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Article 49 Planning Authorities

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15-4901 Purpose

The purpose of this article is to identify the bodies, officials, and administrators with designated responsibilities under various articles of the Development Code. Subsequent articles of Part V provide detailed information on procedures, applications, and permits, including Code text and zoning map amendments, and enforcement. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of this Code to implement the policies and achieve the objectives of the General Plan.

15-4902 City Council

The powers and duties of the City Council as the legislative body under this Code include, but are not limited to the following:

- A. Consider and adopt amendments to the General Plan, operative plans, the Zoning Map, and the text of this Code pursuant to the provisions of Article 58, Amendments to Development Code Text, Rezones, and Plan Amendments, following a public hearing and recommended action by the Planning Commission.
- B. Initiate new plans, amendments to operative plans, and the rezoning of property.
- C. Consider and make decisions on land use entitlements.
- D. Hear and decide applications for Development Agreements, pursuant to Article 60.
- E. Hear and decide appeals from decisions of the Planning Commission on Conditional Use Permits, Variances, and any other permits that can be appealed, pursuant to Section 15-5017, Appeals.
- F. Hear and make environmental determinations on projects that require Council action.
- G. Hear and decide appeals on environmental determinations by the Director or the Planning Commission, pursuant to Section 15-5005, Environmental Review.
- H. Establish, by resolution, a Master Fee Schedule listing fees, charges, and deposits for various applications and services provided, pursuant to this Code.
- I. Shall designate the authority of the Planning Commission, Historic Preservation Commission, and the Planning Director. The Council shall authorize Planning Commission, Historic Preservation Commission, and the Director to take acts as specified in the Code.

15-4903 Planning Commission

The Planning Commission is established and organized pursuant to Article IX, Boards and Commissions, of the City Charter and the requirements of the Government Code. The powers and duties of the Planning Commission under this Code include, but are not limited to, the following:

- A. All duties set forth in the City Charter (Section 907).
- B. Consider and make decisions on land use entitlements.
- C. Hear and decide if projects are consistent with City policies relating to architectural design, site design, connectivity to surrounding uses, performance standards, the fabric of the existing neighborhoods, etc.
- D. Annually review progress towards implementation of the General Plan and recommend to the City Council changes needed to meet community needs.
- E. Initiate, conduct hearings, and make recommendations to the City Council on proposed amendments to operative plans, the General Plan, Zoning Map and to the text of this Code, pursuant to Article 58, Amendments to Development Code Text, Rezones, and Plan Amendments.
- F. Make environmental determinations on any approvals it grants that are subject to environmental review under the California Environmental Quality Act or the City of Fresno's adopted environmental review guidelines pursuant to State law and the procedures in Section 15-5005, Environmental Review.

- G. Conduct hearings and make recommendations to the City Council on proposed revocations of permits, pursuant to Section 15-5016, Revocation of Permits.
- H. Hear and decide appeals from decisions of the Director and City Engineer, and on decisions, determinations, or interpretations made in the enforcement of this Code and any other decisions that are subject to appeal, pursuant to Section 15-5017, Appeals.
- I. Such other duties and powers as assigned or directed by the City Council.

15-4904 Director

The following powers and duties of the Development and Resource Management Director (the “Director”) under this Code include, but are not limited to, the following.

- A. Maintain and administer the Development Code, including acceptance and processing of applications, abatements, and other enforcement actions.
- B. Prepare and implement rules and procedures necessary or convenient for the conduct of the Director’s business. These rules and procedures must be as approved by a resolution of the City Council following review and recommendation of the Planning Commission. They may include the administrative details of notice and hearings officiated by the Director (e.g. scheduling, rules of procedure, appeals, and recordkeeping).
- C. Issue administrative regulations for the submission and review of applications subject to the requirements of this Code.
- D. Review applications for permits and licenses for conformance with this Code and issue a Zone Clearance when the proposed use or building is allowed by right and conforms to all applicable development and use standards and other requirements of this Code.
- E. Review applications for discretionary permits and approvals under this Code for conformance with applicable submission requirements and time limits.
- F. Review applications for discretionary permits and approvals to make a preliminary determination as to whether a project is subject to review under the California Environmental Quality Act or the City’s environmental review requirements.
- G. 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 Code.
- H. Serve as the Secretary of the Planning Commission.
- I. Make recommendations to the Planning Commission on all applications, appeals, and other matters upon which the Planning Commission has the authority and the duty to act under this Code.
- J. Approve, conditionally approve, modify, or deny projects pursuant to Table 15-4907, Planning Permits and Actions.
- K. Approve, conditionally approve, modify, or deny requests for deviations to dimensional requirements and requests for reasonable accommodation, pursuant to Article 56, Minor Deviations, and Article 57, Reasonable Accommodation for Housing.
- L. Approve, conditionally approve, modify, or deny modifications to approved permits and modifications to approved Conditional Use Permits and Variances, pursuant to Article 50, Common Procedures.
- M. Refer items to the Planning Commission where, in their opinion, the public interest would be better served by a Planning Commission public hearing and action.

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- N. Provide required notice and conduct public hearings and make recommendations to the City Council about Development Agreements, pursuant to Article 60.
- O. Negotiate the components and provisions of Development Agreements for recommendation to the City Council.
- P. Delegate administrative functions as they so deem to members of the Planning Department.
- Q. Other duties and powers as may be assigned by the City Council or established by legislation.

15-4905 Historic Preservation Commission

The Historic Preservation Commission shall have the powers and duties established in the City's Historic Preservation Ordinance.

15-4906 Council District Project Review Committees

- A. **Purpose.** The purpose of Council District Project Review Committees is to:
 - 1. Provide the opportunity for citizen review on every entitlement request to insure the voices of the community are heard;
 - 2. Allow for citizens of each council district to provide insight on the unique needs and concerns that exist in the different districts; and
 - 3. Act as advisors to the Planning Commission and City Council on the adopted plans that affect individual council districts.
- B. **Number and Name.** The number of committees shall be equal to the number of the City's council districts and the boundaries of each committee shall be coterminous with the council district boundaries. The committees shall be referred to collectively as the "Council District Project Review Committees" and individually by reference to the council district number. For example, the committee for Council District 1 would be referred to as "Council District 1 Project Review Committee."
- C. **Structure and Members.**
 - 1. Each Councilmember shall determine the number of members and appropriate qualifications for their district's committee.
 - 2. Each Councilmember shall appoint members to their district's committee. At minimum, one member on each district committee shall be appointed by the Mayor.
 - 3. Committee members, upon appointment, shall make themselves familiar with every adopted City plan that falls within the boundaries of their committee's area.
 - 4. Committee members shall serve at the pleasure of the appointing authority.
 - 5. ***Organizational Form to Establish the Committee.*** The Councilmember shall complete the Organizational Form for City of Fresno Boards, Commission, Committees, and Similar Bodies attached to Resolution No. 2004-185 to establish the structure of the committee, the qualifications of the members, the number and frequency of meetings, and any other provisions as the Councilmember deems appropriate. The Organizational Form shall be filed with the City Clerk and the Director of the Planning and Development Department before any appointments may be made.

- a. *Changes to the Organizational Form.* Any changes to the Organizational Form shall be made in writing and filed with the City Clerk and the Director of the Development and Resource Management Department prior to implementation of the changes. A new Councilmember assuming office may adopt a different structure for their district's committee and different qualifications for committee members by filing a new Organizational Form.

D. Committee Duties. Committees shall have the following duties.

1. Committees shall review and provide recommendations to the Planning Commission and Council on every application for a Plan Amendment, Rezone, Tentative or Parcel Map, Conditional Use Permit, Planned Development Permit, or Variance to develop property within the committees' boundaries. Development applications may be reviewed by multiple committees if a development project crosses committee boundaries. In providing its review and recommendations, the committee shall consider every plan to which the development is subject.
 - a. Development Permit applications submitted in multi-family and mixed-use districts consistent with the Certainty Option set forth in sections 15-1004, 15-1005, 15-1104, and 15-1105 of this Code shall not be subject to review and recommendation by Council District Project Review Committees. Development Permit applications submitted in said districts consistent with the Flexibility Option set forth in the aforementioned sections of this Code shall be subject to review and recommendation by Council District Project Review Committees.
2. Committees shall act as liaisons between property owners, residents, business people, the community-at-large, the Council, and staff, providing a forum for public participation.
3. Committees may make recommendations to the Planning Commission and Council on any matters related to planning and zoning and the plans in the Councilmember's district, including adoption of guidelines to implement the goals and policies of adopted City plans.
4. Committees shall have any additional duties that the Councilmember provides in the Organizational Form.

E. By-Laws. Council shall adopt written by-laws by resolution to be applicable to all of the committees. The by-laws may only be altered by Council. These by-laws may be made applicable to committees that advise on City plans other than the Council Project Review Committees.

F. Staff Duties. Each committee shall be staffed by the Development and Resource Management (DARM) Department with at least one person. DARM staff shall perform the following duties:

1. Keep records for the committees and be responsible for keeping the records of the agendas and any recommendations of the committees.
2. Provide a copy (in written or electronic form) of all plans to the committees, the committee by-laws, and the Organizational Form for the committee.
3. Provide reports to the committees as requested on matters within the scope of planning and land use.
4. ***Council Staff.*** To the extent that a Councilmember assigns tasks to a committee that are outside the scope of land use planning, the Councilmember's office shall provide staff

to the committee to assist with those tasks and otherwise perform those responsibilities that would be the duties of the staff person from the DARM Department.

- G. **Brown Act and State Conflict Laws.** The committees and the committee members are subject to the Brown Act (Cal. Gov't Code §§ 54950 et seq.) and the State laws on conflicts regarding public officials (including Cal. Gov't Code §§ 87100 et seq.).
- H. **Additional Committees.** Nothing in this section is intended to limit the ability of Council or the Mayor after the effective date of this Ordinance from establishing committees in addition to the Council District Project Review Committees to advise on plans or guidelines adopted under the City's plans; including committees created to help draft new plans.
1. ***Specific Plan Design Review Committees.*** Development Permit applications submitted in multi-family and mixed-use districts consistent with the Certainty Option set forth in sections 15-1004, 15-1005, 15-1104, and 15-1105 of this Code shall be subject to review by applicable Specific Plan Design Review Committees as follows:
 - a. Upon completion of an application following internal departmental review, DARM Department staff shall provide the completed application to members of any applicable Specific Plan Design Review Committee.
 - b. If a Committee member chooses to request a meeting to discuss the application, they must submit the request to DARM Department staff within 3 business days of their receipt of the application.
 - c. A meeting of the applicable Specific Plan Design Review Committee must be set within 5 business days of the first request for a meeting.
 - d. If no members of a Committee request a meeting to discuss the application within the allotted time, it shall move forward without review by the Committee.
 - e. The Committee's review is limited to verification of the project's compliance with the requirements of the Certainty Options set forth in sections 15-1004, 15-1005, 15-1104, and 15-1105 of this Code, and the requirements of any applicable Specific Plan, including all applicable design guidelines.
- I. **Compensation.** Council may provide a stipend to committee members through the Master Fee Schedule.
- J. **Suspension.** Notwithstanding any other provision in this section, Councilmembers, may, at their discretion, suspend meetings of their Council District Project Review Committee. The suspension will be documented by a written notice filed with the City Clerk. At their discretion, Councilmembers may resume their Council District Project Review Committee meetings by written notice filed with the City Clerk. In the event of such a suspension, projects shall not be subject to the review of the suspended committee.
- K. Nothing within this section shall be construed as to cause the dissolution or suspension of any committee in existence at the time of the adoption of this Code.

15-4907 Summary of Primary Planning Permits and Actions

The following table shows, for ease of reference, a brief summary of the permits and actions that are administered under this Code. The table is not regulatory. For complete regulations, procedures, and requirements, see Articles 49 through 66.

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| TABLE 15-4907: PLANNING PERMITS AND ACTIONS | | |
|---|--|------------------------------|
| <i>Proposed Activity</i> | <i>Permit or Action Required</i> | <i>Type of Decision</i> |
| Use-Only Proposals | | |
| Establishment of a (P) Permitted use, not associated with development of property | Zone Clearance | Ministerial |
| Establishment of a (C) Conditional use | Conditional Use Permit | Discretionary Quasi-Judicial |
| Establishment of a Temporary use | Temporary Use Permit | Discretionary Quasi-Judicial |
| Establishment of use which is not listed in this Code | Director's Determination | Ministerial |
| Development Proposals | | |
| Development of one single-family home, duplex, or qualifying Downtown housing which complies with all provisions of this Code | Zone Clearance | Ministerial |
| Development of property to a greater extent than is covered by a Zone Clearance | Development Permit <i>(Formerly Site Plan Review)</i> | Discretionary Quasi-Judicial |
| Request for relief from property development standards due to unique conditions in conjunction w/a Development Permit | Variance | Discretionary Quasi-Judicial |
| Request for relief from property development standards of 10% or less in conjunction with a Development Permit | Minor Deviation | Discretionary Quasi-Judicial |
| Innovative development proposal which does not comply with the provisions of any zone district within this Code | Planned Development Permit | Discretionary Quasi-Judicial |
| Other Proposals or Actions | | |
| Formal interpretation of this Code, verifications of prior permits, or confirmation of zoning district | Zoning Inquiry | Ministerial |
| Minor changes to approved plans, consistent with original findings and conditions | Minor Modification | Ministerial |
| Change to discretionary permit or change to approved plans that would affect findings or conditions | Major Modification | Discretionary Quasi-Judicial |
| Violation of conditions or terms of permit | Revocation of Permit | Discretionary Quasi-Judicial |
| Modifications of or exceptions from regulations to ensure equal access to housing for individuals with disabilities | Reasonable Accommodation for Housing | Discretionary Quasi-Judicial |
| Proposals to change a regulation within this Code | Development Code Text Amendment | Discretionary Legislative |
| Proposal for development which complies to regulations of an existing district, but not the one currently applied to the site | Rezone | Discretionary Legislative |
| Change of the General Plan land use designation for a site | Plan Amendment | Discretionary Legislative |
| Large, multi-phase project which needs certainty regarding regulations over time in exchange for public benefits | Development Agreement | Discretionary Legislative |

*NOTE: This table is not regulatory, and is provided only as an overview of permits and actions for ease of reference. For complete regulations, procedures, and requirements, see Articles 49 through 66.
PC = Planning Commission and CC= City Council*

| TABLE 15-4907: PLANNING PERMITS AND ACTIONS (CONTINUED) | | | | | | |
|--|----------------------------|---|------------------------|-----------------------|-------------------------------|----------------|
| <i>Permit or Action</i> | <i>Advisory Body</i> | <i>Review Authority</i> | <i>Appeal Body</i> | <i>Public Notice?</i> | <i>Public Hearing?</i> | <i>Article</i> |
| Use-Only Proposals | | | | | | |
| Zone Clearance | - | Director | PC | No | No | 51 |
| Conditional Use Permit | - | Director (PC on referral) | PC (CC if referred) | Yes | No (Yes w/PC referral) | 53 |
| Temporary Use Permit | - | Director | PC | No | No | 54 |
| Director's Determination | - | Director | PC | No | No | 50 |
| Development Proposals | | | | | | |
| Zone Clearance | - | Director | PC | No | No | 51 |
| Development Permit (Formerly Site Plan Review) | - | Director (PC on referral) | PC (CC if referred) | No | No (Yes w/PC referral) | 52 |
| Variance | - | Director (PC on referral) | PC (CC if referred) | Yes | No (Yes w/PC referral) | 55 |
| Minor Deviation | - | Director | PC | No | No | 56 |
| Planned Development Permit | - | Director (PC on referral) | PC (CC if referred) | Yes | No (Yes w/PC referral) | 59 |
| Other Proposals or Actions | | | | | | |
| Zoning Inquiry | - | Director | PC | No | No | 50 |
| Minor Modification | - | Director | PC | No | No | 50 |
| Major Modification | Director | Review Authority of Original Permit | PC or CC | Yes | Same as Original Permit | 50 |
| Revocation of Permit | <i>See Section 15-5016</i> | | | | | |
| Reasonable Accommodation for Housing | - | Director | PC | No | No | 57 |
| Development Code Text Amendment | PC | CC | None | Yes | Yes | 58 |
| Rezone | PC | CC | None | Yes | Yes | 58 |
| Plan Amendment | PC | CC | None | Yes | Yes | 58 |
| Development Agreement | PC | CC | None | Yes | Yes | 60 |

Article 50 Common Procedures

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15-5001 Purpose

This article establishes procedures that are common to the application and processing of all permits and approvals provided for in this Code.

15-5002 Application and Fees

A. Applicant.

1. The property owner(s) shall sign all applications.
2. If the application is made by someone other than the owner, written proof, satisfactory to the Director, of the right to act as the owner's agent or to use and possess the property as applied for, shall accompany the application.
3. Written proof of authorization must be signed and dated by the property owner and expressly state what the agent is authorized to do on behalf of the owner.

B. Forms and Materials.

1. ***Application Forms.*** The Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Code.

2. **Supporting Materials.** The Director may require the submission of supporting materials as part of the application, including, but not limited to, operational statements, photographs, plans, drawings, renderings, models, material and color samples, and other items necessary to describe existing conditions on the project site and in the vicinity and the proposed project and to determine the level of environmental review pursuant to the California Environmental Quality Act.
3. **Availability of Materials.** All material submitted becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time, upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the Planning Division offices. Unless prohibited by law, copies of such materials shall be made available at a reasonable cost.

C. **Application Fees.**

1. **Payment of Application and Processing Fees.** No application or covenant shall be accepted as complete and processed without payment in full of the required application and review fee per the Master Fee Schedule.
2. **Multiple Applications.** The City's processing fees are cumulative. For example, if an application for a Conditional Use Permit also includes a Variance, both fees shall be charged. Cost savings may be incurred due to similar documents being prepared for a single project, such as CEQA review, should the applications be filed simultaneously.

15-5003 Pre-Application Review

Pre-application review is a process that is intended to provide information on relevant General or Specific Plan policies, zoning and subdivision regulations, and procedures related to projects requiring discretionary approval pursuant to this Code.

- A. **Applicability.** Pre-application review is required for any project that requires a discretionary approval, including, but not limited to Development Permits, Conditional Use Permits, Variances, Planned Developments, Rezones, General Plan Amendments, subdivisions, and Annexations.
- B. **Exemption from Permit Streamlining Act.** Pre-application review is not subject to the requirements of the California Permit Streamlining Act (the "Act"). An application that is undergoing pre-application review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project, reviewed it, and determined it to be complete under Section 15-5004, Review of Applications. Applications undergoing pre-application review shall not constitute submission and receipt by the City of an application.
- C. **Review Procedure.** The DARM Department shall conduct pre-application review. The Director may consult with or request review by any City agency or official, group, or persons with interest in the application.
- D. **Summary of Recommendations.** The Director shall provide the applicant with a written summary of the procedures and requirements applicable to the potential project.
- E. **Recommendations Are Advisory.** Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as a recommendation for approval or denial of the application(s) by City representatives. Any recommendations that result from pre-application review are considered advisory only and shall not be binding on either the applicant

or the City. During the formal review of applications, additional information, applications, etc., may be required.

- F. **Formal Submittal.** Following completion of the pre-application review procedure, the applicant may submit the application and filing fees to the City.

15-5004 Review of Applications

- A. **Determination of Completeness.** In compliance with Government Code Section 65920 (the “Permit Streamlining Act” or “PSA”), within 30 days upon receipt of an application for a development project, the Director shall determine and notify the applicant in writing as to whether an application is complete.
- B. **Incomplete Application.** If an application is incomplete, the Director shall provide written notification to the applicant listing the applications for permit(s), forms, information, and any additional fees that are necessary to complete the application.
1. ***Appeal of Determination.*** Determinations of incompleteness are subject to the provisions of Section 15-5017, Appeals, except there shall be a final written determination on the appeal no later than 60 days after receipt of the appeal.
 2. ***Submittal of Additional Information.***
 - a. The applicant shall provide the additional information within the time limit specified by the Director, which must be no sooner than 30 days. The Director may grant one extension of up to 90 days.
 - b. Upon submission of additional requested materials, the Director shall make a new determination and notify the applicant in writing as to whether the application is complete within 30 days of the date the additional materials are received by the City.
 3. ***Expiration of Application.*** If an applicant fails to correct the specified deficiencies within the specified deadline set forth in the Director’s letter setting forth the application’s deficiencies, or an extended deadline consistent with the maximum time-frames set forth in Subparagraph 2 above, the application shall expire and be deemed withdrawn. After the expiration of an application, project review shall require the submittal of a new, complete application, along with all required fees.
 4. ***Refund of Fees for Terminated Applications.*** The Director shall determine an appropriate refund for fees that may have been collected.
- C. **Extensions.** The Director may, upon written request and for good cause, grant extensions of any time limit for review of applications imposed by this Code.

15-5005 Environmental Review

- A. **Purpose.**
1. The purpose of this section is to comply with Public Resources Code, Section 21082 that mandates local agencies to adopt by ordinance, resolution, rule or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports, and negative declarations. As part of the review to determine whether an application for a development project is complete, the Director shall conduct a preliminary assessment of potential environmental issues.

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2. The purpose of this review is to help the City decide if the project is subject to environmental review and, if so, which issues may require analysis. An application subject to environmental review pursuant to the California Environmental Quality Act (CEQA) shall not be considered complete until the applicant has submitted all studies and other documentation the Director has deemed necessary to make an environmental determination.
- B. **Applicability.** The California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, applies to development projects as may be determined by the City.
- C. **CEQA References.** Any reference to “CEQA,” includes Public Resources Code 21000 *et. seq.*
- D. **Review for Exemption.** If the Director determines that the application is subject to review under CEQA, within 30 days after determining that the application is complete, the Director shall determine if the project is exempt from environmental review pursuant to State law, CEQA Guidelines and any environmental guidelines that the City has adopted in compliance with CEQA.
1. If the Director has determined that a project is exempt from environmental review under CEQA, such determination shall be supported with necessary written findings and substantial evidence and included in any public notice required for the project. The notice shall include a citation to the applicable statute or CEQA Guideline section under which it is found to be exempt.
 2. Following approval of a project that is exempt from CEQA review, the Director or the applicant may file a Notice of Exemption with the Fresno County Clerk. The applicant for a project shall be responsible for any fees required to file such notice.
- E. **Environmental Review Application.** If the proposed project is not exempt from environmental review, the applicant shall submit an application for environmental review. After receiving an environmental review application and required studies, the Director shall determine whether to require preparation of an Environmental Impact Report (EIR), Negative Declaration or Mitigated Negative Declaration or whether the project is within the scope of a Master EIR, or other appropriate document authorized by CEQA. In order to make this determination, the Director shall prepare or cause the preparation of an Initial Study at the applicant’s expense.
- F. **Preparation of Initial Study.**
1. The Initial Study shall be prepared in compliance with State law, CEQA Guidelines and any environmental guidelines that the City has adopted in compliance with CEQA.
 2. Following completion of the Initial Study, the Director shall notify the applicant in writing of changes to the project deemed necessary to reduce or avoid any significant effects or revise the project to reduce its impacts to less than significant identified in the Initial Study; or
 3. Within 30 days following the date of the notification described above, the applicant shall provide written notification to the Director indicating that the proposed modifications are acceptable or shall propose alternative measures that will achieve the same result. If the applicant does not agree to revise the project, an EIR shall be prepared. Alternatively, if the applicant does not respond to letter, the application shall be terminated by the City.
 4. If an EIR is being prepared, an Initial Study is not mandatory as outlined by CEQA.

- G. **Determination of Environmental Significance.** Based on the Initial Study, the Director will make one of the following findings and prepare the appropriate environmental documentation in compliance with State law, CEQA Guidelines and any environmental guidelines that the City has adopted in compliance with CEQA.
1. The project will have “No Significant Impacts” on the environment, and a Negative Declaration will be prepared;
 2. The project has been modified to mitigate potential environmental impacts to a level of insignificance and a Mitigated Negative Declaration will be prepared;
 3. The project is within the scope of a Master EIR or other appropriate document authorized by CEQA, no additional significant environmental effect will result, and no additional mitigation measures or alternatives may be required; or
 4. The proposed project will have, or may have, significant impact(s) and an EIR will be required.
- H. **Review Authority for the CEQA Finding.** The Review Authority of the entitlement shall also have the authority to adopt the related CEQA finding. For example, should the Director be the Review Authority, the Director shall also have the authority to approve the related CEQA finding.
- I. **Appeals.** Notwithstanding other provisions of this Code, the applicant or any aggrieved person may appeal the following environmental determinations made by non-elected decision making bodies of the City directly to Council in the manner described in Section 15-5017, Appeals, unless the Council is the approving authority for the project:
1. Determination that a project is or is not subject to environmental review.
 2. Determination that a project is exempt from environmental review.
 3. Approval of a Negative Declaration or Mitigated Negative Declaration.
 4. Approval of a Finding of Conformity with the Master EIR.
 5. Certification of a Final EIR.

15-5006 Neighborhood Meeting

Neighborhood Meetings shall be conducted as follows:

- A. **Applicability.** Neighborhood meetings shall not be required except when specifically stated in this Code or when otherwise required by the Director.
- B. **Responsibility.** When required, a neighborhood meeting shall be conducted by the applicant at the applicant’s expense.
- C. **Purpose.** The purpose of the neighborhood meeting shall be to acquaint the neighborhood with the proposed operation and to receive comment.
- D. **Timing.** A neighborhood meeting shall held be prior to the submission of the associated project application.
- E. **Notice.** Notices of the meeting shall be mailed by first class mail, a minimum 10 days prior to the meeting date, to every owner whose name and address appears on the last equalized County Assessment Roll for any property within 500 feet of the exterior boundaries of the subject property. Proof shall be submitted to the City that such a notice was mailed.

F. Meeting Location, Date, and Time.

1. The meeting shall be held at a location acceptable to the Director.
2. The meeting shall begin between the hours of 6:00 p.m. and 7:00 p.m.
3. The meeting shall not be held on a Friday, Saturday, Sunday, or on any of the following days: Federal Holidays, New Year's Day, New Year's Eve, Birthday of Martin Luther King, Jr., Mardi Gras Day, Washington's Birthday, St. Patrick's Day, Memorial Day, May 5th (Cinco de Mayo), Independence Day, Halloween, Labor Day, Thanksgiving Day Eve, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, or other days of celebration as determined by the Director.

G. Posting. The applicant shall be responsible to post required notices in a prominent place near the entrance to the premises to make it apparent that a neighborhood meeting will be held. It shall be 11×17 inches in size, in a form acceptable to the City.

H. Materials. The applicant shall provide participants with a detailed operational statement which shall also be submitted to the City.

I. Report. A detailed report of the meeting shall be submitted to the City with the project application.

15-5007 Public Notice

Unless otherwise specified, whenever the provisions of this Code require public notice, the City shall provide notice as follows.

A. Timing of Notice. The Director shall provide a notice at least 10 days before the date of the public hearing or the date of action when no public hearing is required.

1. **Dual Notice.** When two hearings for the same project will occur within 20 days of one another, a single notice for both hearings is permitted.

B. Mailed Notice. The Director shall provide notice by First Class mail delivery to:

1. The applicant and the property owner; and
2. All property owners of record within a minimum 1,000-foot radius of the subject property as shown on the latest available assessment role; and
3. Any person or group who has filed a written request with the Director for notice regarding the specific application.
4. **Additional Notices.** The Director, at their discretion, may increase the public notice distance requirements if, in their opinion, the project has the potential to impact properties outside of the standard mailing radius.
5. **Conditions of Zoning.** For modifications to Conditions of Zoning that were placed on a property that was also subject to a Plan Amendment, the rezone public notice distance shall be increased to a minimum 500-foot radius of the subject property while a public notice shall also be posted on the site per Subsection C below.

C. Posting of the Site. For instances where the posting of a site may be required by this Code, the applicant shall post a public notice on the subject property per the following:

1. The public notice shall be posted at least 10 days prior to the public hearing or action;
2. At least one notice per street frontage shall be posted;

3. There shall be at least one notice per 500 feet of street frontage;
 4. The City shall prepare the notice;
 5. The notice shall contain the information per Subsection E below;
 6. The notice shall be a minimum of 11x17 inches; and
 7. Should the site be developed, a notice shall be posted in a conspicuous location proximate to the entrance(s) of the subject property. This notice shall be in addition to the notices that are required to be posted along the street frontage(s).
- D. **Alternative Method for Large Mailings.** If the number of owners to whom notice would be mailed or delivered is greater than 1,000, instead of mailed notice, the Director may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the city at least 10 days prior to the hearing.
- E. **Contents of Notice.** The notice shall include the following information:
1. The location of the real property, if any, that is the subject of the application;
 2. A general description of the proposed project or action;
 3. The date, time, location, and purpose of the public hearing or the date of action when no public hearing is required;
 4. The identity of the hearing body or officer;
 5. The names of the applicant and the owner of the property that is the subject of the application;
 6. The location and times at which the complete application and project file, including any environmental assessment or determination of exemption from CEQA prepared in connection with the application, may be viewed by the public;
 7. A statement that any interested person or authorized agent may appear and be heard and that failure to object to the approval and state said reasons prior to or at the hearing on the decision shall potentially bar any later court challenge to the project approval;
 8. A statement describing how to submit written comments;
 9. A statement describing how to obtain additional information; and
 10. For Council hearings, the Commission's recommendation if available at the time of the notice.
- F. **Posting to City Website.** When public noticing is required, the notice shall be posted to a designated, central location on the City's website at least 10 days before the public hearing. However a failure to post to the website due to technical difficulties shall not constitute grounds to postpone the hearing or invalidate the decision made at the hearing.
- G. **Failure to Notify Does Not Affect Validity.** The validity of the proceedings shall not be affected by typographical errors in the notice or the failure of any property owner, resident, neighborhood, or interested party to receive a notice.

15-5008 Conduct of Public Hearings

Whenever the provisions of this Code require a public hearing, the hearing shall be conducted in compliance with the bylaws and meeting procedures for said decision-making body and/or review authority.

15-5009 Notice of Action

- A. After the Director or Planning Commission takes any action to approve, modify, or deny an application that is subject to appeal under the terms of this Code, the Director shall issue a Notice of Action. The Notice shall describe the action taken, including any applicable conditions, and shall list the findings that were the basis for the decision.
- B. The Director shall mail the Notice of Action within 10 days from the date of taking the action to the applicant and to any other person or entity that has filed a written request for such notification with the Planning Division.

15-5010 Scope of Approvals

- A. **Scope.** Any approval shall only be for those uses and activities proposed in the application, and excludes other uses and activities. Approvals run with the land and/or building/tenant space, not the applicant. Unless otherwise specified, the approval of a new use shall terminate all rights and approvals for previous uses that are no longer occupying the same site or tenant space.
- B. **Conditions of Approval.** The site plan, floor plans, building elevations, and/or any additional information or representations, indicating the proposed structure or manner of operation submitted with an application or submitted during the approval process shall be deemed conditions of approval. Any approval may be subject to requirements that the applicant guarantees, warranties, or insures that the applicant will comply with permit's plans and conditions in all respects.
- C. **Actions Voiding Approval.** If the construction of a building or structure or the use established is contrary to the description or illustration in the application or based on misrepresentations, so as to either violate any provision of this Code or require additional permits, then the development may be deemed out of compliance with issued permits and the FMC and will be subject to revocation procedures set forth within this Development Code.
- D. **Periodic Review.** All approvals may be subject to periodic review to determine compliance with the permit and applicable conditions. If a condition specifies that activities or uses allowed under the permit are subject to periodic reporting, monitoring, or assessments, it shall be the responsibility of the permit holder and the property owner, or successor property owners, to comply with such reporting, monitoring and assessment requirements as stipulated as part of the granting of the permit. Failure to comply may constitute grounds for revocation.

15-5011 Covenants, Agreements, and Statements

- A. Whenever performance of any condition or accomplishment of any development is required by the grant of an approval, and the performance or accomplishment is to occur at or after a specified time, the Director may require the record owner of the land involved to execute a covenant running with the land outlining responsibilities. All covenants and/or agreements shall be approved as to form by the City Attorney and shall be recorded at the Fresno County Recorder's Office.
- B. **Releases from Covenants.** The Director shall issue written releases from required covenants, to be recorded with the County, when they are no longer applicable.

15-5012 Effective Dates

A final decision on an application for any approval subject to appeal shall become effective after the expiration of the 15-day appeal period following the date of action on an application, unless an appeal is

filed. Appeals shall be filed with the Director before the close of business on the 15th day. No building permit or permits shall be issued until the 16th day following the date of the action. Should the permit not include a building permit, activities of said permit shall not commence until the 16th day.

- A. **Planning Commission Decision.** Unless the Planning Commission decision is appealed for hearing to the Council in accordance with Section 15-5017, Appeals, the decision of the Commission shall be final, subject to writ of administrative mandamus under 1094.6 of the Code of Civil Procedures.
- B. **Failure to Appeal Commission Decision.** Failure by any interested person to petition a Councilmember or the Mayor for an appeal shall constitute a failure to exhaust administrative remedies.
- C. **Failure to Appeal the CEQA Finding.** In accordance with Section 15-5005-I, Appeals, any person may appeal a CEQA Finding not made by the Council to the Council.
- D. **New Application.** A new application for a project on the same site may be applied for after the expiration of the appeal period.

15-5013 Expiration of Planning Entitlements

- A. **Expiration.** A permit granted under this Code shall automatically expire if it is not exercised or extended within three years of its issuance.
 - 1. **Extension for Permit with no Tentative Map.** A time extension not exceeding one year beyond the initial three-year period may be requested by applying to the Director at least 30 days prior to the expiration date of the permit. In no case shall the expiration period extend more than four years from the date of final approval. After that time, a new application shall be required. In order to grant an extension, the Director shall find:
 - a. That the permit holder has clearly documented that they have made a good faith effort to commence work upon the use;
 - b. That it is in the best interest of the City to extend the permit; and
 - c. That there are no substantial changes to the project, no substantial changes to the circumstances under which the project is undertaken, and no new information of substantial importance that would require any further environmental review pursuant to the California Environmental Quality Act.
 - 2. **Extension for Permit Granted in Conjunction with Tentative Map.** The time limits for any permit granted in conjunction with an approved tentative map shall be automatically extended to be the same as the term of such tentative map.
- B. **Exercise of a Development Permit Approval.** A Development Permit approval is exercised when a City Building Permit or Grading Permit is secured and physical construction lawfully commenced. After a Grading Permit is issued, the applicant shall maintain an active permit until completion of the project.
- C. **Exercise of Conditional Use Permit.** A permit for the use of a building or a property is exercised when all of the following have occurred:
 - 1. If required, a Certificate of Occupancy has been issued;
 - 2. If required, a valid City business license has been granted;
 - 3. The permitted use(s) has commenced on the site; and

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4. If required, a City Building Permit or Grading Permit is secured and construction lawfully commenced. After a Grading Permit is issued, the applicant shall maintain an active permit until completion of the project.
- D. **Exercise of Building Permit.** A permit for the construction of a building or structure is exercised when a valid City Building Permit, if required, is issued, and construction has lawfully commenced.
- E. **Expiration of a Grading or Building Permit.** Should a Grading or Building Permit expire and the time limits specified in this subsection elapse, a new entitlement shall be required.

15-5014 Phased Projects

- A. Phased projects may be permitted subject to the following:
1. Future phases were identified as part of the original permit.
 2. Future Special Uses shall be required to submit and gain approval at the time the use will be established.
- B. **Commencement of Phases.** The initial phase of a project shall commence within the time periods identified in Section 15-5013, Expiration of Planning Entitlements, above. For future phases:
1. For projects less than five acres in area or less than 100,000 sq. ft. of building area, all phases shall be commenced within six years of the original project approval.
 2. For all other projects, all future phases shall commence within 10 years.
- C. **New Permits Required.** For phased projects that do not commence within the specified periods, a new permit shall be required.
- D. **Subdivisions.** The time limits for any permit granted in conjunction with an approved tentative map shall be automatically extended to be the same as the term of such tentative map.

15-5015 Modification of Approved Plans

No change in the use or structure for which a permit or other approval has been issued is permitted unless the permit is modified as provided for in this Code. For the purpose of this section, the modification of a discretionary permit may include modification of a Development Permit approval.

- A. **Minor Modifications.** The Director may approve minor changes to approved plans that are consistent with the original findings and conditions approved by the Review Authority and would not intensify any potentially detrimental effects of the project or create a new unanticipated impact that may or may not be significant.
- B. **Major Modifications.** 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 or increase the project's density or intensity or create a potentially significant environmental impact shall be treated as a new application, except that the Director may approve changes that they determine to be minor.

15-5016 Revocation of Permits

Any permit granted under this Code may be revoked or modified if any of the conditions or terms of the permit are violated or if any law or code is violated.

- A. **Initiation of Proceedings.** Revocation proceedings may be initiated by the City Council, Planning Commission, or Director. The Council or Commission may initiate revocation proceedings with adoption of a resolution, whereas the Director shall prepare a letter per Subsection B below.
- B. **Notice of Initiation.** The Director shall give notice of the initiation of revocation proceedings together with the reasons therefor to the property owner. The Director shall set forth in such notice a tentative hearing date for consideration of the proposed revocation which shall be not less than 30 days after the giving and posting of such notice.
- C. **Notice and Opportunity to Cure.** The property owner shall be granted an opportunity to remedy any violations. If such violation is not corrected to the reasonable satisfaction of the City within the time stipulated by the Notice of Initiation, or within such reasonable time as may be required to cure the violation, the City may pursue any remedy available under local, State, or federal law.
- D. **Revocation Authority.** The Revocation Authority for permits is identified in Table 15-5016. The body identified shall hold an evidentiary hearing.

| TABLE 15-5016: REVOCATION AUTHORITY | | | |
|--|---|-----------------------------|---|
| <i>Original Decision Making Body</i> | <i>May Initiate Revocation Proceedings?</i> | <i>Revocation Authority</i> | <i>Public Notice and Posting of the Site?</i> |
| Director | Yes | Planning Commission | Yes |
| Planning Commission | Yes | Planning Commission | Yes |
| City Council | Yes | City Council | Yes |

- E. **Public Notice and Hearing.**
 - 1. The decision-making body shall hear and consider all relevant evidence, including, but not limited to, applicable staff reports, objections or protests by the permit holder with regard to the alleged violations of required conditions, the public, and recommendations proposed by staff.
 - 2. The decision-making body may revoke or modify the permit if it makes a finding on any one or more of the grounds listed in Subsection G below.
- F. **Revocation Hearing Procedures.** The decision-making body shall establish the revocation hearing procedures.
- G. **Required Findings.** The decision-making body may revoke or modify the permit if it makes any of the following findings:
 - 1. The approval was obtained by means of fraud or misrepresentation of a material fact.
 - 2. The use, building, or structure has been substantially changed in character or expanded beyond what is set forth in the permit.
 - 3. The use in question has ceased to exist or has been discontinued for one year or more.
 - 4. There is or has been a violation of or failure to observe the terms or conditions of approval of the permit or variance, or the use has been conducted in violation of the provisions of this Code, or any applicable law or regulation.

5. The use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health, and welfare, or so as to be a nuisance.
- H. **Notice of Action.** Following action to revoke or modify a permit, the Director shall within 10 days issue a Notice of Action describing the decision-making body's action, with its findings. The notice shall be mailed to the property owner and to any person who requested the revocation proceeding.
- I. **Appeals.** Revocation decisions are subject to the appeal provisions of Section 15-5017, Appeals.

15-5017 Appeals

- A. **Applicability.** Any action by the Director or Planning Commission in the administration or enforcement of the provisions of this Code may be appealed in accordance with this section.
1. ***Appeals of Director Decisions.*** Decisions of the Director made pursuant to this Code may be appealed to the Planning Commission by filing a written appeal with the Director. Appeals may be filed by any person aggrieved by the decision. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be signed by the person making the appeal and accompanied by the required fee.
 2. ***Appeals of Planning Commission Decisions.*** Decisions of the Planning Commission may be appealed to the City Council by the Councilmember of the district in which the project is located or by the Mayor, either on their own initiative or upon receiving a petition from any person. Appeals must be initiated by filing a letter with the Director. Such action shall require a statement of reasons for the appeal.
 3. ***CEQA Appeals.*** CEQA appeals shall be made pursuant to Section 15-5005, Environmental Review, including CEQA appeals per Section 15-5005-I, Appeals.
- B. **Time Limits.** Unless otherwise specified in governing State or federal law, all appeals shall be filed with the Director in writing within 15 days of the date of the action, decision, CEQA determination, motion, or resolution from which the action is taken.
- C. **Procedures.**
1. ***Proceedings Stayed by Appeal.*** The timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses.
 2. ***Transmission of Record.*** The Director shall schedule the appeal for consideration by the authorized hearing body within 40 days of the date the appeal is filed. The Director shall forward the appeal, the Notice of Action, and all other documents that constitute the record to the decision making body hearing the appeal. The Director shall also prepare a staff report. The Director, at their discretion, may include a recommendation for action.
 3. ***Withdrawal.*** Any person who files an appeal of any decision rendered under any of the procedures included in this article may withdraw their appeal in accordance with the following rules:
 - a. All withdrawals shall be in writing and signed by all persons who signed the appeal.

- b. Any appeal may be withdrawn by the appellant prior to the giving of the notice of hearing on appeal with the consent of the Director, who shall have the discretion to withhold such consent if the Director is of the opinion that such withdrawal might act to deprive other interested persons of an opportunity to oppose the action appealed from.
 - c. The body appealed to may permit the withdrawal of an appeal at any time prior to rendering a decision upon the merits of the appeal.
 - d. Any withdrawal effectively made pursuant to the above rules shall be an abandonment of the appeal and the decision appealed from shall be reinstated as though no appeal had been made.
 - e. Refunds shall not be issued for the withdrawal of appeals.
- D. **Public Notice and Hearing.** Public notice shall be provided and the hearing conducted by the applicable appeal body pursuant to Article 50, Common Procedures. Notice of the hearing shall also be given to the applicant and party filing the appeal and any other interested person who has filed with the City Clerk a written request for such notice. In the case of an appeal of a Planning Commission decision, notice of such appeal shall also be given to the Planning Commission. The Planning Commission may be represented at the hearing.
- E. **Action.** An action to grant an appeal shall require a majority vote of the appellate body members present representing a quorum. A tie vote shall have the effect of rejecting the appeal.
- F. **Effect of Council Decision.** Unless otherwise provided in the City Charter or Fresno Municipal Code, the Council decision shall be final and effective and subject to a writ under Code of Civil Procedure Section 1094.5 or CEQA Section 1085 immediately upon Council action.

15-5018 Concurrent Processing

Notwithstanding Section 15-5021-C.3 (Building Permit), if requests for multiple Planning entitlements, permits, or approvals are submitted concurrently, they shall all be heard and acted upon at the same time and in the same manner as the entitlement, permit, or approval with the most stringent requirements, as determined by the Director.

15-5019 Zoning Inquiry

Requests for formal interpretations of this Code, verifications relating to prior approvals or permits, or confirmation of the applicable zone district for a parcel may be made to the Director. Requests shall be in writing. The decision of the Director shall be made consistent with resolutions adopted by the Commission and Council. This decision may be appealed under Section 15-5017, Appeals.

15-5020 Director's Determination

Should this Code not list a permitted use, either directly or indirectly, an applicant may petition the Director to make a determination per this section.

- A. **Application.** The applicant shall provide a detailed operational statement that, at a minimum, provides:
 - 1. A clear definition of the use and a thorough explanation that outlines how the proposed use differs from other uses already identified in the Code.
 - 2. A minimum of three examples how other communities administer the proposed use.

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3. A minimum of three local land use examples, including photographs of how the proposed use is different than similar uses.
- B. **Public Outreach.** Prior to making a determination, the Director shall:
1. Present the project to each advisory group (i.e., Plan Implementation and/or Council District Project Review Committees) for comments;
 2. Discuss the matter with the Commission at a regularly scheduled hearing; and
 3. Shall refer the proposal to the Airport Land Use Commission.
- C. **Review Authority.** The Director, after consulting those identified in Subsection B, may take action per the required findings in Subsection D below, or at their discretion may refer the proposal to the Commission and the Council for consideration. Alternatively, the Director, Commission, or the Council may require a Text Amendment pursuant to Article 58, Amendments to Development Code Text, Rezones, and Plan Amendments.
- D. **Required Findings.** In classifying an unlisted use, the Review Authority shall first make a finding that all of the following conditions exist:
1. The subject use and its operation are compatible with the uses permitted in the district where it is proposed to be allowed;
 2. The subject use is similar to three or more uses permitted in the district within which it is proposed to be allowed;
 3. The subject use will not cause substantial injury to the value of the property in neighborhoods or districts within which it is likely to be located; and,
 4. The subject use will be so controlled that the public health, safety, and general welfare will be protected.
- E. **Commission and Council Updates.** The Director shall provide an annual update on any new uses that were added via this process during the previous year.

15-5021 Building Permit

Before commencing any work pertaining to the erection, construction, reconstruction, moving, conversion, or alteration of any structure or any addition to any structure, including the grading of land and the demolition of a structure, a Building Permit shall be secured from the Department.

- A. **Form.** Application for a Building Permit shall be made on a form provided by the Department and shall be accompanied by accurate information and dimensions as to the size and location of the lot; the size and location of the buildings on the lot; the dimensions of all yards and open spaces; and such other information as may be necessary for the enforcement of these regulations. Where complete and accurate information is not readily available from existing records, the Department may require the applicant to furnish a survey of the lot prepared by a licensed surveyor.
- B. **Conformance with Associated Planning Entitlements.** Prior to issuance of a Building Permit, site plans, elevations, construction documents, and other information provided with a Building Permit application shall be determined to substantially conform to the project plans which were approved with a Development Permit, Conditional Use Permit, or other entitlement for the project by the Director. Substantial inconsistencies between Building Permit application information and approved plans, as determined by the Director, may be subject to revocation of Planning permits or rejection of the Building Permit application.

C. Timing.

1. No application for a Building Permit shall be accepted within 90 days of initiation of a change of zone, planned land use designation, or Code regulations that would be affected by the proposed changes.
2. The Director may issue a permit authorizing construction in accordance with the impending zoning district regulations on property being rezoned after the Council has taken affirmative action adopting an ordinance rezoning the property, provided the permit holder and owner of the land and owner of the property being constructed shall have entered into a written agreement with the Director for the City to the effect that should the zoning for any reason whatsoever not become effective, the permit holder or owner shall remove from such property, within 30 days after written notice from the Director, any improvements or construction authorized by such permit and in conflict with existing zoning district regulations and restore said property as nearly as practicable to its prior condition. The written agreement may include provisions dealing with a cash deposit, bond, entry permission, covenants running with the land, hold harmless clause, lien clause, and similar provisions to assure that should the permit holder or owner fail to so remove the improvements or construction, the City could accomplish such removal without cost to the City.
3. Building Permits shall not be considered concurrently with entitlements unless written authorization is provided by the Director. In such instances, the applicant shall affirm in writing that the concurrent review is being done at the applicant's risk, and if the entitlement is rejected for the project, the Building Permit review shall be halted and shall not resume until all necessary entitlements are granted and new, corresponding building plans are submitted.

- D. Demolition.** Before any structure is demolished, the City's Historic Preservation Officer shall review the request for potential historic significance.

15-5022 Certificates of Occupancy

- A. **Use of Buildings.** No existing building hereafter enlarged or altered while unoccupied or erected, or moved, shall be occupied or used, and no building shall be changed in use, until after a Certificate of Occupancy has been issued by the Department. Such certificate shall be applied for coincident with the application for a Building Permit, and shall be issued only after such building enlargement or alteration has been completed in conformity with the provisions of this Code and with an approved Development Permit or other entitlement and applicable required conditions and where the proposed use conforms to this Code and applicable required conditions. Any use legally occupying an existing building on June 11, 1960, may be continued, but shall not be changed unless a Certificate of Occupancy for the new use is issued by the Department after finding that such use conforms to this Code and applicable required conditions.
- B. **Use of Land.** No vacant land shall be used, and no existing use of land shall be changed, until a Certificate of Occupancy for such use or change in use has been issued by the Department. Such certificate shall be issued only when such use or change in use conforms to this Code, including any required conditions.
- C. **Contents.** The Certificate of Occupancy shall provide information as determined by the Building Official.

Article 51 Zone Clearance

Sections:

- 15-5101 Purpose
- 15-5102 Applicability
- 15-5103 Review Authority
- 15-5104 Application Requirements
- 15-5105 Public Notice

15-5101 Purpose

This article establishes procedures for conducting a Zone Clearance to verify that each new or expanded use or structure complies with all of the applicable requirements of this Code and with any applicable policies or standards of the General Plan and any operative plans.

15-5102 Applicability

- A. **Establishment of a Permitted Use.** A Zone Clearance is required to confirm that the establishment of a new use is permitted as a matter of right and that no Conditional Use Permit or other entitlements are required prior to securing a tax certificate and commencing operations.
- B. **Development of One Single-Family Home or One Duplex.** A Zone Clearance is required to confirm that the construction of one single-family house or one duplex is permitted as a matter of right and that such a project is being proposed in a manner which is compliant with, and without any deviations from, all applicable development standards prior to securing a building permit. If a proposed development project does not meet the threshold for a Zone Clearance it shall be required to secure a Development Permit.
- C. **Signs.** Unless a Master Sign Program is required per Section 15-2612, a Zone Clearance is required to confirm that proposals for new signage are consistent with all applicable regulations of this Code.
- D. **Downtown Housing.**
 - 1. Downtown projects which meet all of the following criteria shall require a Zone Clearance to confirm that their construction is permitted as a matter of right and that such a project is being proposed in a manner which is compliant with, and without any deviations from, all applicable development standards prior to securing a Building Permit:
 - a. Located within a DT District;
 - b. A minimum of 16 total dwelling units in the project;
 - c. A residential density of no less than 20 du/ac;
 - d. Residential uses must occupy 50% or more of the total floor area; and
 - e. No historic resources or potential historic resources are located on the site.
 - 2. Downtown projects which do not meet the threshold for a Zone Clearance shall be required to secure a Development Permit.

- E. **Other Activities.** A Zone Clearance shall be required for any other activity for which a Zone Clearance is specifically required elsewhere in this Code.
- F. Streamlined Development as defined in Section 65913.4 of the California Government Code.
- G. **Exceptions.**
 - 1. No Zone Clearance shall be required for the continuation of previously approved or permitted uses and structures, or uses and structures that are not subject to any Building Code or Development Code regulations.
 - 2. A change in building use that complies with this Code shall require a Building Permit if the use is in a different Building Code occupancy group class, such as conversion of a retail building to public assembly or residential use.

15-5103 Review Authority

If the Director determines that the proposed use or building is allowed as a matter of right by this Code, and conforms to all the applicable development and use standards, the Director shall issue a Zone Clearance.

15-5104 Application Requirements

- A. Applications for a Zone Clearance shall be submitted in accordance with the provisions set forth in Section 15-5002, Application and Fees.
- B. The Director may request that the Zone Clearance application be accompanied by a written narrative, operational statement, plans, and other related materials necessary to show that the proposed development, alteration, or use of the site complies with all applicable provisions of this Code. The Director may require attachments of other written or graphic information, including, but not limited to, statements, numeric data, site plans, floor plans, and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Code.

15-5105 Public Notice

Public notice shall not be required.

Article 52 Development Permit (Formerly Site Plan Review)

Sections:

| | |
|---------|--------------------------|
| 15-4201 | Purpose |
| 15-4202 | Applicability |
| 15-4203 | Review Authority |
| 15-4204 | Application Requirements |
| 15-4205 | Public Notice |
| 15-4206 | Required Findings |
| 15-4207 | Conditions of Approval |
| 15-4208 | Appeals |
| 15-4209 | Modifications |

15-5201 Purpose

Development Permit approval is required to ensure that new development is carried out in accord with this Code and the goals and objectives of the General Plan and any other adopted plans and guidelines.

15-5202 Applicability

- A. **Development.** A Development Permit shall be required for all development of property which is ineligible for a Zone Clearance as put forth in Article 51 to confirm that the project is being proposed in a manner which is compliant with all applicable development standards prior to securing a building permit.
- B. **Deviations.** Deviations from applicable standards will require a Variance or Minor Deviation in conjunction with a Development Permit as put forth in Articles 55 and 56.

15-5203 Review Authority

The Director shall approve, conditionally approve, or deny applications for a Development Permit based on consideration of the requirements of this article. The Director may refer items directly to the Planning Commission when in their opinion the public interest would be better served by having the Planning Commission conduct the Development Permit review. In the event a referral, the Planning Commission shall hold a public hearing prior to making the decision.

15-5204 Application Requirements

- A. Applications for a Development Permit shall be submitted in accordance with the provisions set forth in Section 15-5002, Application and Fees.
- B. The Development Permit application shall be accompanied by a written narrative, operational statement, site plans, elevations, three-dimensional renderings, and other related materials necessary to show that the proposed development, alteration, or use of the site complies with all applicable provisions of this Code. The Director may require attachments of other written or graphic information, including, but not limited to, statements, numeric data, floor plans, and building cross sections, as a record of the proposal's conformity with the applicable regulations of this Code.

15-5205 Public Notice Public notice shall not be required.

15-5206 Required Findings

The Director or Planning Commission may only approve a Development Permit application if it finds that the application is consistent with the purposes of this article and with the following:

- A. The applicable standards and requirements of this Code.
- B. The General Plan and any operative plan or policies the City has adopted.
- C. Any applicable design guidelines adopted by the City Council.
- D. Any approved Tentative Map, Conditional Use Permit, Variance, or other planning or zoning approval that the project required.

15-5207 Conditions of Approval

In granting Development Permit approval, the Review Authority may impose conditions that are reasonably related to the application and deemed necessary to achieve the purposes of this article and ensure compliance with the applicable criteria and standards established by this Code or mitigation required pursuant to environmental review. Conditions may be related to the following objectives:

- A. Ensure long-term maintenance of adequate clean water resources.
- B. The proposed design will not lead to an overburdening of existing or planned infrastructure capacities, including, but not limited to, capacities for water, runoff, storm water, wastewater, and solid waste systems.
- C. The proposed design incorporates air quality measures or can demonstrate that it will not negatively impact air quality.

15-5208 Appeals

Development Permit decisions are subject to the appeal provisions of Section 15-5017, Appeals.

15-5209 Modifications

Development Permit approval may only be modified as provided for in Article 50, Common Procedures.

Article 53 Conditional Use Permits

Sections:

| | |
|---------|--------------------------|
| 15-5301 | Purpose |
| 15-5302 | Applicability |
| 15-5303 | Review Authority |
| 15-5304 | Application Requirements |
| 15-5305 | Public Notice |
| 15-5306 | Required Findings |
| 15-5307 | Conditions of Approval |
| 15-5308 | Expiration |
| 15-5309 | Appeals |
| 15-5310 | Modifications |

15-5301 Purpose

The Conditional Use Permit review process is intended to apply to uses that are generally consistent with the purposes of the district where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties or adversely affect the City's infrastructure, the built or natural environment, City resources, or the City's ability to provide public services.

15-5302 Applicability

Conditional Use Permit approval is required for the following:

- A. Uses specifically identified in Part II, Base and Overlay Districts, and/or any other section of this Code which requires a Conditional Use Permit.
- B. Alcoholic beverage sales.
 1. **Exception.** Within Downtown Districts, uses with alcoholic beverage sales shall not require a Conditional Use Permit, but shall comply with the requirements of the California Department of Alcoholic Beverage Control.
- C. Any use with drive-in or drive-through facilities.
- D. When a Conditional Use Permit is required for exceptions to certain development standards that are specifically identified in Part II, Base and Overlay Districts.

15-5303 Review Authority

The Director shall approve, conditionally approve, or deny applications for Conditional Use Permits based on consideration of the requirements of this article. The Director may, at their discretion, refer any application that may have significant public interest to the Planning Commission for a decision. In the event of a referral, the Planning Commission shall hold a public hearing prior to making the decision.

15-5304 Application Requirements

- A. Applications for a Conditional Use Permit shall be submitted in accordance with the provisions set forth in Section 15-5002, Application and Fees.
- B. The Conditional Use Permit application shall be accompanied by a written narrative, operational statement, site plans, and other evidence in support of the applicable findings required by Section 15-5306, Required Findings.
- C. The Director may require attachments of other written or graphic information, including, but not limited to, statements, numeric data, site plans, floor plans, and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Code.

15-5305 Public Notice

Public Notice shall be provided 10 days prior to the date of action pursuant to Section 15-5007.

15-5306 Required Findings

A Conditional Use Permit shall only be granted if the decision-maker determines that the project as submitted or as modified conforms to all of the following criteria. If the decision-maker determines that it is not possible to make all of the required findings, the application shall be denied.

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other chapters of the Municipal Code;
- B. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted;
- C. The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements;
- D. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and
- E. The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required.

15-5307 Conditions of Approval

In approving a Conditional Use Permit, the decision-maker may impose reasonable conditions or restrictions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies and design guidelines adopted by the City Council;
- B. Achieve the general purposes of this Code or the specific purpose of the zoning district in which the project is located;
- C. Achieve the findings for a Conditional Use Permit listed in Section 15-5306, Required Findings; or
- D. Mitigate any potential impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

15-5308 Expiration

An expiration date of seven years from the date of approval shall be established by the Review Authority, except as follows:

- A. Uses which may have a substantial public interest may be given an expiration date of less than seven years.
- B. Conditional Use Permits for permanent physical property improvements, such as building height, shall not have an expiration date if deemed appropriate by the Review Authority.

15-5309 Appeals

Conditional Use Permit decisions are subject to the appeal provisions of Section 15-5017, Appeals.

15-5310 Modifications

Conditional Use Permits may only be modified as provided for in Article 50, Common Procedures. Conditional Use Permits for projects that are anticipated to develop over the course of six years or more may require reallocation or adjustment to residential densities. Such adjustments may be processed through the modification procedures set forth in section 15-5015.

Article 54 Temporary Use Permits

Sections:

| | |
|---------|--------------------------|
| 15-5401 | Purpose |
| 15-5402 | Applicability |
| 15-5403 | Review Authority |
| 15-5404 | Application Requirements |
| 15-5405 | Public Notice |
| 15-5406 | Determination |
| 15-5407 | Required Findings |
| 15-5408 | Conditions of Approval |

15-5401 Purpose

This article 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.

15-5402 Applicability

- A. Temporary Use Permit approval is required for temporary uses as described in Section 15-2760-B, Temporary Uses Requiring a Temporary Use Permit.
- B. If the Director determines that the application is subject to review under CEQA and the project does not qualify for an exemption pursuant to State law or CEQA Guidelines, the Temporary Use Permit shall be processed as a Conditional Use Permit application, pursuant to Article 50, Common Procedures, and Article 53, Conditional Use Permits.

15-5403 Review Authority

The Director shall approve, conditionally approve, or deny applications for Temporary Use Permits based on consideration of the requirements of this article. The Director may refer an application for a Temporary Use Permit to the Planning Commission if the Director finds that the temporary use may have substantial and detrimental impacts to surrounding land that warrant Commission review.

15-5404 Application Requirements

An application for a Temporary Use Permit shall be submitted at least 30 days before the use is intended to begin. The application shall be on the required form and include an operational statement and the written consent of the owner of the property or the agent of the owner.

15-5405 Public Notice

Public notice shall not be required.

15-5406 Determination

Within 10 days of accepting an application for a Temporary Use Permit as complete, the Director shall render a written decision per Section 15-5009, Notice of Action.

15-5407 Required Findings

The Director may approve an application for a Temporary Use Permit upon making both of the following findings:

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

15-5408 Conditions of Approval

The Director may impose reasonable conditions deemed necessary to ensure compliance with the findings for a Temporary Use Permit listed in Section 15-5407, Required Findings, including, but not limited to:

- A. Regulation of ingress and egress and traffic circulation; valet or off-site parking; fire protection and access for fire vehicles; regulation of lighting and noise; regulation of hours and/or other characteristics of operation; removal of all trash, debris, signs, sign supports, and temporary structures; and electrical service.
- B. Time limits, as follows:
 - 1. Time limits prescribed in Section 15-2760-B, Temporary Uses Requiring a Temporary Use Permit.
 - 2. Unless otherwise prescribed in this Code, the Director shall prescribe the duration of the use, however in no case shall a Temporary Use exceed 30 consecutive days or a total of 60 days in a one year period.

Article 55 Variances

Sections:

| | |
|---------|--------------------------|
| 15-5501 | Purpose |
| 15-5502 | Applicability |
| 15-5503 | Review Authority |
| 15-5504 | Application Requirements |
| 15-5505 | Public Notice |
| 15-5506 | Required Findings |
| 15-5507 | Conditions of Approval |
| 15-5508 | Appeals |
| 15-5509 | Modifications |

15-5501 Purpose

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

15-5502 Applicability

- A. Variances may be granted in conjunction with a Development Permit to vary or modify dimensional and performance standards, but Variances may not be granted to allow uses or activities or increase density that this Code does not authorize for a specific lot or site.
- B. Any lawfully established use, site features, structure, or lot that is in existence on the effective date of this Code or any subsequent amendment, but was made non-conforming when a portion was acquired by a governmental entity so that the parcel or a property development standard, such as landscaping or parking, is reduced from the prescribed standards of the underlying Zone District, shall be exempted from obtaining a Variance. Future improvements shall comply with the strict application of the District, unless a deviation is granted.

15-5503 Review Authority

The Review Authority of the associated Development Permit shall approve, conditionally approve, or deny applications for Variances based on consideration of the requirements of this article.

15-5504 Application Requirements

- A. Applications for a Variance shall be filed with the Planning Division on the prescribed application forms in accordance with the procedures in Article 50, Common Procedures.
- B. In addition to any other application requirements, the application for a Variance shall include data or other evidence showing that the requested Variance conforms to the required findings set forth in Section 15-5506, Required Findings.

15-5505 Public Notice

All applications for Variances shall be noted on the public notice that is required for the associated Development Permit pursuant to Section 15-5007, Public Notice.

15-5506 Required Findings

A Variance, including variances from the terms of open-space zoning, shall only be granted if the Review Authority determines that the project as submitted or as modified conforms to all of the following criteria. If the Review Authority determines that it is not possible to make all of the required findings, the application shall be denied.

- A. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the vicinity and identical zoning classification, and that the granting of a Variance will not constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and identical zone classifications;
- B. The granting of the application is necessary to prevent a physical hardship which is not of the applicant's own actions or the actions of a predecessor in interest;
- C. The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience, nor the preservation and conservation of open space lands; and
- D. The granting of the Variance will be consistent with the general purposes and objectives of this Code, any applicable operative plan, and of the General Plan.

15-5507 Conditions of Approval

In approving a Variance, the Review Authority may impose reasonable conditions deemed necessary to ensure compliance with the findings required in Section 15-5506, Required Findings.

15-5508 Appeals

A decision on a Variance may be appealed pursuant to the provisions of Section 15-5017, Appeals.

15-5509 Modifications

Variances may only be modified as provided for in Article 50, Common Procedures.

Article 56 Minor Deviations

Sections:

| | |
|---------|--------------------------|
| 15-5601 | Purpose |
| 15-5602 | Applicability |
| 15-5603 | Review Authority |
| 15-5604 | Application Requirements |
| 15-5605 | Public Notice |
| 15-5606 | Calculation of Deviation |
| 15-5607 | Required Findings |
| 15-5608 | Conditions of Approval |
| 15-5609 | Appeals |
| 15-5609 | Modifications |

15-5601 Purpose

The purpose of this article is to establish an alternate means of granting relief from the requirements of this Code when so doing would be consistent with the purposes of the Code and it is not possible or practical to approve a Variance. It also allows the Review Authority to grant deviations when necessary to accommodate religious uses protected by the Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) and deviations to ensure compliance with the Americans with Disabilities Act (ADA).

15-5602 Applicability

- A. **Façade Design Development Standards.** In conjunction with a Development Permit, the Review Authority may grant deviations from applicable Façade Design Development Standards if the proposed design accomplishes the same goals pertaining to visual interest, pedestrian orientation, connectivity, durability, and longevity.
- B. **All Other Development Standards.** In conjunction with a Development Permit, the Review Authority may grant relief from the property development standards specified in this Code, not to exceed 10 percent of the requirement, with the following exceptions
 1. ***Green Building and Public Art.*** The Review Authority may grant relief of up to 20 percent deviation from property development standards where the Review Authority determines the request involves qualifying ‘green’ or public art features. If both public art and green features are incorporated, the Review Authority may grant relief of up to 25 percent deviation.
 2. ***Lot Consolidation.*** The Review Authority may grant relief of up to 15 percent deviation from property development standards where the Review Authority determines the request involves the consolidation of very small, oddly shaped, and hard-to-develop lots.
 3. ***Density and Intensity.*** Minor Deviations cannot be granted for residential density or maximum floor area ratio (FAR).

15-5603 Review Authority

The Review Authority of the associated Development Permit shall approve, conditionally approve, or deny applications for Minor Deviations based on consideration of the requirements of this article.

15-5604 Application Requirements

An application for a deviation shall be filed with the Review Authority in accordance with Article 50, Common Procedures. The application shall state in writing the nature of the deviation requested and explain why the findings necessary to grant the deviation are satisfied. The applicant shall also submit plans delineating the requested deviation.

15-5605 Public Notice

An additional public notice beyond that required for the associated Development Permit shall not be required.

15-5606 Calculation of Deviation

The maximum deviation shall not exceed 10 percent, unless the proposal meets the strict application of Green Building and Public Art or Lot Consolidation exceptions. Ten percent shall be calculated of the standard. For example, if a site is 5,000 square feet in area, and it is required to provide 20 percent open space of lot area, the site would be required to provide 1,000 square feet. A 10 percent deviation would equate to a reduction of 100 square feet of open space ($1,000 \times 10\% = 100$). As a result, the site would need to provide 900 square feet of open space. This calculation shall not apply to deviations to Façade Design Development Standards.

15-5607 Required Findings

A decision to grant a deviation shall be based on making all of the following findings:

A. Façade Design Development Standards.

1. The design accomplishes the same goals pertaining to visual interest, pedestrian orientation, connectivity, durability, and longevity as the individual standards which are deviated from;
2. The design achieves all stated purposes of the Base District to and equal to greater degree than a project design in strict compliance with the Façade Design Development Standards;
3. The architectural design of the project is of exceptional quality and will add to the beauty and pedestrian comfort of its surroundings; and
4. Granting the bonus will not be detrimental to the health or safety of the public or the occupants of the property.

B. All Other Development Standards.

1. The deviation is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance;

2. There are no alternatives to the requested deviation 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;
3. The granting of the requested deviation 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 Code; and
4. If the deviation requested is to accommodate religious uses protected by RLUIPA, the decision-maker must also find that the denial of the requested deviation would impose a substantial burden on religious exercise.

15-5608 Conditions of Approval

In approving a deviation, the decision-maker may impose reasonable conditions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any operative plans or policies adopted by the City;
- B. Achieve the general purposes of this Code or the specific purposes of the zoning district in which the project is located;
- C. Achieve the findings for a deviation granted; or
- D. Mitigate any potential impacts identified as a result of review conducted in compliance with the California Environmental Quality Act.

15-5609 Appeals

Minor Deviation decisions are subject to the appeal provisions of Section 15-5017, Appeals.

15-5610 Modifications

Deviations granted under this article may only be modified as provided for in Article 50, Common Procedures.

Article 57 Reasonable Accommodations for Housing

Sections:

| | |
|---------|--------------------------|
| 15-5701 | Purpose |
| 15-5702 | Applicability |
| 15-5703 | Application Requirements |
| 15-5704 | Public Notice |
| 15-5705 | Determination |
| 15-5706 | Required Findings |
| 15-5707 | Conditions of Approval |
| 15-5708 | Appeals |
| 15-5709 | Modifications |
| 15-5710 | Other Procedures |

15-5701 Purpose

In order to ensure equal access to housing for individuals with disabilities, the Director shall provide reasonable accommodation that may include a modification or exception to the rules, standards, and practices within this Code for the siting, development, and use of housing or housing-related facilities when an applicant requests reasonable accommodation.

15-5702 Applicability

An applicant may request reasonable accommodation that may include a modification or exception to the rules, standards and practices for the siting, development, and use of housing or housing-related facilities that would modify regulatory barriers and provide an individual with a disability equal opportunity to the use and enjoyment of the housing of their choice.

15-5703 Application Requirements

- A. **Application Form.** A request for reasonable accommodation may be submitted on a form provided by the City or be made orally to the Director, and shall contain the following information:
1. The applicant's name, address, and telephone number;
 2. The name, address, and telephone number of the representative if designated;
 3. Address of the property for which the request is being made;
 4. The current actual use of the property;
 5. The basis for the claim that the individual is qualified for accommodation;
 6. The Code, policy, procedure, rule, or regulation from which reasonable accommodation is being requested; and
 7. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.
- B. **Filing Period.** An application for reasonable accommodation may be made or filed at any time. However, if the request for reasonable accommodation is related to an application for a land use entitlement pursuant to this Code, the request for reasonable accommodation must be made or filed with that application.

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- C. **Assistance.** The City will provide assistance as necessary to ensure that the process in its entirety is accessible to the applicant. The applicant shall be entitled to be represented at all stages of the proceeding by a person designated by the applicant. If the applicant designates a representative, the applicant shall provide authorization in writing.
- D. **Obligations.** A request for reasonable accommodation does not affect a person's obligation to comply with other applicable City laws and regulations not at issue in the requested accommodation.
- E. **Other Remedies.** The procedures set forth herein does not limit an individual's right to any other available remedy under federal or State law.

15-5704 Public Notice

Public notice shall not be required.

15-5705 Determination

Except as provided below, within 30 days of the date of the application, a written decision shall be made to grant, grant with conditions, or deny the request for reasonable accommodation.

- A. **Additional Information.** The Director may require that the applicant provide any additional information that the Director deems necessary to determine disposition of the requested accommodation. In the event a request for further information is made, the 30-day period to issue a written determination shall be stayed from the date of the request for additional information until the applicant responds to the request.
- B. **Property Development Standard Deviation.** If the request for accommodation is to modify a property development standard of this Code, it shall be processed pursuant to Article 56, Minor Deviations, and is not subject to the 30-day review period.

15-5706 Required Findings

The written decision shall be consistent with fair housing laws and reasonable accommodation and shall only be granted when it is found that:

- A. The housing, which is the subject of the request for reasonable accommodation, is to be used by an individual protected under fair housing laws;
- B. The requested accommodation is necessary to make specific housing available to an individual protected under fair housing laws;
- C. The requested accommodation does not impose an undue financial or administrative burden on the City; and
- D. The requested accommodation does not require a fundamental alteration in the nature of a City plan, policy, rule, regulation, or code.

15-5707 Conditions of Approval

In granting a request for reasonable accommodation, the Director may impose any condition of approval deemed reasonable and necessary to ensure that the accommodation complies with the findings required by this section, and any other applicable State or federal law. The imposition of any condition in accordance with this section will not impose any additional development entitlements other than what entitlements would otherwise be required by law or this Code.

15-5708 Appeals

Accommodation decisions are subject to the appeal provisions of Section 15-5017, Appeals.

15-5709 Modifications

Accommodations granted under this article may only be modified as provided for in Article 50, Common Procedures.

15-5710 Other Procedures

- A. **Notice to the Public of Availability.** In all offices where application is made for a permit, license, or other authorization for the siting, funding, development, or use of housing, a notice and explanation shall be displayed announcing the availability of reasonable accommodation for qualified applicants. Application forms shall be available at these locations.
- B. **Disclosures of Information.** Private or personal information regarding the nature of an individual's disability provided by an applicant requesting reasonable accommodation shall not be disclosed except as follows:
 - 1. Information necessary to make or review a decision to grant or deny a request for reasonable accommodation may be disclosed to any person whose consideration of such information is necessary to make or review that decision.
 - 2. Information may be disclosed if otherwise required by law.
- C. **Withdrawal of Request.** Upon written notice to the City, an applicant for reasonable accommodation may withdraw a request for reasonable accommodation without prejudice.

Article 58 Amendments to Development Code Text, Rezones, and Plan Amendments

Sections:

| | |
|---------|--|
| 15-5801 | Purpose |
| 15-5802 | Applicability |
| 15-5803 | Initiation |
| 15-5804 | Application Requirements |
| 15-5805 | Neighborhood Meeting |
| 15-5806 | Review Procedures and Public Notice |
| 15-5807 | Committee Review |
| 15-5808 | Airport Land Use Commission Review |
| 15-5809 | Planning Commission Hearing and Recommendation |
| 15-5810 | City Council Hearing and Action |
| 15-5811 | Criteria for Development Code Text Amendment |
| 15-5812 | Criteria for Rezones and Plan Amendments |

15-5801 Purpose

This article provides procedures by which changes may be made to the text of this Development Code, the Zoning Map, or the General Plan or any operative plan whenever public necessity, convenience, and general welfare require such amendment to maintain consistency with the General Plan.

15-5802 Applicability

The procedures in this article shall apply the following proposals:

- A. **Development Code Text Amendment.** A change to the text of the Development Code.
- B. **Rezone.** An application to change the zoning for a site from one Zone District to another.
- C. **Plan Amendment.** A change in the text of the General Plan or any operative plan, or a change to the General Plan's planned land use designation for a site, including pre-zoning as provided for in Article 61, Concept Plans, Pre-Zoning, and Annexation Procedure.

15-5803 Initiation

- A. **Development Code Text Amendment.**
 1. An amendment to the text of the Development Code may be initiated by the Director, by a resolution of initiation by the City Council or the Planning Commission, or an applicant identified in Section 15-5002, Application and Fees.
 2. For land uses not identified in Part II, Base and Overlay Districts, a proposal for a new use may be considered pursuant to Section 15-5020, Director's Determination. Should the Director determine that a use may not be added said procedures, a Text Amendment pursuant to this article may be processed.
- B. **Rezone.** An amendment to the Zoning Map (i.e. Rezone) may be initiated by a property owner identified in Section 15-5002, Application and Fees, the Director, or by a resolution of initiation of the City Council or the Planning Commission.

- C. **Plan Amendment.** An amendment to the General Plan or operative plan may be initiated by an applicant identified in Section 15-5002, Application and Fees, the Director, or by a resolution of initiation of the City Council or the Planning Commission. Plan Amendments include changes to text in said plans, maps, and planned land use designations.

15-5804 Application Requirements

- A. **Application.** A qualified applicant, the Director, the Council or Commission shall submit an application for a Rezone or Plan Amendment on a form prescribed by the Director. The Director may require an applicant to submit such additional information and supporting data as considered necessary to process the application. The resolution of initiation may act as the application for the Council or Commission.
- B. **Coordination with Other Applications.** The Director may allow any necessary applications for amendments to zoning regulations or for approval of discretionary permits to be processed simultaneously with the proposed Development Code Text Amendment, Rezone, or Plan Amendment.

15-5805 Neighborhood Meeting

The Director, at their discretion, may require that the applicant conduct a neighborhood meeting prior to an application being submitted or during the review of an application as put forth in Section 15-5006, Neighborhood Meeting. Such meeting(s) may be required when, in the opinion of the Director, the project may have an impact on a neighborhood, the project is unique, the project is of such scale or scope that it is likely to generate community interest, or for any other reason.

15-5806 Review Procedures and Public Notice

- A. **Staff Report.** The Director shall prepare a report and recommendation to the Planning Commission. The report shall include, but not be limited to, a discussion of how the proposed amendment meets the criteria in Section 15-5811, Criteria for Development Code Text Amendment and Section 15-5812, Criteria for Rezones and Plan Amendments, for approving an amendment and an environmental document prepared in compliance with the California Environmental Quality Act, the General Plan, and any applicable operative plan.
- B. **Public Hearing Required.** All applications shall be referred to the Planning Commission, which shall hold at least one public hearing on any proposed amendment.
- C. **Public Notice.** In addition to the mailed Public Notice requirements of Section 15-5007-B, Mailed Notice, notice of the hearing for a proposed amendment shall be delivered to the applicable school district and any other local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment.

15-5807 Committee Review

Active plan or council district committees shall review and provide comments on text amendment applications, Rezones, or Plan Amendments. Committees shall review proposed amendments within their purview, unless the text amendment is applicable citywide, then review is required by each committee. Should a committee not meet due to a lack of quorum or any other reason, the Director, at their discretion, may schedule the item for consideration by the Commission and/or Council.

15-5808 Airport Land Use Commission Review

The Airport Land Use Commission (ALUC) shall review all text amendments effecting projects or property within an Airport Influence Area for consistency with the adopted Airport Land Use Compatibility Plan which affect the height, density, land use designation, safety, noise, or related aspects of properties within the ALUC's purview, as determined by the Director and/or ALUC staff. The ALUC shall also review all Rezones and Plan Amendments that are within their the ALUC's purview. ALUC review shall be completed prior to consideration of the matter by the City Council. Nothing in this Section alters the City's authority or obligations under the laws of the State of California, including but not limited to Article 3.5 of Chapter 4 of the State Aeronautics Act (California Public Utilities Code sections 21670 et seq.).

15-5809 Planning Commission Hearing and Recommendation

- A. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing in conformance with Article 50, Common Procedures.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a recommendation on the proposed application to the City Council. Such recommendation shall include the reasons for the recommendation, findings supporting the recommendation, and the relationship of the proposed change to the General Plan, Code, and applicable operative plans.

15-5810 City Council Hearing and Action

- A. After receiving the report from the Planning Commission, the City Council shall hold a duly-noticed public hearing. The notice shall include a summary of the Planning Commission recommendation if available at the time of the notice.
- B. After the conclusion of the hearing, the City Council may approve, modify, or deny the proposed application. If the Council proposes any substantial modification, such as introducing a new zone district or planned land use designation, not previously considered by the Planning Commission during its hearings, the proposed modification shall first be referred back to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing. The failure of the Planning Commission to report within 40 days after the referral shall be deemed a recommendation to approve and the amendment shall be returned to Council for adoption.
- C. Action by the Council shall be final.

15-5811 Criteria for Development Code Text Amendment

The Planning Commission shall not recommend and the City Council shall not approve an application unless the proposed amendment meets the following criteria:

- A. Development Code Text Amendment findings:
 - 1. The Code text amendment is consistent with the General Plan and any applicable operative plans; and
 - 2. The amendment is consistent with the purpose of the Development Code to promote the growth of the city in an orderly and sustainable manner and to promote and protect the public health, safety, peace, comfort, and general welfare.

15-5812 Criteria for Rezones and Plan Amendments

The Planning Commission shall not recommend and the City Council shall not approve an application unless the proposed Rezone or Plan Amendment meets the following criteria:

- A. The change is consistent with the General Plan goals and policies, any operative plan, or adopted policy;
- B. The change is consistent with the purpose of the Development Code to promote the growth of the city in an orderly and sustainable manner and to promote and protect the public health, safety, peace, comfort, and general welfare; and
- C. The change is necessary to achieve the balance of land uses desired by the City and to provide sites for needed housing or employment-generating uses, consistent with the General Plan, any applicable operative plan, or adopted policy; and to increase the inventory of land within a given zoning district to meet market demand.

Article 59 Planned Development Permits

Sections:

| | |
|---------|--|
| 15-5901 | Purpose |
| 15-5902 | Applicability |
| 15-5903 | Procedures |
| 15-5904 | Regulations |
| 15-5905 | Required Findings |
| 15-5906 | Conditions of Approval |
| 15-5907 | Expiration and Renewal |
| 15-5908 | Amendments of Approved Plans |
| 15-5909 | Individual Development Plan Review for Phased Projects |
| 15-5910 | Failure to Comply with Conditions |
| 15-5911 | Revocation or Modification of Planned Development Permit |

15-5901 Purpose

The purpose of this article is to articulate regulations and establishing minimum thresholds for Planned Developments. More specifically this article applies to:

- A. Establish a procedure for development on large areas of land and infill sites in order to allow for projects that desire greater flexibility than already provided for in this Code.
- B. Promote variety and avoid monotony in developments by allowing greater freedom in selecting the means to provide access, light, open space, and amenities.
- C. Facilitate the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods.

15-5902 Applicability

The procedures in this article shall apply to all proposals for approval of a Planned Development (PD) Permit. PD approval is required to authorize a PD Plan that provides for better coordinated development and specifies customized development standards crafted to respond to site conditions.

15-5903 Procedures

- A. **Processing.** An application for a PD Permit shall be processed as a Conditional Use Permit, according to the procedures of Article 53, Conditional Use Permits.
- B. **Initiation.** An application for a PD Permit shall be initiated by a property owner or authorized agent. If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application.
- C. **Application Content.** An application for a PD shall be filed with the Director. At a minimum applications shall contain all of the following:
 1. **List of Modifications.** A detailed list of deviations from the Development Code, General Plan, applicable operative plan, or adopted policy being proposed, and an explanation as to why the project cannot be successful should it comply with the strict application of adopted regulations.

2. **Community Benefits.** The applicant shall provide a list of types of community benefits. For example, the amount of common open space or design is of higher quality than would otherwise be required.
3. **Project Boundaries.** A map showing the proposed project boundaries, the perimeter of the ownership, location, and dimensions of any existing property lines and easements within the site, and the location of buildings, roads, parking, and open areas.
4. **Planned Development Plan.** A PD Plan indicating the proposed land uses and the total floor area or land area devoted to each; the proposed density or intensity of development; the location of proposed streets, pedestrian ways, and bike ways; and the location of proposed lot lines, structures, buildings, parking, yards, pathways, open spaces, and other public or private facilities.
5. **Utilities.** The locations and capacities of existing utilities in the vicinity of the site, and tentative extensions to the site.
6. **Development Guidelines.** Guidelines for the physical development of the property, including illustrations of proposed architectural, urban design, and landscape concepts.
7. **Development Schedule.** A development schedule, including anticipated timing for commencement and completion of each phase of development, tabulation of the total number of acres in each separate phase and percentage of such acreage to be devoted to particular uses, and an indication of the proposed number and type of dwelling units by phase of development, if applicable.
8. **Other Information.** Any other information deemed necessary by the Director to ascertain if the project meets the required findings for a PD Plan.

15-5904 Regulations

- A. **Land Use Regulations.** Any use authorized by this Code may be included in an approved PD consistent with the zoning district for the property.
- B. **Development Regulations.**
 1. **Minimum Area.**
 - a. *Infill Areas* (within the city limits as of December 31, 2012). No minimum area.
 - b. *All Other Areas.* Two acres.
 2. **Residential Unit Density.** The total number of dwelling units in a PD shall not exceed the maximum number permitted by the General Plan or operative plan density for the total area of the planned development designated for residential use.
 - a. A transfer of residential densities, as set forth in 15-310-C, is permitted for sites with two or more residential zones districts. Design of said sites must be planned, integrated development.
 3. **Other Development Regulations.** Other development regulations shall be as prescribed by the PD Plan.

15-5905 Required Findings

A PD shall only be approved if all of the following findings are made:

- A. The proposed development is consistent with the General Plan, any applicable operative plan, and adopted policies, including the density and intensity limitations that apply;
- B. The subject site is physically suitable for the type and intensity of the land use being proposed;
- C. Adequate transportation facilities, utilities, and public services exist or will be provided, in accord with the conditions of PD approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of public services so as to be a detriment to public health, safety, or welfare;
- D. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area; and
- E. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation, and/or substantial public benefit. In making this determination, the following factors should be considered:
 - 1. Appropriateness of the use(s) at the proposed location.
 - 2. The mix of uses, housing types, and housing price levels.
 - 3. Provision of infrastructure improvements.
 - 4. Provision of open space. For example, a greater amount of open space than would otherwise be provided under the strict application of this code.
 - 5. Connectivity to public trails, schools, etc.
 - 6. Compatibility of uses within the development area.
 - 7. Creativity in design and use of land.
 - 8. Quality of design, and adequacy of light and air to the interior spaces of the buildings.
 - 9. Overall contribution to the enhancement of neighborhood character and to the built and natural environment of Fresno in the long term.

15-5906 Conditions of Approval

In approving a PD, the Director, or the Commission if submitted concurrently with a subdivision map that requires Commission review, may impose reasonable conditions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies and design guidelines that the City has adopted;
- B. Achieve the general purposes of this Code or the specific purpose of the zoning district in which the project is located;
- C. Achieve the findings listed in Section 15-5905, Required Findings; or
- D. Mitigate any potentially significant impacts identified as a result of review conducted in compliance with the requirements of the California Environmental Quality Act.

15-5907 Expiration and Renewal

A. Expiration.

1. **PD Plan.** A PD shall be effective on the same date the permit is approved. The PD Plan shall expire if it is not exercised or extended within three years of the effective date. An approved PD may specify a phased development program exceeding three years.
2. **Exercise of a PD Plan.** A PD Plan approval is exercised when actions specified in the conditions of approval have been taken, or a Building Permit has been issued and construction is lawfully commenced and diligently pursued.
3. **PD Plan Granted in Conjunction with a Tentative Map.** Where a tentative map has been approved in conjunction with a PD Plan, the PD Plan shall expire upon the expiration of the tentative map.

B. Renewal.

If site development and construction has not been initiated within three years of project approval or other time specified in the approved phased development program, an approved PD Plan may be renewed for a two-year period by the Director. Application for renewal shall be made in writing between 30 and 120 days prior to expiration of the original approval. The Director shall only renew a PD Plan if the Director finds the renewal consistent with the purposes of this article and no major amendments, as defined in Section 15-5908, Amendments of Approved Plans, are proposed.

15-5908 Amendments of Approved Plans

A. Changed Plans.

Amendments to a PD Plan may be requested by the applicant or its successors. Amendments to the approved Plan shall be classified as major or minor amendments. Upon receipt of an amendment application, the Director shall determine if the proposed amendment constitutes a major or minor amendment.

B. Major Amendments.

Major Amendments to an approved PD Plan shall be considered by the Planning Commission at a duly noticed public hearing. An amendment will be deemed major if it involves one or more of the following changes:

1. A change in the boundary of the PD Plan;
2. An increase or decrease in the number of dwelling units for the PD Plan that is greater than the maximum or less than the minimum stated in the original approval of the PD Plan;
3. An increase or decrease in the floor area for any non-residential land use that results in the floor area exceeding the minimum or maximum stated in the PD Plan by 10 percent or more;
4. Any change in land use or density that is likely to negatively impact or burden public facilities and utilities infrastructure as determined by the City Engineer;
5. Any change in land use or density that is likely to negatively impact or burden circulation adjacent to the PD Plan or to the overall major street system, as determined by the City Traffic Engineer; or
6. Any other proposed change to the PD Plan or the conditions of approval that substantively alters one or more of its components as determined by the Director.

- C. **Minor Amendments.** Amendments not meeting one or more of the criteria listed in Subsection B above shall be considered minor if they are consistent with and would not change any original condition of approval. Minor Amendments may be approved by the Director without a public hearing.
1. **Residential Subdivisions.** Floor plans and plot plans shall be approved concurrently with the PD. Changes to plot plans, such as the addition of patios, shall comply with the underlying District in terms of property development standards, unless they were outlined as part of the PD approval process.

15-5909 Individual Development Plan Review for Phased Projects

Individual development plans for geographic units within a phased project in a PD Plan area shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved PD Plan and any conditions of approval. No project may be approved and no Building Permit issued unless the project, alteration, or use is consistent with an approved PD Plan.

15-5910 Failure to Comply with Conditions

Failure to comply with any PD Permit condition or development schedule is a violation of this article and subject to Article 63, Enforcement.

15-5911 Revocation or Modification of Planned Development Permit

A PD Permit may be revoked or modified as provided by Section 15-5016, Revocation of Permits.

Article 60 Development Agreements

Sections:

| | |
|---------|--|
| 15-6001 | Purpose |
| 15-6002 | Applicability |
| 15-6003 | Authority and Duties |
| 15-6004 | Procedure |
| 15-6005 | Public Notice and Hearing |
| 15-6006 | Findings and Decision |
| 15-6007 | Execution and Recordation of Development Agreement |
| 15-6008 | Annual Review |
| 15-6009 | Amendment or Cancellation |
| 15-6010 | Effect of Approved Agreement |
| 15-6011 | Enforcement |

15-6001 Purpose

This article establishes procedures and requirements for considering and entering into legally binding agreements with applicants for development projects. Such agreements provide a greater degree of certainty than the normal permit approval process by granting assurance that an applicant may proceed with development in accord with policies, rules, and regulations in effect at the time of approval or as modified by the terms of the Development Agreement subject to conditions to promote the community's needs and provide greater community benefits than otherwise can be achieved through the normal land use regulatory process.

15-6002 Applicability

- A. A Development Agreement may be considered for:
1. Large multi-phase development projects that will require a developer to make a substantial investment at the early stages of the project, for planning and engineering for the entire project, and for public facilities and services.
 2. Development standards may be modified through a Development Agreement provided the project is consistent with the General Plan and applicable operative plans.
 3. Development Agreements shall be not used in lieu of a Variance or to permit a use that would otherwise not be permitted by the underlying District.
- B. **Property Subject to Annexation.** An applicant whose property is located within the City's Sphere of Influence, or whose property is the subject of a pending application for inclusion into the sphere of influence, may file an application to enter into a Development Agreement.
1. The agreement shall not become operative unless proceedings annexing the property to the city are completed within the period of time specified by the agreement.
 2. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement shall be null and void.

15-6003 Authority and Duties

- A. The Director shall negotiate the specific components and provisions of the Development Agreement on behalf of the City for recommendation to the Planning Commission and the City Council.
- B. The Planning Commission shall make a recommendation to the City Council and the City Council shall have the exclusive authority to approve and modify a Development Agreement.

15-6004 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 Requirements.** An applicant shall submit an application for a Development Agreement. The Director shall identify submittal requirements for applications for Development Agreements and may require an applicant to submit such additional information and supporting data as considered necessary to process the application. In addition to any other information that the Director requires, each application for a Development Agreement shall be accompanied by the general terms and conditions of the agreement proposed by the applicant and shall include the contents required in Subsection B below.
- B. **Contents of Development Agreements.**
 - 1. **Required Contents.** A Development Agreement shall specify its duration; the permitted uses of the subject property; the density or intensity of uses; the general location, maximum height and size of proposed buildings; and provisions for reservation or dedication of land for public purposes. It shall contain provisions concerning its transferability.
 - 2. **Improvements and Fees.** A Development Agreement may include requirements for construction and maintenance of onsite and off-site improvements or payment of fees in lieu of such dedications or improvements.
 - 3. **Subsequent Actions.** A Development Agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions but does not eliminate the applicant's responsibility to obtain all required land use approvals.
 - 4. **Conditions.** A Development Agreement may include, without limitation, conditions and restrictions imposed by the City with respect to the project, including restrictions and mitigation measures proposed in any environmental document prepared for the project.
 - 5. **Phasing.** A Development Agreement may provide that the project be constructed in specified phases, that construction shall commence within a specified time, and that the project or any phase thereof be completed within a specified time.
 - 6. **Financing.** If the Development Agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.
 - 7. **Indemnity.** A Development Agreement may contain an indemnity clause requiring the applicant to indemnify and hold the City harmless against claims arising out of or in any way related to the actions of the applicant in connection with the application or the development process, including all legal fees and costs.
 - 8. **Performance Obligation Fees.** A Development Agreement may include provisions to guarantee performance of obligations stated in the agreement.

9. **Public Benefits.** The Development Agreement shall articulate public benefits.

15-6005 Public Notice and Hearing

- A. **Notice of Intent.** The Director shall publish a notice of intent to consider adoption of a Development Agreement as provided in the Government Code (Sections 65090 and 65091).
- B. **Planning Commission.** The Planning Commission shall hold a duly noticed public hearing prior to adoption of any Development Agreement and shall make a recommendation to the City Council to either approve, approve with modifications, or deny the Development Agreement. Notice of the public hearing shall be given in accordance with the requirements of Section 15-5007, Public Notice.
- C. **City Council.** The City Council shall hold a duly noticed public hearing prior to adoption of any Development Agreement and shall either approve, approve with modifications, or deny the Development Agreement. Notice of the public hearing shall be given in accordance with the requirements of Section 15-5007, Public Notice. The City Council public hearing may, but need not, be held concurrently with the public hearing(s) on the project.

15-6006 Findings and Decision

- A. **Required Findings.** The City Council shall not approve a proposed Development Agreement unless it finds the following:
1. That its provisions are consistent with the General Plan and any applicable operative plan. This requirement may be satisfied by a finding that the provisions of a proposed Development Agreement are consistent with proposed General Plan or applicable operative plan provisions to be adopted concurrently with the approval of the proposed Development Agreement; and
 2. The proposed Development Agreement will provide substantial public benefit.
- B. **Decision.** After the City Council completes the public hearing, the City Council shall approve, modify, or disapprove the Development Agreement pursuant to adopted Council procedures.
- C. **Approval.** A Development Agreement shall be approved by ordinance.

15-6007 Execution and Recordation of Development Agreement

Within 10 days after an ordinance approving the Development Agreement takes effect, the Director shall execute the Development Agreement on behalf of the City, and the City Clerk shall record the Development Agreement with the County Recorder.

15-6008 Annual Review

The applicant shall be required to demonstrate compliance with the provisions of the Development Agreement, including the provision of community benefits, at least once a year at which time the Director shall review each approved Development Agreement.

- A. **Finding of Compliance.** If the Director, on the basis of substantial evidence, finds compliance by the applicant with the provisions of the Development Agreement, the Director shall issue a finding of compliance, which shall be in recordable form and may be recorded with the County Recorder after conclusion of the annual review.
- B. **Finding of Noncompliance.** If the Director finds the applicant has not complied with the provisions of the Development Agreement, the Director may issue a finding of noncompliance

which may be recorded by the City with the County Recorder after it becomes final. The Director shall specify in writing to the applicant the respects in which applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance. If the applicant does not comply with any terms of compliance within the prescribed time limits, the Development Agreement shall be subject to termination or modification pursuant to Section 15-6009, Amendment or Cancellation.

- C. **Appeal of Determination.** Within seven 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. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the Director and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final.

15-6009 Amendment or Cancellation

- A. **After Finding of Noncompliance.** If a finding of noncompliance does not include terms of compliance, or if an 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 shall conduct a noticed 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 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. Amendments or cancellation of the agreements shall be the responsibility of the Council. The Council hearing shall be noticed.
- C. **Recordation.** If the parties to the agreement or their successors in interest amend or cancel the Development Agreement, or if the City terminates or modifies the Development Agreement for failure of the applicant to fully comply with the provisions of the Development Agreement, the City Clerk shall record notice of such action with the County Recorder.
- D. **Rights of the Parties After Cancellation or Termination.** In the event that a Development Agreement is cancelled or terminated, all rights of the applicant, property owner or successors in interest under the Development Agreement shall be terminated. 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.

15-6010 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, design, and improvement standards and specifications applicable to development of the property shall be those City rules, regulations, and official policies in force on the effective date of the Development Agreement, except as modified by the terms of the Development Agreement. The applicant shall not be exempt from otherwise applicable City codes 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 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 regulation or law of the State of California or the United States, enacted or interpreted after a Development Agreement has been entered into prevents or precludes compliance with one or more provisions of the Development Agreement, then the Development Agreement may be modified or suspended in the manner and pursuant to the procedures specified in the Development Agreement, as may be necessary to comply with such regulation or law.

15-6011 Enforcement

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

Article 61 Concept Plans, Pre-Zoning, and Annexations

Sections:

- 15-6101 Purpose
- 15-6102 Concept Plans
- 15-6103 Pre-Zoning
- 15-6104 Annexation Criteria
- 15-6105 Effective Date of Zoning and Time Limit

15-6101 Purpose

The purpose of this article is to establish a procedure for annexation of adjoining unincorporated territory.

15-6102 Concept Plans

- A. **Purpose.** To facilitate the orderly expansion of the city by shaping new growth areas into a series of complete neighborhoods which feature a connected mix of houses, apartments, stores offices, open space, and public facilities.
- B. **Applicability.**
 - 1. ***Annexation of Certain Land Uses.*** A Concept Plan shall be prepared by the applicant when land with one of the following General Plan land use designations is proposed to be annexed:
 - a. Residential, Low Density
 - b. Residential, Medium Low Density
 - c. Residential, Medium Density
 - 2. ***Exceptions.*** Applications with the following circumstances shall not be required to prepare a Concept Plan:
 - a. With the exception of the proposed project, there is no more undeveloped land within the Concept Plan Area with a residential land use designation.
 - b. The site is already part of an adopted Concept Plan.
 - c. The site is already part of a Specific Plan which was adopted after December 18, 2014. Sites within the boundaries of specific plan which is substantially complete may not be required to prepare a Concept Plan at the discretion of the Review Authority.
 - d. If the Director determines that the subject quarter section and/or adjacent quarter sections provide a sufficient amount of land with commercial and multifamily land use designations, the project shall not be required to submit a Land Use Map as part of their Concept Plan.
 - e. Once the Concept Plan is received by the City the development may proceed if no general plan amendment is required.
- C. **Review Authority.** The City Council shall approve, conditionally approve, or deny Concept Plans based on consideration of the requirements of this section.

D. **Concept Plan Area.** The Concept Plan Area shall consist of the entire contiguous area surrounding the project which is bounded by existing or planned Major Streets. This will typically be a quarter section, or about 160 acres, but the actual size may vary.

E. **Concept Plan Contents.**

1. **Land Use Map.** The Concept Plan shall feature a land use map which assigns new planned land uses to the Concept Plan Area according to the Complete Neighborhood policies of the General Plan. The land use map shall be designed as follows:

- a. Residential Capacity. The residential capacity of the Concept Plan Area shall not be reduced, but may be increased.
- b. Ratio of Land Use Designations. The percentage of land within the Concept Plan Land Use Map that is assigned various land use designations shall fit within the parameters of one of the profiles in the table below, unless unique site conditions warrant an alternative profile, to be determined at the discretion of the Review Authority:

| <i>Planned Land Use Designations</i> | <i>Conventional Profile</i> | | <i>Mixed-Use Profile</i> | |
|--|---|-------------|--------------------------|-------------|
| | <i>Min.</i> | <i>Max.</i> | <i>Min.</i> | <i>Max.</i> |
| Commercial <i>(Main Street, Community, or General)</i> | 10% | 15% | 0% | 0% |
| Mixed-Use <i>(Neighborhood or Corridor)</i> | 0% | 0% | 15% | 40% |
| Office | 5% | 15% | 0% | 0% |
| Multi-Family <i>(Medium High Density, Urban Neighborhood, and High Density Residential)</i> | 15% | 20% | 5% | 20% |
| Single-Family <i>(Low Density, Medium Low Density, or Medium Density Residential)</i> | 50% | 70% | 40% | 80% |
| Public Facility and Open Space | <i>Percentage shall not decrease from what is shown on the General Plan Land Use Map.</i> | | | |

c. Location of Land Use Designations. Land use designations shall be located in the following manner, unless unique site conditions warrant an alternative layout, to be determined at the discretion of the Review Authority:

- i. Commercial designations (Main Street, Community, or General) shall be located at the intersections of Major Streets.
- ii. Mixed-Use designations (Neighborhood or Corridor) shall be located at the intersections of Major Streets. Additional Mixed-Use designations may also be located along Major Streets between major intersections.
- iii. Office designations shall be located along Major Streets between major intersections.

- iv. Multi-Family residential designations (Medium High Density, Urban Neighborhood, or High Density) shall be located along Major Streets between major intersections.
 - v. Single-Family residential designations (Low Density, Medium Low Density, or Medium Density) shall be located within the Concept Plan Area, not abutting Major Streets.
 - vi. Public Facilities and Open Space designations shall be located along Major Streets between major intersections.
2. **Connectivity Map.** The Concept Plan shall feature a Connectivity Map which identifies a potential street and trail system for the entire Concept Plan Area. The Connectivity Map shall feature a street, path, and trail system for the entire Concept Plan Area which complies with all applicable provisions of Article 41, Subdivision Design Standards, including, but not limited to, the following:
- a. Connections between the proposed subdivision and adjacent subdivisions or potential future subdivisions shall be identified in conformance with Section 15-4107-D.
 - b. Connections between single-family subdivisions and non-single-family uses shall be identified in conformance with Section 15-4107-G.3.

F. **Adoption.**

- 1. **Planning Commission Recommendation.** Prior to City Council Action, the Planning Commission shall review the proposed Concept Plan and make a recommendation to the City Council.
- 2. **Public Notice.** Public Notice shall be provided prior to the date of Planning Commission and City Council hearings pursuant to Section 15-5007, with the exception that notice shall be provided to all owners and residents within the Concept Plan Area, as well as those within 500 feet.
- 3. **General Plan Amendment.** Concurrent with the adoption of the Concept Plan, a corresponding amendment to the General Plan shall be presented for adoption in order to maintain consistency.

G. **Authority of Concept Plan.**

- 1. **Land Use Map.** Land uses may not deviate from those shown in the Concept Plan unless the Concept Plan and General Plan Land Use Map are amended accordingly.
- 2. **Connectivity Map.**
 - a. The applicant who proposed the annexation and Concept Plan shall build streets and trails within their site as they are shown in the adopted Concept Plan.
 - b. Subsequent subdividers may build streets as shown in Concept Plan, or may propose an alternative layout which complies with Article 41, Subdivision Design Standards, and which incorporates the connections between subdivisions and non-residential uses put forth in the Concept Plan.

15-6103 Pre-Zoning

- A. **Scope.** Unincorporated territory adjoining the city may be pre-zoned for the purpose of determining the zoning that will apply to such property in the event of subsequent annexation.
- B. **Review Authority.** The City Council shall approve or deny pre-zoning based on consideration of the requirements of this section.
- C. **Procedure.**
 - 1. If land proposed for annexation is required to create a Concept Plan per Section 15-6102, the Concept Plan must be created and adopted prior to pre-zoning.
 - 2. Property that is subject to annexation shall be pre-zoned consistent with the General Plan, Concept Plan if applicable, and any applicable operative plan per Section 15-6104, Annexation Criteria. If an applicant proposes to pre-zone to different zone districts than those which are consistent with the General Plan, Concept Plan, and other operable plans, then plan amendments which achieve consistency shall be initiated and processed per Article 58, Amendments to Development Code Text Amendment, Rezones, and Plan Amendments prior to pre-zoning.
 - 3. In such cases where the Local Agency Formation Commission (LAFCO) of Fresno determines that additional land must be included for orderly growth, said land, if not previously pre-zoned by the Council, shall be brought before the Council for consideration prior to formal annexation. In order to potentially avoid such cases, staff should consult with LAFCO to identify potential parcels that would encourage the logical formation of city boundaries.

15-6104 Annexation Criteria

Annexation shall not be approved unless the proposed annexation meets all of the following criteria:

- A. **Concept Plan.** If land proposed for annexation is required to create a Concept Plan per Section 15-6102, the Concept Plan must be created and adopted prior to annexation.
- B. **Plan Consistency.** The proposed annexation and parcel configuration is consistent with the General Plan, Concept Plan, and any applicable operative plan; and
- C. **Revenue Neutrality.**
 - 1. ***Public Services, Facilities, and Utilities.*** Adequate public services, facilities, and utilities meeting City standards are available to the lands proposed for annexation or will be provided within a specific period of time, with financial guarantees and performance requirements, to ensure this will occur.
 - 2. ***Fair and Proportional Payments.*** Projects requiring annexation will not negatively impact City finances.
 - a. No City revenue will be used to replace or provide developer funding that has or would have been committed to any mitigation project.
 - b. The development project will fully fund public facilities and infrastructure as necessary to mitigate any impacts arising from the new development.
 - c. The development project will pay for public facilities and infrastructure improvements in proportion to the development's neighborhood and citywide impacts.

- d. The development will fund its proportionate share of public facility infrastructure, maintenance and public service costs according to the City Council approved Development Impact Fee Schedule and through a uniform application of community facilities district fees.
- D. ***Disadvantaged Unincorporated Communities.*** The City will partner with the community, if there is wide support for annexation, to coordinate terms to initiate and support the annexation process.**LAFCO Approval.** The annexation shall be approved by the Local Agency Formation Commission (LAFCO) of Fresno.

15-6105 Effective Date of Zoning and Time Limit

The zoning accomplished by pre-zoning of the property shall become effective at the time that annexation to the city becomes effective. If the subject area has not been annexed to the city within six years of the date of City Council approval, the pre-zoning approval shall be brought before the Planning Commission and the Council for reconsideration.

Article 62 Street Names & Addressing

Sections:

| | |
|---------|--------------------------------|
| 15-6201 | Purpose |
| 15-6202 | Determining Street Names |
| 15-6203 | General Street Name Procedures |
| 15-6204 | Street Name Changes |
| 15-6205 | Addressing |

15-6201 Purpose

This article shall establish the procedures for the assignment of street names.

15-6202 Determining Street Names

- A. Street names shall be reviewed and approved by the City. The Director may approve street names as deemed appropriate, however at their discretion; the Director may refer street name-related issues to the Planning Commission for consideration.

15-6203 General Street Name Procedures

- A. Where streets are continuations of existing streets, as determined by the Director, the existing street names shall be used.
- B. Proposed street names shall not duplicate or approximate phonetically the name of any street in Fresno or its environs.
- C. The word "Street," "Avenue," "Boulevard," "Road," "Place," or other designation shall be spelled out in full on the map and shall have the prefix of "East," "West," "South," or "North," with the exception of downtown streets as determined by City policy.

15-6204 Street Name Changes

Street name changes shall comply with adopted City policies regarding Street Name Procedures.

15-6205 Addressing

The Director shall cause addresses to be established per City policy.

Article 63 Enforcement

Sections:

| | |
|---------|-----------------------|
| 15-6301 | Purpose |
| 15-6302 | Enforcement |
| 15-6303 | Revocation |
| 15-6304 | Nuisance Defined |
| 15-6305 | Penalty for Violation |
| 15-6306 | Remedies |
| 15-6307 | Nuisance Abatement |
| 15-6308 | Standing to Sue |

15-6301 Purpose

This article establishes the responsibilities of various departments, officials, and public employees of the City to enforce the requirements of this Code and establishes uniform procedures the City will use to identify, abate, remove, and enjoin uses, buildings, or structures that are deemed to be in violation of this Code. The provisions of this article are in addition to those set forth in Fresno Municipal Code Chapter 1, Article 3, Code Enforcement; Judicial and Administrative Remedies and Procedures, and Chapter 10, Article 6, Public Nuisance Abatement.

15-6302 Enforcement

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 Code, and shall issue no permit or license for uses, buildings, or purposes in conflict with the provisions of this Code, and any such permit or license issued in conflict with the provisions of this Code shall be null and void. It shall be the duty of the Building Official of the City to enforce the provisions of this Code pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to or of any building or structure.

15-6303 Revocation

Any permit granted under the Development Code may be revoked in accordance with the provisions in Section 15-5016, Revocation of Permits, if any of the conditions or terms of such permit are violated or if any law or code is violated in connection therewith. Notwithstanding this provision, no lawful residential use can lapse regardless of the length of time of the vacancy.

15-6304 Nuisance Defined

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

15-6305 Penalty for Violation

Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating a provision of this Code or failing to comply with a mandatory requirement of this Code shall be guilty of a misdemeanor, but may be cited or charged, at the election of the enforcing officer or City Attorney, as an infraction. Upon conviction, such person shall be punished as set forth in Fresno Municipal Code Chapter 1, Article 3, Code Enforcement; Judicial and Administrative Remedies and Procedures. A person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this Code is committed, continued or permitted by such person, firm, or corporation, and shall be punished accordingly.

15-6306 Remedies

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

- A. Ordering the cessation of the use in whole or in part;
- B. Imposing reasonable conditions upon any continued operation of the use, including those uses that constitute existing non-conforming uses;
- C. Requiring continued compliance with any conditions so imposed;
- D. Requiring the user to guarantee that such conditions shall in all respects be complied with;
- E. Imposing additional conditions or ordering the cessation of the use in whole or in part upon a failure of the user to comply with any conditions so imposed; or
- F. Imposition of the provisions of Section 1-301 et. seq. of the Municipal Code.

15-6307 Nuisance Abatement

Notices of violation shall be provided and recorded and nuisances abated, according to the procedures of Fresno Municipal Code Chapter 10, Article 6, Public Nuisance Abatement.

15-6308 Standing to Sue

Consistent with State law, any resident or property owner in the city and any resident or property owner within one mile of the city limits shall have standing to obtain a mandatory prohibitory injunction to prevent the violation of this Development Code.

Article 64 (Reserved)

Article 65 (Reserved)

Article 66 (Reserved)
