

MODULE 3: ADMINISTRATION AND PERMITS, PARKING, & NONCONFORMING STANDARDS



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INTRODUCTION

Zoning updates are significant undertakings for any community. Proceeding with discrete, digestible groups of specific sections make the project more approachable. To this end, this paper presents draft regulations for a major section of the Zoning Code, Division IV, Administration and Permits. In addition, this paper presents two chapters from Division III: Parking, Storage, and Loading, and Nonconforming Uses, Structures, and Lots.

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

- Division I – Introductory Provisions
- Division II – Zone Regulations
- Division III – Citywide Regulations
- Division IV – Administration and Permits
- Division V – Terms and Definitions

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

Parking and Loading Standards

Regulations governing parking, driveway, and loading facilities in Chapter 17.34 of the existing ordinance are revised, clarified, and updated. Parking standards and calculations are updated to reflect the transformative changes that are occurring with respect to transportation systems, notably shared ride services and autonomous vehicles. Generally, parking requirements are reduced or consolidated. New provisions include expanded opportunities for shared parking; allowances for reduced parking requirements; guidelines for alternative compliance, including the use of on-street spaces in certain situations; and requirements for bicycle and/or motorcycle parking spaces.

Nonconforming Provisions

This chapter includes provisions for nonconforming uses, structures and lots, which are currently located in Division III, Nonconforming Uses, Structures, Lots, and Improvements. Nonconforming provisions are consolidated into one chapter and revised and reformatted for usability and clarity. Provisions are included to allow more flexibility for nonconforming uses that are not contrary to public health and safety to continue, while restricting those that are a public nuisance.

DIVISION IV: ADMINISTRATION AND PERMITS

Division IV, Administration and Permits, contains provisions for the administration of the Zoning Code. The purpose of the administrative provisions is to explain who is responsible for making decisions on project applications, what criteria will be used to approve permits, and the process for securing approvals. It is important that this part be understandable to both users and City staff, and that it be “findings-based” and tied to the legal requirement that zoning and project approvals must be found to be consistent with General Plan land use designations, density/intensity standards, and policies.

The proposed chapters incorporate many provisions included in West Sacramento’s existing Zoning Code, with technical edits being made to reflect “best practices”. The administrative provisions are organized so that processes are streamlined and consolidated, wherever possible. The first chapter, Planning Authorities, establishes all relevant responsibilities of those involved in land use decisions, including the City Council, Planning Commission, Community Development Director, and Zoning Administrator. The second chapter, Common Procedures, simplifies existing regulations by establishing administrative procedures (including review of applications, noticing, and hearings) which are consistent across many approval types.

Procedures for specific approval processes are then listed in the following chapters. New chapters for the updated Zoning Code include Zoning Clearances, Temporary Use Permits, Modifications, and Development Agreements; many of these chapters model or expand upon processes or concepts found within existing regulations. The remaining chapters, including Design Review, Use Permits, Variances, Reasonable Accommodation, Amendments to the General Plan, Zoning Code, and Zoning Map, and Enforcement, carry forward existing processes while introducing a range of revisions.

Notations summarizing the purpose of the provisions and revisions to current regulations are included at the beginning of each chapter.

Parking and Loading Standards

{Note: Parking and loading standards from the current code have been comprehensively revised. In general, the revisions lower and standardize parking requirements for individual uses and provide opportunities for consideration of further reductions in required parking. Provisions also allow for limited changes in use and expansions of existing uses and buildings without requiring the need to provide additional parking. Consistent with the approach in the current ordinance, requirements in the CBD, MU-C, MU-NC, WF, Washington Specific Plan, and Bridge District Specific Plan Zones differ for certain uses to reflect the urban character of these areas and limitations on the maximum number of parking spaces that may be provided are carried forward. Draft regulations revise and expand the parking area design and development standards to address various aspects of parking area design, including parking space dimensions, surfacing, striping, curbing, lighting, circulation, heat island effect reduction, and alternative designs.}

Chapter 17.27 Parking and Loading

Sections:

- 17.27.010 Purpose
- 17.27.020 Applicability
- 17.27.030 General Provisions
- 17.27.040 Required Parking Spaces
- 17.27.050 Parking Reductions
- 17.27.060 Location of Required Parking
- 17.27.070 Bicycle Parking
- 17.27.080 Loading
- 17.27.090 Parking Area Design Standards

17.27.010 Purpose

The purposes of this Chapter are to:

- A. Require parking spaces and loading spaces for all land uses that are sufficient in number, size, and arrangement;
- B. Minimize the negative environmental and urban design impacts of parking lots, driveways, and drive aisles within parking lots;
- C. Ensure the provision of adequate off-street bicycle parking

- D. Establish standards and regulations for safe and well-designed parking, unloading, and vehicle circulation areas that minimize conflicts within parking lots and, where appropriate, create buffers from surrounding land uses;
- E. Offer flexible means of minimizing the amount of area devoted to parking by allowing reductions in the number of required spaces in transit-served locations, shared parking facilities, and other situations expected to have lower vehicle parking demand;
- F. Encourage modal shift; and
- G. Reduce urban run-off and heat island effect.

17.27.020 Applicability

- A. **New Buildings and Land Uses.** On-site parking and loading shall be provided in accordance with this Chapter at the time any main building or structure is erected or any new land use is established.
- B. **Existing Non-Residential Buildings.**
 - 1. When a change in use, expansion of use, or expansion of floor area creates an increase of 30 percent or more in the number of required parking or loading spaces, additional parking and loading shall be provided for such addition, enlargement, or change in use when that change would result is more than ten new parking spaces being required.
 - 2. Existing parking and loading shall be maintained.
 - 3. A change in tenancy or ownership is not considered a change in use unless the new occupant is in a different use classification than the former occupant.
 - 4. If the number of existing parking and loading spaces is greater than the requirements for such use, the number of excess parking spaces may be counted toward meeting the requirements for any change, expansion, or major alteration.
- C. **Existing Residential Buildings.** Parking in accordance with this Chapter shall be provided where additional dwelling units are created through the alteration of an existing building or construction of an additional structure or structures.
- D. **When Constructed.** Parking and loading facilities required by this Chapter shall be constructed or installed prior to final inspection or the issuance of a Certificate of Occupancy for the uses that they serve.

17.27.030 General Provisions

- A. **Existing Parking and Loading to be Maintained.** No existing parking and loading area serving any use may be reduced in amount or changed in design or location below the requirements for such use, unless equivalent substitute facilities are provided.
- B. **Nonconforming Parking and Loading.** An existing use of land or structure shall not be deemed to be nonconforming solely because of a lack of parking and/or loading facilities required by this Chapter, provided that facilities used for parking and/or loading as of the date of adoption of this Title are not reduced in number to less than what this Chapter requires.
- C. **Accessibility.** Parking and loading areas shall be accessible for its intended purpose during all hours of operation.
- D. **Stacked Parking.** Stacked or valet parking is allowed if an attendant is present or an automated system is in place to move vehicles. If stacked parking managed by an attendant is used for required parking spaces, an acceptable form of guarantee must be filed with the Zoning Administrator ensuring that an attendant will be present while the lot is in operation.

17.27.040 Required Parking Spaces

Each land use is subject to the following minimum and maximum parking space requirements unless otherwise provided in another section of this Title.

- A. **Minimum Number of Spaces Required.** Each land use shall be provided at least the number of parking spaces stated in Table TBD, Required Number of Parking Spaces. The parking requirement for any use not listed in Table TBD shall be determined by the Zoning Administrator based upon the requirements for the most similar comparable use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand.

TABLE TBD: REQUIRED NUMBER OF PARKING SPACES	
<i>Land Use Classification</i>	<i>Required Parking Spaces</i>
Residential Use Classifications	As specified below
Residential Housing Types	<ul style="list-style-type: none"> • 1 per studio or one-bedroom unit • 1.25 per two bedroom unit • 1.5 per unit with three or more bedrooms Plus 1 guest space per every 10 units For units subject to an affordable housing agreement, the number of required parking spaces shall be reduced by 25 percent.

TABLE TBD: REQUIRED NUMBER OF PARKING SPACES	
<i>Land Use Classification</i>	<i>Required Parking Spaces</i>
Caretaker Unit	1 per unit
Group Residential	1 per employee, plus 1 per bedroom or 1 per every two beds, whichever is greater
Residential Care Facilities	
<i>Small</i>	None beyond the parking required for the Residential Housing Type
<i>Large</i>	1 per every 3 beds
Residential Facility, Assisted Living	1 per every 3 beds
Single-Room Occupancy	0.5 per unit
Supportive Housing	None beyond the parking required for the Residential Housing Type
Transitional Housing	None beyond the parking required for the Residential Housing Type
Public and Semi-Public Use Classifications	1 per 400 square feet of floor area, except as specified below
Campground	1 per site
Hospitals and Clinics	
<i>Hospitals</i>	1 per every 3 beds
<i>Skilled Nursing Facilities</i>	1 per every 3 beds
Park and Recreation Facilities	To be determined by the Zoning Administrator based on use, facilities, and proximity
Parking Lots and Structures	None required
Schools	<ul style="list-style-type: none"> To be determined by the Zoning Administrator based on use, facilities, and proximity
Commercial Use Classifications	1 per 400 square feet of floor area, except as specified below
Animal Care, Sales, and Services	
<i>Boarding/Kennels</i>	1 per employee, plus a loading/unloading area for animals
Commercial Entertainment and Recreation	
<i>Cinema/Theaters</i>	1 per 40 square feet of seating area
<i>Outdoor Entertainment and Outdoor Recreation</i>	1 per 1,000 square feet of lot area

TABLE TBD: REQUIRED NUMBER OF PARKING SPACES	
<i>Land Use Classification</i>	<i>Required Parking Spaces</i>
Eating and Drinking Establishments	CBD, MU-C, WF, Washington Specific Plan, and Bridge District Specific Plan Zones: 1 per 400 square feet of floor area Other Zones: 1/200 square feet of floor area
Hotels and Motels	CBD, MU-C, WF, Washington Specific Plan, and Bridge District Specific Plan Zones: 0.5 per guest room Other Zones: 1 per guest room
Nurseries and Garden Center	1 per 750 square feet of floor area
Retail Sales	
<i>Building Materials, Sales, and Services</i>	1 per 750 square feet of floor area
Industrial Use Classifications	1 per 1,000 square feet of floor area, except as specified below
General Industrial	1 per 2,000 square feet of floor area
Warehousing and Storage	
<i>Indoor Warehousing, Storage, and Wholesaling and Distribution</i>	1 per 2,000 of floor area
<i>Outdoor Storage</i>	1 per 10,000 square feet of lot area
<i>Personal Storage</i>	2 plus 1 per 1,000 square feet of storage unit area
Transportation, Communication, and Utility Use Classifications	1 per 400 square feet of office, except as specified below
Marina	1 per 2 boat slips

1. **Calculation of Required Spaces**

a. *Parking Ratios.*

- i. Floor Area. Where an on-site parking or loading requirement is stated as a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated.
- ii. Employees. Where an on-site parking or loading requirement is stated as a ratio of parking spaces to employees, the number of employees shall be based on the largest shift that occurs in a typical week.
- iii. Bedrooms. Where a parking requirement is stated as a ratio of parking spaces to bedrooms, any rooms having the potential of

being a bedroom and meeting the standards of the Building Code as a sleeping room shall be counted as a bedroom.

iv. Students. Where a parking or loading requirement is stated as a ratio of parking spaces to students (including children in day care), the number is assumed to be the number of students at the state-certified capacity or at Building Code Occupancy where no state certification is required.

b. *Sites with Multiple Uses*. If more than one use is located on a site, the number of required parking and loading spaces shall be equal to the sum of the requirements calculated separately for each use, unless a reduction is approved pursuant to Section TBD, Parking Reductions.

B. **Maximum Number of Spaces Allowed**. To support walking, transit, and other forms of non-automobile transportation in urban infill areas and to eliminate the incentive to build as much parking as possible, the number of parking spaces to be provided is limited. In the CBD, MU-C, MU-NC, WF, Washington Specific Plan, and Bridge District Specific Plan Zones, on-site parking shall not exceed 2.6 spaces per 1,000 square feet or 150 percent of the number of parking spaces required pursuant to Table TBD, Required Parking Spaces, whichever is greater. This limitation may be waived or modified pursuant to Chapter TBD, Modifications, based on the following findings:

1. Special conditions exist that will increase parking demand at the site. Conditions include but are not limited to, the nature of the proposed operation; lack of transit service or other transportation alternatives; or transportation characteristics of persons residing, working, or visiting the site;
2. The use will not be adequately be served by the maximum allowed number of parking spaces; and
3. Parking demand generated by the project will exceed the maximum allowed number of parking spaces and have a significant impact on the supply of on-street parking in the surrounding area.

17.27.050 Parking Reductions

The number of parking spaces required by Section TBD, Required Parking Spaces, may be reduced as follows.

A. **Ground Floor Uses, CBD, MU-C, MU-NC, Washington Specific Plan, and Bridge District Specific Plan Zones**. The first 5,000 square feet of a ground floor nonresidential use in CBD, MU-C, MU-NC, Washington Specific Plan, and Bridge District Specific Plan Zones is exempt from parking requirements.

- B. **Motorcycle Parking.** Motorcycle parking may substitute for up to five percent of the required number of parking spaces. Each motorcycle space must be at least four feet wide and seven feet deep, and can accommodate two-wheeled motorized vehicles, including scooters, mopeds, and similar vehicles.
- C. **Sites with Multiple Uses.** Where a shared parking facility serving more than one use will be provided, the total number of required parking spaces may be reduced by 25 percent with Zoning Administrator approval if the below findings can be made. In order to evaluate a proposed project's compliance with the below criteria, submittal of a parking demand study that substantiates the basis for granted a reduced number of parking spaces may be required.
1. The peak hours of use will not overlap or coincide to the degree that peak demand for parking spaces from all uses will be greater than the total supply of spaces;
 2. The proposed shared parking provided will be adequate to serve each use;
 3. Parking spaces in the shared parking facility will not be reserved for individual tenants, owners or their visitors without approval of an overall parking management plan; and
 4. A shared parking agreement will be recorded.
- D. **Transit Accessibility.** The required number of parking spaces shall be reduced by 25 percent of the normally required number of spaces for projects that are located within one-quarter mile of a transit stop or alternative modes of transportation with frequent headways less than 60 minutes. The one-quarter mile requirement shall be measured by the shortest walking distance, using sidewalks and designated crosswalks, from the nearest point of the property to the nearest transit stop.
- E. **Car Sharing Programs.** Required parking spaces may be substituted with designated carshare vehicle parking spaces, and the required number of parking spaces may be reduced, pursuant to the following.
1. **Carshare Parking Designation.** A maximum of 20 percent of the required parking spaces may be designated as carshare vehicle parking spaces.
 2. **Reduction Allowed.**
 - a. *Parking Areas with 50 or Fewer Parking Spaces.* A five percent reduction in the required parking shall be allowed where five percent of the required spaces are designated as carshare vehicle parking spaces.
 - b. *Parking Areas with 51 or More Parking Spaces.* A 10 percent reduction in the required parking shall be allowed where 10 percent of the required spaces are designated as carshare vehicle parking spaces.

3. **Accessibility.** Car sharing spaces shall be made available to a car share organization for purposes of providing car share services for service subscribers. In addition to conforming to the requirements of Section TBD, Parking Area Design Standards, the parking area shall be designed to be accessible to local and non-local car share subscribers 24 hours a day, seven days a week.
 - a. *Exception.* Car share parking spaces may be occupied by non-car share vehicles, if it is demonstrated to the satisfaction of the Director that no car share organization can make use of the parking spaces. This is provided that upon 90 days of advance written notice to the property owner from a car share organization, the property owner shall terminate any non-car share leases for such spaces and shall make the spaces available to the car share organization.
 4. **Deed Restriction.** Prior to issuance of a building permit, a deed restriction shall be recorded identifying the number and location of the car share parking spaces. The location of the car share spaces shall be subject to approval by the Zoning Administrator.
- F. **Other Parking Reductions.** Required parking for any use may be reduced through approval of a Minor Use Permit as follows.
1. **Criteria for Approval.** A Minor Use Permit for a parking reduction may be approved if the Zoning Administrator finds that special conditions exist that will reduce parking demand at the site. Conditions include but are not limited to, the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working, or visiting the site; or because the applicant has undertaken a transportation demand management program.
 2. **Parking Demand Study.** In order to evaluate a proposed project's compliance with the above criteria, submittal of a parking demand study that substantiates the basis for granting a parking reduction may be required.

17.27.060 Location of Required Parking

Required parking shall be located on the same lot as the use it serves, except as allowed in Subsection B below. Parking shall not be located within a required front or street-facing yard.

- A. **Off-Site Parking Allowances.** Required parking may be located off-site provided that the following conditions are met.
 1. **Location.**

- a. *CBD, MU-C, MU-NC, WF, and the Bridge District and Washington Specific Plan Zones.* Any off-site parking facility must be located within 1,350 feet, along a pedestrian route, of the principal entrance containing the use for which the parking is required.
 - b. *Zones Other Than the CBD, MU-C, MU-NC, WF, or the Bridge District and Washington Specific Plan Zones.* Any off-site parking facility must be located within 500 feet, along a pedestrian route, of the principal entrance containing the use for which the parking is required.
2. **Parking Agreement.** A written agreement between the landowner and the City in a form satisfactory to the City Attorney shall be executed and recorded in the Office of the County Recorder. The agreement shall include:
- a. A guarantee from the landowner for access to and use of the shared parking facility; and
 - b. A guarantee that the spaces to be provided will be maintained and reserved for the uses served for as long as such uses are in operation.

17.27.070 Bicycle Parking

- A. **Short-Term Bicycle Parking.** Short-term secure bicycle parking shall be provided in order to serve shoppers, customers, messengers, guests, and other visitors to a site who generally stay for a short time.
1. **Parking Spaces Required.** For the following uses, the number of short-term secure bicycle parking spaces shall be at least five percent of the requirements in Section TBD, Required Parking Spaces, with a minimum of four secure bicycle parking spaces provided per establishment.
 - a. Multi-Unit Residential, Group Residential, and Single Room Occupancy.
 - b. All Public/Semi-Public Uses.
 - c. All Commercial Uses, except Automobile/Vehicle Sales and Services, Short-term Rentals, and Mobile Vendors.
 2. **Location.**
 - a. Short-term secure bicycle parking shall be located outside of pedestrian walkways, and within 100 feet of a main entrance to the building it serves.
 - b. Short-term secure bicycle parking shall be located outside of the public right-of-way except as allowed through an encroachment permit.

- c. Where the secure bicycle parking area is not visible from the main entrance of the buildings, signs located at the main entrance of the building shall identify the location of bicycle parking.
 3. **Anchoring and Security.** For each short-term bicycle parking space required, a stationary, securely-anchored object shall be provided to which a bicycle frame and one wheel (two points of contact) can be secured with a high-security U-shaped shackle lock if both wheels are left on the bicycle. One such object may serve multiple bicycle parking spaces.
 4. **Size and Accessibility.** Each short-term bicycle parking space shall be a minimum of two feet in width and six feet in length and shall be accessible without moving other bicycles. Two feet of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian walkways. Five feet of clearance shall be provided from vehicle parking spaces.
- B. **Long-Term Bicycle Parking.** Long-term bicycle parking shall be provided in order to serve employees, students, residents, commuters, and others who generally stay at a site for four hours or longer.
 1. **Parking Spaces Required.**
 - a. *Multi-Unit Residential, Group Residential, and Single-Room Occupancy.* A minimum of one long-term bicycle parking space shall be provided per every five dwelling units.
 - b. *Parking Structures.* Long-term bicycle parking shall be provided at a minimum ratio of one bicycle parking space per 25 vehicle parking spaces.
 - c. *Other Uses.* Any establishment with 25 or more full-time equivalent employees shall provide long-term bicycle parking at a minimum ratio of one bicycle parking space per 25 vehicle parking spaces.
 2. **Location.** Long-term bicycle parking must be located on the same lot as the use it serves and near the facility entrance. In parking structures, long-term bicycle parking must be located near an entrance to the facility. Where the bicycle parking area is not visible from the entrance of the building, signs located at the entrance or in an entry lobby of the building shall identify the location of bicycle parking.
 3. **Covered Spaces.** 100 percent of required long-term bicycle parking for multi-unit residential development shall be covered. A minimum of 50 percent of other required long-term bicycle parking shall be covered. Covered bicycle

parking can be provided inside buildings, garages, bike lockers, or under roof overhangs, or awnings.

4. **Anchoring and Security.** Long-term bicycle parking must be in:
 - a. An enclosed bicycle locker;
 - b. A fenced, covered, locked, or guarded bicycle storage area;
 - c. A rack or stand inside a building that is within view of an attendant or security guard, visible from employee work areas, or within a secure/restricted bicycle storage room; or
 - d. Other secure areas approved by the Director.
5. **Size and Accessibility.** Each bicycle parking space shall be a minimum of two feet in width and six feet in length and shall be accessible without moving other bicycles. Two feet of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian walkways. Five feet of clearance shall be provided from vehicle parking spaces.

17.27.080 Loading

All uses requiring the receipt or distribution by vehicles or trucks of material or merchandise shall provide off-street loading and unloading areas to handle the volume of truck traffic and loading requirements.

- A. **Residential Uses.** Residential uses with 10 or more units on a site shall provide a minimum of one passenger loading/unloading space near each common entrance. The Director may approve a Modification to this requirement pursuant to Chapter TBD, Modifications, if the Director finds that adequate loading space exists due to characteristics of the project site and nature of the use.
- B. **Commercial and Industrial Buildings.**
 1. **Number of Loading Spaces Required.** At a minimum, one loading space shall be provided for all commercial and industrial buildings in excess of 10,000 square feet plus one additional space for every additional 20,000 square feet of floor area.
 - a. **Multi-Tenant Buildings.** The gross floor area of the entire building shall be used in determining spaces for multi-tenant buildings. A common loading area may be required, if each tenant space is not provided with a loading area. Drive-in roll-up doors for multi-tenant industrial projects may be substituted for required loading areas.

- b. *Reduction to Number of Loading Spaces Required.* The Zoning Administrator may waive the loading space upon finding that the applicant has satisfactorily demonstrated that, due to the specific nature of the use and building, such loading space will not be necessary.
 - c. *Additional Loading Spaces Required.* Additional loading spaces may be required to ensure that trucks will not be loaded, unloaded, or stored on public streets. Such requirement shall be based on the anticipated frequency of truck deliveries.
2. **Location.** Loading zones and docks shall be located to the rear of properties and no truck entrance door, loading zone, or dock-serving commercial vehicles shall be permitted to face a residential area within 500 feet.
- a. *Exceptions.* The location requirement may be modified or waived where the review authority finds that:
 - i. The intended use of the property or the location of or shape of the site and/or existing development warrant a variation,
 - ii. That street-facing loading areas will exhibit architectural treatment, or will be enhanced with landscaping, in such a way as to minimize visual and noise impacts, and
 - iii. There are specific features of the site and design of the building such that strict application of the orientation requirement is impractical.
3. **Size and Dimensions.** Each on-site loading space required by this Section shall not be less than 10 feet wide, 35 feet long, and 14 feet high. The minimum size requirement may be modified if the Zoning Administrator finds that the applicant has satisfactorily demonstrated that due to the nature of the proposed use, such size will not be needed.
4. **Screening.** All loading zones and truck parking areas shall be screened from view by a minimum of an eight-foot high hedge, vine-covered fence, or wall and landscaping in accordance with the Landscape Development Guidelines of the City of West Sacramento. Screen walls shall be designed with comparable building materials to the primary structure on the property excluding metal.

17.27.090 Parking Area Design Standards

All parking areas except those used exclusively for stacked or valet parking shall be designed and developed consistent with the following standards. Parking areas used exclusively for

stacked or valet parking are subject only to Subsections G through K. Stacked or valet parking areas which will allow parking at some times without attendants must be striped in conformance with the layout requirements of this Section.

A. **Tandem Parking.** Tandem parking may be permitted to satisfy parking requirements in accordance with the following.

1. No more than two vehicles shall be placed one behind the other.
2. Both spaces shall be assigned to a single dwelling unit or non-residential establishment.
3. Tandem parking to meet required parking for non-residential uses may be used for employee parking; the maximum number of tandem parking spaces shall not exceed 50 percent of the total number of spaces.
4. Tandem parking to meet required parking for multi-unit residential development shall be located within an enclosed structure; the maximum number of tandem parking spaces shall not exceed 50 percent of the total number of spaces.
5. Tandem parking shall not be used to meet the guest parking requirement.

B. **Parking Access.**

1. **Shared Access.** Non-residential projects are encouraged to provide shared vehicle and pedestrian access to adjacent non-residential properties for convenience, safety, and efficient circulation. A joint access agreement guaranteeing the continued availability of the shared access between the properties approved by the Director shall be recorded in the County's Records Office, in a form satisfactory to the City Attorney.
2. **Forward Entry.** Parking facilities of four or more spaces shall be provided with suitable maneuvering room so that all vehicles accessing the facility may enter an abutting street in a forward direction.
3. **Driveway Length.** Driveways providing direct access from a public street to a parking facility, garage, or carport shall be at least 20 feet in depth.
4. **Driveway Width.** The minimum width of a driveway is as follows:
 - a. *One-way Driveways.* One-way driveways shall be a minimum of 10 feet in width.
 - b. *Two-way Driveways.* Two-way driveways shall be a minimum of 20 feet in width.

C. **Size and Dimensions of Parking Spaces.** Parking spaces and maneuvering aisles shall meet the minimum size and dimensions established in Table TBD, Parking Space

Minimum Dimensions. Screening walls, roof support posts, columns, or other structural members shall not intrude into the required dimensions for parking spaces.

TABLE TBD: PARKING SPACE MINIMUM DIMENSIONS		
<i>Type of Parking Space</i>	<i>Width (feet)</i>	<i>Length (feet)</i>
Covered (inside dimension)	10	20
Open	9	18
Compact	8	16
Parallel	10	24
Accessible	Compliant with the California Building Code	

- D. **Size and Dimensions of Maneuvering Aisles.** Maneuvering aisles shall meet the minimum size and dimensions established in Table TBD, Maneuvering Aisle Minimum Dimensions.

TABLE TBD: MANEUVERING AISLE MINIMUM DIMENSIONS		
<i>Angle of Parking</i>	<i>Width (feet)</i>	
	<i>One-Way</i>	<i>Two-Way</i>
Parallel	12	25
0-30 degrees	12	25
31-45 degrees	14	25
46-60 degrees	16	25
61-90 degrees	25	25

- E. **Electric Vehicle Charging Stations.** Electric vehicle charging stations may be provided in any area designed for the parking or loading of vehicles.
- F. **Striping and Marking.**
1. **Space Outline.** All parking spaces shall be clearly outlined with double striping three inches in width, in durable white paint designed for that purpose.
 2. **Maneuvering Areas.** All aisles, approach lanes, and turning areas shall be clearly marked with directional arrows and lines as necessary to provide for safe movement.
 3. **Compact Spaces.** All compact spaces shall be clearly marked as such.
- G. **Bumpers, Curbs, and Wheel Stops.** A permanent curb, bumper, wheel stop, or similar device at least six inches high and thick shall be installed to protect buildings

and landscaping from vehicular damage. If such protection is provided by a wheel stop, the stopping edge shall be placed no closer than two feet from the edges of the required sidewalks, planter or landscaped areas and from any building. The two feet beyond the wheel stop may be paved, landscaped with ground cover, or used as additional sidewalk width. No walkway used for a wheel stop may be less than seven feet wide.

- H. **Paving and Surfacing.** All parking spaces, driveways, maneuvering aisles, and other areas dedicated to parking shall be surfaced with a concrete, asphalt, masonry, turfstones, or another comparable durable and dustless surface, in accordance with Engineering Division specifications. All parking areas shall be graded and drained as to dispose of all surface water accumulated within the area. Site-specific pavement designs for alternative durable and dustless surfaces may be submitted to the Engineering Division for review.
 - 1. **Areas Used for Storage of Heavy Equipment.** Areas used to park or store track-propelled heavy-equipment may be surfaced with gravel a minimum of eight inches deep.
- I. **Perimeter Curbing.** Parking areas designed to accommodate 10 or more vehicles shall provide a six-inch wide and six-inch high concrete curb along the outer edge of the parking facility pavement, except where said pavement abuts a fence or wall. Curbs separating landscaped areas from parking areas shall be designed to allow stormwater runoff to pass through.
- J. **Heat Island Reduction.** A heat island is the increase in ambient temperature that occurs over large paved areas compared to natural landscape. In order to reduce ambient surface temperatures in parking areas, at least 50 percent of the areas not landscaped shall be shaded, of light colored materials with a solar reflectance index of at least 29, or a combination of shading and light colored materials.
 - 1. Shade may be provided by canopies, shade structures, trees, or other equivalent mechanisms. If shade is provided by trees, the amount of required shading is to be reached within 15 years.
 - 2. Trees shall be selected from a list provided by the Community Development Department.
- K. **Lighting.** Parking lot lighting shall be required for areas designed to accommodate five or more vehicles, providing a minimum of one-half foot-candle and a maximum of three foot-candles of light during the hours of use from one-half hour before dusk until one-half hour after dawn.

1. All lighting used to illuminate an off-street parking or loading area shall be designed so as to direct light and glare away from any adjoining lots, residential areas, and public streets.
 2. Lighting design shall be coordinated with the landscape plan to ensure that vegetation will not substantially impair the intended illumination.
 3. Bi-level lighting shall be employed where feasible and desirable.
- L. **Landscaping.** Parking areas shall be landscaped in accordance with the Landscape Development Guidelines of the City of West Sacramento and/or applicable planned development standards, specific plans, or design guidelines.
- M. **Circulation and Safety.**
1. **Visibility.** Visibility shall be ensured for pedestrians, bicyclists, and motorists entering individual parking spaces, circulating within a parking facility, and entering or leaving a parking facility.
 2. **Public Service Vehicles.** Parking lots shall be designed so that sanitation, emergency, and other public service vehicles can provide service without backing up unreasonable distances or making other dangerous or hazardous turning movements.
 3. **Separate Circulation Systems.** Separate vehicular and pedestrian circulation systems shall be provided where possible. Multi-unit residential developments of five or more units must provide pedestrian access that is separate and distinct from driveways. Parking areas for commercial and mixed-use developments that are 80 feet or more in depth and/or include 25 or more parking spaces must have distinct and dedicated pedestrian access from the commercial use to parking areas and public sidewalks, according to the following standards:
 - a. **Connection to Public Sidewalk.** An on-site walkway shall connect the main building entry to a public sidewalk on each street frontage. Such walkway shall be the shortest practical distance between the main building entry and sidewalk, generally no more than 125 percent of the straight-line distance.
 - b. **Materials and Width.** Walkways shall provide at least five feet of unobstructed width and be hard-surfaced.
 - c. **Identification.** Pedestrian walkways shall be clearly differentiated from driveways, parking aisles, and parking and loading spaces through the use of elevation changes, different paving and surfacing materials, and other methods.

- d. *Separation.* Where a pedestrian walkway is parallel and adjacent to an auto travel lane, it must be raised and separated from the auto travel lane by a raised curb at least four inches high, bollards, or other physical barriers.
- N. **Alternative Parking Area Designs.** Applicants may submit alternative parking area designs if they can demonstrate that variations in the requirements of this Section are warranted in order to achieve environmental design and green building objectives, including but not limited to achieving certification under the LEED Green Building Rating System or equivalent, an alternative parking area design may be approved.
- O. **Maintenance.** Parking lots, including landscaped areas, driveways, and loading areas, shall be maintained free of refuse, debris, or other accumulated matter and shall be kept in good repair at all times.

Nonconforming Provisions

*{**Note:** The draft regulations give the City flexibility in treating nonconforming uses and structures by distinguishing between nonconforming uses that are detrimental to public health, safety, and general welfare and those uses that are economically productive and compatible with surrounding development despite being inconsistent with applicable regulations and requirements.*

Draft regulations allow the City to distinguish among categories of nonconforming uses that should be regulated differently. Class I nonconforming uses are nonconforming uses that are considered benign and could remain, or be substituted, as determined by the Zoning Administrator and subject to conditions or limitations, with provisions for revoking its Class I status if new nuisances arise.

Class II nonconforming uses are nonconforming uses that should be replaced at some time in the future, but are not detrimental because of health, safety, or substantial aesthetic impacts could remain indefinitely with restrictions on expansion or alteration. The Zoning Code includes provisions requiring the removal of these nonconforming uses if they have been abandoned, destroyed, or substantially damaged. Class II uses may be replaced with Class I or Class II nonconforming uses subject to Zoning Administrator approval.

Class III nonconforming uses are uses that create adverse impacts and are detrimental to health and safety pose a problem when market conditions do not support redevelopment in the near term. Amortization provisions are included which allow the City to require termination of the use within a certain time period. Amortization provisions allow the City to control how and when a nonconforming use terminates by allowing it to continue for a specific time frame calculated to accommodate the estimated useful economic life. Class III nonconforming uses are designated by the City Council following a public hearing and based on the finding that the use is a threat to public health and safety.

Consistent with existing provisions, the draft regulations include provisions for allowing the restoration of nonconforming structures when damaged by fire or other calamity to the extent of 50 percent or less. If a structure is damaged to the extent of 50 percent or more, the land and building are subject to all of the requirements of the ordinance unless, in the case of multi-unit residential development and nonresidential development, Zoning Administrator approval allows the structure to be rebuilt to the same size, extent, and configuration as previously existed. A single-unit dwelling may be rebuilt with a zoning clearance (a staff-level approval).}

Chapter 17.26 Nonconforming Uses, Structures, and Lots

Sections:

- 17.26.010 Purpose
- 17.26.020 Applicability
- 17.26.030 Nonconformities, Generally
- 17.26.040 Classification of Nonconforming Uses
- 17.26.050 Right to Continue
- 17.26.060 Changes to and Substitutions of Nonconforming Uses
- 17.26.070 Maintenance of and Additions and Enlargements to Nonconforming Structures
- 17.26.080 Repair and Replacement of Damaged or Destroyed Nonconforming Structures
- 17.26.090 Elimination of Nonconforming Uses and Structures
- 17.26.100 Establishment of Amortization Periods
- 17.26.110 Abandonment of Nonconforming Uses
- 17.26.120 Abatement

17.26.010 Purpose

This Chapter is intended to permit continuation of uses and continued occupancy and maintenance of structures that were legally established but do not comply with all of the standards and requirements of this Title in a manner that does not conflict with the General Plan. To that end, this Chapter establishes the circumstances under which a nonconforming use or structure may be continued or changed and provides for the removal of nonconforming uses and structures when their continuation conflicts with the General Plan and public health, safety, and general welfare.

17.26.020 Applicability

The provisions of this Chapter apply to structures, land, and uses that have become nonconforming by adoption of this Title as well as structures, land, and uses that become nonconforming due to subsequent amendments to its text or to the Zoning Map.

17.26.030 Nonconformities, Generally

Any lawfully established use or structure that is in existence on the effective date of this Title or any subsequent amendment thereto but does not comply with the standards and requirements of this Title shall be considered nonconforming.

- A. A non-conformity may result from any inconsistency with the requirements of this Title including, but not limited to, use, location, density, floor area, height, setback, performance standards, or the lack of an approved Use Permit or other required authorization.

- B. A use or structure shall not be deemed nonconforming solely because it does not conform with parking and loading space requirements, landscape planting area, or screening regulations.

17.26.040 Classification of Nonconforming Uses

Nonconforming uses are classified as follows for the purpose of determining whether to permit substitution or expansion subject to the requirements of the following sections, or to require the elimination of the nonconforming use.

- A. **Class I Nonconforming Use.** Class I Nonconforming Uses are those that do not meet the current standards and requirements of this Title but are compatible with the uses of the surrounding properties.
 - 1. **Residential Uses.** Any nonconforming residential use shall be classified as a Class I Nonconforming Use.
 - 2. **Nonresidential Uses.** A classification of a nonconforming nonresidential use as a Class I Nonconforming Use shall only occur upon approval of the Zoning Administrator. The classification of a nonconforming nonresidential use by the Zoning Administrator as a Class I Nonconforming Use shall be optional and shall be based on written application by the property owner or his/her designee, which shall include evidence that the use was legally established and information related to the findings required herein.
 - a. **Designation.** Class I Nonconforming Uses are designated by the Zoning Administrator following public notice as required by Chapter TBD, Common Procedures, and based on the following findings. A public hearing shall occur when requested by the applicant or other interested person(s) in writing and received by the Zoning Administrator within 10 days of the mailed notice. The Zoning Administrator's decision on the designation of a Class I Nonconforming Use may be made concurrently with the Zoning Administrator's decision on an application for an expansion or substitution of the use. The required findings for Class I Nonconforming Use designation/expansion/substitution are:
 - i. The nonconforming use was legally established;
 - ii. The continuation, proposed expansion, or substitution of the nonconforming use would not be detrimental to public health, safety, or general welfare; and
 - iii. With the exception of the nonconforming use, the continuation, proposed expansion, or substitution would not be inconsistent

with the General Plan and would not preclude or interfere with implementation of any applicable City Specific Plan.

- b. *Considerations.* In making the required findings, the Zoning Administrator shall consider the following factors as they relate to the nonconforming use:
- i. Noise;
 - ii. Traffic generation;
 - iii. Hours of operation;
 - iv. Noxious or annoying emissions of odor, smoke, waste water or other matters;
 - v. Proximity of the use to conforming uses;
 - vi. Extent and severity of nonconformity;
 - vii. Effect of the nonconforming use on surrounding conforming uses;
 - viii. Character of the surrounding neighborhood, including the number and proportion of nonconforming uses;
 - ix. Access to the nonconforming use;
 - x. Maintenance of the nonconforming use;
 - xi. Active Code Enforcement cases on the property, if any; and
 - xii. Any other factors the Zoning Administrator deems relevant given the purposes of this Chapter.
- c. *Conditions.* When making its decision on an application for an expansion or substitution of a Class I Nonconforming Use, the Zoning Administrator may establish conditions that are necessary to accomplish the purposes of this Chapter, including, but not limited to:
- i. Required improvement of, or modifications to existing improvements on, the property;
 - ii. Limitations on hours of operations;
 - iii. Limitations on the nature of operations; and
 - iv. A specified term of years for which the expanded or substituted nonconforming use shall be allowed.

- B. **Class II Nonconforming Use.** Class II Nonconforming Uses are those that should be replaced at some time in the future in order to implement the General Plan and any

applicable specific plan's long term objectives, but are not detrimental to surrounding properties due to health, safety, or substantial aesthetic impacts. Class II Nonconforming Uses include any nonconforming nonresidential use that has not been designated as a Class I or Class III Nonconforming Use.

1. Class II Nonconforming Uses may remain in operation but are subject to restrictions on expansion as set forth in Subsection TBD.A, Expansion, and on substitution of uses as set forth in Subsection TBD.C, Substitutions.
 2. The City Council may establish amortization periods for specific Class II Nonconforming Uses on a case-by-case basis pursuant to Section TBD, Establishment of Amortization Periods.
 3. Class II Nonconforming Uses may not be reestablished or resume business if the Class II Nonconforming Use has been destroyed or damaged at a level equal to or greater than 50 percent of the value of the nonconforming use business. The determination of the appraised value shall be made by a professional appraiser selected by the City, whose fee shall be paid by the business and/or property owner.
 4. Class II Nonconforming Uses that cease operations for six continuous months may not be reestablished
- C. **Class III Nonconforming Use.** Class III Nonconforming Uses are those designated as a public nuisance by the City Council following a public hearing, with notice as required by Chapter TBD, Common Procedures. Prior to City Council consideration of the matter, the Planning Commission shall conduct a noticed public hearing and provide a recommendation on the designation to the City Council. The Class III Nonconforming Use designation shall be based on a finding that the use is detrimental to public health, safety, or general welfare, or materially injurious to properties or improvements in the vicinity.
1. The City Council shall establish an amortization period for each Class III Nonconforming Use pursuant to Section TBD, Establishment of Amortization Periods.

17.26.050 Right to Continue

Any use or structure that was lawfully established prior to the effective date of this Title or of any subsequent amendments to its text or to the Zoning Map may only be continued and maintained provided there is no alteration, enlargement, addition, or other change to any building or structure or use therein; or no substitution, expansion, or other change including an increase in occupant load or any enlargement of the area, space, or volume occupied by or devoted to such use, except as otherwise provided in this Chapter.

- A. The right to continue a nonconforming use or structure shall attach to the land and shall not be affected by a change in ownership, tenancy, or management.
- B. The right to continue a nonconforming use or structure shall not apply to uses or structures determined by the Planning Commission or City Council as described in this Chapter to be a public nuisance arising from conditions that constitute a threat to public health, safety or general welfare.
- C. The right to continue a nonconforming use or re-occupy a nonconforming structure shall terminate if the nonconforming use has been abandoned or the nonconforming structure has been vacated for the relevant period of time described in Section TBD, Abandonment of Nonconforming Uses.

17.26.060 Changes to and/or Substitutions of Nonconforming Uses

Nonconforming uses shall not be expanded, modified, or substituted for another classification of a nonconforming use except as provided below.

- A. **Expansion.** Nonconforming uses may not expand.
- B. **Absence of Permit.** Any use that is nonconforming solely by reason of the absence of a Use Permit may be changed to a conforming use by obtaining the appropriate Use Permit pursuant to the requirements in Chapter TBD, Use Permits.
- C. **Substitutions.** A nonconforming use may be substituted with a Class I or a Class II Nonconforming Use as follows:
 - 1. **Substitution of a Class I or Class II Nonconforming Use with a Class I Nonconforming Use.** The Zoning Administrator may allow substitution of a Class I or Class II Nonconforming Use with a Class I Nonconforming Use, following public notice as required by Chapter TBD, Common Procedures, and a public hearing, if requested by the applicant or other interested person(s) in writing and received by the Zoning Administrator within 10 days of the mailed notice.
 - 2. **Substitution of a Class II Nonconforming Use with a Class II Nonconforming Use.** The Zoning Administrator may allow substitution of a Class II nonconforming use with a Class II Nonconforming Use, following public notice as required by Chapter TBD, Common Procedures, and a public hearing, if requested by the applicant or other interested person(s) in writing and received by the Zoning Administrator within 10 days of the mailed notice.
 - 3. **Required Findings.** In addition to any other findings required by this Title, the Zoning Administrator must find that the proposed new use will be no less compatible with the purposes of the zone and surrounding uses that comply with the requirements of this Title than the nonconforming use it replaces.

17.26.070 Maintenance of and Additions and Enlargements to Nonconforming Structures

Nonconforming structures may be continued and maintained in compliance with the following provisions.

- A. **Maintenance and Repairs.** Structural and non-structural maintenance, repair, and interior alterations to a nonconforming structure are permitted if the changes and improvements do not enlarge the structure, change the building footprint, or increase building height or roof pitch. This excludes any improvements required to meet accessibility requirements.
- B. **Additions.** Additions to and/or enlargements of nonconforming structures are allowed if the addition or enlargement complies with all applicable laws and requirements of this Title, the use of the addition/enlarged area of the property is authorized by this Title, and there is no increase in the discrepancy between existing conditions and the requirements of this Title, except as provided below.
 - 1. **Nonconforming Setbacks, Residential Zones.** In Residential Zones, a nonconforming setback may be maintained and extended, and shall not be considered an increase in the discrepancy, provided that:
 - a. A new encroachment into any other required setback is not created;
 - b. The height of the portion of the structure that is within the required setback is not increased; and
 - c. Any residential additions above the first floor shall conform to the setbacks in effect at the time the application for the addition is submitted.

17.26.080 Repair and Replacement of Damaged or Destroyed Nonconforming Structures

A nonconforming structure that is damaged or partially destroyed by fire, explosion, earthquake, or natural disaster that was not caused by an act or deliberate omission of a property owner, their agent, or person acting on their behalf or in concert with them, may be restored or rebuilt subject to the following provisions.

- A. **Restoration When Damage is 50 Percent or Less of Value.** If the cost of repair or reconstruction is less than or equal to 50 percent of the appraised value of the structure, replacement of the damaged portions of the structure is allowed by right provided that the replaced portions are the same size, extent, and configuration as previously existed. The determination of the appraised value shall be made by a professional appraiser selected by the City, whose fee shall be paid by the building or property owner.

- B. **Restoration When Damage Exceeds 50 Percent of Value.** If the cost of repair or reconstruction exceeds 50 percent of the appraised value of the structure, as determined pursuant to Subsection A above, the land and building shall be subject to all of the requirements of this Title, except as provided below.
1. **Non-Residential Structures.** Any nonconforming use must permanently cease. The Zoning Administrator may approve a Minor Use Permit for the structure to be rebuilt to the same size, extent, and configuration as previously existed provided that the use of the structure is permitted or conditionally permitted in the zone. In such cases any expansion or change to the previous use must conform to the requirements of this Chapter.
 2. **Residential Structures.** Any nonconforming residential structure may be reconstructed, restored, or rebuilt up to the size and number of dwelling units prior to the damage and the nonconforming use, if any, may be resumed subject to a Zoning Clearance in the case of single-unit dwellings or Zoning Administrator approval in the case of other residential uses, unless the review authority finds that the reconstruction, restoration, or rebuilding will be detrimental or injurious to the health, safety, or general welfare of persons residing or working in the neighborhood.
- C. **Timing.** Building permits must be obtained within two years of the date of the damage or destruction and construction shall be completed within one year of issuance unless another time period is specified through Zoning Administrator consideration. Building permits must be maintained valid through the completion of the project.

17.26.090 Elimination of Nonconforming Uses and Structures

- A. **Elimination of Nonconforming Uses.**
1. **Nonconforming Uses Not Occupying a Structure or Occupying a Structure with Valuation Less Than \$2,500.** The following nonconforming uses shall be discontinued and removed from their sites within three year(s) from the effective date of this Ordinance:
 - a. A nonconforming use which does not occupy a structure; or
 - b. A nonconforming use occupying a structure having an appraised valuation of less than 2,500 dollars.
 2. **Class II Nonconforming Uses.** The City Council may require Class II Nonconforming Uses to be discontinued and removed from their sites within a period determined pursuant to the process set forth in Section TBD, Establishment of Amortization Periods.

3. ***Class III Nonconforming Uses.***
 - a. Class III nonconforming uses shall be discontinued and removed from their sites within a period to be determined by the City Council, pursuant to the process set forth in Section TBD, Establishment of Amortization Periods.
 - b. Class III nonconforming uses may also, upon order from the City or a court order, be subject to immediate cessation of the nonconforming use.
 4. ***Elimination of Nonconforming Structures.*** Nonconforming structures may continue except that the City Council may establish amortization periods for specific structures pursuant to Section TBD, Establishment of Amortization Periods.
- B. **Time for Elimination When Use or Structure Becomes Nonconforming.** Whenever a use or structure becomes nonconforming, the period of time prescribed in this Chapter for the elimination of the use or the removal of the structure is computed from the effective date of the change that results in the nonconforming status of the use or structure.
- C. **Burden of Proof.** The burden of proof as to the nonconforming status of any use or structure shall rest with the property owner and/or resident.

17.26.100 Establishment of Amortization Periods

Where a period during which a nonconforming use or structure is to be discontinued and removed from their site is to be established, such period shall be established as follows.

- A. The Zoning Administrator shall submit the nonconforming use or structure and a recommended amortization period, based on the criteria in Section (C)(1) herein, to the Planning Commission for review;
- B. The Planning Commission shall hold a public hearing, noticed pursuant to Chapter TBD, Common Procedures, to consider the recommended amortization period. Following the public hearing, the Planning Commission shall make a recommendation on the proposed amortization period to the City Council.
- C. After receiving the recommendation from the Planning Commission, the City Council shall hold a public hearing, noticed pursuant to Chapter TBD, Common Procedures, to consider the recommended amortization period.
 1. The City Council may establish a maximum time for which the nonconforming use shall be permitted to continue after considering the following in relation to the use or structure:

- a. The amount of investment or original cost of the use or structure;
 - b. The present actual or depreciated value of the use or structure;
 - c. The remaining useful life of the use or structure;
 - d. The remaining term of the lease;
 - e. The date or dates of construction;
 - f. Amortization of the business or structure for tax purposes;
 - g. The salvage value;
 - h. The threat to the public health, safety, and welfare posed by the continuance of the nonconforming use; and
 - i. Other factors as appropriate.
2. The time period established by the City Council shall be no less than three years in length.

17.26.110 Abandonment of Nonconforming Uses

No nonconforming use may be resumed, reestablished, reopened, or replaced by any other nonconforming use after the nonconforming use has been abandoned or vacated for a period of six months.

- A. Abandonment. The six-month period shall commence when the use ceases to operate and any one of the following occurs:
 1. The site is vacated;
 2. Utilities are terminated; or
 3. The applicable lease is terminated.

17.26.120 Abatement

The provisions of this Chapter are in addition to existing state law authority to declare and abate a public nuisance pursuant to California law and other applicable provisions of the Municipal Code. In the event that a legal nonconforming structure or use is found to constitute a public nuisance, appropriate action may be taken by the City pursuant to the Municipal Code and Chapter TBD, Enforcement.

Division IV: Administration and Permits

Chapter 17.34 Planning Authorities

{Note: This Chapter lays out the basic roles, responsibilities, and functions of all planning authorities, including the City Council, Planning Commission, Community Development Director, and Zoning Administrator. It incorporates existing provisions regarding authority and duties of the existing zoning code, and changes the existing lists of powers and duties as needed to reflect the range of responsibilities that each of the authorities will have under the updated code.}

Sections:

17.34.010 Purpose

17.34.020 City Council

17.34.030 Planning Commission

17.34.040 Community Development Director

17.34.050 Zoning Administrator

17.34.060 Summary of Review Authorities for Decisions and Appeals

17.34.010 Purpose

This Chapter lays out the basic roles, responsibilities, and functions of all planning authorities, including the City Council, Planning Commission, Community Development Director, and Zoning Administrator.

17.34.020 City Council

The powers and responsibilities of the City Council include, but are not limited to the following:

- A. Adopt design guidelines for specific areas of the City for review pursuant to Chapter TBD, Design Review.
- B. Consider and adopt, reject, or modify Development Agreements, following a public hearing and recommended action by the Planning Commission, pursuant to Chapter TBD, Development Agreements.
- C. Consider and adopt, reject or modify proposed amendments to the General Plan, Zoning Code, Zoning Map, development agreements, specific plans, and environmental documents related to any of the foregoing, pursuant to Chapter TBD, Amendments to the General Plan, Zoning Code, and Zoning Map.

- D. Hear and decide appeals from decisions of the Planning Commission pursuant to Section TBD, Appeals.
- E. Establish, by resolution, a Municipal Fee Schedule listing fees, charges, and deposits for various applications and services provided, pursuant to this Title.

17.34.030 Planning Commission

The powers and responsibilities of the Planning Commission include, but are not limited to the following:

- A. Annually review progress towards implementation of the General Plan and make recommendations to the City Council based on any new legislation, development trends, or changing economic, social, and environmental conditions.
- B. Approve, modify, or deny Conditional Use Permits and Variances, pursuant to Chapter TBD, Use Permits, and Chapter TBD, Variances.
- C. Make recommendations to the City Council on development agreements, pursuant to Chapter TBD, Development Agreements.
- D. Make recommendations to City Council on proposed amendments to the General Plan, Zoning Code, and Zoning Map, specific plans, and environmental documents related to any of the foregoing, pursuant to Chapter TBD, Amendments to the General Plan, Zoning Code, and Zoning Map.
- E. Hear and decide appeals from decisions of the Zoning Administrator or Community Development Director, pursuant to Section TBD, Appeals.
- F. Hear and decide proposals to revoke permits, pursuant to Section TBD, Revocation of Permits.
- G. Make environmental determinations on any approvals that are subject to environmental review under the California Environmental Quality Act, pursuant to State law.
- H. Such other powers and responsibilities as assigned or directed by the City Council.

17.34.040 Community Development Director

The powers and responsibilities of the Community Development Director (“the Director”), or his/her designee, include, but are not limited to the following:

- A. Perform all of the functions designated by State law, including, but not limited to the following:
 - 1. Annual report related to implementation of the General Plan in compliance with Government Code Section 65400;

2. Review of public works projects for conformity to the General Plan in compliance with Government Code Section 65401; and
 3. Review of acquisition of property for conformity to the General Plan in compliance with Government Code Section 65402.
- B. Maintain and administer the Zoning Code, including the processing of applications, abatements, and other enforcement actions.
 - C. Prepare rules and procedures necessary for conducting the Director's business. They may include the administrative details of hearings officiated by the Director (e.g., scheduling, rules of procedure, and recordkeeping). These rules and procedures must be approved by City Council resolution, following review and recommendation by the Planning Commission.
 - D. Issue administrative regulations for the submission and review of applications subject to the requirements of Government Code Section 65950, Deadlines for Project Approval Conformance; Extensions.
 - E. Issue a Zoning Clearance pursuant to Chapter TBD, Zoning Clearance.
 - F. Approve, modify, or deny Temporary Use Permits, pursuant to Chapter TBD, Temporary Use Permits.
 - G. Approve, modify, or deny a Modification, pursuant to Chapter TBD, Modifications.
 - H. Approve, modify, or deny requests for Reasonable Accommodation for land use projects, pursuant to Chapter TBD, Reasonable Accommodation.
 - I. Conduct Design Review and approve, modify, or deny land use projects pursuant to Chapter TBD, Design Review.
 - J. Determine whether a project is subject to review under the California Environmental Quality Act and notify the applicant if any additional information is necessary to conduct the review.
 - K. Make recommendations to the Planning Commission and City Council on all applications, appeals, and other matters upon which they have the authority and the responsibility to act under this Title.
 - L. Investigate and report to the Planning Commission on permit violations when the City has initiated revocation procedures, pursuant to Section TBD, Revocation of Permits.
 - M. Serve as Zoning Administrator or designate a member of Planning Division staff to serve as Zoning Administrator, pursuant to Section TBD, Zoning Administrator.
 - N. Delegate administrative functions to members of the Planning Division.
 - O. Such other powers and responsibilities as assigned or directed by the City Council.

17.34.050 Zoning Administrator

The powers and responsibilities of the Zoning Administrator, or his/her designee, include, but are not limited to the following:

- A. Approve, modify, or deny Minor Use Permits, pursuant to Chapter TBD, Use Permits.
- B. Approve, modify, or deny requests for Extensions for land use projects, pursuant to Section TBD, Expiration and Extension.
- C. Decide requests for Minor Revisions to Approved Permits, pursuant to Section TBD, Revisions to an Approved Permit.
- D. Refer items to the Planning Commission where, in his/her opinion, the public interest would be better served by a Planning Commission public hearing and action.
- E. Interpret the Zoning Code as needed for members of the public and other City Departments.
- F. Such other powers and responsibilities as assigned or directed by the Director.

17.34.060 Summary of Review Authorities for Decisions and Appeals

This table summarizes the powers and duties that each Review Authority has under this Title. Where a land use project requires more than one type of application, all permit requests shall be reviewed and decided on by the highest Review Authority established for any of the applications.

TABLE TBD: SUMMARY OF REVIEW AUTHORITIES FOR DECISIONS AND APPEALS				
<i>Decision Type</i>	<i>Reference</i>	<i>Advisory Body</i>	<i>Review Authority</i>	<i>Appeal Body</i>
Interpretations	TBD	N/A	Zoning Administrator	Planning Commission
Extension to Permit	TBD	N/A	Zoning Administrator	Planning Commission
Minor Revision to Permit	TBD	N/A	Zoning Administrator	Planning Commission
Major Revision to Permit	TBD	N/A	Review Authority of Original Permit	Appeal Body for Original Permit
Permit Revocation	TBD	Director	Planning Commission	City Council
Zoning Clearance	TBD	N/A	Director	Planning Commission
Design Review	TBD	N/A	Director or Planning Commission	Planning Commission or City Council
Minor Use Permit	TBD	N/A	Zoning Administrator	Planning Commission
Conditional Use Permit	TBD	Director	Planning Commission	City Council
Temporary Use Permit	TBD	N/A	Director	Planning Commission

TABLE TBD: SUMMARY OF REVIEW AUTHORITIES FOR DECISIONS AND APPEALS				
<i>Decision Type</i>	<i>Reference</i>	<i>Advisory Body</i>	<i>Review Authority</i>	<i>Appeal Body</i>
Modification	TBD	N/A	Director	Planning Commission
Variance	TBD	Director	Planning Commission	City Council
Reasonable Accommodation	TBD	N/A	Director	Planning Commission
Development Agreement	TBD	Planning Commission	City Council	N/A
General Plan Amendment	TBD	Planning Commission	City Council	N/A
Zoning Amendment	TBD	Planning Commission	City Council	N/A
Planned Development	TBD	Planning Commission	City Council	N/A

Chapter 17.35 Common Procedures

{Note: The purpose of this Chapter is to establish uniform procedures that are common to the application and processing of a variety of different permits and approvals such as Use Permits, Variances, General Plan Amendments, and Zoning Code and Map Amendments. This material includes everything from filing an application to time limits and extensions through to post-decision provisions (e.g. expiration, extension, and modification of approvals). Because this Chapter will likely be the most frequently consulted of all administrative chapters, it appears immediately following Chapter TBD, which establishes the powers and duties of the planning authorities.}

Sections:

- 17.35.010 Purpose
- 17.35.020 Application Forms and Fees
- 17.35.030 Pre-application Review
- 17.35.040 Review of Applications
- 17.35.050 Environmental Review
- 17.35.060 Notice of Public Hearings
- 17.35.070 Conduct of Public Hearings
- 17.35.080 Findings and Decision
- 17.35.090 Conditions of Approval
- 17.35.100 Expiration and Extension
- 17.35.110 Revisions to an Approved Permit
- 17.35.120 Revocation of Permits
- 17.35.130 Appeals

17.35.010 Purpose

This Chapter establishes uniform procedures for the preparation, filing, and processing of all land use permits and approvals provided for in this Title, unless superseded by a specific requirement of this Title or State law.

17.35.020 Application Forms and Fees

- A. **Applicant.** The owner of property or the owner's authorized agent. If the application is made by someone other than the owner or the owner's agent, proof of the right to use and possess the property as applied for, satisfactory to the Director, shall accompany the application.
- B. **Application Forms.** The Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Title.

- C. **Supporting Materials.** The Director may require the submission of supporting materials as part of the application, including but not limited to: statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe existing conditions and the proposed project and to determine the level of environmental review pursuant to the California Environmental Quality Act (CEQA).
- D. **Availability of Materials.** All submitted material becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time, upon reasonable request, and during normal business hours, any person may examine application materials in support of or in opposition at the Planning Division offices. Unless prohibited by law or superseded by specific permit confidentiality requirements, copies of such materials shall be made available at a reasonable cost.
- E. **Multiple Applications.**
 - 1. **Concurrent Filing.** An applicant for a project which requires more than one permit (e.g., Conditional Use Permit and Design Review, etc.), shall file all related applications concurrently, together with all application fees. The concurrent filing requirements may be waived by the Director.
 - 2. **Concurrent Processing.** Multiple permits for the same project shall be processed concurrently, and shall be reviewed and decided on by the highest Review Authority designated for any of the applications.
- F. **Application Fees.**
 - 1. **Fee Schedule.** The Council shall approve by resolution a Municipal Fee Schedule that that establishes fees for permits, informational materials, penalties, copying, and other such items.
 - 2. **Fee Payment.** No application shall be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid.
 - 3. **Fee Waiver.** No fee shall be required when the applicant is the City, or if it is waived under any other provision of the West Sacramento Municipal Code.
 - 4. **Refund of Fees.** Application fees are non-refundable unless otherwise provided for in the West Sacramento Municipal Code or by policy of the Council.

17.35.030 Pre-application Review

Pre-application review is an optional review process that is intended to provide information on relevant policies, zoning regulations, and procedures. This review is intended for large or complex projects and projects that are potentially controversial.

- A. **Exemption from Permit Streamlining Act.** Pre-application review is not subject to the requirements of the California Permit Streamlining Act. An application that is accepted for pre-application review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project, reviewed it, and determined it to be complete under Section TBD, Review of Applications.
- B. **Review Procedure.** The Planning Division shall conduct pre-application review. The Director may consult with or request review by any City agency or official with interest in the application.
- C. **Recommendations are Advisory.** Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as either a recommendation for approval or denial of the application or project by City staff. Any recommendations that result from pre-application review are considered advisory only and shall not be binding on either the applicant or the City.

17.35.040 Review of Applications

- A. **Initial Completeness Review.** The Director shall determine whether an application is complete within 30 days of the date the application is filed and required fee received.
 - 1. **Incomplete Application.** If an application is deemed incomplete, the Director shall provide written notification to the applicant listing the applications for permit(s), forms, information, and any additional fees that are necessary to complete the application.
 - a. *Zoning Code Violations.* An application shall not be found complete if conditions exist on the site in violation of this Title or any permit or other approval granted in compliance with this Title, unless the proposed project includes the correction of the violations.
 - b. *Submittal of Additional Information.* The applicant shall provide the additional information within the time limit specified by the Director, which shall be no sooner than 30 days. The Director may grant one extension of up to 90 days.
 - c. *Appeal of Determination.* Determinations of incompleteness are subject to the provisions of Section TBD, Appeals, except there shall be a final

written determination on the appeal no later than 60 days after receipt of the appeal. The fact that an appeal is permitted to both the Planning Commission and the City Council does not extend the 60-day period.

- d. *Expiration of Application.* If an applicant fails to correct the specified deficiencies within the specific time limit, the application shall expire and be deemed withdrawn, unless an extension is granted by the Director. After the expiration of an application, review shall require the submittal of a new, complete application, along with all required fees.
2. **Complete Application.** When an application is deemed complete, the Director shall make a record of that date. If an application requires a public hearing, the Director shall schedule it and notify the applicant of the date and time, pursuant to Section TBD, Public Notice.
- B. **Referral of Application.** At the discretion of the Director, or where otherwise required by this Title, State or Federal law, any application filed in compliance with this Title may be referred to any City department, public agency, or interest group that may be affected by or have an interest in the proposed land use project.
 - C. **Extensions.** The Director may, upon written request and for good cause, grant extensions of any time limit for review of applications imposed by this Title.

17.35.050 Environmental Review

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

17.35.060 Public Notice

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

- A. **Mailed Notice.** At least 10 days before the date of the public hearing, or 15 days before the date of action when no public hearing is required, the Director (or the City Clerk for City Council hearings) shall provide notice by First Class mail delivery to the following:
 1. The applicant, the owner, and any occupant of the subject property;
 2. All property owners of record within a minimum 500-foot radius of the subject property as shown on the latest available assessment role or a larger radius if deemed necessary by the Director in order to provide adequate public notification;

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

17.35.070 Conduct of Public Hearings

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

- A. **Generally.** Hearings shall be conducted pursuant to procedures adopted by the hearing body. Hearings are not required to be conducted according to technical rules relating to evidence and witnesses.
- B. **Scheduling.** Hearings before the City Council shall be scheduled by the City Clerk. All other hearings shall be scheduled by the Director.
- C. **Presentation.** An applicant or an applicant's representative may make a presentation of a proposed project.
- D. **Public Hearing Testimony.** Any person may appear at a public hearing and submit oral or written evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing representing an organization shall identify the organization being represented.
- E. **Time Limits.** The presiding officer may establish time limits for individual testimony and require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.
- F. **Continuance of Public Hearing.** The hearing body may by motion continue the public hearing to a fixed date, time and place, or may continue the item to an undetermined date.
- G. **Investigations.** The hearing body may cause such investigations to be made as it deems necessary and in the public interest in any matter to be heard by it. Such investigation may be made by a committee of one or more members of the hearing body or by City staff. The facts established by such investigation shall be submitted to the hearing body either in writing, to be filed with the records of the matter, or in testimony before the hearing body, and may be considered by the Review Authority.
- H. **Decision.** The public hearing shall be closed before a vote is taken.

17.35.080 Findings and Decision

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

- A. **Date of Action.** The Review Authority shall decide to approve, modify, revoke, or deny any discretionary permit following the close of the public hearing, or if no public hearing is required, within the time period set forth below. These deadlines do not apply to any action that has been appealed to the City Council in accordance with

Section TBD, Appeals. Time extensions may be granted pursuant to Section TBD, Expiration and Extension.

1. **Project Exempt from Environmental Review.** Within 30 days of the date the City has determined an application to be complete, a determination must be made whether the project is exempt from Environmental Review per State CEQA requirements.
 2. **Project for which a Negative Declaration or Mitigated Negative Declaration is Prepared.** Within 60 days of the date a Negative Declaration or Mitigated Negative Declaration has been completed and adopted for project approval, the City shall take action on the accompanying discretionary project.
 3. **Project for which an EIR is Prepared.** Within 180 days from the date the Review Authority certifies a Final EIR, the City shall take action on the accompanying discretionary project.
- B. **Notice of Action.** After the Director or Planning Commission takes any action to approve, modify, or deny an application that is subject to appeal under the terms of this Title, the Director shall issue a Notice of Action. The Notice shall describe the action taken, including any applicable conditions, and shall list the findings that were the basis for the decisions. The Director shall file the Notice with the City Clerk and mail the Notice to the applicant and to any other person or entity that has filed a written request for such notification with the Planning Division.
- C. **Findings.** Findings, when required by State law or this Title, shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record and shall be stated in writing in the resolution or record of the action on the permit.

17.35.090 Conditions of Approval

- A. **Scope.** The scope of approvals includes only those uses and activities actually proposed in the application, excluding other uses and activities. Unless otherwise specified, the approval of a new use shall terminate all rights and approvals for previous uses no longer occupying the same site or location.
- B. **Conditions.** The site plan, floor plans, building elevations, and/or any additional information or representation, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or submitted during the approval process shall be deemed conditions of approval. Any approval may be subject to requirements that the applicant guarantees, warranties, or ensures compliance with submitted 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 this Title 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 permit are subject to periodic reporting, monitoring, or assessments, it shall be the responsibility of the permit holder, the property owner, or successor property owners to comply with such conditions.

17.35.100 Expiration and Extension

- A. **Effective Dates.** A final decision on an application for any approval subject to appeal shall become effective after the expiration of the 15-day appeal period following the date of action, unless an appeal is filed. No building permit or business license shall be issued until the 16th day following the date of the action.
- B. **Expiration.** The Review Authority, in the granting of any permit, may specify a time, consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare, within which the proposed use must be undertaken and actively and continuously pursued. If no time period is specified, any permit granted under this Title shall automatically expire when no project or use has been initiated within two years after the date of the approval, and become null and void.
- C. **Exercise of Permit.**
 - 1. **Exercise of Planning Approval or Permit.** A permit for the use of a building or property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the site.
 - 2. **Exercise of Building Permit.** 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.
- D. **Extensions.** The Zoning Administrator may approve a two-year extension of any permit or approval granted under this Title upon receipt of a written application with the required fee within the time period specified by the Review Authority, or two years of the date of the approval.

17.35.110 Revisions to an Approved Permit

No revision in the use or structure for which a permit or other approval has been issued is permitted unless the permit is revised as provided for in this Title. For the purpose of this Section, the revision of a permit may include revision of a Design Review approval.

- A. **Minor Revisions.** The Zoning Administrator may approve minor revisions to approved plans and permits that are consistent with the original findings and conditions approved by the Review Authority, do not substantially expand the approved floor area, and would not intensify any potentially detrimental effects of the project.
- B. **Major Revisions.** A request for revisions to conditions of approval of a discretionary permit, a revision to an approved site plan or building plan that would affect a condition of approval, or a revision that would intensify a potential impact of the project shall be treated as a new application, and shall be decided on by the same Review Authority as the approved permit.

17.35.120 Revocation of Permits

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

- A. **Initiation of Proceeding.** Revocation proceedings may be initiated by the City Council, Planning Commission, Director, or Zoning Administrator.
- B. **Public Notice, Hearings, and Action.** After conducting a duly-noticed public hearing, the Planning Commission shall act on the proposed revocation, pursuant to Chapter TBD, Common Procedures.
- C. **Required Findings.** The Planning Commission may revoke or modify the permit if it makes any of the following findings:
 - 1. The approval was obtained by means of fraud or misrepresentation of a material fact;
 - 2. The use, building, or structure has been substantially expanded beyond what is set forth in the permit or substantially changed in character;
 - 3. The use in question has ceased to exist or has been suspended for six months or more;
 - 4. There is or has been a violation of or failure to observe the terms or conditions of approval, or the use has been conducted in violation of the provisions of this Title, or any applicable local or State law or regulation; or
 - 5. The use has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.
- D. **Notice of Action.** Following Planning Commission action to revoke or modify a permit, the Director shall issue a Notice of Action within seven days. The Notice shall describe the Commission's action with its findings. The Director shall mail notice to

the permit holder and to any person or entity who requested the revocation proceeding.

17.35.130 Appeals

Except where otherwise provided, any decision provided for in this Title may be appealed in accordance with the provisions of Chapter 1.08, Appeal and Hearing Procedure, of the Municipal Code.

A. Appeal Body.

1. ***Planning Commission.*** The Planning Commission is the appeal body for decisions of the Zoning Administrator and Director.
2. ***City Council.*** The City Council is the appeal body for decisions of the Planning Commission.

17.35.140 Interpretations and Determinations

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

Chapter 17.36 Zoning Clearance

{Note: Similar to current provisions for Site Plan Approval in Chapter 17.61 of the current code this Chapter describes the process the City uses for reviewing applications for business licenses, building permits, and other entitlements to ensure that the proposed use or structure is either permitted by right and conforms to all applicable zoning standards or conforms to the requirements and conditions of any discretionary approval that the City has granted under the code.}

Sections:

- 17.36.010 Purpose
- 17.36.020 Applicability
- 17.36.030 Review Authority
- 17.36.040 Procedures

17.36.010 Purpose

This Chapter establishes procedure to verify that each new or expanded use, activity, or structure complies with all of the applicable requirements of this Title and conditions of any discretionary approval that the City has granted previously.

17.36.020 Applicability

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

17.36.030 Review Authority

The Director shall act as the Review Authority for Zoning Clearance applications based on consideration of the requirements of this Chapter.

17.36.040 Procedures

- A. **Application.** Applications and fees for a Zoning Clearance shall be submitted in accordance with the provisions set forth in Section TBD, Application Forms and Fees. The Director may request that the Zoning Clearance application be accompanied by a written narrative, plans, and other related materials necessary to show that the proposed development, alteration, or use of the site complies with all provisions of this Title and the requirements and conditions of any applicable Design Review, Use Permit, or other discretionary land use approval.

- B. **Determination.** If the Director determines that the proposed use or building is allowed as a matter of right by this Title, and conforms to all the applicable development and use standards, the Director shall issue a Zoning Clearance. An approved Zoning Clearance may include attachments of other written or graphic information, including but not limited to, statements, numeric data, site plans, floor plans, and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Title. Prior to issuing any building permit, subdivision approval, or lot line adjustment, the Director shall review the application to determine whether the use, building, or change in lot configuration complies with all provisions of this Title or any applicable Design Review, Use Permit, or other discretionary land use approval and that all conditions of such permits and approvals have been satisfied.
- C. **Exceptions.** No Zoning Clearance shall be required for the continuation of previously approved or permitted uses and structures, or uses and structures that are not subject to any building or zoning regulations.

Chapter 17.37 Design Review

{Note: This Chapter establishes procedures for Design Review, carrying forward provisions from the existing Chapter 17.69, Design Review. These procedures apply to new buildings in areas covered by design guidelines adopted by the City Council and for exterior remodel work only if specific guidelines have been adopted.}

Sections:

- 17.37.010 Purpose
- 17.37.020 Applicability
- 17.37.030 Review Authority
- 17.37.040 Application
- 17.37.050 Procedures
- 17.37.060 Design Review Criteria
- 17.37.070 Appeals, Expiration, Extensions, and Revisions

17.37.010 Purpose

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

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

17.37.020 Applicability

Design Review is required in specific areas of the City covered by design guidelines adopted by the City Council and is required for all new construction and other activities as identified in the applicable design guidelines.

17.37.030 Review Authority

- A. **Planning Commission.** The Planning Commission shall act as the Review Authority for all projects requiring Planning Commission approval (such as Conditional Use Permits and Variances).
- B. **Community Development Director.** The Director shall act as the Review Authority for all projects that do not meet the criteria listed in the above Subsection A. for a

decision by the Planning Commission. The Director may refer items directly to the Planning Commission when in his/her opinion the public interest would be better served by having the Planning Commission conduct Design Review.

17.37.040 Application

- A. **Application Forms and Fees.** Written applications for Design Review applications shall be submitted to the Planning Division pursuant to Section TBD, Application Forms and Fees.
- B. **Concurrent Processing.** When a development project requires a Use Permit, Variance, or any other discretionary approval, the Design Review application shall be submitted to the Planning Division as a part of the application for the discretionary permit or approval.

17.37.050 Procedures

- A. If a project requires any Use Permit, Variance, or other discretionary approval other than Design Review, the design review shall be conducted concurrently with the discretionary permit.
- B. If a project does not require any Use Permit, Variance, or other discretionary approval other than Design Review, the Planning Division shall provide public notice and input in the following manner:
 - 1. **Mailed Notice.** The Planning Division shall provide mailed notice of the project pursuant to Section TBD.B. Mailed Notice.
 - 2. **Public Input.** Any person may submit written comments on the project to the Director. In order for the comments to be considered in the determination of the project, the comments must specifically relate to the project's conformity to adopted design guidelines. A comment letter must be submitted within 14 days of the mailed notice of application for Design Review, or within seven days of the finding of a complete application, whichever is later. Late comments will be considered only if the project has not been approved or denied prior to the comments being received.
 - 3. **Director Action.** If no letter of intent to comment has not been received within seven days of the posted notice of application for Design Review, or within seven days of the finding of a complete application, the Director may issue comments or approve the project at any time. If a letter of intent to comment has been received within the deadline, the Director shall not issue comments or approval until public comments have been received, or 15 days after the posted notice of application for Design Review, or finding of a complete application, whichever is sooner.

17.37.060 Design Review Criteria

The sole criteria for evaluation under the Design Review process shall be compliance with the adopted design guidelines of the area in which the proposed project is located. All projects shall be consistent with applicable design guidelines. An application may be denied if the information provided by the applicant is insufficient to determine compliance with the guidelines.

17.37.070 Appeals, Expiration, Extensions, and Revisions

- A. **Appeals.** Design Review decisions may be appealed to the Planning Commission as provided for in Section TBD, Appeals.
- B. **Expiration, Extensions, and Revisions.** Design Review approvals may only be expired, extended, or modified as provided for in Chapter TBD, Common Procedures.

Chapter 17.38 Use Permits

{Note: This Chapter includes a description of the purpose and processes for Conditional Use Permits which require Planning Commission review and a new type of use permit, Minor Use Permits, which require review by the Zoning Administrator. This Chapter is structured to reflect the different requirements for both permit types, and includes frequent cross-references to specific provisions in Chapter TBD, Common Procedures, that describe specific requirements for appeals, expiration, extension, modification, and other procedures common to use permits as well as other approvals.}

Sections:

- 17.38.010 Purpose
- 17.38.020 Applicability
- 17.38.030 Review Authority
- 17.38.040 Application
- 17.38.050 Procedures
- 17.38.060 Required Findings
- 17.38.070 Conditions of Approval
- 17.38.080 Appeals, Expiration, Extensions, and Revisions

17.38.010 Purpose

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

17.38.020 Applicability

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

17.38.030 Review Authority

- A. **Conditional Use Permits.** The Planning Commission shall act as the Review Authority for Conditional Use Permits based on consideration of the requirements of this Chapter.
- B. **Minor Use Permits.** The Zoning Administrator shall act as the Review Authority for Minor Use Permits based on consideration of the requirements of this Chapter. The Zoning Administrator may, at his/her discretion, refer any application for a Minor Use Permit for a project that may generate substantial public controversy or involve

significant land use policy decisions to the Planning Commission for decision. In that case, the application shall be processed as a Conditional Use Permit.

17.38.040 Application

Applications for Use Permits shall be filed with the Planning Division on the prescribed application forms. In addition to any other application requirements, the application for a Use Permit shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings.

17.38.050 Public Notice and Hearing

- A. **Conditional Use Permits.** All applications for Conditional Use Permits shall require public notice and hearing before the Planning Commission pursuant to Chapter TBD, Common Procedures.
- B. **Minor Use Permits.** All applications for Minor Use Permits shall require public notice pursuant to Section TBD, Public Notice. A public hearing on a Minor Use Permit shall occur only when a hearing is requested by the applicant or other interested person(s) in writing and received by the Zoning Administrator within 10 days of the mailed notice. In the event a public hearing is requested, the Minor Use Permit shall be scheduled for a hearing before the Zoning Administrator pursuant to Chapter TBD, Common Procedures.

17.38.060 Required Findings

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

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

- F. The site is physically suitable for the type, density, and intensity of the use being proposed, including access, utilities, and the absence of physical constraints.

17.38.070 Conditions of Approval

In approving a Use Permit, the Review Authority may impose reasonable conditions or restrictions in order to achieve the following outcomes. The Review Authority may also require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies adopted by the City Council;
- B. Achieve the general purposes of this Title or the specific purpose of the zone in which the project is located;
- C. Achieve the findings for a Use Permit listed in Section TBD, Required Findings; or;
- D. Mitigate any potentially significant impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

17.38.080 Appeals, Expiration, Extensions, and Revisions

- A. **Appeals.** Use Permit decisions may be appealed as provided for in Section TBD, Appeals.
- B. **Expiration, Extensions, and Revisions.** Use Permit approvals may only be expired, extended, or modified as provided for in Chapter TBD, Common Procedures.

Chapter 17.39 Temporary Use Permits

{Note: The existing code does not have a specific section that establishes provisions for dealing with temporary uses, which are similar to accessory uses, to the extent that they are ancillary to the principal use permitted on a lot, but are intended to operate for only a limited period of time. Regulations governing temporary uses on private property will be consolidated and listed in Chapter TBD, Standards for Specific Uses. Chapter TBD, Standards for Specific Uses classifies temporary uses as those requiring a permit and those permitted by right, subject to specific standards and time limits. This Chapter details the permit procedures for those temporary uses that require a permit.}

Sections:

- 17.39.010 Purpose
- 17.39.020 Review Authority
- 17.39.030 Application
- 17.39.040 Required Findings
- 17.39.050 Conditions of Approval

17.39.010 Purpose

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

17.39.020 Review Authority

The Director shall act as the Review Authority for Temporary Use Permits based on consideration of the requirements of this Chapter.

17.39.030 Application

An application for a Temporary Use Permit shall be submitted at least 60 days before the use is intended to begin, pursuant to Section TBD, Application Forms and Fees.

17.39.040 Required Findings

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

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

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

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

17.39.050 Conditions of Approval

The Director may impose reasonable conditions deemed necessary to ensure compliance with the findings for a Temporary Use Permit listed in Section TBD, Required Findings, including, but not limited to:

- A. Regulation of ingress, egress, and traffic circulation;
- B. Regulation of fire protection and access for fire vehicles;
- C. Regulation of lighting and signage;
- D. Regulation of hours of operation, staffing, or other aspects of the use; and
- E. Removal of all trash, debris, temporary structures and electrical service.

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

Chapter 17.40 Modifications

{Note: This Chapter provides a means of granting relief from standards dictating location, development, and operation, where doing so would be consistent with the General Plan. The ability to allow limited relief from code requirements provides flexibility to promote development consistent with General Plan objectives. Modifications are similar in concept and draw upon some provisions for Zoning Administrator reviewed Variances located in Section 17.64.050 of the current code. Section TBD, Zoning Administrator Action allows the Zoning Administrator to approve variances to setbacks, height, lot area, width and depth, and the height and area of signs, provided that the variation from the code standard does not exceed 25 percent. However, in the updated Zoning Code, these types of allowances are proposed to be moved to this separate chapter to provide a distinct process granting modifications to set standards when it is not possible or practical to approve a Variance.}

Sections:

- 17.40.010 Purpose
- 17.40.020 Applicability
- 17.40.030 Application
- 17.40.040 Procedures
- 17.40.050 Required Findings
- 17.40.060 Conditions of Approval
- 17.40.070 Appeals, Expiration, Extensions, and Revisions

17.40.010 Purpose

The purpose of this Chapter is to establish a means of granting relief from locational, developmental, and operational standards where doing so would be consistent with this Title and the General Plan, and where it is not possible or practical to approve a Variance.

17.40.020 Applicability

Modifications may be granted as specifically identified in any other section of this Title and as follows:

- A. **Dimensional Requirements.** Relief from dimensional requirements of property development standards specified in this Title, not to exceed 25 percent of the requirement.
- B. **Exclusions.** Modifications cannot be granted for any of the following standards:
 - 1. Lot area, width, or depth.
 - 2. Residential density.

17.40.030 Application

An application for a Modification shall be filed to the Planning Division in accordance with Section TBD, Application Forms and Fees. The application shall state in writing the nature of the request and explain how the required findings are satisfied. The applicant shall also submit plans delineating the requested Modification.

17.40.040 Procedures

- A. **Review Authority.** The Director shall act as the Review Authority for Modification applications based on consideration of the requirements of this Chapter except in the case of concurrent processing pursuant to Subsection B.
- B. **Concurrent Processing.** If a request for a Modification is being submitted in conjunction with an application for another approval, permit, or entitlement that requires Planning Commission action, it shall be heard and acted upon at the same time and in the same manner as that application.
- C. **Public Notice and Hearing.** Modifications do not require a public hearing or notice.

17.40.050 Required Findings

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

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

17.40.060 Conditions of Approval

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

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies adopted by the City Council;

- B. Achieve the general purposes of this Title or the specific purposes of the zone in which the project is located;
- C. Achieve the findings for a Modification granted; or
- D. Mitigate any potentially significant impacts identified as a result of review conducted in compliance with the California Environmental Quality Act (CEQA).

17.40.070 Appeals, Expiration, Extensions, and Revisions

- A. **Appeals.** Modification decisions may be appealed as provided for in Section TBD, Appeals.
- B. **Expiration, Extensions, and Revisions.** Modifications may only be expired, extended, or modified as provided for in Chapter TBD, Common Procedures.

Chapter 17.41 Variances

{Note: This Chapter carries forward existing provisions that are applicable in situations where the variation exceeds the thresholds established in Chapter, TBD, Modifications, or otherwise is not entitled under those rules or other regulations. Under this updated Title, Modifications and Variances are distinct and separate processes, and Variances will be reviewed by the Planning Commission. This Chapter frequently cross-references relevant requirements in Chapter TBD, Common Procedures.}

Sections:

- 17.41.010 Purpose
- 17.41.020 Applicability
- 17.41.030 Review Authority
- 17.41.040 Application
- 17.41.050 Procedures
- 17.41.060 Required Findings
- 17.41.070 Conditions of Approval
- 17.41.080 Appeals, Expiration, Extensions, and Revisions

17.41.010 Purpose

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

17.41.020 Applicability

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

17.41.030 Review Authority

The Planning Commission shall act as the Review Authority for Variance applications based on consideration of the requirements of this Chapter.

17.41.040 Application

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

17.41.050 Procedures

- A. **Public Notice.** An application for a Variance shall require a public notice prior to the Planning Commission decision, pursuant to Section TBD, Public Notice.
- B. **Public Hearing.** An application for a Variance shall require a public hearing before the Planning Commission, pursuant to Section TBD, Conduct of Public Hearings.

17.41.060 Required Findings

After conducting a public hearing, the Planning Commission must make all of the following findings in order to approve or conditionally approve a Variance application. The Commission shall deny an application for a Variance if it is unable to make any of the required findings, in which case it shall state the reasons for that determination.

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

17.41.070 Conditions of Approval

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

17.41.080 Appeals, Expiration, Extensions, and Revisions

- A. **Appeals.** Variance decisions may be appealed as provided for in Section TBD, Appeals.
- B. **Expiration, Extensions, and Revisions.** Variances may only be expired, extended or revised as provided for in Chapter TBD, Common Procedures.

Chapter 17.42 Reasonable Accommodation

{Note: This Chapter carries forward the provisions from the existing Chapter 17.66, Reasonable Accommodation. It ensures compliance with State and Federal laws that require special accommodation of certain protected uses.}

Sections:

- 17.42.010 Purpose
- 17.42.020 Applicability
- 17.42.030 Review Authority
- 17.42.040 Application
- 17.42.050 Procedure
- 17.42.060 Required Findings
- 17.42.070 Conditions of Approval
- 17.42.080 Appeals, Expiration, Extensions, and Revisions

17.42.010 Purpose

This Chapter establishes the procedures to request Reasonable Accommodation for persons with disabilities seeking equal access to housing under the California Fair Employment and Housing Act, the Federal Fair Housing Act, and the Americans with Disabilities Act (“the Acts”) in the application of zoning law and other land use regulations, policies, procedures, and conditions of approval.

17.42.020 Applicability

- A. A request for Reasonable Accommodation may be made by any person with a disability, their representative, or any other entity, when the application of zoning law or other land use regulation, policy, or procedure acts as a barrier to fair housing opportunities.
- B. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment.
- C. A request for Reasonable Accommodation may include a change or exception to the practices, rules, and standards for the development, siting, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

17.42.030 Review Authority

The Director shall act as the Review Authority for Reasonable Accommodation applications based on consideration of the requirements of this Chapter. Requests submitted for concurrent review with another discretionary land use application shall be reviewed by the Review Authority for the discretionary land use application.

17.42.040 Application

An application for a Reasonable Accommodation shall be prepared, filed, and processed in compliance with Section TBD, Application Forms and Fees. No noticing or public hearing are required for a Reasonable Accommodation request. In addition to any other information required under the West Sacramento Municipal Code, an applicant submitting a request for Reasonable Accommodation must provide the following information:

- A. Description of the accommodation request;
- B. The applicant's name, address, and telephone number;
- C. Location of the subject property, including address and assessor's parcel numbers;
- D. Name and address of the property owner and the owner's written consent to the application;
- E. The current actual use of the subject property;
- F. Verifiable documentation of the individual's disability status;
- G. The regulation(s), policy, or procedure for which accommodation is sought;
- H. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling; and
- I. Additional information necessary for Planning Division staff to facilitate proper consideration of the request, consistent with fair housing laws.

17.42.050 Procedures

The Director shall make a written determination within 45 days of the application being deemed complete and either approve, modify, or deny a request for Reasonable Accommodation in compliance with Section TBD, Required Findings.

17.42.060 Required Findings

The Director must consider all of the following factors in order to approve or deny a request for Reasonable Accommodation that will be consistent with the Acts.

- A. Whether the housing, which is the subject of the request, will be used by an individual defined as disabled under the Acts;

- B. Whether the request for Reasonable Accommodation is necessary to make specific housing available to an individual with a disability under the Acts;
- C. Whether the requested Reasonable Accommodation would impose an undue financial or administrative burden on the City; and
- D. Whether the requested Reasonable Accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.

17.42.070 Conditions of Approval

In granting a request for Reasonable Accommodation, the Review Authority may impose any conditions of approval deemed reasonable and necessary to ensure that the Reasonable Accommodation would comply with the findings required herein. The conditions shall also state whether the accommodation granted shall terminate in the event that the recipient of the accommodation was requested no longer resides on the property.

17.42.080 Appeals, Expiration, Extensions, and Revisions

- A. **Appeals.** Reasonable Accommodation decisions may be appealed as provided for in Section TBD, Appeals.
- B. **Expiration, Extensions, and Revisions.** Reasonable Accommodations may only be expired, extended or revised as provided for in Chapter TBD, Common Procedures. A Reasonable Accommodation shall terminate if the accommodation is no longer required, or if the recipient of the accommodation no longer resides at the property.

Chapter 17.43 Development Agreements

{Note: This new Chapter enables the City to implement Government Code Sections 65864-65869.5 authorizing government entities to enter into legally binding agreements with private parties. Section 65865 requires cities to establish procedures for consideration of Development Agreements when requested by an applicant.}

Sections:

- 17.43.010 Purpose
- 17.43.020 Applicability
- 17.43.030 Review Authority
- 17.43.040 Procedures
- 17.43.050 Planning Commission Hearing and Recommendation
- 17.43.060 City Council Hearing and Action
- 17.43.070 Required Findings
- 17.43.080 Execution and Recordation
- 17.43.090 Periodic Review
- 17.43.100 Amendment or Cancellation
- 17.43.110 Effect of Approved Agreement
- 17.43.120 Enforcement

17.43.010 Purpose

This Chapter establishes procedures and requirements for considering and entering into legally binding agreements with applicants for development projects, as provided for in State law. Such agreements provide a greater degree of certainty than the normal permit approval process by granting assurance that an applicant may proceed with development in accord with policies, rules, and regulations in effect at the time of the approval subject to conditions to promote the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and ensure that appropriate measures to enhance and protect the environment are achieved.

17.43.020 Applicability

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

for planning and engineering for the entire project and for public facilities and services.

17.43.030 Review Authority

- A. The Director shall negotiate the specific components and provisions of the Development Agreement on behalf of the City for Planning Commission review and recommendation to the City Council.
- B. The Planning Commission shall act as the advisory body and review the Development Agreement in order to provide recommendation to the City Council.
- C. The City Council shall act as the Review Authority, and after receiving recommendations from the Planning Commission, may adopt, reject, or modify a Development Agreement based on consideration of the requirements of this Chapter.

17.43.040 Procedures

An applicant for a development project may request that the City review the application as a Development Agreement application in accordance with the following procedures. The City incorporates by reference the provisions of Government Code Sections 65864-65869.5. In the event of any conflict between these statutory provisions and this Section, this Section shall control.

- A. **Application Requirements.** Applications for Development Agreements shall be filed with the Community Development Department in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a Development Agreement shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings.
- B. **Contents of Development Agreements.**
 - 1. **Required Contents.** A Development Agreement shall specify its duration, the permitted uses of the subject property, the general location and density or intensity of uses, the general location, maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. It shall contain provisions concerning its transferability (assignment).
 - 2. **Additional Contents.** Development Agreements may also include the following:
 - a. **Improvements and Fees.** A Development Agreement may include requirements for construction and maintenance of onsite and offsite

improvements or payment of fees in lieu of such dedications or improvements.

- b. *Conditions.* A Development Agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions but does not eliminate the applicant's responsibility to obtain all required land use approvals.
 - c. *Phasing.* A Development Agreement may provide that the project be constructed in specified phases, that construction shall commence within a specified time, and that the project or any phase thereof be completed within a specified time.
 - d. *Financing.* If the Development Agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.
 - e. *Indemnity.* A Development Agreement may contain an indemnity clause requiring the applicant to indemnify and hold the City harmless against claims arising out of or in any way related to the actions of applicant in connection with the application or the development process, including all legal fees and costs.
 - f. *Performance Obligation Fees.* A Development Agreement may include provisions to guarantee performance of obligations stated in the agreement.
 - g. *Other Items.* Other components and provisions as negotiated by City.
- C. **Concurrent Processing.** It is the intent of this Chapter that the application for a Development Agreement will be made and considered simultaneously with the review of other necessary applications, including, but not limited to rezoning, Planned Development, and Conditional Use Permits. If combined with an application for rezoning, Planned Development, or Conditional Use Permit, the application for a Development Agreement shall be submitted with said application and shall be processed, to the maximum extent possible, jointly to avoid duplication of hearings and repetition of information. A Development Agreement is not a substitute for, nor an alternative to, any other required permit or approval, and the qualified applicant or developer must comply with all other required procedures for development approval.

17.43.050 Planning Commission Hearing and Recommendation

- A. **Notice.** Public notice of hearings by the Planning Commission for a Development Agreement shall be given as specified in Section TBD, Public Notice. Notice of the

hearing shall also be mailed or delivered to any other local agency expected to provide essential facilities or services to the property that is the subject of the Development Agreement.

- B. **Hearing.** The Planning Commission shall conduct a public hearing for the purpose of making recommendations to the City Council in conformance with the provisions of Section TBD, Conduct of Public Hearings.
- C. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a written recommendation on the proposed Development Agreement. The Director shall transmit the Planning Commission's written recommendation and complete record of the application to the City Council.
 - 1. **Approval.** If the Planning Commission has recommended approval of the Development Agreement, the City Council is required to take final action pursuant to Section TBD, City Council Hearing and Action.
 - 2. **Denial.** If the Planning Commission has recommended against the Development Agreement, the City Council is not required to take any further action unless an appeal is filed in accordance with Section TBD, Appeals.

17.43.060 City Council Hearing and Action

- A. **Applicant Execution of Agreement.** A proposed Development Agreement shall be executed by the Applicant before it is placed before City Council for consideration at a public hearing.
- B. **Notice.** Public notice of hearings by the City Council for a Development Agreement shall be given as specified in Section TBD, Public Notice. Notice of the hearing shall also be mailed or delivered to any other local agency expected to provide essential facilities or services to the property that is the subject of the Development Agreement.
- C. **Hearing.** After receiving the report from the Planning Commission but no later than the time specified by Section 65943 of the Government Code, the City Council shall hold a public hearing in conformance with the provisions of Section TBD, Conduct of Public Hearings.
- D. **Decision.** After the City Council completes the public hearing, the City Council shall approve, modify, or deny the Development Agreement. Approval of a Development Agreement shall be by ordinance. The ordinance shall refer to and incorporate by reference the text of the Development Agreement. Matters not previously considered by the Planning Commission during its hearing may, but need not, be referred back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.

17.43.070 Required Findings

The City Council must make the finding that a proposed Development Agreement and its provisions are consistent with the General Plan and any applicable specific plan in order to approve a Development Agreement. This requirement may be satisfied by a finding that the provisions of a proposed Development Agreement are consistent with proposed General Plan or specific plan provisions to be adopted concurrently with the approval of the proposed Development Agreement.

17.43.080 Execution and Recordation

Within 10 days after the ordinance approving the Development Agreement takes effect, the Mayor or his/her designee shall execute the Development Agreement on behalf of the City, and the City Clerk shall record the Development Agreement with the County Recorder.

17.43.090 Periodic Review

The applicant shall be required to demonstrate compliance with the provisions of the Development Agreement at least once a year at which time the City Manager or his/her designee shall review each approved Development Agreement.

- A. **Finding of Compliance.** If the City Manager or his/her designee, on the basis of substantial evidence, finds compliance by the applicant with the provisions of the Development Agreement, no action is required.
- B. **Finding of Non-compliance.** If the City Manager or his/her designee finds the applicant has not complied with the provisions of the Development Agreement, the Director may issue a finding of noncompliance which may be recorded by the City with the County Recorder after it becomes final. The Director shall specify in writing to the applicant the respects in which the applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance. If the applicant does not comply with any terms of compliance within the prescribed time limits, the Development Agreement shall be subject to termination or revision pursuant to this Chapter.
- C. **Appeal of Determination.** Within 10 days after issuance of a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final.

17.43.100 Amendment or Cancellation

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

17.43.110 Effect of Approved Agreement

- A. **Existing Rules and Regulations.** Unless otherwise specified in the Development Agreement, the City's rules, regulations, and official policies governing permitted uses of the property, density and design, and improvement standards and specifications applicable to development of the property shall be those City rules, regulations, and official policies in force on the effective date of the Development Agreement.
- B. **Future Rules and Regulations.** A Development Agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations and policies that do not conflict with those rules, regulations and policies applicable to the property as set forth in the Development Agreement. A Development Agreement shall not prevent the City from denying or conditionally approving any subsequent land use project or authorization for the project on the

basis of such rules, regulations, and policies. Unless otherwise specified in the Development Agreement, a Development Agreement shall not exempt the applicant from obtaining future discretionary land use approvals.

- C. **State and Federal Rules and Regulations.** In the event that any regulation or law of the State of California or the United States, enacted or interpreted after a Development Agreement has been entered into prevents or precludes compliance with one or more provisions of the Development Agreement, then the Development Agreement may be modified or suspended in the manner and pursuant to the procedures specified in the Development Agreement, as may be necessary to comply with such regulation or law.

17.43.120 Enforcement

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

Chapter 17.44 Amendments to the General Plan, Zoning Code, and Zoning Map

{Note: This Chapter contains provisions for amending the Zoning Code text and the Zoning Map, currently located in Chapter 17.62, Zoning Amendments, and for amending the General Plan. The General Plan is the underlying basis for all land use and development policies and regulations.}

Sections:

- 17.44.010 Purpose
- 17.44.020 Applicability
- 17.44.030 Review Authority
- 17.44.040 Initiation of Amendment
- 17.44.050 Procedures
- 17.44.060 Planning Commission Hearing and Recommendation
- 17.44.070 City Council Hearing and Action
- 17.44.080 General Plan Consistency Required for Zoning Amendments

17.44.010 Purpose

This Chapter establishes procedures for consideration and review of Amendments to the General Plan, Zoning Code, and/or Zoning Map, when there are compelling reasons to do so. More specifically, this Chapter addresses:

- A. Amendments to the General Plan, to address changes in State or Federal law and problems and opportunities that were unanticipated at the time of adoption or the last amendment; and
- B. Amendments to the Zoning Code and Zoning Map, whenever the public necessity, convenience, general welfare, or good practice justify such amendment, consistent with the General Plan.

17.44.020 Applicability

The procedures in this Chapter shall apply to:

- A. All proposals to change the text of the General Plan and the maps that illustrate the application of its provisions; and
- B. All proposals to change the text of this Zoning Code or to revise a zone or boundary line shown on the Zoning Map.

17.44.030 Review Authority

The Planning Commission shall act as the advisory body for all Amendments to the General Plan, Zoning Code, and Zoning Map and provide recommendations to the City Council. The City Council shall act as the Review Authority, and after receiving recommendations from the Planning Commission, may adopt, reject, or modify all Amendments to the General Plan, Zoning Code, and Zoning Map.

17.44.040 Initiation of Amendment

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

17.44.050 Procedures

- A. **Application.** A qualified applicant shall submit an application accompanied by the required fee, pursuant to Chapter TBD, Common Procedures. The Planning Division may require an applicant to submit such additional information and supporting data as considered necessary to process the application. The Planning Division may allow Amendments to the General Plan, Zoning Code, and Zoning Map to be processed concurrently with other applications.
- B. **Staff Report.** The Director shall prepare a report and recommendation to the Planning Commission on any amendment application. The report shall include, but is not limited to, a discussion of how the proposed amendment meets the criteria in Section TBD, General Plan Consistency Required for Zoning Amendments (if applicable), as well as an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). Applications involving projects for which an environmental document is required shall not be heard until the environmental assessment procedures required by CEQA are satisfied.
- C. **Public Hearing and Notice.** All Amendments to the General Plan, Zoning Code, and Zoning Map shall be referred to the Planning Commission, which shall conduct at least one public hearing on any proposed amendment. At least 10 days before the date of any public hearing, the Planning Division shall provide notice as provided for in Section TBD, Public Notice. Notice of the hearing also shall be mailed or delivered to any local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment.

17.44.060 Planning Commission Hearing and Recommendation

- A. **Planning Commission Hearing.** Before submitting a recommendation report to the City Council, the Planning Commission shall conduct at least one public hearing in accordance with Section TBD, Conduct of Public Hearings.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a recommendation on the proposed amendment to the City Council. Such recommendation shall include the reasons for the recommendation, findings related to Section TBD, General Plan Consistency Required for Zoning Amendments (if applicable), and the relationship of the proposed amendment to other adopted documents. The recommendation shall be transmitted in the form of a Council memo, prepared by the Planning Division, with a copy of the approved minutes from the Planning Commission meeting.
 - 1. **Approval.** If the Planning Commission has recommended approval of the proposed amendment, the City Council is required to take final action pursuant to Section TBD, City Council Hearing and Action.
 - 2. **Denial.** If the Planning Commission has recommended against the proposed amendment, the City Council is not required to take any further action unless an appeal is filed in accordance with Section TBD, Appeals.

17.44.070 City Council Hearing and Action

- A. **City Council Hearing.** After receiving the recommendation from the Planning Commission, the City Council shall hold a hearing in accordance with Section TBD, Conduct of Public Hearings. The notice for the hearing shall include a summary of the Planning Commission recommendation.
- B. **City Council Action.** After the conclusion of the hearing, the City Council may approve, modify, or deny the proposed amendment. If the Council proposes any substantial revision not previously considered by the Planning Commission during its hearings, the proposed revision shall first be referred back to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing. The failure of the Planning Commission to report within 45 days after the referral shall be deemed a recommendation for approval and the amendment shall be returned to Council for adoption.

17.44.080 General Plan Consistency Required for Zoning Amendments

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

Chapter 17.45 Pre-Zoning

{Note: This Chapter establishes the procedure for determining the zoning of property that will apply upon annexation.}

Sections:

- 17.45.010 Purpose
- 17.45.020 Applicability
- 17.45.030 Procedure
- 17.45.040 Effective Date of Zoning and Time Limit

17.45.010 Purpose

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

17.45.020 Applicability

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

17.45.030 Procedure

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

17.45.040 Effective Date of Zoning and Time Limit

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

Chapter 17.46 Enforcement

{Note: This Chapter revises procedures in the existing Chapter 17.13, Enforcement-Penalties, for enforcement of code regulations. Existing language has been reworked and organized for consistency and clarity. Sections have been added to include additional remedies that the City may employ in situations that do not involve violations of specific zoning standards (i.e. excessive littering, noise, or noxious fumes). This Chapter includes cross-references to the relevant Section TBD, Revocation of Permits, as well as Title 19, the Nuisance Abatement Code.}

Sections:

- 17.46.010 Purpose
- 17.46.020 Enforcement Responsibilities
- 17.46.030 Revocation
- 17.46.040 Nuisance Defined
- 17.46.050 Penalties
- 17.46.060 Remedies
- 17.46.070 Nuisance Abatement

17.46.010 Purpose

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

17.46.020 Enforcement Responsibilities

All departments, officials and public employees of the City vested with the duty or authority to issue permits, certificates or licenses shall comply with the provisions of this title and shall issue no permit, certificate or license for uses, buildings or purposes which may be in conflict with the provisions of this title and any such permit, certificate or license issued in conflict with the provisions of this title, intentionally or otherwise, shall be null and void.

- A. **Community Development Director.** The Director shall enforce the provisions of this Title pertaining to the use of any land or structure, bulk, height and land coverage of structures, open spaces about structures and the dimensions and area of sites upon which structures are located.
- B. **Other Officials.** Requirements pertaining to health and sanitation, fire protection and building code regulations shall be enforced by the respective agencies which have jurisdiction in such matters. Whenever there is a conflict between the provisions of this Title and other City, State and Federal regulations, the more restrictive regulations shall apply.

17.46.030 Revocation

Any permit granted under this Title may be revoked in accordance with the provisions in Section TBD, Revocation of Permits, 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.

17.46.040 Nuisance Defined

Any building, structure, or planting set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Title, any use of any land, building, or premises established, conducted, operated, or maintained contrary to the provisions of this Title, and failure to comply with any of the conditions of a permit granted under this Title is declared to be unlawful and a public nuisance.

17.46.050 Penalties

Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating or failing to comply with a mandatory requirement of this Title shall be guilty of a misdemeanor but may be cited or charged, at the election of the enforcing officer or City Attorney, as an infraction. Upon conviction, such person shall be punished as set forth in Chapter 1.12, General Penalty, of the West Sacramento Municipal Code. A person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this Title is committed, continued or permitted by such person, firm or corporation, and shall be punished accordingly.

17.46.060 Remedies

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

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

17.46.070 Nuisance Abatement

Notices of violation shall be provided and recorded and nuisances abated, according to the procedures of Title 19, Nuisance Abatement Code, of the West Sacramento Municipal Code.