



**TO:** Planning Commission Chair and Members  
**FROM:** Anne Wells, Advance Planning Manager  
**SUBJECT:** Zoning Ordinance Project Module 1: Administration and Permits

**RECOMMENDATION:**

It is recommended that the Planning Commission receive a presentation and provide feedback on the Zoning Ordinance Project Module 1: Administration and Permits.

**BACKGROUND:**

The City's present zoning regulations were those in effect in the County of Santa Barbara at the date of incorporation. The County's codes were created more than 30 years ago to address the varied needs of both urban and rural areas. Their structure and provisions are not well-suited to our existing community. In light of this outdated regulatory tool, the City initiated the Zoning Ordinance Project (Project) with the purpose of preparing new zoning regulations that are consistent with and reflective of the City's adopted General Plan.

In October 2013, staff and the City's consultant, Dyett and Bhatia, conducted zoning-related interviews with members of the public and City decision-makers, including members of the City Council, Planning Commission, and Design Review Board. The Planning Commission received a status report on the project on January 13, 2014 and reviewed and discussed the "New Zoning Ordinance Proposed Draft Annotated Outline" on January 27, 2014. A project-specific website ([GoletaZoning.com](http://GoletaZoning.com)) serves as a clearinghouse for Project-related documents and staff reports.

Since the January 27, 2014 meeting, the City's consultant has completed the draft of Module 1: Administration and Permits (Module 1) for the new Zoning Ordinance (Attachment 1). Module 1 is the first of three zoning regulation modules that will be reviewed by the Planning Commission and public. The three modules are as follows:

- Module 1: Administration and Permits
- Module 2: Base and Overlay District Regulations
- Module 3: Regulations that Apply in Some or All Districts

The purpose of this staff report is to transmit Module 1 for Planning Commission review and feedback. Module 1 is also accessible on [GoletaZoning.com](http://GoletaZoning.com) under the "documents" link.

**DISCUSSION:**

Module 1, the subject of this Planning Commission meeting, proposes a new regulatory and administrative process for land use decisions. The proposed processes in Module 1 are based on a review of existing development regulations, comments from City staff, the Planning Commission, other commissions and boards, the City Council, and staff comments on the Annotated Outline. Application processes are outlined along with neighborhood notification procedures. The permit types are described, with triggers, criteria, and review procedures detailed. The first portion of the document provides detail on the bodies and persons who are charged with implementing the General Plan and zoning regulations and making land use decisions. Each review body is listed with descriptions of their roles and authority. The second portion outlines procedures that apply to all application types. How to file, what to file, what types of projects require a preliminary meeting and neighborhood notification are all discussed. The public hearing process, including noticing, conduct of hearings, and appeals, is also described.

After the review body and application processes have been discussed, then each permit type is laid out. There are two main permit categories – ‘use’ permits and ‘design’ permits. Each has been broken down into projects that can be approved at Director level or by the Zoning Administrator and those that require a public hearing. Deviations from these regulations can be approved through Variances and Modifications. Temporary uses, such as a street fair or farmers market, now will have clear processes for review and regulation. The process for reviewing and approving Coastal Zone Permits is also incorporated into this Module. Definitions are provided at the end of the Module that relate to terms used in the Administrative Sections.

At this meeting, staff is seeking Planning Commission feedback regarding the content of Module 1. To facilitate the Planning Commission discussion, staff and consultant will break down the content of Module 1 through a series of slides. The presentation will also explain how Module 1 corresponds to the General Plan.

**NEXT STEPS:**

Future meetings will be scheduled with the Planning Commission to review interim Zoning Ordinance products (Modules 2 and 3). These modules include the zoning districts inclusive of overlay district regulations, and regulations that apply in some or all districts. Staff anticipates that the modules will be ready for Planning Commission input in the late March and April timeframe.

Prepared By:

---

Anne Wells  
Advance Planning Manager

**ATTACHMENTS:**

1. Zoning Ordinance Project Module 1: Administration and Permits



Attachment 1

Zoning Ordinance Project  
Module 1: Administration and Permits



CITY OF

# Goleta

MODULE 1:

*Administration and Permits*

**DRAFT**  
FOR COMMISSION REVIEW

Prepared for

CITY OF GOLETA by:

**DYETT & BHATIA**

Urban and Regional Planners

**MARCH 4, 2014**





## Preface

---

This is the first of three modules that present Goleta’s preliminary draft regulations for review by the Planning Commission and interested parties. Module 1 proposes a new regulatory and administrative process for land use decisions. The proposed processes are based on a review of existing development regulations, comments from City staff, the Planning Commission, other commissions and boards, the City Council, and staff comments on the Annotated Outline. The goal of the proposed regulations is to create a streamlined, user-friendly set of procedures that are up to date with current planning practices and state law and implement the General Plan. This is necessary because the zoning regulations that the City adopted after incorporation is the old County ordinance, with some amendments, but no revisions to ensure General Plan consistency.

Goleta’s current zoning regulations do not clearly outline how to obtain a permit to do development. It is difficult to ascertain what level of review is required, and there are no required findings for approvals. Nor does it state the organization of land use review bodies and how they interact. While there is a notification section, it is not tailored to types of review processes, and permits, nor does it provide sufficient notice to the public. A rewrite of these sections of the zoning regulations will have a huge impact on how the City functions.

This Module establishes the land use procedural framework for Goleta. Application processes are outlined along with neighborhood notification procedures. The permits types are described, with triggers, criteria, and review procedures detailed. The first portion of the document provides detail on the bodies and persons who are charged with implementing the General Plan and zoning regulations and making land use decisions. Each review body is listed with descriptions of their roles and authority. The second portion outlines procedures that apply to all application types. How to file, what to file, what types of projects require a preliminary meeting and neighborhood notification are all discussed. The public hearing process, including noticing, conduct of hearings, and appeals, is also described.

After the review body and application processes have been discussed, then each permit type is laid out. There are two main categories – ‘use’ permits and ‘design review’. Each has been broken down into projects that can be approved at Director level or by the Zoning Administrator and those that require a public hearing. Deviations from these regulations can

be approved through Variances and Modifications. Temporary uses, such as a street fair or farmers market, now will have clear processes for review and regulation. The process for reviewing and approving Coastal Zone Permits is also incorporated into this Module.

We have cited the California Codes, where applicable, and brought in formal language and regulations, where appropriate. We also provided some definitions at the end of the Module that relate to terms used in the Administrative Sections. In the final zoning regulations they will be located in Part VI – General Terms. They are provided here for the Commission’s initial review and comment.

The proposed Chapters incorporate many provisions included in Goleta’s existing Title, but these are simplified, where needed, and expanded, when necessary. Technical edits also are made to reflect “best practices.” Following are highlights of specific proposals and changes from existing regulations, followed by policy questions.

## **REVIEW AUTHORITIES**

The new zoning regulations will maintain the same overall structure of review bodies that currently exist.

In re-organizing roles and duties, our goal was to make the permit review process more streamlined and to have the review and approvals occur without extensive reliance on public hearings. This is consistent with the idea of adding in more standards and performance criteria to implement General Plan policies – topics for subsequent modules. We also wanted to make the appeals process less cumbersome.

In structuring Goleta’s decision-making processes, we placed a majority of the administrative reviews with the Zoning Administrator, who will be responsible for issuing the bulk of permits in the City. Only Conditional Use Permits, certain Coastal Zone Permits, and Design Review Approval will require a hearing before the Planning Commission or Design Review Board, respectively – all other permits can be reviewed and issued by the Department. We have given the Zoning Administrator the ability to make decisions, further enabling permit review and approvals to occur on a more timely basis. For example, certain types of small projects could be approved without a public hearing if they met the requirements that were outlined in this Title. We believe that broadening the Zoning Administrator’s role will benefit Goleta because it can streamline the approval process. Appeal rights will give provide relief, where warranted, both for applicants and other interested parties.

The Planning and Environmental Review Director’s role is to support the Planning Commission and the Design Review Board. The Director is also the manager of the Department. The table below outlines the new land use application and actions, advisory bodies, decision-making bodies, and appellate bodies.

<b>REVIEW AUTHORITY</b>			
<i>Application or Action</i>	<i>Chapter</i>	<i>Decision-Maker</i>	<i>Appeal Body</i>
Zoning Clearance	17.47	Zoning Administrator	Planning Commission
Administrative Use Permit	17.48	Zoning Administrator	Planning Commission
Temporary Use Permit	17.48	Zoning Administrator	Planning Commission
Conditional Use Permit	17.48	Planning Commission	City Council
Design Review	17.49	Major: Design Review Board  Administrative: Director	Major: Planning Commission  Administrative: Design Review Board
Variances	17.52	Zoning Administrator	Planning Commission
Modifications	17.53	Zoning Administrator	Planning Commission
Permit Revocation	17.46.140	Original decision-making body	n/a
Coastal Zone Permits: Major Administrative	17.51	Major: Planning Commission  Administrative: Director	Appealable Permits: Coastal Commission  Non-appealable Permits: Planning Commission
Design Review involving Historic Resources	17.50 or 17.49	Major: Design Review Board  Administrative: Zoning Administrator	Major: Planning Commission  Administrative: Design Review Board
General Plan Text and Map Amendments	17.57	City Council	Superior Court
Zoning regulations and Map Amendments	17.56	City Council	Superior Court
Master Plan Development Districts	17.57	City Council	Superior Court

## **COMMON PROCEDURES**

One goal of the zoning regulations is to establish uniform procedures that are common to the application and processing of a variety of different permit types. Because this Chapter will likely be the administrative Chapter that users most frequently consult, it appears immediately following the Chapter on Review Authorities.

The majority of the material in this section is new to the zoning regulations. Procedures for conducting preliminary review, requirements for written findings, and procedures for public hearings are some of the topics addressed in this section. Preliminary review has been

incorporated for larger projects and is intended to provide information on relevant City policies, regulations, and procedures that may apply to a proposed project, as well as to provide early feedback on a proposal. Preliminary review is a procedure that is used effectively in many jurisdictions. It can streamline the process by clarifying the City's expectations and resolving potential conflicts or misunderstandings in advance.

Public notice provisions have been revised and strengthened to meet all applicable state laws. A robust notice system assists all parties involved – neighbors, project sponsors, community organizations, and the like – to be informed about proposals and to voice their concerns if any. We have added a neighborhood notification process for larger projects. As with preliminary review, it is intended to assist in the exchange of information regarding a project. Public hearing notification has also been updated, with electronic notification included as an option for future notice. As society moves further away from advertised and paper notices, it is important to provide for alternate options.

Finally, we have reorganized all appeal issues. There is a 'one-stop' section, which consolidates all permit types, decision-making authorities, appeal bodies, and timeframes for appealing a decision. It has procedures that must be followed, notice requirements, and standards of review. There is a table that provides an easy and useful way to determine what course of action must be taken if one wishes to contest a land use decision in Goleta (Table 17.46.150).

## **USE PERMITS**

As mentioned above, we have separated Goleta's new permit processes into two categories: use and design. Use permits are the base permit type and correspond to what uses are permitted, not permitted, or require a conditional use in the Base and Overlay Zoning Districts. We have broken use permits down into four types: 1) Zoning Clearance, which are for all uses that are permitted as-of-right but need to be checked for zoning and General Plan consistency; 2) Administrative Use Permits for uses that are permitted but require an additional level of review and/or conditions; 3) Conditional Use Permits for uses that may have an impact upon surrounding properties and require a high level of review; and 4) Temporary Uses for those that are short in duration. We cross-referenced each with the appropriate decision-making authority. The goal was to create a system that would allow the majority of use permits to be approved by the Zoning Administrator. Only Conditional Use Permits go to the Planning Commission. We have created findings for each type of permit and enabled conditions of approval to be incorporated when necessary. All use permits, with the exception of the Conditional Use Permits, are appealed to the Planning Commission.

## **DESIGN REVIEW**

The second approval category is for physical development and design issues. The intent of separating out building design and site layout, including landscaping, from use is to enable and encourage a high level of design, control the physical form of development so that it is

compatible with the adjacent properties. The scope of Design Review is limited to aesthetic features of development, and written findings will be required as a basis for imposing specific conditions of approval to ensure land use compatibility and compliance with standards of this Title and policies of the General Plan. Specific procedures for Design Review are being formulated by City staff for separate review by the Commission, and will be integrated into the consultant team's work on the Zoning Regulation when available.

## **POLICY QUESTIONS**

In Module 1 we have incorporated best practices of jurisdictions in adjacent communities as well as throughout the country. While we welcome feedback and questions on all sections, there are a few items that we want to highlight. These are not all-inclusive, but can serve as a starting point for discussion with the Planning Commission on how Goleta's land use system should be structured and administered.

### **A. Notice.**

1. Does Goleta want to retain the existing requirement of substituting an advertisement in lieu of mailed notice if there are over 1,000 owners/notices to mail?
2. Currently there is a requirement of at least 3 posters to be hung on site. We reduced this to one poster per street frontage with the Zoning Administrator having the ability to require additional posters if necessary.
3. Title 04-54, passed in 2004, requires mailed notice to be sent to owners within 500 feet for residential and 1,000 feet for nonresidential projects. However, the Inland zoning regulations were amended in 2007 back to 300 feet for all projects. This is more consistent with other jurisdictions, meets state law, and is less burdensome. We used the 300 feet radius for all notifications.

**B. Zoning Clearance.** We have designed the Zoning Clearance to be a ministerial permit, no discretion, no conditions, and approved at the counter. Should we provide an option for the Zoning Administrator to send it to the Planning Commission if there are unusual circumstances for its review?

**C. Authority to Grant Variances.** The revised regulations will enable the Zoning Administrator to grant variances after holding a duly noticed public hearing. This will streamline the process. Does Goleta want to do this? Or should authority to grant variances rest with the Planning Commission? Staff believes Planning Commission may be a more appropriate authority to grant Variances.

**D. Administrative Design Review.** The revised regulations will enable smaller projects that are subject to Design Review to be reviewed and approved

administratively. Currently, the Director has the authority to approve these permits. The Zoning Administrator's role is to interpret and enforce technical aspects of these regulations, such as definitions, uses, and processes. However, if the City would like to have one official responsible for all administrative permits – use and design – then this function should be delegated to the Zoning Administrator.

## **NEXT STEPS**

Comments by the Planning Commission and others speaking at the Commission study session will be reviewed with the Director and other City Staff and changes reflected in the Discussion Draft of the new zoning regulations, which will be presented for Commission review before community workshops and CEQA review. Concurrently, the Director will be refining procedures for Design Review. The City Attorney's Office also will be working closely with the consultant team to ensure a seamless integration of the new zoning regulations with other titles in the Goleta Municipal Code.

# Table of Contents

---

<b>Preface</b> .....	<b>I</b>
<b>Part V Administration and Permits</b> .....	<b>1</b>
<b>Chapter 17.45 Planning Authorities</b> .....	<b>3</b>
17.45.010 Purpose .....	3
17.45.020 City Council .....	<b>Error! Bookmark not defined.</b>
17.45.030 Planning Commission.....	<b>Error! Bookmark not defined.</b>
17.45.040 Design Review Board .....	<b>Error! Bookmark not defined.</b>
17.45.050 Zoning Administrator.....	3
17.45.060 Director .....	5
<b>Chapter 17.46 Common Procedures</b> .....	<b>6</b>
17.46.010 Purpose .....	6
17.46.020 Application Submittal and Review .....	6
17.46.030 Preliminary Review Process .....	8
17.46.040 Review of Applications .....	9
17.46.050 Environmental Review .....	9
17.46.060 Public Notification .....	9
17.46.070 Conduct of Public Hearings .....	14
17.46.080 Findings Required.....	15
17.46.090 Conditions of Approval .....	16
17.46.100 Expiration and Extensions .....	16
17.46.110 Modification and Amendments.....	17
17.46.120 Revocation of Permits.....	17
17.46.130 Appeals.....	18
<b>Chapter 17.47 Zoning Clearance</b> .....	<b>21</b>
17.47.010 Purpose .....	21
17.47.020 Applicability .....	21
17.47.030 Review and Decision .....	21
17.47.040 Exceptions.....	22
17.47.050 Appeals.....	22

<b>Chapter 17.48 Use Permits.....</b>	<b>23</b>
17.48.010 Purpose .....	23
17.48.020 Applicability .....	23
17.48.030 Review Authority .....	24
17.48.040 Administrative Use Permits.....	24
17.48.050 Conditional Use Permits.....	25
17.48.060 Required Findings.....	25
17.48.070 Conditions of Approval .....	26
17.48.080 Temporary Use Permits.....	27
17.48.090 Appeals.....	28
<b>Chapter 17.49 Design Review .....</b>	<b>29</b>
<b>Chapter 17.50 Historic Resource Review .....</b>	<b>30</b>
17.50.010 Purpose .....	30
17.50.020 Applicability .....	31
17.50.030 Authority and Procedures .....	31
17.50.040 Exceptions.....	31
17.50.050 Required Findings.....	31
17.50.060 Conditions .....	33
17.50.070 Appeal for Economic Hardship.....	33
<b>Chapter 17.51 Coastal Development Permit .....</b>	<b>34</b>
17.51.010 Specific Purpose .....	34
17.51.020 Applicability .....	35
17.51.030 Exemptions .....	35
17.51.040 Record of Permit Exemptions .....	42
17.51.050 Permit Required; Application Requirements.....	42
17.51.060 Administrative Coastal Development Permits .....	43
17.51.070 Regular Coastal Development Permits .....	44
17.51.080 Emergency Coastal Development Permit.....	44
17.51.090 Open Space Easements and Public Access Documents .....	46
17.51.100 Determination of Applicable Notice and Hearing Procedures .....	47
17.51.110 Action on Coastal Development Permit .....	47
17.51.120 Notice for Appealable Development.....	48
17.51.130 Notice for Non-Appealable Development .....	49
17.51.140 Waiver of Public Hearing for Minor Development.....	50
17.51.150 Notice of City Action .....	51
17.51.160 Precedence of Local Coastal Program .....	52
17.51.170 Conditions .....	52
17.51.180 Required Findings.....	53
17.51.190 Appeals.....	53



17.51.200	Application After Denial.....	54
17.51.210	Expiration of Coastal Development Permit.....	54
17.51.220	Permit Amendent.....	54
<b>Chapter 17.52</b>	<b>Variances .....</b>	<b>55</b>
17.52.010	Purpose .....	55
17.52.020	Applicability .....	55
17.52.030	Procedures .....	56
17.52.040	Required Findings.....	56
17.52.050	Conditions of Approval .....	56
17.52.060	Appeals.....	57
<b>Chapter 17.53</b>	<b>Modifications .....</b>	<b>58</b>
17.53.010	Purpose .....	58
17.53.020	Applicability .....	58
17.53.030	Procedures .....	59
17.53.040	Required Findings.....	59
17.53.050	Conditions of Approval .....	61
17.53.060	Appeals.....	61
<b>Chapter 17.54</b>	<b>Development Agreements .....</b>	<b>62</b>
17.54.010	Purpose .....	62
17.54.020	Applicability .....	62
17.54.030	Authority and Duties.....	63
17.54.040	Procedure.....	63
17.54.050	Execution and Recordation of Development Agreement.....	64
17.54.060	Annual Review .....	64
17.54.070	Amendment or Cancellation.....	65
17.54.080	Effect of Approved Agreement .....	65
17.54.090	Enforcement.....	66
<b>Chapter 17.55</b>	<b>Amendments to Zoning Regulations and Zoning Map.....</b>	<b>67</b>
17.55.010	Purpose and Applicability .....	67
17.55.020	Initiation of Amendments.....	67
17.55.030	Public Notice and Review Procedures .....	67
17.55.040	Public Hearing .....	68
17.55.050	Planning Commission Action .....	68
17.55.060	City Council Action.....	68
<b>Chapter 17.56</b>	<b>Amendments to the General Plan.....</b>	<b>70</b>
17.56.010	Purpose .....	70
17.56.020	Applicability .....	70

17.56.030	Contents of the General Plan.....	70
17.56.040	Initiation .....	70
17.56.050	Application Requirements.....	<b>Error! Bookmark not defined.</b>
17.56.060	Preparation.....	71
17.56.070	Review Procedures and Public Notice .....	72
17.56.080	Planning Commission Hearing and Recommendation.....	72
17.56.090	City Council Hearing and Action.....	73
17.56.100	Administration of the General Plan.....	73
<b>Chapter 17.57</b>	<b>Enforcement .....</b>	<b>74</b>
17.57.010	Purpose .....	74
17.57.020	Relation to Other Codes and Statues.....	74
17.57.030	Enforcement Responsibilities.....	74
17.57.040	Penalties .....	75
17.57.050	Remedies .....	75
17.57.060	Recording a Notice and Order.....	76

**PART V**  
**ADMINISTRATION AND**  
**PERMITS**

---

*This page left intentionally blank*

## **Chapter 17.45 Planning Authorities**

---

### **Sections:**

17.45.010	Purpose
17.45.020	City Council
17.45.030	Planning Commission
17.45.040	Design Review Board
17.45.050	Zoning Administrator
17.45.060	Director

### **17.45.010 Purpose**

This Chapter identifies the purpose, duties, organization, and powers of the City bodies, officials, and administrators authorized to make decisions pursuant to Title 17 of the Goleta Municipal Code.

### **17.45.020 City Council**

[Forthcoming from City]

### **17.45.030 Planning Commission**

[Forthcoming from City]

### **17.45.040 Design Review Board**

[Forthcoming from City]

### **17.45.050 Zoning Administrator**

- A. **Creation and Purpose.** The Zoning Administrator is appointed by the City Manager. The Zoning Administrator is authorized to interpret the meaning and intent of the General Plan and this Title. In the event that no such person is appointed or if the Zoning Administrator becomes unavailable, the Director serves as the Zoning Administrator.

**B. Duties and Powers.**

1. ***General Authority; Authority for Permit Approvals.*** The Zoning Administrator has the duty to carry out the provisions and intent of the General Plan and this Title. The Zoning Administrator may render a final decision on the following:
    - a. Zoning Certificates;
    - b. Administrative Use Permits;
    - c. Administrative Coastal Development Permits;
    - d. Temporary Use Permits;
    - e. Variances; and
    - f. Modifications.
  
  2. ***Interpret the Code.*** The Zoning Administrator has the authority to interpret the use provisions and development standards applicable to each zoning district identified in this Title. In the event that a specific or type of use is not listed in this Title and not classified by the Zoning Administrator has the authority to determine which listed use is most similar to the proposed use and thereby determine whether the use is permitted, permitted subject to Conditional Use Permit review and approval, permitted as a temporary use, or prohibited. In determining “similarity,” the Zoning Administrator must make all of the following findings:
    - a. The proposed use must meet the intent of, and be consistent with the goals, objectives and policies of the general plan;
    - b. The proposed use must meet the stated purpose and general intent of the district in which the use is proposed to be located;
    - c. The proposed use cannot adversely impact the public health, safety and general welfare of the city’s residents; and
    - d. The proposed use must share characteristics common with, and not be of greater intensity, density or generate more environmental impact, than those uses listed in the permitted uses section.
- C. **Appeals.** Any applicant, interested person or public official may appeal any a decision of the Zoning Administrator to the Planning Commission in accordance with Section 17.46.150, Appeals.

**17.45.060 Director**

- A. **Creation and Purpose.** The Director (the “Director”) is the manager of the Planning and Environmental Review Department. The Director, or designee, directs the work of the Department and leads the Department in fulfilling its mission and goals.
  
- B. **Duties and Powers.**
  - 1. The Planning and Environmental Review Director may implement the provisions and intent of the General Plan and this Title. In the absence of a Zoning Administrator, the Director may assume all duties delegated to the Zoning Administrator by this Title. Without limiting the powers otherwise delegated by this Title or applicable law, the Director may:
    - a. Review and approve, continue, deny, or approve with conditions Administrative Design Review approval;
    - b. Issue administrative regulations for the submission and review of applications subject to the requirements of this Title; and
    - c. Process and make recommendations to the City Council on all applications, amendments, appeals and other matters upon which the Council has the authority and the duty to act under this Title.

## **Chapter 17.46 Common Procedures**

---

### **Sections:**

- 17.46.010 Purpose
- 17.46.020 Application Submittal and Review
- 17.46.030 Preliminary Review Process
- 17.46.040 Review of Applications
- 17.46.050 Environmental Review
- 17.46.060 Public Notification
- 17.46.070 Conduct of Public Hearings
- 17.46.080 Findings Required
- 17.46.090 Conditions of Approval
- 17.46.100 Expiration and Extensions
- 17.46.110 Modification and Amendments
- 17.46.120 Revocation of Permits
- 17.46.130 Appeals

### **17.46.010 Purpose**

This Chapter establishes procedures that are common to the application and processing of all permits and approvals provided for in the zoning regulations unless superseded by specific requirement of this Title or applicable law.

### **17.46.020 Application Submittal and Review**

- A. **Initiation of Application.** The following persons are qualified applicants and may file applications:
  - 1. The owner of the subject property; and
  - 2. An agent representing the owner, duly authorized to do so in writing by the owner, including a person with a duly executed written contract or exclusive option to purchase the subject property or a lessee in possession of the subject property.
- B. **Application Forms and Supporting Materials.**



1. ***Application Forms.*** The Director must 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. Each application form must contain:
  - a. A list or description of the information, reports, dimensional plans, and other material needed in order to deem an application complete;
  - b. The criteria by which the Director will determine the completeness of the application;
  - c. Instructions necessary to complete or supply the required information; and
  - d. Such other information as may be required by this Chapter or applicable law.
2. ***Electronic Submissions and Supporting Materials.*** The Director may require the electronic submission of application materials, consistent with the Government Code, and also may require 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. Unless otherwise specified, all renderings shall depict the proposed structure, landscaping, other improvements, and surrounding land uses as they would appear after project completion.
3. ***Availability of Materials.*** All material submitted in support of a specific application becomes the property of the City.

**C. Application Fees, Waiver, and Refund.**

1. ***Schedule of Fees.*** The City Council shall establish fees for permits, informational materials, penalties, copying, and other such items. Applications cannot be processed without payment of a fee or placement of a deposit unless a fee waiver or deferral was approved.
2. ***Multiple Applications.*** The City's processing fees are cumulative. When more than one type of action is being requested, the total fee is the sum of the individual fees specified on the fee schedule.
3. ***No Refund of Fees.*** Once an application is filed with the Department, no portion of any application fee is refundable. No refund will be provided for any application that has been denied.

### **17.46.030 Preliminary Review Process**

- A. **Purpose.** The purpose of the Preliminary Review is intended to acquaint the prospective applicant or applicant's representative(s) with the requirements of this Title, the General Plan and other relevant City policies and regulations. Preliminary Review is intended to be informative and identify potential issues.
- B. **Applicability.** Preliminary Review may be requested by a prospective applicant or applicant's representative for any proposal.
1. Preliminary Review may occur for:
    - a. Conditional Use Permits;
    - b. Major Design Review;
    - c. Regular Coastal Development Permits;
    - d. General Plan Amendments;
    - e. Zoning Map and Text Amendments;
    - f. Projects proposing 20 or more residential units; and
    - g. Projects proposing over 20,000 square feet of non-residential space.
  2. Preliminary Review is not required for individual single-family dwellings or applications regarding individual structures that are accessory to a single-family dwelling or for additions to single-family dwellings.
- C. **Requirements.** Applications for Preliminary Review under this Title must be submitted to the Planning and Environmental Review Department, accompanied by the required fee and in accordance with the format and upon such forms as established by the Director.
- D. **Preliminary Review Conference.** Upon a Preliminary Review request being filed, the Director will notify the applicant or applicant's representative of a Preliminary Review conference which should take place within 30 business days of the Preliminary Review application being filed and be held at the Planning and Environmental Review Department by appointment. After reviewing the information provided from the applicant, staff from the reviewing City departments and divisions will prepare comments for the Director. The Director will review the comments with the applicant or applicant's representative at the Preliminary Review conference and provide information on regulatory requirements, procedures, and other relevant City policies and regulations. If the City is unable to comply with these time frames, notification will be made to the applicant and proceed as soon as practicable.

- E. **Recommendations are Advisory.** Neither the Preliminary Review conference nor the provision of information and/or pertinent policies will be construed as a recommendation for approval or denial of the application by City representatives. Any recommendations that result from Preliminary Review are considered advisory only and are not be binding on either the applicant or the City.

#### **17.46.040 Review of Applications**

- A. **Review for Completeness.** The Zoning Administrator shall review all applications for completeness, in conformance with this Section. The Zoning Administrator will not schedule a meeting or hearing date or begin administrative review until the application is complete.
- B. **Determination of Complete Application.** No application shall be processed pursuant to this Chapter before the determination by the Zoning Administrator that the application is complete.
- C. **Incomplete Application.** If an application is incomplete and the applicant fails to submit the missing information within 90 calendar days of the date of the letter identifying what is missing, the Zoning Administrator may notify the applicant that the application has been deemed withdrawn, and a new application will be required for the proposed project. Such notification is not intended to be construed as denial of the application. The letter must cite a list of all deficiencies in the application and provide references to the applicable regulation(s) or policy and inform the applicant that the City's mandatory timeframe is suspended pending receipt of requested corrections or any missing information.

#### **17.46.050 Environmental Review**

All projects shall be reviewed for compliance or exemption with the California Environmental Quality Act (CEQA). Environmental review shall 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 shall govern City procedures.

#### **17.46.060 Public Notification**

- A. **Applicability.** Notice is required for the following types of actions:
1. **Public Hearing Notification.** All applications that require a public hearing before the City Council, Planning Commission, Design Review Board, or the Zoning Administrator.
  2. **Notice of Coastal Zone Permits.** Notification requirements for Coastal Development Permits are found in Chapter 17.51.

3. ***Notice for Multiple Actions.*** When an application includes multiple actions that are under review for the same project, the City may simultaneously issue notice for these multiple actions.

**B. Voluntary Neighborhood Meeting Notification.**

1. ***Purpose.*** The purpose of a voluntary neighborhood meeting is to provide a means for the applicant, surrounding residential neighbors, and interested parties to review a project, solicit input, and exchange information about the proposed project in an informal setting before public hearings. This meeting is intended to result in an application that is responsive to neighborhood concerns and to expedite and lessen the expense of the review process by avoiding needless delays, appeals, remands or denials. The applicant is responsible for all costs associated with the neighborhood meeting. There is no legal requirement for a neighborhood meeting.
2. ***Meeting Location.*** Neighborhood meetings should be held at a location near the proposed development site. The meeting can be held on a weekday evening or weekends at any reasonable time and in a publicly accessible location.
3. ***Meeting Summary.*** If the information is to be considered by the decision-making body, the applicant must submit to the Planning and Environmental Review Department seven calendar days before the first public hearing on the matter a written summary of the issues and discussions from the meeting and the meeting notes. This report at a minimum must include the following information:
  - a. Details of techniques the applicant used to involve the public, including:
    - (1) Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;
    - (2) A photograph of the posted neighborhood meeting sign; and
    - (3) A copy of the notice letter sent.
  - b. A summary of concerns, issues and problems expressed during the process, including:
    - (1) The substance of the concerns, issues, and problems;

- (2) How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
- (3) Concerns, issues and problems the applicant is unwilling or unable to address and why.

C. **Public Notification Requirements.** Public Hearing Notice must be provided in the following manner:

1. **Contents of Notice.** All notices must include the following information:
  - a. The location of the real property, if any, that is the subject of the application;
  - b. A general description of the proposed project or action;
  - c. The names of the applicant and the owner of the property that is the subject of the application;
  - d. 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;
  - e. A statement describing how to submit written comments; and
  - f. *For Voluntary Neighborhood Meeting Notification:*
    - (1) Time, date, and location of the neighborhood meeting;
    - (2) Time, date, and location of subsequent City meetings for review and approval;
    - (3) Names and telephone numbers citizens may call with questions and issues;
    - (4) Planning and Environmental Review Department contact information, including name of planner and telephone number.
  - g. *For Public Hearings:*
    - (1) The date, time, location, and purpose of the public hearing;
    - (2) The identity of the hearing body or officer; and

- (3) For City Council hearings, the Planning Commission recommendation.
2. **Mailed Notice.** The Zoning Administrator shall provide notice by First Class mail.
  - a. *Time Period:*
    - (1) Neighborhood Meeting Notification: Mailed at least 10 days before the date of the neighborhood meeting.
    - (2) Public Hearings: Mailed at least 10 days before the date of the public hearing.
  - b. *Recipients:*
    - (1) The applicant and the owner of the subject property;
    - (2) All property owners of record of property within a minimum 300-foot radius from the exterior boundaries of the subject property(ies);
    - (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.
  - c. *Notification List.* The applicant must provide a list of property owners within the prescribed area of notification and must sign an affidavit verifying that the list has been prepared in accordance with the procedure outlined in this Section.
    - (1) Property Owner Notice. The last known name and address of each property owner as contained in the records of the Santa Barbara County Assessor must be used.
  - d. If the number of owners to whom notice would be mailed or delivered pursuant to this Section is greater than 1,000, the City may instead provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City for at least 10 days.
3. **Newspaper Notice.** The Zoning Administrator must publish a notice in at least one newspaper of general circulation in the City.

- a. *Time Period:*
  - (1) Public Hearings: At least 10 days before the date of the public hearing.
4. **Posted Notice.** Notice must be provided on the proposed site in the following manner:
  - a. *Poster Requirements:*
    - (1) The sign must be colored and waterproof;
    - (2) Have a minimum size of 24 inches by 36 inches;
    - (3) All information must be evenly spaced and organized in a readable manner; and
    - (4) Include the proposal, project description, time, date, location of meeting/public hearing, the names and telephone numbers citizens may call with inquires, applicant and City contact information, including name and telephone number.
  - b. *Number and Location:*
    - (1) At least one poster must be posted on each property line facing a public right-of-way. The Zoning Administrator may require additional posted notices, if necessary.
    - (2) Posted notices must be located at the property line or within three feet from the property line and at a height accessible for the public to read.
  - c. *Time Period:*
    - (1) Public Hearings: At least 10 days before the date of the public hearing.
5. **Electronic Notice.** Notice may be provided by electronic means such as emailed notice, posted notice on the City's website, or other means determined by the Zoning Administrator. This type of notice may be substituted for advertised notice if their substitution is allowed by applicable law. Any persons or organizations may request that electronic notice be substituted for mailed notice through a request to the Zoning Administrator. Electronic notice can, at the request of the requestor, substitute for any mailed notice otherwise required by this Title.

6. **Coastal Development Permits.** See Chapter 17.51, Coastal Development Permits for additional requirements related to Coastal Commission noticing, noticing of appealable development and noticing of City action.
- D. **Failure to Give Notice.** Notwithstanding the notice requirements of this Section, the failure of any person or entity to receive actual notice does not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

### **17.46.070 Conduct of Public Hearings**

All public hearings held pursuant to this Title must comply with the following procedures:

- A. **Generally.** Hearings must be conducted pursuant to procedures adopted by the hearing body. They do not have to be conducted according to technical rules relating to evidence and witnesses.
- B. **Scheduling.** Hearings must be scheduled by the Director.
- C. **Presentation.** After the Director presents the project, issues, and required action, 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 must identify the organization being represented and, if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented. The presiding officer may establish time limits for individual testimony and may require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.
  1. Written submissions must be filed with the Secretary before the completion of the hearing.
- 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 decision-making body conducting the public hearing may by motion continue the public hearing to a fixed date, time, and place or may continue the item to an undetermined date and provide notice of the continued hearing or as provided below.
  1. **Before Public Notice.** An application may be withdrawn from a scheduled hearing at the written request of the applicant provided that the public notice



of the hearing on the application has not been mailed, posted, or published. The application must be rescheduled for a time agreed to by the applicant and the Director.

2. **After Public Notice.** If public notification has been given, an application may be continued if there is a strong reason justifying the applicant's request that could not reasonably have been foreseen or planned for. Inconvenience, conflicting business, or voluntary change of counsel, is not considered adequate justification. The rescheduled public hearing must be re-noticed in the original manner, and the applicant must be subject to payment of a re-notification fee before the re-scheduled hearing.
    - a. *Request Made 10 or More Days Before Hearing.* The Director may grant the continuance.
    - b. *Request Made Less than 10 Days Before Hearing.* The request for continuance must be acted upon by the hearing body at the meeting for which the application was scheduled.
  3. **Time Limits.** The time limitations for action on any application withdrawn, rescheduled, or continued by the review body at the request of the applicant, must be extended by the period of time that consideration of the application was suspended.
- G. **Director's Research.** The decision-making body conducting the hearing may direct the Director to research and report to the decision-making body such matters, as it deems relevant to the issues it identifies during the public hearing. The facts established by such research must be submitted to the decision-making body either in writing, to be filed with the records of the matter, or in testimony, and may be considered by the decision-making body in making its decision.
- H. **Record of Hearing.** A record of a hearing must be kept by the Planning and Environmental Review Department or in the case of Council hearings, by the City Clerk, and be available for public review. It may be in electronic form.

#### **17.46.080 Findings Required**

When making a decision to approve, approve with conditions, modify, revoke or deny any discretionary permit or discretionary approval under this Title, the decision-making body must make findings of fact as required by this Title.

- A. **Date of Action.** The decision-making body must decide to approve, modify, revoke, or deny any discretionary permit or discretionary approval following the close of the public hearing, or if no public hearing is required, within the time period required by this Title. The date of action must be the date of the hearing.

- B. **Notice of Action.** After the decision-making body takes any action to approve, modify, or deny an application that is subject to appeal under the terms of this Title, the Applicant must be notified by the Zoning Administrator.
- C. **Findings.** Findings, when required by law or this Title, must be based upon substantial evidence derived from consideration of the application, project plans, public testimony, reports, and other relevant materials presented to the decision-making body.

#### **17.46.090 Conditions of Approval**

- A. **Authority.** The decision-making body may impose reasonable conditions on any approval in accord with applicable law. In addition to those conditions imposed by the decision-making body, the City may consider as a requirement or condition any plan, exhibit, statement, or other material provided by the applicant and on record with the decision.
- B. **Recordation of Conditions.** As a condition of approval, the decision-making body may require that the conditions be filed in the County Deed Records and must appear in the chain of the title of the subject property, if recording is required.
- C. **Time Limits on Conditions.** Conditions must be met within the time limitations set forth or a reasonable time if no time limitations are specified.
- D. **Failure to Fulfill Previous Conditions.** The decision-making body may withhold a requested approval if it determines that the applicant has not fulfilled a previous condition of approval for the project.
- E. **Modification or Removal of Conditions.** Modification or removal of conditions of approval may be sought on appeal or as a new application. Such proposals must be processed through the same procedure that was used to impose the conditions.

#### **17.46.100 Expiration and Extensions**

- A. **Effective Date.** A final decision on an application for any discretionary approval becomes effective after the expiration of the appeal period following the date of action, unless an appeal is filed. No building permit or business license can be issued until the day following the expiration of the appeal period unless an applicant submits a written request and acknowledges (1) that the appeal period is not over and (2) that the risk that any action he undertakes may be reversed if an appeal is filed.
- B. **Expiration.** Any permit granted under this Title may be declared lapsed and of no further force and effect if it is not exercised or extended within two years of its issuance. Conditional Use Permits and other permits authorizing construction, including Coastal Development Permits, are deemed exercised when a valid City

building permit, if required, is issued and construction has lawfully commenced. A permit for the use of a building or a property that does not involve construction is exercised when the permitted use has commenced on the property.

- C. **Extensions.** The Director may approve a one-year extension of any permit or approval granted under this Title upon receipt of a written application with the required fee within one year of the date of the approval. Additional extensions require approval by the original decision-making body.

#### 17.46.110 Modification and Amendments

- A. **Minor Modifications of Approvals.** The Zoning Administrator may approve modifications that are minor in scope and do not result in a 10 percent increase in square footage or in the number of dwelling units to approved plans that are consistent with the original findings and conditions approved by the decision-making body that would not intensify any potentially detrimental effects of the project.
- B. **Changed Plan.** A request for changes in conditions of approval of a discretionary permit or a change in an approved site plan or building plan that would affect a condition of approval must be treated as a new application, except that such changes determined to be minor may be approved by the Zoning Administrator.
- C. **Major Modifications of Approvals.** Any modification that cannot be modified by the Zoning Administrator under Section (A) must be reviewed and approved by the original decision-making body and is subject to appeal.

#### 17.46.120 Revocation of Permits

Any permit granted under this Title may be revoked in accord with applicable law and following an evidentiary public hearing.

- A. **Initiation of Proceeding.** The Director or the City Attorney's Office may initiate revocation proceedings.
- B. **Public Notice.** Notice of Revocation of the permit must be provided if the original permit(s) required notice.
- C. **Decision of Revocation.** A permit(s) may be revoked under any one of the following findings:
  - 1. The approval was obtained by means of fraud or misrepresentation of a material fact;
  - 2. The use in question has ceased to exist or has been suspended for one year or more; or

3. There is or has been a violation of or failure to observe the terms or conditions of the permit or approval, or the use has been conducted in violation of the provisions of this Title or other applicable law.

### 17.46.130 Appeals

- A. **Purpose.** This Section provides procedures to be used whenever an applicant or person is aggrieved by a decision by a decision-making body.
- B. **Applicability.** A final decision on any discretionary permit is subject to appeal in accordance with this Section. Table 17.46.150, Appeal Bodies and Time Limitations, summarizes the appeal timeline for each body issuing a discretionary permit.

<b>TABLE 17.46.130: APPEAL BODIES AND TIME LIMITATIONS</b>			
<i>Application or Action</i>	<i>Appeal Submittal Deadline</i>	<i>Decision-Making Body</i>	<i>Appeal Body</i>
Zoning Clearance	10 days	Zoning Administrator	Planning Commission
Administrative Use Permit	10 days	Hearing Officer	Planning Commission
Conditional Use Permit	10 days	Planning Commission	City Council
Temporary Use Permit	10 days	Zoning Administrator	Planning Commission
Design Review	<i>Major: 10 days Minor: 10 days</i>	<i>Major:</i> Design Review Board <i>Administrative:</i> Zoning Administrator	<i>Major:</i> Planning Commission <i>Administrative:</i> Planning Commission
Variances	10 days	Zoning Administrator	Planning Commission
Modifications	10 days	Zoning Administrator	Planning Commission
Permit Revocation	n/a	Original decision-making body	n/a
Coastal Development Permit	<i>Regular: 10 days Administrative: 10 days</i>	<i>Regular:</i> Planning Commission <i>Administrative:</i> Zoning Administrator	<i>Appealable:</i> Coastal Commission <i>Non-appealable:</i> Planning Commission
Design Review involving Historic Resources	<i>Major: 10 days Minor: 10 days</i>	<i>Major:</i> Planning Commission <i>Administrative:</i> Director	<i>Major:</i> City Council <i>Administrative:</i> Planning Commission
General Plan Text and Map Amendments	n/a	City Council	Superior Court
Zoning Code and Map Amendments	n/a	City Council	Superior Court

- C. **Rights of Appeal.** Appeals may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this Title.
- D. **Procedures.**
1. ***Proceedings Stayed by Appeal.*** The timely filing of an appeal stays all proceedings in the matter appealed including, without limitation, the issuance of demolition permits and building permits.
  2. ***Filing of Appeals.*** All decisions of the Planning Commission, Design Review Board, or Zoning Administrator may be appealed to the appropriate body as specified in Table 17.46.150 by filing a written appeal not later than 5:00 p.m. on the appeal due date. All appeals must be accompanied by payment of the required fee established by City Council resolution.
  3. ***Submittal Requirements and Criteria.*** The appeal must set forth, in concise language, the following:
    - a. Date of appeal;
    - b. Name of appellant and the individual representing appellant;
    - c. Address to which notices must be sent;
    - d. Telephone number of representative;
    - e. Name of applicant, if different from appellant;
    - f. Action or decision being appealed and the date of such action or decision;
    - g. Address and description of real property involved; and
    - h. The specific grounds for appeal. The appeal is limited to the issue(s) raised in the petition.
  4. ***Public Notice.*** Notice must be provided in the same manner required for the action that was the subject of the appeal.
  5. ***Action.*** The appeal body must conduct a public hearing, after which it may affirm, reverse, or modify the previous decision.
  6. ***Coastal Development Permit Appeals.*** See Section 17.51.190, Appeals for additional requirements.

- E. **Standards of Review.** When reviewing any decision on appeal, the same standards and evaluation criteria, the findings required, must apply as were required for the original decision.
- F. **Failure to File an Appeal.** Failure to file an appeal with the appropriate appeal body by 5:00 p.m. on the last date of appeal, renders such appeal void.

## Chapter 17.47 Zoning Clearance

---

### Sections:

17.47.010	Purpose
17.47.020	Applicability
17.47.030	Review and Decision
17.47.040	Exceptions
17.47.050	Appeals

### 17.47.010 Purpose

This Chapter establishes procedures for conducting Zoning Clearance review and issuing the associated permit to verify that each new or expanded use, activity, or structure complies with all of the applicable requirements of this Title.

### 17.47.020 Applicability

A Zoning Clearance is required for all new and modified uses that are permitted in the use tables in this Title. A Zoning Clearance also is required for buildings or structures constructed, 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-of-right”, or are designed as “P” meaning permitted in schedules of land use regulations in the base zoning districts and overlay zoning districts of this Title.

### 17.47.030 Review and Decision

- A. **Determination.** The Zoning Administrator must determine whether the zoning regulations allows the proposed uses or structures, including proposed additions or alterations, as-of-right. A Zoning Clearance must be issued if the Zoning Administrator determines that the proposed use or building, or alteration or addition, is permitted and conforms to all the applicable regulations and standards of this Title. An approved Zoning Clearance may include attachments of other written or graphic information, including without limitation, statements, numeric data, site plans, floor plans and building elevations and sections, and references to applicable standards and

regulations in this Title, as a record of the proposal's conformity with the applicable regulations of this Chapter.

**B. Planning Commission Review.**

1. The Zoning Administrator may direct that a Zoning Clearance be heard by the Planning Commission for review, including without limitation the following factors:
  - a. Previous discretionary decisions by the City regarding the site on which the proposed use is located;
  - b. The probable impact of the requested use or development on its immediate surroundings; or
  - c. The consistency of the requested use and development with the projected land uses, policies and principles of the General Plan.
2. The Planning Commission is limited to the review of the issues in this Section, and may vote to approve or disapprove the permit based on the facts presented by the Zoning Administrator. The Planning Commission may not impose conditions on the approval of a Zoning Clearance.

**17.47.040 Exceptions**

No Zoning Clearance is required for the continuation of previously approved or permitted uses and structures, uses and structures that are not subject to any building or zoning regulations, or other uses or buildings already subject to Administrative Use Permits, Conditional Use Permits, Administrative Coastal Development Permits, Regular Coastal Development Permits, Variances, or other discretionary approvals in the district in which they are located.

**17.47.050 Appeals**

Decisions on a Zoning Clearance are subject to appeal in accordance with Section 17.46.150.



## Chapter 17.48 Use Permits

---

### Sections:

17.48.010	Purpose
17.48.020	Applicability
17.48.030	Review Authority
17.48.040	Administrative Use Permits
17.48.050	Conditional Use Permits
17.48.060	Required Findings
17.48.070	Conditions of Approval
17.48.080	Temporary Use Permits
17.48.090	Appeals

### 17.48.010 Purpose

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

### 17.48.020 Applicability

Approval of a Use Permit is required for uses or developments specifically identified in Part II: Base Zoning Districts, Part III: Overlay Districts, and/or any other section of this Title that requires a Use Permit.

- A. **Administrative Use Permits.** An Administrative Use Permit is required for buildings or structures constructed, 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 have been found not to be inherently detrimental to the use and enjoyment of land but require an additional level of review and have a higher threshold of approval in certain circumstances. They are identified with an “A” in the schedules of land use regulations in the base zoning districts and overlay zoning districts of this Title.

- B. **Conditional Use Permits.** A Conditional Use Permit is required for buildings or structures constructed, 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 may have an impact upon the general welfare and safety of the public. These uses require an additional level of review and have a higher threshold of approval to ensure that they are compatible with the adjacent land uses and comply with the goals and intent of the General Plan. They are identified with a “C” in the schedules of land use regulations in the base zoning districts and overlay zoning districts of this Title.
- C. **Temporary Use Permits.** A Temporary Use Permit is required for uses of a limited duration and is established in Chapter 17.41.420, Standards for Specific Uses – Temporary Uses.

#### **17.48.030 Review Authority**

- A. **Administrative Use Permits.** The Zoning Administrator reviews and approves, approves with modifications, or denies Administrative Use Permits.
- B. **Conditional Use Permits.** The Planning Commission reviews and approves, approves with modifications, or denies Conditional Use Permits.
- C. **Temporary Use Permits.** The Zoning Administrator reviews and approves, approves with modifications, or denies Temporary Use Permits.

#### **17.48.040 Administrative Use Permits**

- A. **Determination.** An Administrative Use Permit is granted upon the discretion of the Zoning Administrator after it is determined that the proposed use or building conforms to all the applicable use standards. The burden of proof for satisfying the requirements for granting of an Administrative Use Permit, as stated in this Title, rests with the applicant. The issuance of an Administrative Use Permit may require that the existing development site be brought into substantial conformance with the terms of this Title, including without limitation: landscaping, screening, parking, and stormwater retention.
- B. **Referral to Planning Commission.** The Zoning Administrator may direct that a request be heard instead by the Planning Commission based on a review which includes, without limitation, the following factors:
  - 1. Previous decisions by the City regarding the site on which the proposed use is located;
  - 2. The probable impact of the requested use on its immediate surroundings; or

3. The consistency of the requested use with the projected land uses, policies and principles of the General Plan.
- C. **Public Hearing and Notice.** Administrative Use Permits are subject to a hearing by the Zoning Administrator who may approve, conditionally approve, or disapprove the application. The burden of proof for satisfying the requirements for granting of a Conditional Use Permit, as stated in this Title, rests with the applicant. The issuing of a Conditional Use Permit may require that the existing development site be brought into substantial conformance with the terms of this Title. All notification requirements must be followed before the public hearing.
  - D. **Conditions.** An Administrative Use Permit may have reasonable conditions of approval imposed.

#### **17.48.050 Conditional Use Permits**

- A. **Public Hearing and Notice.** Conditional Use Permits shall be subject to a hearing by the Planning Commission, who shall review the recommendation of the Zoning Administrator and approve, conditionally approve, or disapprove the application. The burden of proof for satisfying the requirements for granting of a Conditional Use Permit, as stated in this Title, rests with the applicant. The issuance of a Conditional Use Permit may require that the existing development site be brought into substantial conformance with the terms of this Title. All notification requirements must be followed before the public hearing.
- B. **Additional Findings.** In addition to the findings listed below, the Planning Commission, in approving a Conditional Use Permit, must find that the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood and the community.
- C. **Conditions.** A Conditional Use Permit may have reasonable conditions of approval imposed.

#### **17.48.060 Required Findings**

All Use Permits can only be granted if the decision-making body determines that the project, as submitted or as modified, conforms to all of the following criteria (in addition to any criteria that may be required or associated with the specific request). If it is determined that there is insufficient evidence to make all of the required findings, taking into consideration all of the conditions of approval, the application must be denied. The specific basis for denial must be established for the record. The decision-maker must find that:

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Title and all other titles of the Goleta Municipal Code;
- B. Approving the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable plan and/or policies that the City has adopted;
- C. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform in all significant respects with the General Plan and with any other applicable plan or policies adopted by the City Council;
- D. The proposed project will not be injurious or detrimental to the property or improvements in the neighborhood or to the general welfare of the City, and specifically that:
  - 1. The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions; and
  - 2. The proposed use will provide adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public, where applicable.
- E. Adequate public services and facilities and infrastructure are available to serve the proposed project; and
- F. For Conditional Use Permits, that the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood and the community.

#### **17.48.070 Conditions of Approval**

The decision-making body may impose reasonable conditions on an Administrative Use Permit or Conditional Use Permit that are related and proportionate to what is being requested by the application as deemed necessary or appropriate in order to ensure that the standards and requirements of this Title are met, including without limitation:

- A. Limit the hours, days, place and/or manner of operation;
- B. Require site or architectural design features that minimize impacts due to removal of vegetation, noise, vibration, exhaust/emissions, light, glare, erosion, water quality impacts, odor and/or dust;

- C. Require landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
- D. Designate the size, number, location and/or design of vehicle access points or parking areas;
- E. Require additional setbacks and planting if deemed necessary;
- F. Limit the building height, size or lot coverage, and/or location on the site; and
- G. Any other conditions that are found to be necessary to ensure that the provisions of the General Plan and this Title are met.

### **17.48.080 Temporary Use Permits**

This Section 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.

- A. **Application.** Any person may apply to the Zoning Administrator for approval of a temporary use not less than 30 days before the use is intended to begin.
- B. **Determination.** Within 20 days of accepting an application for a Temporary Use Permit as complete, the Zoning Administrator must render a written decision.
- C. **Required Findings.** The Zoning Administrator may approve an application to allow a temporary use for a period of time, only upon making all of the following findings:
  - 1. The proposed use will not unreasonably affect or have a negative impact on 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;
  - 2. The proposed use is consistent with a land use permitted by the present Zoning District within which the site is located, or a land use considered permitted by a Zoning District listed in the General Plan as being consistent with the General Plan land use designation of the site;
  - 3. The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas; and

4. Appropriate controls are in place that will ensure the premises will be kept clean, sanitary free of litter, and all circulation and parking surfaces will include a suitable dust-controlled surface.
- D. **Conditions of Approval.** In approving a Temporary Use Permit, the Zoning Administrator may impose reasonable conditions deemed necessary to achieve the findings for a Temporary Use Permit listed above, including without limitation:
1. Regulation of vehicular ingress and egress and traffic circulation;
  2. Regulation of dust control surfaces; regulation of lighting;
  3. Regulation of hours and other characteristics of operation;
  4. Submission of final plans to ensure compliance with conditions of approval;
  5. Requirement of bonds or other guarantees for cleanup or removal of structure or equipment; and
  6. Such other conditions as the Zoning Administrator may deem necessary to carry out the intent and purpose of this Chapter.
- E. **Effective Date.**
1. ***Permit Period 10 Days or Less.*** A Temporary Use Permit issued for 10 days or less becomes effective on the date the permit is approved by the Zoning Administrator, but cannot expire before the event/use that is subject to the Temporary Use Permit occurring.
  2. ***Permit Period More than 10 Days.*** A Temporary Use Permit for more than 10 days becomes effective 11 days from the date the permit is approved by the Zoning Administrator.

### **17.48.090 Appeals**

Decisions on Administrative Use Permits, Conditional Use Permits, and Temporary Use Permits are subject to appeal in accordance with Section 17.46.150.

## **Chapter 17.49 Design Review**

---

[Forthcoming from City]

## **Chapter 17.50 Historic Resource Review**

---

### **Sections:**

- 17.50.010 Purpose
- 17.50.020 Applicability
- 17.50.030 Authority and Procedures
- 17.50.040 Exceptions
- 17.50.050 Required Findings
- 17.50.060 Conditions
- 17.50.070 Appeal for Economic Hardship

### **17.50.010 Purpose**

The purpose of this Chapter is to prevent neglect of historic or architecturally significant buildings, encourage public appreciation of the City's past, foster civic and neighborhood pride, and enhance property values and increase economic and financial benefits to the City. These regulations are intended to:

- A. Promote the conservation, preservation, protection, and enhancement of cultural resources, landmarks and historic districts, sites, buildings, structures and objects significant in history, architecture, archaeology, and culture which impart a distinct aspect to the city and serve as visible reminders of the City's culture and heritage;
- B. Deter demolition, destruction, alteration, misuse, or neglect of historically, culturally, archaeologically or architecturally significant districts, sites, buildings and objects that form an important link to the City's past;
- C. Encourage development tailored to the character and significance of each historic district or landmark through an historic district conservation plan that includes goals, objectives, and design standards;
- D. Provide a review process for the appropriate preservation and development of important cultural, architectural and historical resources; and



- E. Promote maintenance of a harmonious outward appearance of both historic and modern structures through complementary scale, form, color, proportion, texture and material.

#### **17.50.020 Applicability**

Design Review is required before development, exterior alteration, restoration, rehabilitation, or relocation of any structure that is more than 50 years old, or of a City-designated cultural resource, that would affect the appearance and cohesiveness of any structure or a designated cultural resource. The purpose of this requirement is to ensure the integrity of structures and the integrity and general character of designated cultural resources that are of historical significance.

#### **17.50.030 Authority and Procedures**

Design Review for Historic Resources is subject to the thresholds, procedures, findings, and conditions outlined in Chapter 17.49, Design Review.

- A. **Major Design Review for Historic Resources.** The Design Review Board must review and approve, approve with conditions, or disapprove all projects that are subject to a Major Design Review for Historic Resources.
- B. **Administrative Design Review for Historic Resources.** The Zoning Administrator must review and approve, approve with conditions, or deny, all projects subject to a Administrative Design Review for Historic Resources.

#### **17.50.040 Exceptions**

No Design Review for Historic Resources is required for ordinary maintenance and any development, alteration, restoration, rehabilitation, or relocation that is not specifically described as critical to maintaining the historical or architectural integrity of the historic building or cultural resource.

#### **17.50.050 Required Findings**

In addition to the findings in Section 17.49.070, to approve Design Review for Historic Resources, the review authority must consider:

- A. Whether the proposed construction, reconstruction, or relocation is appropriate and consistent with this Chapter.
- B. Whether the applicant has demonstrated that every reasonable effort will be made to minimize alteration of any structure over 50 years old that is deemed to be a

- significant historical resource of the city under the procedures for determining historic significant established by CEQA Guidelines<sup>1</sup> and preserve its integrity.
- C. Whether the distinguishing original qualities or character of a structure or site and its environment will not be destroyed, and the removal or alteration of any significant historic material or distinctive architectural feature will be avoided, to the greatest extent reasonably practical.
  - D. Whether all structures or sites are recognized as products of their own time and that alterations that have no historical basis and which seek to create an earlier appearance will be minimized.
  - E. Whether changes, which may have taken place in the course of time, are evidence of the history and development of a structure or site and its environment and that such changes, which may have acquired significance in their own right, will be recognized and respected.
  - F. Whether distinctive stylistic features or examples of skilled craftsmanship, which characterize a structure or site, will be kept, to the extent reasonably possible.
  - G. Whether:
    - 1. Proposals for replacement, rather than repair of deteriorated architectural features are necessary;
    - 2. New material will reasonably reflect the material being replaced in composition, design, color, texture, and other visual qualities to the extent reasonably possible; and
    - 3. Repair or replacement of missing architectural features must be based on accurate duplication of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures.
  - H. Whether any proposed contemporary design for alterations and additions will destroy significant historical, architectural, or cultural material, and such design will be compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
  - I. Whether additions or alterations to structures or sites will be done in a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

---

<sup>1</sup> Currently set forth in 14 California Code of Regulations § 15064.5.

### **17.50.060 Conditions**

The review authority may impose such conditions of approval of Design Review that are reasonable and necessary to accomplish the purposes of this Title. These conditions shall run with the land and not be affected by a change in ownership.

### **17.50.070 Appeal for Economic Hardship**

- A. On the basis of documented economic hardship, an applicant may appeal the decision of the review authority on an application for Design Review for Historic Resources to the Planning Commission by filing a notice of appeal with the Department within 14 days of the date of the decision on the Design Review for Historic Resources, stating the grounds for the appeal. The Director must forward the notice of appeal and the record of the decision on which the appeal is based to the Planning Commission.
- B. ***Scheduling Hearing.*** After the receipt of the notice of appeal, the Planning Commission must hold a hearing on the appeal within a reasonable period of time, or at such time as is mutually agreed upon between the applicant.
- C. ***Decision by Planning Commission.*** At the hearing, the Planning Commission must consider the record of the decision on which the appeal is based and hear statements from the applicant, the review authority, and any other interested persons. The Planning Commission may reverse, uphold or modify the decision of the Zoning Administrator after considering evidence that:
  - 1. The structure or site is incapable of providing a reasonable economic return on investment, regardless of whether that return represents the most profitable return possible; and
  - 2. The structure or site cannot be adapted to another use that would provide a reasonable economic return on investment while maintaining the historic or architectural integrity of the structure or site.

## **Chapter 17.51 Coastal Development Permit**

---

### **Sections:**

- 17.51.010 Specific Purpose
- 17.51.020 Applicability
- 17.51.030 Exemptions
- 17.51.040 Record of Permit Exemptions
- 17.51.050 Permit Required; Application Requirements
- 17.51.060 Administrative Coastal Development Permits
- 17.51.070 Regular Coastal Development Permits
- 17.51.080 Emergency Coastal Development Permit
- 17.51.090 Open Space Easements and Public Access Documents
- 17.51.100 Determination of Applicable Notice and Hearing Procedures
- 17.51.110 Action on Coastal Development Permit
- 17.51.120 Notice for Appealable Development
- 17.51.130 Notice for Non-Appealable Development
- 17.51.140 Waiver of Public Hearing for Minor Development
- 17.51.150 Notice of City Action
- 17.51.160 Precedence of Local Coastal Program
- 17.51.170 Conditions
- 17.51.180 Required Findings
- 17.51.190 Appeals
- 17.51.200 Application After Denial
- 17.51.210 Expiration of Coastal Development Permit
- 17.51.220 Permit Amendment

### **17.51.010 Specific Purpose**

This Chapter establishes a process for review and approval of Coastal Development Permits, which is intended to implement the California Coastal Act of 1976 (Division 20 of the Public Resources Code), as amended, in accordance with the City's Local Coastal Program. The provisions of this Chapter shall apply to all uses and all development in the Coastal Zone, as defined by the Coastal Act and delineated on the Zoning Map.

### 17.51.020 Applicability

The regulations of this Chapter apply to development on all properties located within the coastal zone as defined in the California Coastal Act and as shown on the Zoning Map, and/or site-specific parcel maps, subject to the following provisions:

- A. **Tidelands, Submerged Lands or Public Trust Lands.** Projects on any tidelands, submerged lands or on public trust lands, whether filled or unfilled, lying within the coastal zone, or within any state university or college within the coastal zone require a permit issued by the California Coastal Commission in accordance with procedures specified by the Coastal Commission, in addition to other permits or approvals required by the City.
- B. **Development by Public Agency.** A person undertaking development included in a public works plan or long-range development plan approved by the Coastal Commission is not required to obtain a Coastal Development Permit from the City. Other City permits may be required.
- C. **Exemptions.** Projects or activities specifically identified by the California Coastal Commission as exempted from the requirement for a Coastal Development Permit, listed in Section 17.51.030 below, do not require a Coastal Development Permit.

### 17.51.030 Exemptions

The following projects are exempt from the requirement to obtain a Coastal Development Permit, pursuant to the Coastal Act.

- A. **Categorically Excluded Development.** Projects pursuant to a Categorical Exclusion Order certified by the California Coastal Commission, pursuant to Public Resources Act §§ 30610(e) and 30610.5 and 14 California Code of Regulations §§ 13240, *et. seq.* (the Coastal Commission Regulations).
- B. **Improvements to Existing Single-Family Residences.** Improvements to existing single-family residences, pursuant to Public Resources Code § 30610(a) and Coastal Commission Regulations § 13250, are exempt from Coastal Development Permit requirements subject to the following provisions:
  - 1. **Definition of Existing Single-Family Residence.** For the purposes of this Subsection, where there is an existing single-family residential building, all of the following are considered a part of that structure:
    - a. All fixtures and other structures directly attached to a residence.

- b. Structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage shed, but not including guesthouses or secondary dwelling units.
  - c. Landscaping on the lot.
2. ***Limits on Exemption Based on Environmental Effects.*** The following classes of development require a Coastal Development Permit because they involve a risk of adverse environmental effects:
- a. Improvements to a single-family structure if the structure or improvement is located on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, in an area designated as highly scenic in the General Plan/Coastal Land Use Plan or within 50 feet of the edge of a coastal bluff.
  - b. Any significant alteration of land forms including the removal or placement of vegetation on a beach, wetland, or sand dune, in an environmentally sensitive habitat, or within 50 feet of the edge of a coastal bluff only.
  - c. The expansion or construction of water wells or septic systems.
  - d. On property not included in Subsection (B)(2)(a) above that is located within the California Coastal Commission appeal jurisdiction and that would:
    - (1) Result in an increase of 10 percent or more of internal floor area of an existing structure or constitute an additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to Section 30610(a) of the Coastal Act.
    - (2) Result in an increase in height of an existing structure by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, fences, shoreline protective works or docks.
  - e. In areas which the City or the Coastal Commission has declared by resolution after a public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use, including, without limitation, swimming pools, or the construction or extension of any landscaping irrigation system.

- f. Any improvement to a single-family residence where the development permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a Coastal Development Permit.
- C. **Other Improvements.** Improvements to any structure other than a single-family residence or a public works facility are exempt from Coastal Development Permit requirements, pursuant to Public Resources Code § 30610(b) and Coastal Commission Regulations § 13253, subject to the following provisions:
- 1. **Definition of Existing Structure.** For the purposes of this Subsection, where there is an existing structure, other than a single-family residence or public works facility, all of the following are considered a part of that structure:
    - a. All fixtures and other structures directly attached to the structure.
    - b. Landscaping on the lot.
  - 2. **Limits on Exemption Based on Environmental Effects.** The following classes of development require a Coastal Development Permit, because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the policy of the Coastal Act.
    - a. Improvement to any structure if the structure or the improvement is located on a beach, in a wetland, stream or lake, seaward of the mean high tide line, in an area designated as highly scenic in the General Plan/Coastal Land Use Plan, or within 50 feet of the edge of a coastal bluff.
    - b. Any significant alteration of land forms including removal or placement of vegetation, on a beach or sand dune, in a wetland or stream, within 100 feet of the edge of a coastal bluff, in a highly scenic area, or in an environmentally sensitive habitat.
    - c. The expansion or construction of water wells or septic systems.
    - d. On property not included in Subsection (C)(2)(a) above, that is located within the Coastal Commission appeal jurisdiction and that would:
      - (1) Result in an increase of 10 percent or more of internal floor area of an existing structure or constitute an additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to Section 30610(b) of the Coastal Act.

- (2) Result in an increase in height by more than ten percent of an existing structure.
  - e. In areas which the City or Coastal Commission has declared by resolution after public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development, including, without limitation, swimming pools, or the construction or extension of any landscaping irrigation system.
  - f. Any improvement to a structure where the Coastal Development Permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a Coastal Development Permit.
  - g. Any improvement to a structure that changes the intensity of use of the structure.
  - h. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including, without limitation, a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.
- D. **Maintenance Dredging.** Pursuant to Public Resources Code § 30610(b) and Coastal Commission Regulations § 13253, maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone pursuant to a permit from the United States Army Corps of Engineers, are exempt from Coastal Development Permit requirements.
- E. **Repair and Maintenance Activities.** Pursuant to Public Resources Code § 30610(d) and Coastal Commission Regulations § 13252, repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities, are exempt from coastal development requirements.
- 1. **Definition of Repair and Maintenance.** Unless destroyed by natural disaster, the replacement of 50 percent or more of a single-family residence, seawall, revetment, bluff retaining wall, breakwater, groin, or any other structure is not repair and maintenance, pursuant to this Subsection (D), but instead constitutes a replacement structure requiring a Coastal Development Permit.
  - 2. **Limits on Exemption Based on Environmental Effects.** The following extraordinary methods of repair and maintenance require a Coastal



Development Permit because they involve a risk of substantial adverse environmental impact:

- a. Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work that involves any of the following:
  - (1) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures.
  - (2) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on shoreline protective work except for agricultural dikes within enclosed bays or estuaries.
  - (3) The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind.
  - (4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand areas, bluff or environmentally sensitive habitat, or within 20 feet of coastal waters or streams.
- b. Any method of routine maintenance dredging that involves any of the following:
  - (1) The dredging of 100,000 cubic yards or more within a 12-month period.
  - (2) The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams.
  - (3) The removal, sale or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.

- c. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area or within 20 feet of coastal waters or streams that include:
  - (1) The placement or removal, whether temporary or permanent, or rip-rap, rocks, sand or other beach materials or any other forms of solid materials.
  - (2) The presence, whether temporary or permanent, of mechanized equipment or construction materials.
- 3. **Other Provisions.** All repair and maintenance activities that are not exempt shall be subject to the Coastal Development Permit regulations of this Chapter, including, without limitation, the regulations governing administrative and emergency permits. The provisions of this Subsection (D) are not be applicable to those activities specifically described in the document entitled *Repair, Maintenance and Utility Hookups*, adopted by the Coastal Commission on September 5, 1978, and any revisions or updates to that document by the Coastal Commission, unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands or public views to the ocean.
- F. **Utility Connections.** Pursuant to Public Resources Code § 30610(f), the installation, testing, and placement of any necessary utility connection between an existing service facility and any development that has been granted a valid Coastal Development Permit; provided, however, that the City may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.
- G. **Structures Destroyed by Natural Disaster.** Pursuant to Public Resources Code § 30610(g), the replacement of any structure, other than a public works facility, destroyed by a disaster provided that the replacement structure meets all of the following criteria:
  - 1. The structure is for the same use as the destroyed structure;
  - 2. The structure does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent; and
  - 3. The structure is sited in the same location on the affected property as the destroyed structure.
- H. **Time Share Conversions.** Pursuant to Public Resources Code § 30610(h), any activity anywhere in the Coastal Zone that involves the conversion of any existing

multiple-unit residential structure to a time-share project, estate, or use, as defined in Business and Professions Code § 11003.5. If any improvement to an existing structure is otherwise exempt from the permit requirements of this Title, no Coastal Development Permit is required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this Title. The division of a multiple-unit residential structure into condominiums, as defined in Civil Code § 783, must not be considered a time-share project, estate, or use for purposes of this subdivision.

- I. **Temporary Events.** Pursuant to Public Resources Code § 30610(i), temporary events as defined in this Title provided that the event meets all of the following requirements:
1. **Time Limits.** The event will not occur between Memorial Day weekend and Labor Day, or if proposed in this period, will be of less than one day in duration, including set-up and take-down.
  2. **Location.** The event will not occupy any portion of a publicly or privately owned sandy beach or park area, public pier, public beach parking areas or, the location is remote with minimal demand for public use, and there is no potential for adverse effect of sensitive coastal resources.
  3. **Fee for Admission.** A fee will not be charged for general public admission and/or seating where no fee is currently charged for use of the same area (not including booth or entry fees), or, if a fee is charged, it is for preferred seating only and more than 75 percent of the provided seating capacity is available free of charge for general public use.
  4. **Review by the Zoning Administrator.** The proposed event has been reviewed in advance by the Zoning Administrator and determined to meet all of the following criteria:
    - a. The event will result in no adverse impact on opportunities for public use of or access to the area due to the proposed location and/or timing of the event either individually or together with other temporary events scheduled before or after the particular event.
    - b. There will be no direct or indirect impacts from the event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significantly scenic resources, or other coastal resources.
    - c. The event has not previously required a Coastal Development Permit to address and monitor associated impacts to coastal resources.

### **17.51.040 Record of Permit Exemptions**

The Zoning Administrator must maintain a record of all those developments within the Coastal Zone that have been authorized as being exempt from the requirement of a Coastal Development Permit pursuant to this Chapter. This record must be available for review by members of the public and representatives of the Coastal Commission. The Record of Exemption must include the name of the applicant, the location of the project, and a brief description of the project and why the project is exempt.

### **17.51.050 Permit Required; Application Requirements**

- A. **Permit Requirements.** Any person, partnership, or corporation, or state or local government agency wishing to undertake development in the Coastal Zone must obtain a Coastal Development Permit in accord with the provisions of this Chapter, unless exempt or categorically excluded. Such permit must be issued before the start of development and must be required in addition to any other permits or approvals required by the City.
  
- B. **Responsibilities for Issuance.** All development within the Coastal Zone requires a Coastal Development Permit unless specifically exempted or excluded. After certification of the LCP by the Coastal Commission, the City must issue all Coastal Development Permits for development not located within the Coastal Commission's original permit jurisdiction. The Coastal Commission's original permit jurisdiction includes all tidelands, submerged lands, or public trust lands whether filled or unfilled unless the Coastal Commission has delegated original permit jurisdiction to the City for areas potentially subject to the public trust but which are determined by the Coastal Commission to be filled, developed, and committed to urban use pursuant to Public Resources Code § 30613. Development located in the Coastal Commission's original permit jurisdiction requires approval of a Coastal Development Permit issued by the Coastal Commission in accordance with the procedure as specified by the California Coastal Act.
  - 1. ***Coastal Permit Issued by the Coastal Commission.*** Developments on tidelands, submerged lands, or navigable waterways require a permit issued by the California Coastal Commission in accordance with the procedure as specified by the California Coastal Act, as amended.
  
  - 2. ***Coastal Permits Issued by the City.*** All development requires a Coastal Development Permit unless specifically exempted or excluded. After certification of the LCP, the City must issue all Coastal Development Permits for development not located within the Coastal Commission's original permit jurisdiction.

- C. **Application Requirements.** Application requirements are as established in Chapter 17.46, Common Procedures, as supplemented by specific requirements for development in the Coastal Zone established by the Zoning Administrator.

### **17.51.060 Administrative Coastal Development Permits**

Administrative Coastal Development Permits are permits that can be approved by the Zoning Administrator without a public hearing, provided that the development and/or use is not located within the Coastal Commission's appealable jurisdiction, subject to the following provisions:

- A. **Types of Development.** The following are types of developments and/or uses that may be approved with an Administrative Coastal Development Permit:
1. Any development identified in this Title as a principally permitted use.
  2. Any single-family dwelling or secondary dwelling unit.
  3. Improvements to any existing structure, including minor additions to existing commercial, industrial or multifamily structures that do not:
    - a. Require a Conditional Use Permit;
    - b. Add additional dwelling units above base density or create any environmental impacts; or
    - c. Require a subdivision map.
  4. Any development of four dwelling units or less that does not require demolition.
  5. Any additions or improvements to existing public works facilities and utilities that do not constitute major public works, as defined by the Coastal Commission Regulations and this Title.
  6. Any other developments with a construction cost that is less than \$100,000, other than any division of land.
  7. Subdivisions, including lot line adjustments between three or fewer lots.
  8. Commercial and industrial additions that would change the intensity of use of the structure.
  9. Changes in parking facilities or public rights of way that would affect public access to coastal resources.

- B. **Procedures.** All Administrative Coastal Development Permits must be decided by the Zoning Administrator, subject to Chapter 17.46, Common Procedures and the required findings of Section 17.51.180 below.
1. **Optional Zoning Administrator Hearing.** The Zoning Administrator may hold a public hearing to consider the application if there is significant public controversy and/or the hearing affords an opportunity to resolve issues of concern. Notification of public hearing must be provided in compliance with public notification requirements in Section 17.46.060.
  2. **Optional Planning Commission Hearing.** The Zoning Administrator may also require a public hearing before the Planning Commission for any Administrative Coastal Development Permit application that the Zoning Administrator determines to have special neighborhood or community significance. In such cases the applicant must pay the fee for the Planning Commission public hearing specified in the schedule adopted by the City Council.

### **17.51.070 Regular Coastal Development Permits**

Regular Coastal Development Permits are permits that require Planning Commission approval, require a public hearing, and include all permits that do not fall within the “Administrative” or “Emergency” Coastal Development Permit categories. Applications for Regular Coastal Development Permit must be processed subject to the procedures in Chapter 17.46, Common Procedures, and subject to the findings of Section 17.51.180 below.

### **17.51.080 Emergency Coastal Development Permit**

Emergency Coastal Development Permits are permits that may be authorized by the Zoning Administrator for emergency work in compliance with Public Resources Code § 30624.

- A. **Application.** Application must be made to the Zoning Administrator by letter if time allows, or in person, by FAX or by telephone, during business hours, if time does not allow. The information, to be reported at the time of the emergency or within three days after the emergency, must include the following:
1. Nature of the emergency;
  2. Cause of the emergency insofar as this can be established;
  3. Location of the emergency;
  4. The remedial, protective, or preventive work required to deal with the emergency; and

5. The circumstances during the emergency that appeared to justify the cause(s) of action taken, including the probable consequences of failing to take action.
- B. **Verification of Emergency.** The Zoning Administrator must verify the facts, including the existence and the nature of the emergency, insofar as time allows.
- C. **Limitations.** The Zoning Administrator cannot grant an Emergency Coastal Development Permit for any development that falls within an area in which the Coastal Commission retains direct permit review authority, or for any development that is appealable to the Coastal Commission. In such areas and for such developments, a request for an emergency authorization must be made directly to the Coastal Commission. In addition, a waiver for an Emergency Coastal Development Permit may be obtained from the Coastal Commission Executive Director for development that is required to protect life or public property in accordance with Public Resources Code § 30611.
- D. **Noticing.** The Zoning Administrator must provide notice of the proposed emergency action. The extent and type of the notice must be determined on the basis of the nature of the emergency. If the nature of the emergency does not allow sufficient time for public notice to be given before the emergency work begins, the Zoning Administrator must provide public notice of the action taken, or being taken, as soon as is practical. Public notice of the nature of the emergency and the remedial actions to be taken must be posted on the site in a conspicuous place and mailed to all persons the Zoning Administrator has reason to know would be interested in such action and to the Coastal Commission.
- E. **Findings and Conditions.** The Zoning Administrator may grant an Emergency Coastal Development Permit upon reasonable terms and conditions, which must include an expiration date and the necessity for a regular permit application later, if the Zoning Administrator finds that:
1. An emergency exists that requires action more quickly than permitted by the procedures for a Coastal Development Permit and the work can and will be completed within 30 days unless otherwise specified by the terms of the permit;
  2. Public comment on the proposed emergency action has been reviewed, if time allows; and
  3. The work proposed would be consistent with the requirements of the City's General Plan / Local Coastal Program.
- F. **Expiration of Emergency Permit.** An emergency permit is valid for 60 days from the date it is issued by the Zoning Administrator. Before expiration of the emergency permit, the permittee must submit a regular Coastal Development Permit application

for the development even if only to remove the development undertaken pursuant to the Emergency Permit and restore the site to its previous condition.

- G. **Report to City Council and Coastal Commission.** The Zoning Administrator must report in writing and orally, the granting of an emergency permit to the City Council at its next scheduled meeting, and to the Coastal Commission. The report must include a description of the nature of the emergency, the development involved, and the person or entity undertaking the development. Copies of the report must be available at the meeting and must be mailed to the Coastal Commission and to all persons requesting such notification of local coastal development decisions.
- H. **Exceptions.** Exceptions to this Section may only be provided by the Executive Director of the Coastal Commission.

### **17.51.090 Open Space Easements and Public Access Documents**

All Coastal Development Permits subject to conditions of approval pertaining to public access and open space or conservation easements are subject to the following procedures:

- A. **Review and Approval.** The Executive Director of the Coastal Commission must review and approve all legal documents specified in the conditions of approval of a Coastal Development Permit for public access and conservation/open space easements pursuant to the following procedures:
1. **Completion of Permit Review.** Upon completion of permit review by the City and before the issuance of the permit, the Zoning Administrator shall forward a copy of the permit conditions and findings of approval and copies of the legal documents to the Executive Director of the Coastal Commission for review and approval of the legal adequacy and consistency with the requirements of potential accepting agencies.
  2. **Review Period.** The Executive Director of the Coastal Commission has 15 business days from receipt of the documents in which to complete the review and notify the applicant of recommended revisions, if any.
  3. **Expiration of Review Period.** The Zoning Administrator shall issue the permit upon expiration of the 15 day review period if notification of inadequacy from the Executive Director of the Coastal Commission has not been received by the City within that time period.
  4. **Revisions.** If the Executive Director of the Coastal Commission has recommended revisions to the applicant, the permit cannot be issued until the deficiencies have been resolved to the satisfaction of the Executive Director.



- B. **Delegation of Authority.** If the City requests, the Coastal Commission must delegate the authority to process the recordation of the necessary legal documents to the City if the City identifies the City department, public agency or private association that has the resources and authorization to accept, open and operate and maintain the accessways and open space/conservation areas required as a condition of approval of Coastal Development Permits. Upon completion of the recordation of the documents, the City must forward a copy of the permit conditions and findings of approval and copies of the legal documents pertaining to the public access and open space conditions to the Executive Director of the Coastal Commission.

### **17.51.100 Determination of Applicable Notice and Hearing Procedures**

- A. **Initial Determination.** At the time a Coastal Development Permit application is submitted, the Zoning Administrator must determine whether a development project is:
1. Within an area where the Coastal Commission exercises original permit jurisdiction; or
  2. Categorically excluded or otherwise exempt from this provisions of this Chapter; or
  3. Appealable to the Coastal Commission; or
  4. Non-appealable to the Coastal Commission.
- B. **Challenge of Determination.** Within five days of submitting a Coastal Development Permit application, the applicant or any other person who does not agree with the Zoning Administrator's determination may challenge the determination. If any interested party does not agree with the Zoning Administrator's determination, the matter must be forwarded to the City Council at the earliest available regularly scheduled meeting to determine whether the project is categorically excluded or otherwise exempt, non-appealable, or appealable. If such challenge is not resolved and the determination remains disputed, the City must notify the Coastal Commission Executive Director by telephone of the dispute/question and must request the Coastal Commission Executive Director's opinion. The Coastal Commission Executive Director may either concur with the Council's determination or forward the request to the Coastal Commission for a final determination.

### **17.51.110 Action on Coastal Development Permit**

Action to approve, conditionally approve, or deny a Coastal Development Permit must be taken by the Zoning Administrator, Planning Commission, or City Council, whichever has

responsibility for final approval of other discretionary permits. If no other discretionary approval is required, the Zoning Administrator must act on the Coastal Development Permit application.

### **17.51.120 Notice for Appealable Development**

Notice of development appealable to the Coastal Commission must be provided as follows:

**A. Contents of Notice.**

1. A statement that the development is within the appealable area of the Coastal Zone;
2. The date of the filing of the application and the name of the applicant;
3. The file number assigned to the application;
4. A description of the development at its proposed location;
5. The date, time, and place at which the application will be heard;
6. A brief decision of the general procedure concerning the conduct of hearing and local actions; and
7. The system for local and Coastal Commission appeals, including any local fees required.

**B. Provision of Notice Before Public Hearing.** Notice must be mailed at least 10 days before the public hearing on the project to the following:

1. Applicant;
2. Owner of the property;
3. All property owners and residents within 100 feet from the perimeter of the subject parcel;
4. All persons who have, within the past calendar year, submitted a written request for notice of all coastal permit applications;
5. The Coastal Commission; and
6. Public agencies that, in the judgment of the Zoning Administrator, have an interest in the project.

- C. **Notice of Continued Public Hearings.** If a decision of an appealable Coastal Development Permit is continued to a time that has not been stated in the initial notice or at the public hearing, notice of the continued hearing must be provided in the manner prescribed by subsection B of this section.
- D. **Notice of Decision.** On or before the seventh day following final City action, notice of the decision, including findings for approval and conditions (if any) on the project proposal, must be mailed to the following:
1. The applicant;
  2. The owner of the subject parcel;
  3. All persons who have submitted a written request for notification of action on this specific permit; and
  4. The California Coastal Commission District Office.

### **17.51.130 Notice for Non-Appealable Development**

Notice of development non-appealable to the Coastal Commission must be provided as follows:

- A. **Contents of Notice.**
1. A statement that the development is within the non-appealable area of the Coastal Zone;
  2. The date of filing of the application and the name of the applicant;
  3. The file number assigned to the application;
  4. A description of the development and its proposed location;
  5. The date, time, and place at which the application will be heard; and
  6. A brief description of the general procedure concerning the conduct of hearing and actions.
- B. **Notice.** Notice of developments must be given at least 10 calendar days before the first public hearing in the following manner:
1. If the matter is to be heard by the Planning Commission, notice must be published in a newspaper of general circulation;

2. Notice by first-class mail to any person who has filed a written request for notification of such action;
3. Notice by first-class mail to property owners within 300 feet of the project site;
4. Notice by first-class mail to persons residing within 100 feet of the project site;
5. Notice by first-class mail to the Coastal Commission and any commission or board as provided by the Local Coastal Program; and
6. Notice by first-class mail to the applicant and to the owner of the property if the applicant is not the owner.

**17.51.140 Waiver of Public Hearing for Minor Development**

- A. **Basis for Waiver.** The Zoning Administrator may waive the requirement for a public hearing on a Coastal Development Permit application for minor development only if both the following occur:
1. Notice that a public hearing must be held upon request by any person is provided to all persons who would otherwise be required to be notified of a public hearing as well as any other persons known to be interested in receiving notice; and
  2. No request for public hearing is received by the local government within 15 working days from the date of sending the notice pursuant to Subsection (1).
- B. **Appeal Rights.** The notice provided pursuant to this subsection must include a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the City on a Coastal Development Permit application.
- C. **Meaning of Minor Development.** For purposes of this section, "minor development" means a development which the City determines satisfies all of the following requirements:
1. Is consistent with the certified Local Coastal Program;
  2. Requires no discretionary approvals other than a Coastal Development Permit; and
  3. Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

**17.51.150 Notice of City Action**

- A. **Finality of City Action.** The City's decision on an application for a development is not deemed complete until:
1. The City's decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act; and
  2. When all City rights of appeal have been exhausted as defined in 14 California Code of Regulations § 13573.
- B. **Notice of Final Action.** Within seven calendar days of the City completing its review and meeting the requirements of Subsection (A), the City must notify by first class mail the Coastal Commission, and any persons who specifically requested notice of such action.
1. If the City has failed to act on an application within the time limits set forth in Government Code § § 65950—65957.1, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code § § 65950—65957.1, must notify, in writing, the City and the Coastal Commission of his or her claim that the development has been approved by operation of law. Such notice must specify the application that is claimed to be approved.
  2. When the City determines that the time limits established pursuant to Government Code §§ 65950—65957.1 have expired, the City shall, within seven calendar days of such determination, notify any person entitled to receive notice pursuant to 14 California Code of Regulations § 13571(a) that the application has been approved by operation of law pursuant to Government Code §§ 65950—65957.1 and the application may be appealed to the Coastal Commission pursuant to 14 California Code of Regulations §§ 13110 *et seq.*
- C. **Effective Date of City Action.** The City's final decision on an application for an appealable development becomes effective on the eleventh working day after the Coastal Commission has received notice of the completed City action in accordance with subsection B of this section unless either of the following occur:
1. An appeal is filed in accordance with this Chapter; or
  2. The notice of final City action does not meet the requirements of this Chapter.

**D. Exhaustion of City Appeals.**

1. An appellant is deemed to have exhausted City appeals and is qualified as an aggrieved person where the appellant has pursued his or her appeal to the City appellate body (bodies) as required by the appeal procedures contained in Section 17.46.150, except that exhaustion of all City appeals is not required if any of the following occur:
  - a. The City requires an appellant to appeal to more City appellate bodies than have been certified as appellate bodies for permits in the Coastal Zone, in the implementation section of the Local Coastal Program.
  - b. An appellant was denied the right of the initial City appeal by a City regulation that restricts the class of persons who may appeal a City decision.
  - c. An appellant was denied the right of City appeal because City notice and hearing procedures for the development did not comply with the provisions of the Chapter.
  - d. The City charges an appeal fee for the filing or processing of appeals.
2. Where a project is appealed by any two members of the Coastal Commission, there is no requirement of exhaustion of City appeals. Notice of commissioner appeals shall be transmitted to the City Council, and the appeal to the Coastal Commission may be suspended pending a decision on the merits by the City Council. If the Council's decision modifies or reverses the previous decision, the Commissioners are required to file a new appeal from that decision.

**17.51.160 Precedence of Local Coastal Program**

Where the plans, policies, requirements or standards of the Local Coastal Program, as applied to any project in the Coastal Zone, conflict with those of the underlying Zoning District or other provisions of this Title, the plans, policies, requirements or standards of the Local Coastal Program shall take precedence.

**17.51.170 Conditions**

Approval of a Coastal Development Permit shall be subject to reasonable conditions as necessary to ensure conformance with, and implementation of, the City's Local Coastal Program. Modification and resubmittal of project plans, drawings, and specifications may be required to ensure conformance with the Local Coastal Program.

### 17.51.180 Required Findings

- A. **Required Findings.** A Coastal Development Permit application may be approved or conditionally approved only after the approving authority has made the following specific factual findings supporting the legal conclusion:
1. **Local Coastal Plan.** That the development project, as proposed or as modified by conditions of approval, conforms with the General Plan, including the City's Local Coastal Program;
  2. **Zoning.** That the project is consistent with the requirements of the zoning regulations applicable to Coastal Resources, the base Zoning District where the project is located, as well as other applicable provisions of this Code;
  3. **Adequate Services.** That at the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the City's Local Coastal Program; and
  4. **California Coastal Act.** That the development conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

### 17.51.190 Appeals

Development pursuant to an approved Coastal Development Permit cannot commence until all applicable administrative appeal periods expire or, if appealed, until all administrative appeals, including those to the Coastal Commission, have been exhausted.

- A. Action by the Zoning Administrator or Planning Commission to approve, conditionally approve, or deny any Coastal Development Permit may be appealed pursuant to Section 17.46.150, Appeals. Appeals may be made directly to the Coastal Commission pursuant to 14 California Code of Regulations §§ 13111 and 13573 for appealable development.
- B. Action by the City Council on a Coastal Development Permit for appealable development may be appealed directly to the Coastal Commission pursuant to 14 California Code of Regulations §§ 13111 and 13573.
- C. An appeal pursuant to this Chapter may be filed only by the applicant for the Coastal Development Permit in question, an aggrieved person, or any two members of the Coastal Commission.
- D. Notice of the local appeal must be given as set forth in Section 17.46.150.
- E. An appeal to the Coastal Commission must be processed in accordance with the provisions of 14 California Code of Regulations §§ 13110 through 13120.

### **17.51.200 Application After Denial**

Whenever a Coastal Development Permit request under the provisions of this section has been denied and such denial has become final, no new Coastal Development Permit application for the same or similar request may be accepted within one year of the denial date, unless the Zoning Administrator finds that a sufficient change in circumstances has occurred to warrant a new Coastal Development Permit application.

### **17.51.210 Expiration of Coastal Development Permit**

A Coastal Development Permit expires on the latest expiration date applicable to any other permit or approval required for the project, including any extension granted for other permits or approvals. Should the project not require City permits or approvals other than a Coastal Development Permit, the Coastal Development Permit expires one year from its date of approval if the project has not been commenced and diligently pursued during that time.

### **17.51.220 Permit Amendment**

Upon application by the permittee, the Zoning Administrator or the Planning Commission, whichever have approving authority, may approve an amendment to a Coastal Development Permit. Application for and action on an amendment must be accomplished in the same manner specified by this Chapter for initial approval of the Coastal Development Permit. In addition, hearing notice must be given to any person who the Zoning Administrator has reason to know would be interested in the matter. Public hearing notice requirements for permit amendments must be the same as required for public hearings for the permit applications.



## Chapter 17.52 Variances

---

### Sections:

17.52.010	Purpose
17.52.020	Applicability
17.52.030	Procedures
17.52.040	Required Findings
17.52.050	Conditions of Approval
17.52.060	Appeals

### 17.52.010 Purpose

This Chapter is intended to provide a mechanism for relief from certain dimensional standards and quantitative provisions in this Title where the strict application of them will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions.

### 17.52.020 Applicability

- A. Variances may be granted with respect to dimensional and performance standards, but variances from the use regulations of this Title are not allowed. The Zoning Administrator shall have power to grant such Variances only to the extent necessary to overcome such practical difficulty or unnecessary hardship as may be established in accordance with the provisions of this Chapter.
- B. No Variance shall be granted, in whole or in part, that would have an effect substantially equivalent to a reclassification of property, alter any use, height, or bulk of a building or structure not expressly permitted by the provisions of this Title for the District or Districts in which the property in question is located, grant a special privilege for which a Conditional Use Permit is required by this Title, or would change a definition in this Title.
- C. A Variance cannot be granted to permit a use otherwise not permitted in the applicable Zoning District.

- D. A Variance is granted upon the discretion of the Zoning Administrator. The burden of proof for satisfying the requirements for granting of a Variance, as stated in this Title, rests with the applicant.

### **17.52.030 Procedures**

Consideration of variances requires a public hearing before the Zoning Administrator. The Zoning Administrator can approve, conditionally approve, or deny the application. A Variance may require that the existing development site be brought into substantial conformance with the terms of this Title. All notification requirements must be followed before the public hearing.

### **17.52.040 Required Findings**

Variance applications can only be granted if the Zoning Administrator determines that the project, as submitted or as modified, conforms to all of the following criteria, in addition to any criteria that may be required or associated with the specific request. If it is determined that it is not possible to make all of the required findings, the application must be denied. The specific basis for denial shall be established for the record. The following findings must be met in order to grant a Variance:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning regulations will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;
- B. Such special circumstances were not created by the owner or applicants;
- C. The authorization of the Variance will meet the intent and purpose of the zoning district in which the subject property is located, and will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general; and
- D. The Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

### **17.52.050 Conditions of Approval**

In approving a Variance, the Zoning Administrator may impose reasonable conditions necessary to insure that the Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the Zoning District in which the subject property is located, including conditions to:

- A. Achieve the general purposes of this Title or the specific purposes of the Zoning District in which the site is located;
- B. Protect the public health, safety, and general welfare;
- C. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses in the surrounding area; and
- D. Any other conditions that are found to be necessary to ensure that the provisions of the General Plan and this Title are met.

**17.52.060 Appeals**

Decisions on Variances are subject to appeal in accordance with Section 17.46.150.

## **Chapter 17.53    Modifications**

---

### **Sections:**

17.53.010	Purpose
17.53.020	Applicability
17.53.030	Procedures
17.53.040	Required Findings
17.53.050	Conditions of Approval
17.53.060	Appeals

### **17.53.010    Purpose**

The purpose of this Chapter is to establish an alternate means of granting relief from the requirements of this Title when so doing would be consistent with the purposes of this Title and it is not possible or practical to approve a Variance.

### **17.53.020    Applicability**

The Zoning Administrator may grant relief from the dimensional requirements specified in this Title as provided below.

- A.    **Reasonable Accommodation.** Modification of the type of development standard and in the amount necessary to comply with the reasonable accommodation provisions of applicable law based on a determination that the specific circumstances of the application warrant such an accommodation.
- B.    **Setbacks.** Up to 10 percent of the required front, side, and rear yard setback standards.
- C.    **Build-to Areas.** Up to 10 percent of the standards for building façade location.
- D.    **Fences.** Maximum height of fences and freestanding walls up to one foot over height allowed.
- E.    **Lot Coverage.** Up to 10 percent of the maximum amount of lot coverage.

- F. **Height.** Maximum height of buildings and structures, up to 10 percent or three feet, whichever is less.
- G. **Landscaping.** Up to 10 percent of the required landscaping.
- H. **Transparency.** Required ground-floor building transparency, up to 10 percent of minimum.
- I. **Other Standards.** Up to 10 percent of other development standards not listed in subsection J below.
- J. **Exclusions.** Modifications cannot be granted for any of the following standards:
  - 1. Lot area, width, or depth;
  - 2. Maximum number of stories;
  - 3. Minimum number or dimensions of required parking spaces;
  - 4. Maximum residential density; or
  - 5. Maximum floor area ratio (FAR).

### **17.53.030 Procedures**

- A. **Authority and Duties.** The Zoning Administrator may approve, conditionally approve, or deny applications for Modifications with consideration of the requirements of this Chapter.
- B. **Review of Requests for Reasonable Accommodation to Ensure Access to Housing.** An application for reasonable accommodation to ensure access to housing will be referred to the Zoning Administrator for review and consideration. The Zoning Administrator must issue a written decision within 45 days of the date of the application and may grant the reasonable accommodation request, grant with modifications, or deny the request.
- C. **Concurrent Processing.** If a request for Modification is being submitted in conjunction with an application for another approval, permit, or entitlement under this Title, it must be heard and acted upon at the same time and in the same manner as that application.

### **17.53.040 Required Findings**

A decision to grant a Modification shall be based on the following findings:

- A. The Modification is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, without limitation, topography, noise exposure, irregular property boundaries, or other unusual circumstance;
- 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;
- C. The granting of the requested Modification will 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;
- D. In Residential Districts, the Zoning Administrator must also make the following findings in addition to any other findings that this Chapter requires:
  - 1. There are exceptional or extraordinary circumstances related to the building design that make it difficult or impossible to enlarge the house within the base requirements, and the addition is of superior design quality and compatible with the existing neighborhood character;
  - 2. The change is only intended to increase the habitability and function of the structure;
  - 3. Granting the Modification is desirable for the preservation of an existing architectural style or neighborhood character which would not otherwise be accomplished through the strict application of the provisions of the regulations; and
  - 4. It can be demonstrated that the design of the proposed addition is of superior quality; compatible with the existing neighborhood character, effective in minimizing the perceived size of the dwelling, not overly intrusive to the privacy of neighboring dwellings and is in substantial compliance with the Residential District regulations.
- E. If the Modification requested is to provide reasonable accommodation pursuant to State or Federal law, the Zoning Administrator must also make the following findings in addition to any other findings that this Chapter requires:
  - 1. That the housing or other property which is the subject of the request for reasonable accommodation will be used by an individual or organization entitled to protection;

2. If the request for accommodation is to provide fair access to housing, that the request for accommodation is necessary to make specific housing available to an individual protected under applicable law;
3. That the conditions imposed, if any, are necessary to further a compelling public interest and represent the least restrictive means of furthering that interest; and
4. That denial of the requested Modification would impose a substantial burden on religious exercise or would conflict with any applicable law requiring reasonable accommodation to provide access to housing.

### **17.53.050 Conditions of Approval**

In approving a Modification, the Zoning Administrator may impose reasonable conditions necessary to ensure that the Modification does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located, including conditions to:

- A. Achieve the general purposes of this Title or the specific purposes of the Zoning District in which the project is located;
- B. Achieve the findings for a waiver granted; or
- C. Any other conditions that are found to be necessary to ensure that the provisions of the General Plan and this Title are met.
- D. Modifications approved based on State or Federal requirements for reasonable accommodation may be conditioned to provide for rescission or automatic expiration based on a change of occupancy or other relevant change in circumstance.

### **17.53.060 Appeals**

Decisions on Modifications are subject to appeal in accordance with Section 17.46.150.

## **Chapter 17.54    Development Agreements**

---

### **Sections:**

17.54.010	Purpose
17.54.020	Applicability
17.54.030	Authority and Duties
17.54.040	Procedure
17.54.050	Execution and Recordation of Development Agreement
17.54.060	Annual Review
17.54.070	Amendment or Cancellation
17.54.080	Effect of Approved Agreement
17.54.090	Enforcement

### **17.54.010    Purpose**

The purpose of this Chapter is to implement Government Code §§ 65864 *et. seq.*, authorizing governmental entities to enter into legally binding agreements with private parties. It establishes procedures and requirements for the review and consideration of development agreements upon application by, or on behalf of, property owners or the City Council. A development agreement is a contract that is negotiated and voluntarily entered into by the City and applicant and may contain any additional or modified conditions, terms, or provisions agreed upon by the parties.

### **17.54.020    Applicability**

An applicant with legal or equitable interest in the real property that is the subject of the proposed development agreement may request and apply through the Director to enter into a development agreement. Acceptance of the application is contingent on the following:

- A.     The status of the applicant, as an owner of the property, is established to the satisfaction of the Director.
  
- B.     The application is made on approved forms and contains all the information required by the City.



- C. The application is accompanied by all lawfully required documents, materials, and supporting information.

**17.54.030 Authority and Duties**

- A. The City Manager, in consultation with the City Attorney, may negotiate the specific components and provisions of the Development Agreement on behalf of the City for recommendation to the City Council.
- B. The City Council has the exclusive authority to approve a Development Agreement.

**17.54.040 Procedure**

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:

- A. **Application.** An applicant must submit an application for a development agreement on a form prescribed by the City, accompanied by a fee according to the City’s fee schedule. The Director must require an applicant to submit proof of the applicant’s interest in the real property and of the authority of any agent to act for the applicant.
- B. **Recommendations of the Planning Commission.** The Director, upon finding the application for a development agreement complete, must set the application together with its recommendations for a public hearing before the Planning Commission in compliance with Chapter 17.46, Common Procedures. Following conclusion of a public hearing, the Planning Commission must make a written recommendation to the City Council regarding the application. The recommendation must include the Planning Commission’s determination and supporting reasoning as to whether the proposed development agreement:
  - 1. Is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan;
  - 2. Is compatible with the uses authorized in this Title, and the Zoning District in which the property is located;
  - 3. Will provide substantial public benefits;
  - 4. Has duly considered City mitigation programs in effect at the time of execution of the agreement;
  - 5. Will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood; and

6. Complies with the provisions of the California Environmental Quality Act.
- C. **City Council Determination.** Upon receipt of the Planning Commission's recommendation, the City Clerk must set the application and written report of the Planning Commission for a public hearing before the City Council in compliance with Chapter 17.46, Common Procedures. The City Council should, but is not required to, determine whether a development agreement is the appropriate form of entitlement for the proposed project within 30 days after the date of the meeting at which the item first appears on the City Council agenda. The City Council cannot approve a proposed development agreement unless it finds that its provisions are consistent with the General Plan and any applicable specific plan.

#### **17.54.050 Execution and Recordation of Development Agreement**

Within 10 days after the ordinance approving the development agreement takes effect, the Mayor or City Manager, if directed by the City Council, must execute the development agreement on behalf of the City, and the City Clerk must record the development agreement with the Santa Barbara County Recorder. 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 comply fully with the provisions of the development agreement, the City Clerk must record notice of such action with the Santa Barbara County Recorder.

#### **17.54.060 Annual Review**

- A. **Time For and Initiation of Review.** The Director must review each approved development agreement at least once a year at which time the applicant must be required to demonstrate compliance with the provisions of the development agreement. The applicant must initiate the required annual review by submitting a written request at least 60 days before the review date specified in the development agreement.
- B. **Finding of Compliance or Non-Compliance.** The Director must review the development for compliance with the provisions of the development agreement and, based on the review, issue a finding of compliance or non-compliance to be recorded with the Santa Barbara County Recorder after conclusion of the review. If the Director finds the applicant has not complied with the provisions of the development agreement, the Director must specify in writing to the applicant the respects in which the applicant has failed to comply, and must 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 must be referred to the City Council for termination or modification following a public hearing.

- C. **Appeal of Determination.** Within 10 days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council.

#### **17.54.070 Amendment or Cancellation**

- A. **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 Director may refer the Development Agreement to the City Council for termination or modification. The City Council must conduct a public hearing. 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.
- B. **Mutual Agreement.** Any Development Agreement 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 Director.
- C. **Recordation.** If the parties to the Development 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 must record notice of such action.
- 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 must 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.

#### **17.54.080 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 must be those City rules, regulations and official policies in force on the effective date of the Development Agreement. The applicant must not be exempt from otherwise applicable City ordinances or regulations pertaining to persons contracting with the City.
- 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 permit or authorization for the project on the basis of such existing or new 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 applicable law enacted or interpreted after a Development Agreement becomes effective 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.
- D. **Severability Clause.** Should any provision of this Chapter or a subsequent development agreement be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Chapter and the development agreement must remain in full force and effect unimpaired by the holding, except as may otherwise be provided in the development agreement.
- E. **To be Effective.** In addition to any other requirement of applicable law, no development agreement can take effect unless it is approved by ordinance; executed by the Mayor or City Manager (when directed by the City Council); and approved as to form by the City Attorney.

#### **17.54.090 Enforcement**

A Development Agreement may be enforced, amended, modified, cancelled or terminated by any manner otherwise provided by law or by the provisions of the development agreement.

## **Chapter 17.55     Amendments to Zoning Regulations and Zoning Map**

---

### **Sections:**

- 17.56.010     Purpose and Applicability
- 17.56.020     Initiation of Amendments
- 17.56.030     Public Notice and Review Procedures
- 17.56.040     Public Hearing
- 17.56.050     Planning Commission Action
- 17.56.060     City Council Action

### **17.55.010     Purpose and Applicability**

Any amendment to the zoning regulations or the Zoning Map that changes any property from one zone to another, imposes any regulation not previously imposed, or removes or modifies any regulation previously imposed, must be adopted in the manner set forth in this Chapter.

### **17.55.020     Initiation of Amendments**

An application for an amendment of the Zoning Map or this Title may be made by the City Council, the Director, or by any interested person. If a person wishes to initiate an amendment, an application must be filed with the Planning and Environmental Review Department. The application must be accompanied by payment of the required fee as established by City Council resolution.

### **17.55.030     Public Notice and Review Procedures**

Public notice of hearings by the Planning Commission and the City Council for Zoning Map amendments or zoning regulations text amendments shall be given as specified in Chapter 17.46, Common Procedures.

### **17.55.040 Public Hearing**

All Zoning Map and zoning regulations text amendments require at least one public hearing by the Planning Commission and one public hearing by the City Council before adoption.

### **17.55.050 Planning Commission Action**

- A. **Hearing.** The Planning Commission must conduct a public hearing in conformance with the provisions of Chapter 17.46, Common Procedures.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission must make a written recommendation on the adoption or amendment of the zoning regulations or Zoning Map or any portion thereof. The Director must promptly transmit to the City Council the Planning Commission's written recommendation, together with any maps, charts, studies, or other materials, including any required environmental analysis.
- C. **Findings.** The Planning Commission must make the following findings in its recommendation to the City Council:
  - 1. The amendment is consistent with the General Plan;
  - 2. Any change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given Zoning District; and
  - 3. The amendment will promote the growth of the City in an orderly manner and protect the environment and the public health, safety, peace, comfort and general welfare.

### **17.55.060 City Council Action**

- A. **Hearing.** The City Council must conduct a public hearing in conformance with the provisions of Chapter 17.46, Common Procedures.
- B. **Action.** After the conclusion of the hearing, the City Council may approve, modify or deny, or take no action regarding a proposed Zoning Map or zoning regulations text amendment. Should the City Council take no action, the application will be deemed denied. The City Council may condition its approval of any Zoning Map amendment. Such conditions may include, without limitation, conditions to assure implementation of the submitted plan in accordance with the General Plan, and other applicable policies and plans adopted by the City, conditions to achieve the purpose and intent of the requested Zoning District, conditions to achieve reasonable compatibility with the proposed use and adjacent land uses, and additional or different approval processes as may be required by this Title.

- C. **Findings.** Before making any amendments, the City Council must make the following findings:
1. The amendment(s) is consistent with the General Plan;
  2. Any change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given Zoning District; and
  3. The amendment will promote the growth of the City in an orderly manner and protect the environment and the public health, safety, peace, comfort and general welfare.

## **Chapter 17.56 Amendments to the General Plan**

---

### **Sections:**

17.57.010	Purpose
17.57.020	Applicability
17.57.030	Contents of the General Plan
17.57.040	Initiation
17.57.050	Application Requirements
17.57.060	Preparation
17.57.070	Review Procedures and Public Notice
17.57.080	Planning Commission Hearing and Recommendation
17.57.090	City Council Hearing and Action
17.57.100	Administration of the General Plan

### **17.56.010 Purpose**

The purpose of this Chapter is to establish procedures for making changes to the General Plan as provided for in applicable law when there are reasons to do so. These circumstances include, without limitation, changes in applicable law and problems and opportunities that were unanticipated at the time of General Plan adoption or the last amendment.

### **17.56.020 Applicability**

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

### **17.56.030 Contents of the General Plan**

The General Plan must conform to applicable law. It must contain each of the Elements required by state law and such other elements that the City Council deems appropriate.

### **17.56.040 Initiation of Amendments**

- A. **Initiation.** An Amendment to the General Plan may only be initiated by the City Council.



- B. **Public Hearing.** The City Council shall consider, deliberate, and act upon the initiation of all proposed General Plan Amendments at a duly noticed public hearing.
- C. **Findings Required.** The following findings shall be considered by the City Council for the initiation of all proposed General Plan Amendments:
  - 1. The amendment proposed is consistent with the Guiding Principles and Goals of the General Plan;
  - 2. The amendment proposed has no material effect on the community or the General Plan;
  - 3. The amendment proposed provides additional public benefit to the community as compared to the existing land use designation or policy;
  - 4. Public facilities are available to serve the affected site, or their provisions will be addressed as a component of the amendment process; or
  - 5. The amendment proposed is required under other rules or regulations.
- D. The initiation of all General Plan Amendment<sup>6</sup>s shall be by an affirmative vote of the City Council.

### **17.56.050 Preparation**

The Planning Commission must prepare or amend and recommend that the City Council adopt the General Plan, including any, all, or any combination of the Elements. In preparing the General Plan, or any element of the General Plan, the Planning Commission must take such steps as it deems necessary or as the Director recommends. The General Plan Guidelines prepared by the Governor's Office of Planning and Research must be considered in preparing or amending the General Plan.

During the preparation or amendment of the General Plan, or any element thereof, the Planning Commission must provide opportunities for involvement of citizens, public agencies, public utility companies, and business, civic, educational, neighborhood organizations, and other community groups, through public hearings and any other means the Planning Commission or City Council deems appropriate. The General Plan and its Elements must be prepared with the general purpose of guiding and accomplishing coordinated and harmonious development of the City which, in accordance with existing and future needs, best protects the environment and promotes the public health, safety, and general welfare, as well as efficiency and economy in the process of development.

### **17.56.060 Review Procedures and Public Notice**

- A. **Director Report.** The Director must prepare a report and recommendation to the Planning Commission on the application for a General Plan amendment. The report shall include, without limitation, a discussion of how the proposed amendment complies with the purposes of this Chapter, a determination as to whether the proposed amendment will require amendment to other plans that the City Council have adopted, and an environmental document prepared in compliance with the California Environmental Quality Act.
  
- B. **Scheduling.** The Director must schedule the application for hearing by the Planning Commission in accordance with the City's schedule for considering General Plan amendments.
  - 1. **Restriction on Number of Amendments.** Except as otherwise provided by applicable law, no mandatory Element of the General Plan can be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the City Council. Each amendment may include more than one change to the General Plan.
  
- C. **Public Notice.** At least 10 days before the date of the public hearing, the Planning and Environmental Review Department must provide notice consistent with Chapter 17.46, Common Procedures. Notice of the hearing also must be mailed or delivered at least 10 days before the hearing to any other local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment.

### **17.56.070 Planning Commission Hearing and Recommendation**

- A. **Planning Commission Hearing.** The Planning Commission must conduct a public hearing in conformance with Chapter 17.46, Common Procedures.
  
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission must make a written recommendation on the adoption or amendment of the General Plan or any Element thereof. A recommendation for approval must be made by a resolution carried by an affirmative vote of the Planning Commission. The Planning and Environmental Review Director must promptly transmit to the City Council the Planning Commission's written recommendation, together with any maps, charts, studies, or other materials, including any required environmental analysis.

**17.56.080 City Council Hearing and Action**

- A. Within 60 days of receiving the report from the Planning Commission, the City Council must conduct a duly noticed public hearing. The notice must include a summary of the Planning Commission recommendation.
- B. After the conclusion of the hearing, the City Council may approve, modify or deny the proposed General Plan amendment. If the Council proposes any substantial modification not previously considered by the Planning Commission during its hearings, the proposed modification shall first be referred back to the Planning Commission for its recommendation, but the Planning Commission shall not be required to hold a public hearing thereon. The failure of the Planning Commission to report within 45 days after the referral shall be deemed a recommendation to approve and the amendment shall be returned to Council for adoption.

**17.56.090 Administration of the General Plan**

After the City Council has adopted all or part of the General Plan, the Planning Commission must do the following:

- A. Investigate and make recommendations to the City Council regarding reasonable and practical means for implementing the General Plan or Element of the General Plan, so that it will serve as an effective guide for orderly growth and development, preservation, and conservation of open space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the General Plan.
- B. Provide a periodic report to the City Council, when requested by the Planning Commission or City Council, on the status of the Plan and progress in its implementation.

## **Chapter 17.57 Enforcement**

---

### **Sections:**

17.58.010	Purpose
17.58.020	Relation to Other Codes and Statues
17.58.030	Enforcement Responsibilities
17.58.040	Penalties
17.58.050	Remedies
17.58.060	Recording a Notice and Order

### **17.57.010 Purpose**

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

### **17.57.020 Relation to Other Codes and Statues**

Nothing in this Chapter shall remove the enforcement powers and duties of any other agency or department or City official as outlined in the Municipal Code.

### **17.57.030 Enforcement Responsibilities**

All departments, officials, and public employees of the City, vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this Chapter, and shall issue no permit or license for uses, buildings, or purposes in conflict with the provisions of this Chapter, and any such permit or license issued in conflict with the provisions of this Chapter shall be null and void. All other officers not specified in this Section shall enforce the provisions related to their areas of responsibilities, when necessary. The following officials, departments, and employees have specific responsibilities as follows:

- A. **Zoning Administrator.** The Zoning Administrator or their designee shall enforce all provisions of this Chapter related to issuance of discretionary permits and shall have responsibility for ordering the correction of violations and initiating the revocation of

discretionary permits pursuant to Section 17.46.140, Revocation of Permits, and the abatement of nuisances as defined in this Chapter.

- B. **Building Official.** Prior to issuance of building permits, the Building Department shall ascertain that plans presented with the building permit application conform to those approved subject to the requirements of this Chapter.
- C. **Code Enforcement Officer.** The Code Enforcement Officer shall enforce all provisions of this Chapter pertaining to the use, erection, construction, reconstruction, relocation, conversion, alteration, or addition to any building or structure and condition of approval of use permits, variances, nuisance abatements, or other discretionary approvals. The Code Enforcement Officer is hereby authorized to cause to be stopped any work or use undertaken without or contrary to approval granted pursuant to this Chapter or in violation of any of its other provisions.
- D. **City Attorney.** The City Attorney may, at their discretion or upon order of the City Council, immediately commence action or proceedings for the abatement and removal and enjoinder of violations in the manner provided by law, and may take such other steps and may apply to such courts as may have jurisdiction to grant such relief as will abate and remove such use, or building or structure, and may seek to restrain and enjoin any person, firm or corporation from such use of any property, building or structure, or from setting up, erecting, building, maintaining or demolishing any such building or structure contrary to the provisions of this Chapter.

#### **17.57.040 Penalties**

Any person, firm or corporation, whether as principal, owner, agent, tenant, employee or otherwise, who violates any provisions of this Title shall be subject to a civil penalty. Each day of a continuing violation is a separate violation for the purpose of imposing a separate penalty. The civil penalty for violations of this Title shall be established by separate resolution of the City Council. An alleged violator shall be entitled to an administrative hearing on his liability, and a review by the City Council.

#### **17.57.050 Remedies**

An alleged violator who is served with notice of violation subject to a civil penalty shall not be subject to a criminal prosecution for the same factual situation. However, all other remedies provided for herein shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility to correct prohibited conditions or to remove prohibited buildings, structures, or improvements nor prevent the enforcement, correction or removal thereof. In addition to the other remedies provided in this Chapter, the City Council, the City Attorney, or any adjacent or neighboring property owner who shall be especially damaged by the violation of any provision of this

Title, may institute, in addition to the other remedies provided by law, injunction, mandamus, abatement or any other appropriate action, proceeding or proceedings to prevent or abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

**17.57.060 Recording a Notice and Order**

- A. If compliance is not had with an order of the Code Enforcement Officer or their designee, to correct violations of this Title within the time specified in the Notice and Order, the Zoning Administrator may file with the Santa Barbara County Recorder a certified statement describing the property and certifying that:
  - 1. The property and/or structure is in violation of this Chapter; and
  - 2. The owner has been so notified.
- B. The notice shall specifically describe the violations and a proof of service shall also be recorded with the Notice and Order.
- C. Whenever the corrections ordered shall thereafter have been completed, the Code Enforcement Officer shall file a new certified statement with the Santa Barbara County Recorder certifying that all required corrections have been made so that the property and/or structure is no longer in violation of this Title.

## Definitions Related to Administration

---

*Unless the contrary is apparent, the following definitions will be used, and be included in Part VI, General Terms and Definitions. Terms and phrases that are not defined will be used as set forth in applicable law including, without limitation, the Government Code and Public Resources Code*

*Aggrieved Person.* Any person who, in person or through a representative, appeared at a public hearing or by other appropriate means before action on a permit, informed the City of his or her concerns about an application for such permit, or who, for good cause, was unable to do either, and who objects to the action taken on such permit and wishes to appeal such action to a higher authority.

*Appealable Area.* That area between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or the mean high tide line of the sea where there is no beach, whichever is greater, tidelands, submerged lands, public trust lands, that area within 300 feet of the top of any coastal bluff, and that area within 100 feet of any wetland, estuary or stream.

*Appealable Development.* Approval of any proposed development within an “appealable area” and approval or denial of any development that constitutes a “major public works project” or a “major energy facility.” Appealable development may be appealed to the California Coastal Commission in accord with the regulations adopted by the Commission.

*Applicant.* The person, partnership, corporation, or state or local government agency applying for a permit, certificate, zoning clearance or other land use entitlement.

*Approving Authority.* See “Decision-making Body”.

*Building.* Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials.

*Building, Accessory.* A detached building located on the same parcel as the principal building, which is incidental and subordinate to the principal building in terms of both size and use. A building will be considered part of the principal building if located less than six feet from the principal building or if connected to it by fully enclosed space.

*Building, Principal.* A building in which the principal use of the parcel on which it is located is conducted.

*Building Code.* Any regulations of the City governing the type and method of construction of buildings and structures, including sign structures.

*Building Site.* A lot or parcel of land occupied or to be occupied, by a main building and accessory buildings together with such open spaces as are required by the terms of this title and having its principal frontage on a street, road, highway, or waterway.

*California Environmental Quality Act (CEQA).* Public Resources Code §§ 21000, *et seq.* or any successor statute and regulations promulgated thereto (14 California Code of Regulations §§ 15000, *et seq.*) that require public agencies to document and consider the environmental effects of a proposed action before a decision.

*Categorical Exclusion.* An exception from the requirements of a Coastal Development Permit as identified in the Public Resources Code §§ 30610(e) and 30610.5.

*Chapter.* A Chapter set out in this Title, unless another ordinance or statute is mentioned.

*City.* The City of Goleta.

*City Council.* The City Council of the City of Goleta.

*Coastal Commission.* The California Coastal Commission.

*Coastal Development Permit (CDP).* A permit issued by the City or the California Coastal Commission in accord with the provisions of this Chapter. A Coastal Development Permit includes all application materials, plans and conditions on which the approval is based.

*Coastal Resources.* Coastal resources include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources within the Coastal Zone.

*Coastal Zone.* That portion of the Coastal Zone, as established by the California Coastal Act of 1976, as amended, which lies within the City, as indicated on the Zoning Map.

*Conditionally Permitted.* Permitted subject to approval of a Conditional Use Permit or Administrative Use Permit, Administrative Coastal Development Permit or Regular Development Permit.

*Construction.* Construction, erection, enlargement, alteration, conversion or movement of any building, structures, or land together with any scientific surveys associated therewith.



*County.* Santa Barbara County.

*Decision-Making Body.* The Director, Zoning Administrator, Planning Commission, Design Review Board, or the City Council, whichever has approving authority for the permit.

*Design Review Board.* The Design Review Board of the City of Goleta.

*Development.* The placement or erection of any solid material or structure on land, in or under water; discharge or disposal of any materials; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, without limitation, subdivision pursuant to the Government Code § 66410, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreation use; and change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation.

*Director.* The Planning and Environmental Review Department Director of the City of Goleta or his/her designee.

*Disabled Person.* A person who: (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) has a record of having such an impairment; or (3) is regarded as having such an impairment. However, "disabled" must not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 United States Code 802]).

*Discretionary Permit.* Design Review Approval, Modification, Variance, Administrative Use Permit, Conditional Use Permit, Temporary Use Permit, Administrative Coastal Development Permit or Regular Coastal Development Permit or any other appealable permit that requires findings to be made. A Zoning Clearance is not a discretionary permit unless it has been referred to the Planning Commission for action.

*Dwelling Unit.* One or more rooms designed, occupied or intended for occupancy as separate living quarters, with full cooking, sleeping and bathroom facilities for the exclusive use of a single household.

*Effective Date.* The date on which a permit or other approval becomes enforceable or otherwise takes effect, rather than the date it was signed or circulated.

*Environmental Impact Report (EIR).* An Environmental Impact Report as required under the California Environmental Quality Act.

*Environmental Review.* An evaluation process pursuant to CEQA to determine whether a proposed project may have a significant impact on the environment.

*Exclusion Areas.* The geographic area of the Coastal Zone of the City except for tide and submerged lands, beaches and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, in a wetland, estuary, stream, river or within 100 feet of such areas, or any areas defined as “environmentally sensitive habitats” or their buffers by the certified land use plan and so designated on the land use plan maps, or on slopes greater than 20 percent, and all areas within 300 feet of the top of the seaward face of any coastal bluff, and all lands and waters subject or potentially subject to the public trust.

*General Plan.* The City of Goleta General Plan.

*Government Code.* The Government Code of the State of California.

*Guidelines.* Documents that outline and display various specifications that are adopted by the City Council, Planning Commission, or Design Review Board including without limitation the *Goleta Old Town Heritage District and Architecture and Design Guidelines*, and the *Design Guidelines for Commercial Projects*.

*Hazardous Materials.* Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Household.* One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food; who share living expenses, including rent or mortgage payments, food costs and utilities; and who maintain a single mortgage, lease, or rental agreement for all members of the household.

*Illegal Use.* Any use of land or building that does not have the currently required permits and was originally constructed and/or established without permits or approvals required for the use at the time it was brought into existence.

*Intensity of Use.* The extent to which a particular use or the use in combination with other uses affects the natural and built environment in which it is located, the demand for services, and persons who live, work, and visit the area. Measures of intensity include without limitation requirements for water, gas, electricity, or public services; number of automobile trips generated by a use; parking demand; number of employees on a site; hours of operation; the amount of noise, light or glare generated; the number of persons attracted to the site, or, in eating establishments, the number of seats.

*Local Coastal Program (LCP).* The City's land-use plans, zoning ordinance, zoning map, and implementing actions certified by the Coastal Commission pursuant to the Coastal Act and adopted by the City Council for the purpose of carrying out the provisions of the Coastal Act.

*Maintenance and Repair.* The repair or replacement of nonbearing walls, fixtures, wiring, roof or plumbing that restores the character, scope, size or design of a structure to its previously existing, authorized, and undamaged condition.

*Major Energy Facility.* Any energy facility as defined by Public Resources Code Section 30107 and California Code of Regulations Section 13012.

*Major Public Works Project.* Any public works project as defined by California Code of Regulations § 13012.

*Nonconforming Building.* See Nonconforming Structure.

*Nonconforming Parcel.* A legally-created parcel of land having less area, frontage, or dimensions than the zoning regulations requires in the Zoning District in which it is located.

*Nonconforming Structure.* A building or structure, or portion thereof, which was lawfully erected or altered or maintained, but which, because of the application of this Title to it, no longer conforms to the specific regulations applicable to the zoning district in which it is located.

*Nonconforming Use.* The use of a building, structure, or site, or portion thereof, which was lawfully established and maintained, but which, because of the application of this Title to it, no longer conforms to the specific regulations applicable to the zoning district in which it is located.

*Overlay District.* A zoning designation specifically delineated on the Districting Map establishing land use requirements that govern in addition to the standards set forth in the underlying base district.

*Owner.* A person or persons holding single or unified beneficial title to the property, including without limitation the settlor of a grantor trust, a general partner, firm or corporation.

*Permit.* Any Zoning Clearance Permit, Administrative Use Permit, Conditional Use Permit, Administrative Coastal Development Permit, Regular Coastal Development Permit, Temporary Use Permit, or other entitlement for development and/or use of property provided by zoning regulations or other provisions of the Goleta Municipal Code.

*Permitted Use.* Any use or structure that is allowed in a zoning district and subject to any restrictions applicable to that zoning district.

*Person.* Any individual, firm, association, organization, partnership, business trust, company, or corporation.

*Person with Disabilities.* Under the Americans With Disabilities Act, an individual with a disability is a person who: (1) has a physical or mental impairment that substantially limits one or more major life activities; or (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

*Planning Commission.* The Planning Commission of the City of Goleta.

*Pre-existing.* In existence before the effective date of this Title.

*Principal Use.* A use that fulfills a primary or predominant function of an establishment, institution, household, or other entity and occupies at least 70 percent of the gross floor area.

*Project.* Any proposal for a new or changed use or for new construction, alteration, or enlargement of any structure, that is subject to the provisions of this ordinance. This term includes, but is not limited to, any action that qualifies as a “project” as defined by the California Environmental Quality Act.

*Public Land.* Any government-owned land, including, without limitation, public parks, beaches, playgrounds, trails, paths, schools, public buildings, and other recreational areas or public open spaces.

*Public Resources Code.* The Public Resources Code of the State of California.

*Public Works.* Public facilities and infrastructure, including:

- All production, storage, transmission, and recovery facilities for utilities subject to the jurisdiction of the California Public Utilities Commission, except for energy facilities;
- All public transportation facilities, including streets, roads, highways, mass transit facilities and stations and bridges, public parking lots and structures, ports, harbors, airports, railroads, and other related facilities;
- All publicly financed recreational facilities.
- All community college facilities.

*Qualified Applicant.* The property owner, the owner’s agent, or any person, corporation, partnership or other legal entity that has a legal or equitable title to land that is the subject of a development proposal or is the holder of an option or contract to purchase such land or otherwise has an enforceable proprietary interest in such land.

*Reasonable Accommodation.* Any deviation requested and/or granted from the strict application of the City’s zoning and land use laws, rules, policies, practices and/or procedures

*Review Authority.* Body responsible for making decisions on zoning and related applications.

*Site.* A parcel, or group of contiguous parcels, that is proposed for development in accordance with the provisions of this Title and is in a single ownership or under unified control.

*Street.* A public or private thoroughfare that affords the access to a block and to abutting property. “Street” includes avenue, place, way, drive, boulevard, highway, road, and any other thoroughfare, except an alley as defined herein.

*Structure.* Anything constructed or erected, which requires a fixed location on the ground, or is attached to a building or other structure having a fixed location on the ground.

***Structure, Accessory.*** A detached subordinate structure, used only as incidental to the main structure on the same parcel.

***Structure, Main.*** A structure housing the principal use of a site or functioning as the principal use.

***Structure, Temporary.*** A structure without any foundation or footings and which is intended to be removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

***Structure, Subterranean.*** A structure located entirely underground, except for openings for ingress and egress.

*Structural Alterations.* Any physical change to or the removal of the supporting members of a structure or building, such as bearing walls, columns, beams, or girders including the creation, enlargement, or removal of doors or windows and changes to a roofline or roof shape.

*Use Classification.* A system of classifying uses into a limited number of use types on the basis of common functional, product, or compatibility characteristics. All use types are grouped into the following categories: residential, public and semi-public, commercial, employment, and transportation, communication, and utilities.

*Use Permit.* A discretionary permit, such as an Administrative Use Permit or Conditional Use Permit, which may be granted by the appropriate City of Goleta authority to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, which are not permitted as of right but which may be approved upon completion of a review process and, where necessary, the imposition of special conditions of approval by the permit granting authority.

*Use Type.* A category that classifies similar uses based on common functional, product, or compatibility characteristics.

*Utilities.* Equipment and associated features related to the mechanical functions of a building(s) and services such as water, electrical, telecommunications, and waste.

*Variance.* A discretionary grant of permission to depart from the specific requirements of this Title that is warranted when, due to special circumstances regarding the physical characteristics of the property, the strict application of standards would deprive the property of privileges available to other property in the same zoning classification.

*Zoning Administrator.* The Zoning Administrator of the City of Goleta.

*Zoning District.* A specifically delineated area or district in the City within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.



**DYETT & BHATIA**  
Urban and Regional Planners

755 Sansome Street, Suite 400  
San Francisco, California 94111  
☎ 415 956 4300 📠 415 956 7315