposed on a permit or approval is found to exist, the Director shall notify the record owner or any person having possession or control of the property by mail, of the existence of the violation(s), the Department's intent to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing on any objections they may have. The notice shall be in a form approved by the City Attorney.

**C. Summary of costs and notice.**

1. At the conclusion of the case, the Director shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the property by certified and first class mail.

2. The summary shall include a notice in a form approved by the City Attorney, advising the responsible party of their right to request a hearing on the charges for City cost recovery within 10 days following the date of the notice, and that if no request for hearing is filed, the responsible party will be liable for the charges.

3. In the event that no request for hearing is timely filed or, after a hearing the Director affirms the validity of the costs, the property owner or person in control shall be liable to the City in the amount stated in the summary or any lesser amount as determined by the Director.

4. The costs shall be recoverable in a civil action in the name of the City, in any court of competent jurisdiction, or by tax assessment or a lien on the property in compliance with Government Code Section 54988, at the City's election.

5. The obligation to pay any unpaid costs shall be made a personal obligation of the property owner. The obligation may be recovered against the property owner through a civil action initiated by the City or its authorized collection agent, or in any other manner provided for by law. The City shall be entitled to recover costs of the civil action, including the City's attorney's fees.

**D. Attorney's fees.** In any action or administrative proceeding to enjoin, or abate a nuisance, or seek a civil penalty, the prevailing party in the action or proceeding shall be entitled to recover reasonable attorney's fees; however, the amount of attorney's fees awarded to a prevailing party shall not exceed the amount of attorney's fees incurred by the City in the action or proceeding. Further, an award of attorney's fees in compliance with this Section shall only be allowed where the City elects, at the initiation of the action or proceeding, to seek recovery of its own attorney's fees.

**E. Request for hearing on costs.** Any property owner, or other person having possession and control of the subject property, who receives a summary of costs shall have the right to a hearing before the Community Preservation Committee in compliance with Municipal Code Section 8.44.210 (Cost report—Hearing and proceedings).

1. A request for hearing shall be filed with the Department within 10 days following the service by mail of the Department's summary of costs, on a form provided by the Department.

2. Within 30 days following the filing of the request, and on 10 days written notice to the owner, the Community Preservation Committee shall hold a hearing on the owner's objections, and determine their validity.

3. In determining the validity of the costs, the Community Preservation Committee shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include:

   a. Whether the present owner created the violation(s);

   b. Whether there is a present ability to correct the violation(s);

   c. Whether the owner moved promptly to correct the violation(s);

   d. The degree of cooperation provided by the owner; and

   e. Whether reasonable minds can differ as to whether a violation(s) exists.

4. The Community Preservation Committee's decision shall be appealable directly to the Council in compliance with Municipal Code Section 8.44.240 (Grievance with final order—Appeal to City Council).

## 17.725.110 – Additional Permit Processing Fees

Any person who establishes a land use, or alters, constructs, demolishes, enlarges, erects, maintains, or moves any structure without first obtaining any permit required by this Development Code, shall pay the additional permit processing fees established by the City's Planning Fee Schedule for the correction of the violations, before being granted a permit for a use or structure on the site.

## 17.725.120 – Reinspection Fees

**A. Amount and applicability of reinspection fee.**

1. A reinspection fee shall be imposed on each person who receives a Notice of Violation, notice and order, or letter of correction of any provision of this Development Code or the Municipal Code, adopted Building Code, or State law.

    a. The fee amount shall be established by the City's Planning Fee Schedule.

    b. The fee may be assessed for each inspection or reinspection conducted when the particular violation for which an inspection or reinspection is scheduled is not fully abated or corrected as directed by, and within the time and manner specified in, the notice or letter.

2. The fee shall not apply to the original inspection to document the violations and shall not apply to the first scheduled compliance inspection made after the issuance of a notice or letter, if the correction has been made.

**B. Continuation of the original case.**

1. If a notice or letter has been previously issued for the same violation and the property has been in compliance with the provisions of this Development Code or the Municipal Code for less than 90 days, the violation shall be deemed a continuation of the original case, and all inspections or reinspections, including the first inspection for the repeated offense, shall be charged a reinspection fee.

2. This fee is intended to compensate for administrative costs for unnecessary City inspections, and is not a penalty for violating this Development Code or the Municipal Code.

3. Any reinspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of this Development Code or the Municipal Code, or costs incurred by the City for the abatement of a public nuisance.

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