

# Series 600: Administration and Permits

## Chapter 600 Planning Agency

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Sections:

600.01	Purpose
600.02	City Council
600.03	Zoning Administrator
600.04	Project Review Committee
600.05	Parcel Map Committee

### **600.01 Purpose**

This chapter identifies the bodies, officials, and administrators, with designated responsibilities under various parts and chapters of this Ordinance. Subsequent chapters of this series provide detailed information regarding various procedures, applications, and permits including zoning, and General Plan text and map amendments, fees, and enforcement. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of this Ordinance as minimum requirements adopted to implement the policies and achieve the objectives of the General Plan.

### **600.02 City Council**

The City Council has the following powers and duties under this Ordinance:

- (a) Initiate, consider and adopt, reject or modify amendments to the General Plan pursuant to the provisions of Chapter 607, Amendments to General Plan;
- (b) Initiate, consider and adopt, reject or modify amendments to the text of this Ordinance pursuant to the provisions of Chapter 608, Amendments to Zoning Map and Text and the State Government Code;
- (c) Approve, conditionally approve, modify or deny Conditional Use Permits and Variances pursuant to the provisions of Chapter 604, Conditional Use Permits and Chapter 606, Variances;
- (d) Approve, conditionally approve, or deny major subdivisions pursuant to the provisions of Chapter 401, Preliminary Maps;
- (e) Hear and decide appeals from decisions of the Zoning Administrator on Temporary Use Permits, minor modifications of approved Conditional Use Permits, administrative approvals, environmental review, and any other permits that can be

- appealed pursuant to the provisions of Chapter 612, Appeals and other applicable requirements;
- (f) Hear and decide appeals from decisions of the Parcel Map Committee on minor subdivisions pursuant to the provisions of Chapter 612, Appeals and other applicable requirements;
  - (g) Enter into development agreements with property owners pursuant to the provisions of Chapter 609, Development Agreements and the State Government Code;
  - (h) Establish, by resolution, a schedule of fees and deposits for the various applications and services provided pursuant to this Ordinance;
  - (i) Initiate proceedings to revoke or amend Conditional Use Permits pursuant to the provisions of Chapter 613, Enforcement; and
  - (j) Determine which incentives the City should grant to developers proposing projects that are eligible for such incentives under this Ordinance and the provisions of State law applicable to affordable housing and childcare facilities

### **600.03 Zoning Administrator**

The Zoning Administrator is the Community Development Director or his designated appointee. The Zoning Administrator has the following powers and duties under this Ordinance:

- (a) Provide professional recommendations to the City Council, other appointed officials and City management on matters related to the planning and development of the community;
- (b) Administer the provisions of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA);
- (c) Approve, conditionally approve, modify, or deny applications reviewed by the Project Review and Parcel Map Committees;
- (d) On behalf of the City execute Indemnification and Cost Recovery Agreement for projects requiring discretionary permits and/or those evaluated under the provisions of CEQA and NEPA.
- (e) Hear and decide applications for Temporary Use Permits, minor modifications of approved Conditional Use Permits, and administrative approvals subject to appeal to the City Council;
- (f) Hear and decide applications for adjustments pursuant to provisions of Chapter 610, Adjustments;
- (g) Make determinations of zoning conformance pursuant to Chapter 602, Zoning Conformance Review;

- (h) Make environmental determinations on any approvals it grants that are subject to environmental review under the California Environmental Quality Act and the procedures in Chapter 611, Environmental Review;
- (i) Negotiate the components and provisions of development agreements for recommendation to the City Council;
- (j) Issue administrative regulations for the submission and review of applications;
- (k) Administratively approve or deny a use or occupancy where authority to do so is provided for in this Ordinance;
- (l) Make determinations of uncertainty of Boundaries on the Official Zoning Map pursuant to Official Zoning Map and District Boundaries, Chapter 101.02(b);
- (m) Determine whether a legally approved permit has lapsed due to lack of implementation or an extension as provided for in Expiration and Extension, 601.08 (a) and (b); and
- (n) Act as the Environmental Coordinator in administering the provisions of the California Environmental Quality Act.

#### **600.04 Project Review Committee**

The Project Review Committee consists of the Zoning Administrator, City Planner, City Engineer, Chief Building Official, and Fire Chief or their designees. The Project Review Committee shall review development proposals for the following projects through the Project Review Process:

- (a) All new or additions of five hundred (500) square feet or more to commercial or industrial structures more;
- (b) Multi-Family Residential developments of four (4) or more units or consisting of two (2) or more structures;
- (c) A change in occupancy or where the new occupant is in a different use classification than the former occupant; and
- (d) Any project that requires a discretionary approval, including but not limited to, Conditional Use Permits, Variances, zoning change, general plan amendment, subdivision, and annexation.
- (e) Preliminary review of a map application.

#### **600.05 Parcel Map Committee**

The Parcel Map Committee shall review and approve, conditionally approve or disapprove subdivision maps for Minor Subdivisions as defined in Chapter 402, Tentative Map, unless other related discretionary permits require approval by the City Council. In this case, the Parcel Map Committee actions will be in the form of a recommendation to the City Council. The Parcel Map Committee shall also make environmental determinations on any

approvals it grants that are subject to environmental review under the California Environmental Quality Act and the procedures in Chapter 611, Environmental Review. Said Parcel Map Committee shall include the Zoning Administrator, City Engineer and Fire Chief or their designees. The Zoning Administrator shall serve as committee chairman.

## Chapter 601 Common Procedures

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Sections:

601.01	Purpose
601.02	Application Forms and Fees
601.03	Mandatory Pre-application Review
601.04	Review of Applications
601.05	Public Notification
601.06	Scope of Approvals
601.07	Effective Dates
601.08	Expiration and Extension
601.09	Modification of Approvals; Changed Plans
601.10	Revocation of Approvals
601.11	Appeals

### 601.01 Purpose

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

### 601.02 Application Forms and Fees

(a) **Applicants.** The following persons may file applications:

- (1) The owner of the subject property; and
- (2) An agent representing the owner, duly authorized to do so in writing by the owner, including a person with a duly executed written contract or exclusive option to purchase the subject property or a lessee in possession of the subject property.

(b) **Application Forms and Supporting Materials**

- (1) **Application Forms.** The Zoning Administrator shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Ordinance, as required by the California Permit Streamlining Act.
- (2) **Supporting Materials.** The Zoning Administrator may require the submission of supporting materials as part of the application, including but not limited to, statements, photographs, plans, drawings, renderings, material samples and other items necessary to describe existing conditions and the proposed project. The Zoning Administrator may require sufficient information to determine the level of environmental review that shall be required pursuant to the California Environmental Quality Act and the City's adopted environmental review guidelines. Unless otherwise specified, all renderings shall depict the proposed structure, landscaping, other

improvements, and surrounding land uses as they would appear one (1) month after project completion.

- (3) **Availability of Materials.** All material submitted becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. Upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the Community Development Department. Unless barred by law, copies of such materials shall be made available at a reasonable cost to be established by City Council resolution.
- (4) **Indemnification and Cost Recovery Agreement.** Applicants shall submit an executed indemnification agreement which indemnifies and holds the City harmless from any action in connection with the project being reviewed and commits to cost recovery relating to an appeal as well as all court costs relating to legal challenges. Costs associated with implementing mitigation monitoring shall be included in the agreement.
  - a. Failure or refusal by any or all of the Applicant(s) to enter into the Indemnification and Cost Recovery Agreement in favor of the City of Porterville, in a form provided by the Community Development Department, Planning Division, shall result in and be deemed an abandonment of the application and application approval, and all rights accrued to the Applicant(s) to proceed under the City's actions in such regard shall be deemed immediately revoked, and the City will be entitled to seek all remedies available to it under law, including, but not limited to, breach of contract and/or enforcement of any code violations.

(c) **Payment and Waiver of Application Fees**

- (1) **Schedule of Fees.** The Council shall establish fees for permits, informational materials, copying, and other such items by resolution. Applications for Permits shall be accompanied by the required fees. Payment of the fee is required in order for an application to be complete under the Permit Streamlining Act.
- (2) **Fee Waiver.** No fee shall be required when the applicant is the City, or if it is waived under any other provision of the Municipal Code.

**601.03 Project Review Committee**

Project Review Committee (PRC) is a process that is intended to provide information on relevant General or Specific Plan policies, zoning and subdivision regulations, and procedures related to projects pursuant to this Ordinance.

- (a) **Projects Requiring Project Review.** Review is required for the following projects:
  - (1) All new commercial or industrial structures and additions of five hundred (500) square feet or more;

- (2) Multi-Family developments of four (4) or more units or consisting of two (2) or more structures;
  - (3) A change in occupancy or where the new occupant is in a different use classification than the former occupant; and
  - (4) Any project that requires a discretionary approval, including but not limited to: Conditional Use Permits, Variances, planned developments, mixed use projects, zoning changes, general plan amendments, subdivisions, and annexations.
  - (5) Preliminary review of a map application.
- (b) **Payment of Fee.** No application will be accepted for PRC without payment of a fee established by resolution of the City Council and submission of materials that the Zoning Administrator has determined necessary to conduct such review.
  - (c) **Submittal Requirements.** The applicant shall submit to the Zoning Administrator nine (9) copies, or as may be determined necessary at the time of submittal, of a preliminary map, site plan drawn to scale and dimensioned, and other materials to indicate the essential characteristics of the project. For tentative subdivisions, the preliminary map shall be in compliance with Chapter 401, Preliminary Map.
  - (d) **Review.** The Zoning Administrator will then, within twelve (12) days, schedule a meeting of the Project Review Committee with the applicant on the proposed project. The Project Review Committee will make such general recommendations to the applicant as shall seem proper regarding such proposed project and shall recommend consultations by the applicant with such other public or private agencies as it shall designate.
  - (e) **Summary of Recommendations.** The Project Review Committee shall furnish written copies of its recommendations to the applicant.
  - (f) **Permit Streamlining Act.** An application that is accepted for project review shall not be considered complete pursuant to the requirements of the California Permit Streamlining Act unless it has been reviewed and determined to be complete in compliance with the requirements of Section 601.02, Application Forms and Fees. If an application requires the submittal of an application(s) for discretionary permit approval, the application will not be deemed complete until such time as a completed application and fees are submitted for the discretionary review.

#### **601.04 Review of Applications**

The Zoning Administrator shall determine whether an application is complete within thirty (30) days of the date the application is filed with the required fee.

- (a) **Incomplete Application.** If an application is incomplete, the Zoning Administrator shall provide written notification to the applicant listing the applications for permit(s), forms, information and any additional fees that are necessary to complete the application.

- (b) **Complete Application.** When an application is determined to be complete, the Zoning Administrator shall make a record of that date. If an application requires a public hearing, the Zoning Administrator shall schedule it and notify the applicant of the date and time.
- (c) **Concurrent Processing.** Applications requiring multiple approvals, permits, adjustments, or entitlements under this Ordinance shall be heard and acted upon at the same time. Those items requiring public notification shall be notified together.
- (d) **Extensions.** The Zoning Administrator may, upon written request and to provide reasonable accommodation, grant extensions of any time limit for review of applications imposed by this Ordinance in compliance with applicable provisions of State law.

#### **601.05 Public Notification**

Whenever the provisions of this Series require public notice, notification shall be provided in compliance with the requirements of State law and as follows.

- (a) **Mailed Notice.** At least ten (10) days before the date of the public hearing, the Zoning Administrator shall provide notice by First Class mail delivery to:
  - (1) The applicant, the owner, and any occupant of the subject property;
  - (2) All property owners of record within a three hundred (300) foot radius of the subject property as shown on the latest available assessment role; and
  - (3) Any person or group who has filed a written request for notice regarding the specific application.
- (b) **Newspaper Notice.** At least ten (10) days before the date of the public hearing, the Zoning Administrator shall provide notice by at least one (1) publication in a newspaper of general circulation published in the City.
- (c) **Alternate Method for Large Mailings.** If the number of owners to whom notice would be mailed or delivered is greater than one thousand (1,000), instead of mailed notice, the Zoning Administrator may provide notice by placing a display advertisement of at least one-eighth (1/8) page in at least one (1) newspaper of general circulation at least ten (10) days prior to the hearing.
- (d) **Contents of Notice.** The notice shall include the following information:
  - (1) A general description of the proposed project or action and the location of the real property, if any, that is the subject of the application;
  - (2) The date, time, location, and purpose of the public hearing;
  - (3) The identity of the hearing body;
  - (4) The names of the applicant and the owner of the property that is the subject of the application;
  - (5) The location at which the complete application and project file may be viewed by the public;



- (6) A statement that any interested person or authorized agent may appear and be heard; and
- (7) A statement describing where to submit written comments.
- (e) **Failure to Notify Individual Properties.** The validity of the proceedings shall not be affected by the failure of any property owner, resident or neighborhood or community organization to receive such mailed notice.
- (f) **Continuance of Public Hearing.** The body conducting the public hearing may by motion continue the public hearing, even in the absence of a quorum, to a fixed date, time and place, and no further notice shall be required as prescribed by law.

#### **601.06 Scope of Approvals**

- (a) **Scope.** An approval permits only those uses and activities actually proposed in the application, and excludes other uses and activities. The approved use and/or construction is subject to, and shall comply with, all applicable city ordinances and laws and regulations of other governmental agencies. Unless otherwise specified therein, any approval terminates all other uses at the location subject to the approval.
- (b) **Conditions of Approval.** Unless otherwise specified or required by the Zoning Administrator or City Council, the site plan, floor plans, building elevations and/or any additional information or representations indicating the proposed structure or manner of operation submitted with an application or submitted during the approval process or by minute order shall be deemed conditions of approval. Any approval may be subject to requirements that the permittee guarantees, warranties or insures that he will comply with permit's plans and conditions in all respects.
- (c) **Actions Voiding Approval.** If the construction of a building or structure or the use established is contrary to the description or illustration in the application, so as to either violate any provision of the Ordinance or require additional permits, then the approval shall be deemed null and void.
- (d) **Periodic Review.** All approvals may be subject to periodic review to determine compliance with the permit and applicable conditions. If a condition specifies that activities or uses allowed under the Conditional Use Permit are subject to periodic reporting, monitoring or assessments, it shall be the responsibility of the permit holder, the property owner or successor property owners to comply with such conditions.

#### **601.07 Effective Dates**

A final decision on an application for any Zoning Administrator approval is subject to appeal and shall not become effective until after the expiration of the ten (10) day appeal period following the date of action. No building permit or business license shall be issued until the eleventh (11<sup>th</sup>) day following the date of the action.

### **601.08 Expiration and Extension**

- (a) **Expiration.** The City Council, in the granting of any permit, or the Zoning Administrator, in the granting of any application, permit modification, or adjustment, may specify the time within which the proposed use must be undertaken and actively and continuously pursued. The City Council or Zoning Administrator may impose upon the permit a term of such period of time as is found to be consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare. If no time period is otherwise specified, any permit granted under this Ordinance may be declared lapsed and of no further force and effect if it is not exercised or extended within two (2) years of its issuance.
- (1) A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- (2) A permit for the construction of a building or structure is exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- (b) **Extensions.** The City Council may approve a one (1) year extension of any permit or approval granted under this Ordinance upon receipt of a written application with the required fee before the permit expires.

### **601.09 Modification of Approvals; Changed Plans**

- (a) **Modifications of Approvals.** The Zoning Administrator may approve minor modifications to approved plans that are consistent with the original findings and conditions approved by the City Council and would not intensify any potentially detrimental effects of the project.
- (b) **Changed Plan.** A request for changes in conditions of approval of a discretionary permit or a change in an approved site plan or building plan that would affect a condition of approval shall be treated as a new application, except that such changes determined to be minor, in the opinion of the Zoning Administrator, may be approved by the Zoning Administrator.

### **601.10 Revocation of Approvals**

Any permit granted under this chapter may be revoked or modified if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith. Notwithstanding this provision, no lawful residential use can lapse regardless of the length of time of the vacancy.

- (a) **Initiation of Proceeding.** The City Council, by its own action, or following a recommendation from the Zoning Administrator, may initiate revocation or modification proceedings.
- (b) **Public Notice.** The Zoning Administrator shall give notice of the hearing before the City Council pursuant to the requirements of Section 601.05, Public Notification.

- (c) **Public Hearing.** The public hearing regarding the revocation or modification of a Conditional Use Permit or Variance shall be conducted in the same manner as for Conditional Use Permits pursuant to Chapter 604, Conditional Use Permits.
- (d) **Decision of the City Council.** The City Council may revoke the permit if it makes any of the following findings:
  - (1) That approval was obtained by means of fraud or misrepresentation of a material fact;
  - (2) That the use in question has ceased to exist or has been suspended for one (1) year or more;
  - (3) That there is or has been a violation of or failure to observe the terms or conditions of the permit or Variance, or the use has been conducted in violation of the provisions of this Ordinance, law or regulation; or
  - (4) That the use to which the permit or Variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.

#### **601.11 Appeals**

All final decisions of the Zoning Administrator may be appealed to the City Council pursuant to Chapter 612, Appeals.

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## Chapter 602 Zoning Conformance Review

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Sections:

602.01	Purpose
602.02	Applicability
602.03	Procedures
602.04	Request for Other Zoning Administrator Determinations

### 602.01 Purpose

This chapter establishes procedures for conducting zoning conformance review to ensure that each new or expanded use or structure complies with the applicable requirements of this Ordinance. Having made such determination, the Zoning Administrator shall establish a record of the zoning conformance approval that document the initial establishment of a use, or the construction of a structure, which is allowed as a matter of right.

### 602.02 Applicability

Zoning conformance approval is required for buildings, structures, or signs erected, constructed, altered, repaired or moved, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which are allowed as a matter of right by this Ordinance.

### 602.03 Procedures

Prior to obtaining any business license, building permit, subdivision approval, or lot line adjustment, the applicant shall request the Zoning Administrator to determine whether the use, building, or change in lot configuration complies with all provisions of this Ordinance or any Conditional Use Permit or Variance approval issued pursuant to the Ordinance's requirements and that all conditions of such permits and approvals have been satisfied. The following requirements apply to such determinations:

- (a) **Application.** Applications and fees for zoning conformance review shall be submitted in accordance with the provisions set forth in Section 601.02, Application Forms and Fees. The Zoning Administrator may request that the application be accompanied by plans and related materials necessary to show that the proposed development, alteration, or use of the property complies with all provisions of this Ordinance and the requirements and conditions of any applicable Conditional Use Permit or Variance approval.
- (b) **Determination.** The Zoning Administrator shall determine whether the Development Ordinance allows the proposed uses or structures by right.
- (c) **Exceptions.** No Zoning Certificate shall be required for the continuation of previously approved or permitted uses and structures, uses and structures that are not subject to any building or zoning regulations, or other uses or buildings already subject to Conditional Use Permits, Variances, or other discretionary approvals in the district in which they are located.

**602.04 Request for Other Zoning Administrator Determinations**

Requests for interpretations of this Ordinance, verifications of zoning regulations, or verifications related to previous permits shall be made in writing to the Zoning Administrator. Requests shall be accompanied by payment of fees established in the City's adopted fee schedule. The Zoning Administrator shall provide a Zoning Administrator determination in writing within thirty (30) days of a complete submittal.

## Chapter 603 Hillside Development Permit

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Sections:

- 603.01 Purpose
- 603.02 Applicability
- 603.03 Decision-Making Authority
- 603.04 Procedures
- 603.05 Appeals, Expiration and Extensions

### 603.01 Purpose

This chapter describes the process and general requirements applicable to those uses for which a Hillside Development Permit or an Administrative Hillside Development Permit is required by this Ordinance. These uses require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The process for review of Hillside Development Permit and Administrative Hillside Development Permit applications is designed to evaluate possible adverse impacts and to minimize them where possible through the imposition of specific conditions or requirements. Approval of a Hillside Development Permit or an Administrative Hillside Development Permit requires careful review of the location, design, configuration, and special impacts of a proposed use to determine, against standards and criteria, the desirability of permitting its establishment on a particular site.

- (a) **Hillside Development Permits.** No person shall grade, erect, or construct into, over or on top of property within the HZ Overlay District without first obtaining a Hillside Development Permit, except as otherwise provided for in this chapter.
- (b) **Administrative Hillside Development Permits.** If no other development permits are required by this Ordinance or other provisions of the Municipal Code, then the property owner or duly authorized agent may submit an application for an Administrative Hillside Development Permit.

### 603.02 Applicability

This chapter is applicable to uses or developments on properties within the incorporated boundaries of the City of Porterville, as well as those properties within the City's official Sphere of Influence, as may be amended from time to time, that are designated Hillside Development Zone on the General Plan Land Use Diagram, except the activities listed below:

- (a) Construction that does not require a grading permit or a building permit.
- (b) The construction and installation (trenching, utility construction, and backfilling) of underground utility systems.
- (c) The re-grading of existing yard areas for landscaping installation provided such re-graded yard area does not exceed twenty-five hundred (2,500) square feet in area.

- (d) Swimming pools, spas, ponds, and associated hardscape and landscape improvements that do not involve the construction of any retaining walls over three (3) feet in height, subject to the issuance of a grading permit and required building permits.
- (e) Additions to existing structures and/or construction of accessory structures located entirely on the existing pad area and are less than five hundred (500) square feet in area, unless a grading permit for establishment of same is required.
- (f) Any project that has received final approval for construction prior to the effective date of this Ordinance, provided that such permit or approval has not expired or is not otherwise revoked.

### **603.03 Decision-Making Authority**

- (a) **Hillside Development Permit.** The City Council shall consider and render a decision on any application for a Hillside Development Permit.
- (b) **Administrative Hillside Development Permit.** The Zoning Administrator shall consider and render a decision on any application for an Administrative Hillside Development Permit.
- (c) **Referral of Application to City Council.** The Zoning Administrator or designee may, at his or her discretion, refer an application for an Administrative Hillside Development Permit to the City Council for a decision rather than acting on it individually. In this case, the application shall be processed as a Hillside Development Permit.

### **603.04 Procedures**

- (a) **Filing.** Written applications for Hillside Development Permits or Administrative Hillside Development Permits shall be filed with the Community Development Department in accordance with the application procedures in Chapter 601, Common Procedures.
- (b) **Review Procedures.**
  - (1) The Zoning Administrator shall review all applications within thirty (30) days to determine if they are complete as provided for in Chapter 601, Common Procedures. No application shall be deemed complete until the applicant has applied for any Conditional Use Permit, Variance, or other zoning or subdivision approval required pursuant to this Ordinance.
  - (2) After determining that an application is complete, the Zoning Administrator shall review the application for compliance with the applicable HZ Overlay District requirements.
  - (3) After determining that an application is complete, if it is not exempt from environmental review, the Zoning Administrator shall conduct the hillside development review process concurrently with the required environmental review. When a project requiring review by the City Council is subject to



environmental review, the Zoning Administrator shall submit the proposed Negative Declaration or Environmental Impact Report to the City Council for review and action pursuant to CEQA requirements before the City Council takes action on the hillside development application. The application for a Hillside Development Permit should be processed concurrently with the appropriate environmental document.

(4) ***Hillside Development Permit***

- a. The Zoning Administrator shall prepare a report and recommendation.
- b. If an application is exempt from environmental review and does not otherwise require a hearing by the City Council, a public hearing shall be held before the City Council within thirty (30) days of the date the application is deemed complete.
- c. No separate notice or public hearing is required for a Hillside Development Permit for a project that requires a Conditional Use Permit, Variance, tentative map or other discretionary approval subject to a public hearing by the City Council.

(5) ***Administrative Hillside Development Permit***

- a. The Zoning Administrator may conduct a public hearing for any application that may be approved by the Zoning Administrator. The Zoning Administrator shall act on a project with a complete application within thirty (30) days of the date the application is received.

**603.05 Appeals, Expiration and Extensions**

(a) **Appeals.**

- (1) Administrative Hillside Development Permits. The decision by the Zoning Administrator is subject to the appeal provisions of Chapter 612, Appeals.
- (2) Hillside Development Permits. The decision of the City Council shall be final.

- (b) **Expiration and Extension.** Hillside Development Permit and Administrative Hillside Development approvals are effective and may only be extended or modified as provided for in Chapter 601, Common Procedures.

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## Chapter 604 Conditional Use Permits

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Sections:

604.01	Purpose
604.02	Applicability
604.03	Procedures
604.04	Required Findings
604.05	Conditions of Approval
604.06	Decision; Expiration and Extensions; Modifications

### 604.01 Purpose

This chapter describes the process and general requirements applicable to those uses for which a Conditional Use Permit is required. These uses require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The process for review of Conditional Use Permit applications is designed to evaluate possible adverse impacts and to minimize them where possible through the imposition of specific conditions.

### 604.02 Applicability

Conditional Use Permit approval is required for uses or developments specifically identified in the Series 200, Base Districts, and Series 500, Overlay Districts, of this Ordinance or any other section of this Ordinance which requires a Conditional Use Permit. Some conditional uses that have been identified by the City Council to require less staff review time are titled “Minor Conditional Use Permits”, and such uses are identified in Series 200, Base Districts. Minor Conditional Use Permits shall conform to all applicable criteria required of Conditional Use Permits.

### 604.03 Procedures

- (a) **Application.** Written applications for Conditional Use Permits shall be filed with the Community Development Department in accordance with Chapter 601, Common Procedures.
- (b) **Public Hearing.** Within 30 days after determining that an application is complete, the Zoning Administrator shall schedule a public hearing before the City Council. Notice shall be provided in compliance with the requirements in Chapter 601, Common Procedures.

### 604.04 Required Findings

A Conditional Use Permit shall only be granted if the City Council determines that the project as submitted or as modified conforms to all of the following criteria. If the City Council determines that it is not possible to make all of the required findings, the application shall be denied. The specific basis for denial shall be established for the record.

- (a) Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable plan that the City has adopted; and
- (b) The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conforms in all significant respects with the General Plan, the Development Ordinance and with any other applicable plan adopted by the City Council.

**604.05 Conditions of Approval**

- (a) In approving a Conditional Use Permit, the City Council may impose conditions reasonably related to the application and deemed necessary to achieve the findings for a Conditional Use Permit identified in Section 604.04.

**604.06 Decision; Expiration and Extensions; Modifications**

- (a) **Decision.** The decision of the Council shall be final. The Zoning Administrator shall cause a copy of its resolution to be mailed to the applicant within ten (10) days from the date of adoption thereof.
- (b) **Expiration, Extension, and Modifications.** Conditional Use Permits are effective and may only be extended or modified as provided for in Chapter 601, Common Procedures.

## Chapter 605 Temporary Use Permits

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Sections:

605.01	Purpose
605.02	Applicability
605.03	Procedures
605.04	Required Findings
605.05	Conditions of Approval

### 605.01 Purpose

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

### 605.02 Applicability

Temporary Use Permit approval is required for temporary uses as described in Section 301.19, Temporary Uses. The Zoning Administrator may refer an application for a Temporary Use Permit to the City Council if the Zoning Administrator finds that the temporary use may have substantial and detrimental impacts to surrounding land that warrant Council review.

### 605.03 Procedures

- (a) **Application.** Any person may apply to the Zoning Administrator for approval of a temporary use not less than thirty (30) days before the use is intended to begin in accordance with the provisions in Chapter 601, Common Procedures.
- (b) **Determination.** Within ten (10) days of accepting an application for a Temporary Use Permit as complete, the Zoning Administrator shall render a written decision.

### 605.04 Required Findings

The Zoning Administrator may approve an application for a Temporary Use Permit to allow a temporary use for a period of time, only upon making all of the following findings:

- (a) The proposed use will not unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety peace, comfort, or general welfare of persons residing or working in the area of such use or to the general welfare of the City;
- (b) The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas; and

- (c) Appropriate controls are in place that will ensure the premises will be kept clean, sanitary, and free of litter.

**605.05            Conditions of Approval**

In approving a Temporary Use Permit, the Zoning Administrator may impose any conditions reasonably related to the application and deemed necessary to achieve the findings for a Temporary Use Permit listed in Section 605.04 above.

## Chapter 606 Variances

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Sections:

606.01	Purpose
606.02	Procedures
606.03	Required Findings
606.04	Use Variances Prohibited
606.05	Conditions of Approval
606.06	Decision; Expiration and Extensions; Modifications

### 606.01 Purpose

This chapter is intended to provide a mechanism for relief from the strict application of this Ordinance where strict application will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions. Variances may be granted with respect to dimensional and performance standards, but Variances from the use regulations of this Ordinance are not allowed.

### 606.02 Procedures

- (a) **Application.** Applications for Variances shall be filed in accordance with Chapter 601, Common Procedures. In addition to any other application requirements, the application for a Variance shall include data or other evidence supporting the proposed variance.
- (b) **Public Notice and Hearing.** All applications for Variances shall require public notice and a hearing before the City Council pursuant to Chapter 601, Common Procedures.

### 606.03 Required Findings

A Variance shall only be granted if the City Council makes all of the following findings:

- (a) There are special circumstances or conditions applicable to the property such as its size, shape, topography, location, surroundings, or existing structures, which do not apply generally to uses, land or structures in the vicinity and same zoning district;
- (b) Due to the special circumstances applicable to this property, strict application of the respective zoning regulation would deprive the property owner of privileges enjoyed by other property owners in the same zoning district;
- (c) Special circumstances applicable to the property were or are not self-imposed by the property owner; and
- (d) The authorization of the Variance will substantially meet the intent and purpose of the zoning district in which the subject property is located and will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

**606.04 Use Variances Prohibited**

The City Council shall not approve any changes in the uses permitted in any zoning classification or zoning district or approve any modification of the requirements of this Ordinance that would have the effect of allowing the establishment of a use not otherwise permitted. This restriction shall not affect the authority otherwise to grant Variances pursuant to this chapter.

**606.05 Conditions of Approval**

- (a) In approving a Variance, the City Council may impose reasonable conditions necessary to insure that the Variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.

**606.06 Decision; Expiration and Extensions; Modifications**

- (a) **Decision.** The decision of the Council shall be final. The Zoning Administrator shall cause a copy of its resolution to be mailed to the applicant within ten (10) days from the date of adoption thereof.
- (b) **Expiration and Extension.** Variances are effective and may only be extended or modified as provided for in Chapter 601, Common Procedures.



## Chapter 607 Amendments to General Plan

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Sections:

607.01	Purpose
607.02	Applicability
607.03	Initiation of Amendment
607.04	Application Requirements
607.05	Review of Application and Determinations by Zoning Administrator
607.06	Public Hearing Scheduling
607.07	City Council Hearing and Action

### 607.01 Purpose

This chapter establishes procedures for making changes to the General Plan as provided for in State law when there are compelling reasons to do so as a result of changes in conditions or circumstances unforeseen at the time of adoption or last amendment of the General Plan. These circumstances include, but are not limited to, changes in State or federal law and problems and opportunities that were unanticipated at the time of adoption or last amendment. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.

### 607.02 Applicability

The procedures of this chapter shall apply to all proposals to change the text of the General Plan and the diagrams that illustrate the application of its provisions.

### 607.03 Initiation of Amendment

An amendment may be initiated by the City Council or by application of any interested person.

### 607.04 Application Requirements

- (a) **Application.** A qualified applicant shall submit an application for a General Plan amendment on a form prescribed by the Zoning Administrator accompanied by the required fee. The Zoning Administrator may require an applicant to submit such additional information and supporting data as considered necessary to process the application.
- (b) **Coordination with Other Applications.** Related applications to be processed concurrently unless the Zoning Administrator shall otherwise allow any necessary applications for amendments to zoning regulations or for approval of discretionary permits, to be processed simultaneously with the proposed General Plan amendment. However, an application for a General Plan amendment is not considered to be a Development Project and so the approval of any associated discretionary permit shall not be subject to the time limits specified in State Law for

processing such applications until the Council approves the General Plan amendment and any necessary amendments to this Ordinance.

**607.05 Review of Application and Determinations by Zoning Administrator**

After determining that an application is complete and environmental review has been conducted, the Zoning Administrator shall prepare a report and recommendation to the City Council on the application for a General Plan amendment.

**607.06 Public Hearing Scheduling**

The Zoning Administrator shall schedule the application for hearing by the City Council in accordance with the Council's schedule for considering General Plan amendments. Notice shall be provided in accordance with Chapter 601, Common Procedures.

**607.07 City Council Hearing and Action**

- (a) **Hearing.** The City Council shall conduct a public hearing in conformance with the provisions of Chapter 601, Common Procedures.
- (b) **Action.** After the conclusion of the hearing, the City Council may approve, modify or disapprove the proposed General Plan amendment.

## **Chapter 608    Amendments to Zoning Map and Text**

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Sections:

608.01	Purpose
608.02	Applicability
608.03	Initiation of Amendment
608.04	Application Requirements
608.05	Review of Application and Determinations by Zoning Administrator
608.06	City Council Hearing and Action

### **608.01        Purpose**

This chapter provides procedures by which changes may be made to the text of this Ordinance and to the Zoning Map. The zoning amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.

### **608.02        Applicability**

The procedures in this chapter shall apply to all proposals to change the text of this Ordinance or to revise a zoning district classification or zoning district boundary line shown on the zoning map.

### **608.03        Initiation of Amendment**

An amendment may be initiated by the City Council or by application of any interested person.

### **608.04        Application Requirements**

- (a)    **Application.** A qualified applicant shall submit an application for a zoning amendment on a form prescribed by the Zoning Administrator accompanied by the required fee. The Zoning Administrator may require an applicant to submit such additional information and supporting data as considered necessary to process the application.
- (b)    **Coordination with Other Applications.** Related applications to be processed concurrently unless the Zoning Administrator shall otherwise allow any necessary applications for amendments to zoning regulations or for approval of discretionary permits, to be processed simultaneously with the proposed zoning amendment. However, an application for a zoning amendment is not considered to be a Development Project and so the approval of any associated discretionary permits shall not be subject to the time limits specified in State Law for processing such applications until the Council approves the zoning amendment.

**608.05 Review of Application and Determinations by Zoning Administrator**

After determining that an application is complete and environmental review has been conducted, the Zoning Administrator shall prepare a report and recommendation to the City Council on the application for a zoning amendment.

**608.06 City Council Hearing and Action**

- (a) **Hearing.** The City Council shall conduct a public hearing in conformance with the provisions of Chapter 601, Common Procedures.
- (b) **Action.** After the conclusion of the hearing, the City Council may approve, modify or disapprove the proposed zoning amendment.

## **Chapter 609    Development Agreements**

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Sections:

609.01	Purpose
609.02	Objective
609.03	Requirements
609.04	Contents
609.05	Application
609.06	Hearings and Notice
609.07	Report and Findings
609.08	Action of City Council
609.09	Initiation of Amendment or Cancellation
609.10	Recordation
609.11	Review

### **609.01        Purpose**

The purpose of this chapter is to provide a mechanism that assures the applicant of a development project that upon approval, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and conditions that were applicable at the time of project approval, and in a manner consistent with Section 65864 et seq., of the Government Code.

### **609.02        Objective**

The objective of a development agreement is to strengthen the public planning process, encourage private participation in comprehensive planning, reduce the economic costs of development and promote the construction of public improvements by the private sector by providing for provisions in the agreement whereby the applicant is reimbursed over time for the financing of the public improvements.

### **609.03        Requirements**

To enter into a development agreement, the City shall find that:

- (a)    A person has a legal or equitable interest in real property for the development of such property; and
- (b)    The development project is consistent with the General Plan and any applicable specific plan.

### **609.04        Contents**

A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land or facilities for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms,

restrictions, and requirements shall not prevent development of the land for uses and to the density or intensity of development set forth in the agreement. The agreement may require that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time.

**609.05 Application**

An application for a development agreement shall be made to the Zoning Administrator on a form prescribed by the department. The application shall be accompanied by a fee set by resolution of the City Council and will be processed in conjunction with other associated discretionary permits.

**609.06 Hearings and Notice**

Upon receipt of a development agreement application, the Zoning Administrator shall initiate and notice the public hearing pursuant to the provisions of Chapter 601, Common Procedures.

**609.07 Report and Findings**

The Zoning Administrator shall prepare a report on the development agreement application and provide a recommendation to the City Council based on the following findings:

- (a) The project is consistent with the General Plan and any applicable specific plan.
- (b) The project is authorized by the Ordinance as it relates to use and development standard regulations.
- (c) The project will not be detrimental to the public health, safety and general welfare.
- (d) The project will provide sufficient benefit to the city to justify entering into the development agreement.
- (e) The project will not have a significant impact on the environment.

**609.08 Action of City Council**

Following a public hearing, the City Council shall consider staff's recommendation and shall take action on the development agreement. The Council can approve, approve with modifications or deny the development agreement. If the Council approves or approves with modification the development agreement, it shall initiate proceedings to adopt an Ordinance. After the Ordinance takes effect, the city may enter into the agreement with the applicant.

**609.09 Initiation of Amendment or Cancellation**

Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into. If proposed by the applicant, the procedure shall be the same as the procedure for entering into an agreement. However, where the City Council initiates the proposed amendment to or cancellation of the development agreement,

it shall first give at least thirty days notice to the applicant of its intention to initiate such proceedings in advance of giving notice of the public hearing.

**609.10 Recordation**

- (a) Within ten (10) days after the City enters into the development agreement, the City shall have the agreement recorded with the County Recorder.
- (b) If the parties to the agreement or their successors in interest amend or cancel the agreement, or if the City terminates or modifies the agreement for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the city shall have notice of such action recorded with the County Recorder.

**609.11 Review**

- (a) The Zoning Administrator shall review the development agreement at least once every twelve months from the date the agreement is entered into. The Community Development Department shall report the findings to the City Council. The time for review may be modified by agreement between the parties.
- (b) Should the Zoning Administrator find that the developer is in noncompliance or not performing consistent with the development agreement, the director shall report this finding to the City Council. The City Council may terminate the development agreement consistent with Chapter 609.09, Initiation of Amendment or Cancellation

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## Chapter 610 Adjustments

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### Sections:

610.01	Purpose and Applicability
610.02	Procedures
610.03	Required Findings

### 610.01 Purpose and Applicability

This chapter establishes a process for making and acting upon requests for reasonable accommodation to provide an alternate means of granting relief from this Ordinance's requirements when so doing would be consistent with the Ordinance's objectives. It is the policy of the City to comply with the Federal Fair Housing Act, the Americans with Disabilities Act and the California Fair Employment and Housing Act to provide reasonable accommodation by modifying the application of its zoning and subdivision regulations for persons with disabilities seeking fair access to housing. This chapter authorizes the Zoning Administrator to grant administrative relief from the Ordinance's dimensional requirements to achieve these and other objectives and also allows the City Council to grant adjustments when necessary to accommodate uses protected by State or federal law.

### 610.02 Procedures

- (a) **Application.** An application for relief shall be filed with the Zoning Administrator in accordance with Chapter 601, Common Procedures. The application shall state in writing the nature of the adjustment requested and explain why the findings necessary to grant the exception are satisfied. The applicant shall also submit plans delineating the requested adjustment.
- (b) **Relief Granted by the Zoning Administrator.** The Zoning Administrator may grant relief from the dimensional requirements specified in this Ordinance to the following extent:
  - (1) **Setbacks.** Front and rear yard setback adjustments not exceeding two (2) feet. Side yard setback adjustments not exceeding one (1) foot.
  - (2) **Building Site Coverage.** Building site coverage adjustments not exceeding five (5) percent.
  - (3) **Height.** Maximum building height or other height limitations not exceeding five (5) feet.
- (c) **Referral to City Council.** The Zoning Administrator may refer to the City Council any request for an adjustment necessary to comply with the reasonable accommodation provisions of federal law based on a determination that there is a compelling public interest requiring such an accommodation.
- (d) **Concurrent Processing.** If a request for relief is being submitted in conjunction with an application for another approval, permit, or entitlement under this

Ordinance, it shall be heard and acted upon at the same time and in the same manner as that application.

**610.03 Required Findings**

- (a) **Findings for Approval.** A decision to grant an adjustment shall be based on the following findings, supported by information in the record:
  - (1) The adjustment is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance;
  - (2) The granting of the requested adjustment would not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this Ordinance; and
  - (3) The granting of the adjustment will substantially meet or advance the intent and purpose of the zoning district in which the subject property is located.
- (b) **Additional Finding for Reasonable Accommodations.** If the adjustment requested is to provide reasonable accommodation pursuant to federal or State statute, the responsible decision-maker must find that denial of the requested adjustment would impose a substantial burden on religious exercise or would conflict with any federal or State statute requiring reasonable accommodation of persons with disabilities.

## Chapter 611 Environmental Review

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Sections:

611.01	Purpose
611.02	Procedures
611.03	Mitigation Monitoring and Reporting Program
611.04	Preparation of Environmental Documents by Consultants

### 611.01 Purpose

This chapter establishes procedures for conducting environmental review to meet requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). These provisions are intended to insure that responsible decision-makers and the public are informed about the potentially significant environmental effects of proposed activities and that environmental review is integrated with the discretionary review provisions that this chapter establishes to promote incorporation of environmental considerations into the design, planning, and review of projects. These procedures apply to all projects sponsored or assisted by the City and to all private projects requiring any discretionary approvals from the City. In the event of a conflict between these environmental review regulations and applicable federal or state regulations or guidelines, the applicable federal or state regulations shall prevail.

### 611.02 Procedures

- (a) **Filing of Forms.** Concurrent with the submittal of project applications, the applicant shall prepare and file an Environmental Information Form and project plans with the Community Development Department.
- (b) **Preliminary Review.** Within thirty (30) days after receiving an application, the Zoning Administrator shall conduct a preliminary environmental review. As part of this review, the Zoning Administrator will identify issues to help decide if the applicant proposes a project that is subject to environmental review and may require the applicant to submit additional information needed to support this determination.
- (c) **Preparation and Processing Environmental Documents.** A determination of the appropriate level of environmental review by the Zoning Administrator shall trigger the preparation of an environmental document in compliance with the most current regulations and guidelines of the Environmental Quality Act, whether it be exempt from CEQA, require Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report. Further, in concert with the requirements of an applicable Federal agency(s), the Zoning Administrator will cause to have prepared the appropriate NEPA environmental documentation.
- (d) **Review for Exemption**
  - (1) Determinations of Exemption shall be made within thirty (30) days of the date the application is deemed complete.

- (2) If the Zoning Administrator has determined that a project is exempt from environmental review under CEQA, such determination shall be announced in any required public notice for discretionary permits. The notice shall include a citation to the CEQA Guidelines or CEQA section under which it is found to be exempt.
  - (3) Following approval of a project that is exempt from CEQA review, a Notice of Exemption shall be filed with the County Clerk as provided for in CEQA and the applicable State and City guidelines.
  - (4) A determination of exemption by any decision-making authority other than the City Council may be appealed to the City Council in the same manner provided in Chapter 611, Appeals.
- (e) **Initial Study.** If the proposed project is subject to CEQA and is not exempt from environmental review, an Initial Study shall be prepared in compliance with CEQA and Local CEQA Guidelines.
- (f) **Determination of Environmental Significance.** Based on the Initial Study, the Zoning Administrator will make one (1) of the following findings:
- (1) The project will have "No Significant Impacts" on the environment, and a Negative Declaration will be prepared;
  - (2) The project has been modified or mitigation measures have been incorporated to mitigate potential environmental impacts to a level of insignificance and a Mitigated Negative Declaration will be prepared; or
  - (3) The proposed project will have, or may have, significant impact(s) that may not be mitigated, and an EIR will be required.
- (g) **Environmental Determination.** If the Zoning Administrator has determined that the proposed project will not have a significant effect on the environment, a Negative Declaration shall be prepared for public review in conformance with the requirements of CEQA and applicable State and City environmental review guidelines.
- (h) **Public Notice of Environmental Determination.** The Zoning Administrator shall provide public notice of the proposed environmental determination in a newspaper of general circulation, at City Hall, and with the County Clerk.

### **611.03 Mitigation Monitoring and Reporting Program**

- (a) **Program Contents.** The City shall approve a Mitigation Monitoring and Reporting Program (MMRP) for all projects that it approves with a Mitigated Negative Declaration or in conjunction with certification of a Final EIR and compliance with CEQA.
- (b) **Enforcement.** Failure to comply with the conditions and requirements of an approved MMRP shall be considered a violation of the conditions of approval of a project. Such violations shall be subject to enforcement in accordance with the provisions of Chapter 614, Enforcement.

- (c) **Modification of Mitigation Program Not Permitted Following Adoption.** Unless specifically authorized or required by the conditions of project approval, neither CEQA nor this chapter authorize the City to modify or add mitigation measures if the monitoring program shows that the mitigation measures have not achieved the desired result.

#### **611.04 Preparation of Environmental Documents by Consultants**

If the City Planning Division is unable to prepare an environmental document or technical study for a public or private project, the City shall contract with a qualified consultant for preparation of the appropriate environmental documents including technical studies. The City has undertaken the negotiation of and maintains an on-call environmental consultant for use on City projects with defined funding sources, and for use by private development proponents in the event they desire to streamline the process. In such cases, the City, and consultant shall prepare an agreement for preparation of and to specify the details of the necessary environmental studies and documents.

The applicant is responsible for the full cost of the services. The full negotiated cost of service plus ten (10) percent for contingencies shall be placed on deposit with the City prior to authorizing work to begin on the environmental documents. The Zoning Administrator shall be the authority to require payment to the City of a ten (10) percent administrative fee in cases where the cost of administering the contract is likely to exceed the adopted fee for environmental reviews. The Zoning Administrator shall have the authority to facilitate the consultant selection process, to select the consultant, and to negotiate fees for services. The process for selecting an environmental consultant shall be as follows:

- (a) Staff will prepare a Request for Proposals (RFP) soliciting project specific proposals from qualified consultants as represented in a consultant services file and as posted by the purchasing agent;
- (b) Staff will evaluate the proposals relative to responsiveness and pursuant to the consultant selection criteria currently used in the City;
- (c) Staff may elect to interview the consultant to determine additional qualifications and ability to represent the City's interest in a public forum;
- (d) Staff will prepare a consultant services agreement and the Zoning Administrator will sign following submittal of the necessary funds and contingencies by the project proponent; and
- (e) Staff will send the deposit to the finance department and request the establishment of a pass through account and will set up a purchase order for monthly invoice payments.

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## Chapter 612 Appeals

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Sections:

612.01	Purpose
612.02	Rights of Appeal
612.03	Time Limits
612.04	Procedures
612.05	Standards of Review

### 612.01 Purpose

This chapter establishes uniform procedures for appeals of final decisions by the Zoning Administrator, City Engineer or Parcel Map Committee.

### 612.02 Rights of Appeal

Appeals may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this Ordinance.

### 612.03 Time Limits

Unless otherwise specified in State or federal law, all appeals shall be filed with the City Clerk in writing within ten (10) calendar days of the date of the action. In the event an appeal period ends on a Saturday, Sunday, or holiday observed by the City, the appeal period shall end at the close of business on the next consecutive business day.

### 612.04 Procedures

- (a) **Proceedings Stayed by Appeal.** The timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses.
- (b) **Filing an Appeal.** All final decisions of the Zoning Administrator, City Engineer or Parcel Map Committee may be appealed to the City Council by filing a written appeal with the City Clerk accompanied by the required fee. The notice of appeal shall set forth, in concise language, the following:
  - (1) Date of appeal;
  - (2) Name of appellant and the individual representing appellant;
  - (3) Address to which notices shall be sent;
  - (4) Telephone number of representative;
  - (5) Name of applicant, if different from appellant;
  - (6) Action or decision being appealed and the date of such action or decision;
  - (7) Address and description of real property involved; and
  - (8) Grounds for appeal.

- (c) **Transmission of Record.** The City Clerk shall schedule the appeal for consideration by the City Council within 30 days of the date the appeal was filed. The Zoning Administrator shall forward the appeal, the Notice of Action, and all other documents that constitute the record to the City Council. The Zoning Administrator shall also prepare a staff report that responds to the issues raised by the appeal and may include a recommendation for action.
- (d) **Public Notice.** In addition to providing notice in the same manner required for the action that was the subject of the appeal, the City Clerk shall provide notice to all persons who spoke on the matter at any prior hearings on the same matter. Notice to such persons shall be mailed only if they provided their names and addresses at the time they spoke at the prior hearing.
- (e) **City Council Action.** The City Council shall review the appeal, the record, and any written correspondence submitted after the appeal has been filed, and may take one (1) of the following actions:
  - (1) Conduct a public hearing; or
  - (2) Remand the matter to the Zoning Administrator to cure a deficiency in the record or proceedings.
- (f) **City Council Decision.** The City Council shall render its decision within thirty (30) days of the date the hearing is closed unless State law requires a shorter deadline.
- (g) **Council Action In-Lieu of Appeal.** The City Council may call up for review and a public hearing any action of the Zoning Administrator within ten (10) days of the decision. Such action by the Council shall stay all proceedings in the same manner as the filing of an appeal. Such action shall not require any statement of reasons and shall not represent opposition to or support of an application or appeal.

#### **612.05 Standards of Review**

When reviewing any decision on appeal, the City Council shall use the same standards and criteria for decision-making required for the original decision. The City Council may adopt the same decision and findings as were originally approved.



## Chapter 613 Enforcement

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Sections:

613.01	Purpose
613.02	Enforcement Responsibilities
613.03	Public Nuisance Defined
613.04	Penalties
613.05	Remedies

### 613.01 Purpose

This chapter establishes the responsibilities of various departments, officials and public employees of the City to enforce the requirements of this chapter and sets forth the procedures the City will use to identify, abate, remove, and enjoin those uses, structures, buildings, or properties that are deemed to be in violation of this Ordinance.

### 613.02 Enforcement Responsibilities

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

(a) **Zoning Administrator**

- (1) Shall enforce all provisions of this chapter related to issuance of discretionary permits and shall have responsibility for ordering the correction of violations and initiating the revocation of discretionary permits pursuant to Section 601.10, Revocation of Approvals, and the abatement of nuisances as defined in this chapter.
- (2) Shall prior to issuance of building permits, ascertain that plans presented with the building permit application conform to those approved subject to the requirements of this Ordinance.
- (3) Shall enforce all provisions of this Ordinance pertaining to the use, erection, construction, reconstruction, relocation, conversion, alteration, or addition to any building or structure and condition of approval of Use Permits, Variances, nuisance abatements, or other discretionary approvals. The Zoning Administrator is hereby authorized to cause to be stopped any work or use undertaken without or contrary to approval granted pursuant to this chapter or in violation of any of its other provisions.

- (b) **City Attorney.** The City Attorney may, at his or her discretion or upon order of the Council, immediately commence action or proceedings for the abatement and removal and enjoinder of violations in the manner provided by law, and may take

such other steps and may apply to such courts as may have jurisdiction to grant such relief as will abate and remove such use, or building or structure, and may seek to restrain and enjoin any person, firm or corporation from such use of any property, building or structure, or from setting up, erecting, building, maintaining or demolishing any such building or structure contrary to the provisions of this chapter.

**613.03 Public Nuisance Defined**

Any use, event, building or structure that violates any provision of this Ordinance or any other City, State, or federal regulation, Ordinance, or statute shall be deemed a public nuisance.

**613.04 Violations and Penalties**

- (a) Any person, firm, or corporation violating any provision of this Ordinance is subject to any and all applicable provisions of this Code, including but not limited to the General Penalty provisions specified at Municipal Code Section 1-9.
- (b) Any person, firm, or corporation violating any of the provisions of this Ordinance may be subject to the Administrative Citation procedure pursuant to Chapter 2, Article XIV of the City of Porterville Municipal Code. These procedures are in addition to other applicable remedies established in the Municipal Code
- (c) Notwithstanding the applicable fines specific in Chapter 2, Article XIV, any nuisance associated with a use allowed by a discretionary permit (i.e. Conditional Use Permit, etc.) as set forth in this code, may be subject to an administrative fine as follows:
  - (1) First offense: Not more than \$500
  - (2) Second offense: Not more than \$2,500
  - (3) Third offense: Not more than \$5,000

**613.05 Remedies**

Upon a finding of nuisance pursuant to this chapter, and after giving the property owner an opportunity to cure the nuisance (i.e. courtesy notice or Notice of Violation) and determining that the nuisance still exists, the Zoning Administrator shall submit the item to the Code Compliance Officer for recourse outlined in the Porterville Municipal Code who may impose any remedy available at law or in equity.