

**Division 2:**  
**Zones, Allowable Uses, and Development Standards**

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## Section 9102.01 – Residential Zones

### Subsections:

9102.01.010 Purpose and Intent  
9102.01.020 Land Use Regulations and Allowable Uses  
9102.01.030 Development Standards in Single-Family Residential Zones (R-M, R-0, R-1)  
9102.01.040 Additional Residential Development Standards in Single-Family Residential Zones  
9102.01.050 Permitted Projections in Single-Family Residential Zones  
9102.01.060 Accessory Structures in Single-Family Residential Zones  
9102.01.070 Swimming Pools, Spas, Water Features, and Ornamental Features  
9102.01.080 Accessory Dwelling Units  
9102.01.090 Development Standards in Multifamily Residential Zones (R-2, R-3, R-3-R)  
9102.01.100 Additional Residential Development Standards in Multifamily Zones  
9102.01.110 Permitted Projections in Multifamily Zones  
9102.01.120 Site Design and Architectural Standards  
9102.01.130 Exterior Lighting Standards for Residential Properties and Zones  
9102.01.140 Other Applicable Regulations

### 9102.01.010 Purpose and Intent

The purpose of the residential zones is to:

1. Provide for a full range of housing types and densities consistent with the General Plan;
  2. Preserve, protect, and enhance the character of Arcadia's residential neighborhoods and the quality of life of City residents;
  3. Ensure adequate light, air, privacy, and open space for each dwelling; and
  4. Ensure that the scale and design of new development and alterations to existing structures are compatible with surrounding homes and appropriate to the physical characteristics of the site and the area where the project is proposed.
- A. R-M Residential Mountainous Zone.** The R-M zone is intended to provide areas for detached single-family dwelling units on estate-type lots in the hillside and valley areas of the City and accessory uses compatible with the residential use of the zone. This zone implements the General Plan Residential Estates designation.
- B. R-0 Very Low Density Residential Zone.** The R-0 zone is intended to provide areas for detached single-family dwelling units on large lots and accessory uses compatible with the residential use of the zone. This zone implements the General Plan Residential Estates, Very Low Density Residential, and Low Density Residential designations.
- C. R-1 Low Density Residential Zone.** The R-1 zone is intended to provide areas for detached single-family dwelling units and accessory uses compatible with the residential use of the zone. This zone implements the General Plan Very Low Density Residential and Low Density Residential designations.
- D. R-2 Medium Density Residential Zone.** The R-2 zone is intended to provide areas for a variety of dwelling types and accessory uses compatible with the residential use of the zone. Types of dwelling units include attached or detached single-unit and multi-unit homes and duplexes at a density of six to 12 dwelling units per acre. This zone implements is the General Plan Medium Density Residential designation.
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- E. R-3 High Density Residential Zone.** The R-3 zone is intended to provide areas for a variety of medium- to high-density residential development and accessory uses compatible with the residential use of the zone. Types of dwelling units include single-unit attached, townhomes, condominiums, and apartment structures at a density of 12 to 30 units per acre. This zone implements the General Plan High Density Residential designation.
- F. R-3-R Restricted High Density Residential Zone.** The R-3-R zone is intended to provide areas for medium to high-density residential development at a density of 12 to 30 units per acre but restricted to one story in height. Accessory uses compatible with the residential use of the zone are also permitted. This zone implements the General Plan High Density Residential designation.

#### 9102.01.020 Land Use Regulations and Allowable Uses

Amended by Ord. No. 2347

Amended by Ord. No. 2348

- A. Allowed Uses.** Table 2-1 (Allowed Uses and Permit Requirements for Residential Zones) indicates the uses allowed within each residential zone and any permits required to establish the use, pursuant to Division 7 (Permit Processing Procedures). The regulations for each zone are established by letter designations as follows:

“P” represents permitted (allowed) uses. “A” represents accessory uses.

“M” designates uses that require the approval of a Minor Use Permit subject to requirements of Section 9107.09 (Conditional Use Permit and Minor Use Permit) of this Development Code.

“C” designates uses that require the approval of a Conditional Use Permit subject to requirements of Section 9107.09

(Conditional Use Permit and Minor Use Permit) of this Development Code. “--” designates uses that are not permitted.

- B. Director Determination.** Land uses are defined in Division 9 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses below are prohibited.

- C. Specific Use Regulations.** Where the last column in Table 2-1 (Allowed Uses and Permit Requirements for Residential Zones) includes a Section, Subsection, or Division number, the regulations in the referenced Section, Subsection, or Division shall apply to the use.

Table 2-1 Allowed Uses and Permit Requirements for Residential Zones	P Permitted A Permitted as an Accessory Use M Minor Use Permit Required C Conditional Use Permit Required -- Not Allowed						Specific Use Regulations
	R-M	R-0	R-1	R-2	R-3	R-3-R	
<b>Residential Uses</b>							
Boarding House	--	--	--	--	--	--	
<b>Dwellings</b>							
Single-Family Dwelling	P	P	P	P	P	--	See required minimum density (Section 9102.01.090, Table 2-6 and) Subsection 9102.01.100.A (Exceptions to Minimum Density in R-2 and R-3)
Multifamily Dwelling	--	--	--	P	P	P	

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

Table 2-1 Allowed Uses and Permit Requirements for Residential Zones		P Permitted A Permitted as an Accessory Use M Minor Use Permit Required C Conditional Use Permit Required -- Not Allowed					
Land Use	R-M	R-0	R-1	R-2	R-3	R-3-R	Specific Use Regulations
Two-Family Dwelling	--	--	--	P	P	P	
Accessory Dwelling Unit	A	A	A	A	A	A	Only permitted as an accessory use on multi-family zoned properties which are currently improved with no more than one single-family dwelling unit. See also Subsection 9102.01.080 (Accessory Dwelling Units)
Short-Term Rental	--	--	--	--	--	--	No Person shall post, publish, circulate, broadcast, or maintain any advertisement of a Short-Term Rental in any zone allowing residential uses. See Section 9104.02.300
Home Sharing	--	--	--	--	--	--	No Person shall post, publish, circulate, broadcast, or maintain any advertisement for Home Sharing in any zone allowing residential uses. See Section 9104.02.300
Agricultural Uses							
Urban Agriculture	A	A	A	A	A	A	See Subsection 9104.02.030 (Agricultural Uses –Urban Agriculture, Small Animal and Fowl, and Horses)
Horse Keeping	A	A	A	--	--	--	
Small Animal and Fowl Keeping	A	A	A	--	--	--	
Education							
Schools, Private	C	C	C	C	C	C	May only be permitted as a Conditional Use, accessory to a Place of Religious Assembly.
Medical-Related and Care Uses							
Day Care, General	--	--	--	--	--	--	See Subsection 9104.02.080 (Day Care, General)
Day Care, Limited - Small Family	A	A	A	A	A	A	See Subsection 9104.02.100 (Day Care, Limited – Small Family)

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

Table 2-1 Allowed Uses and Permit Requirements for Residential Zones	P Permitted A Permitted as an Accessory Use M Minor Use Permit Required C Conditional Use Permit Required -- Not Allowed							
	Land Use	R-M	R-0	R-1	R-2	R-3	R-3-R	Specific Use Regulations
Day Care, Limited - Large Family	A	A	A	A	A	A	A	See Subsection 9104.02.090 (Day Care, Limited – Large Family)
Residential Care Facility – Six or fewer persons	P	P	P	P	P	P	P	See Subsection 9104.02.260 (Residential Care Facilities)
Supportive Housing – Housing Type	--	--	--	P	P	P	P	See Subsection 9104.02.260 (Residential Care Facilities)
Supportive Housing – Residential Care Facility Small Type	P	P	P	P	P	P	P	
Transitional Housing – Housing Type	--	--	--	P	P	P	P	
Transitional Housing – Residential Care Facility Small Type	P	P	P	P	P	P	P	See Subsection 9104.02.260 (Residential Care Facilities)
Other Uses								
Antennas and Wireless Communication Facilities - Co-location or Panel	--	--	--	--	P	P	P	Exception: All facilities are permitted on City- owned properties and public rights-of-way. New standalone facilities are not permitted in Architectural Design (D) overlay zones. See also Subsection 9104.02.050 (Antennas and Wireless Communication Facilities)
Antennas and Wireless Communication Facilities - Standalone Facility	--	--	--	--	--	--	--	
Places of Religious Assembly	--	C	C	C	C	C	--	
Sports Courts (Private)	P	P	P	P	P	P	P	Must comply with Subsection 9104.02.330 (Sports Courts in Residential Zones)
Recharging Stations	A	A	A	A	A	A	A	
Utility Structures and Service Facilities	C	C	C	C	C	C	C	

**9102.01.030 Development Standards in Single-Family Residential Zones (R-M, R-0, R-1)**  
**Amended by Ord. No. 2347**

New land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Tables 2-1 (Allowed Uses and Permit Requirements for Residential Zones), 2-2 (Development Standards for Single-family Residential Zones), and 2-3 (~~Additional Development Standards for Homeowners Association Areas~~ ~~Maximum Floor Area in Specific Homeowners Associations Areas~~), and the development standards in Division 3 (Regulations Applicable to All Zones-Site Planning and General Development Standards). Additional regulations are denoted in the right hand column of Table 2-2. Exceptions and additional regulations are included in Subsection 9102.01.040 (Additional Residential Development Standards in Single-Family Residential Zones). Standards for accessory structures and accessory dwelling units are outlined in Subsection 9102.01.060 (Accessory Structures in Single-family Residential Zones) and Subsection 9102.01.080 (Accessory Dwelling Units). Development standards for garages and other parking areas are located in Section 9103.07 (Off-Street Parking and Loading). Development standards for fences, walls, and gates are outlined in Section 9103.05 (Fences, Walls, and Gates). Development standards for landscaping requirements are located in Section 9103.09.040.B (Landscape Requirements for Residential Zones).

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

**Table 2-2  
General Development Standards for  
Single-family Residential Zones (R-M, R-0, R-1)**

Development Feature	R-M	R-0	R-1	Additional Requirements
Lot Standards				
Minimum Lot Area (sq ft)	15,000	R-0-30,000: 30,000 R-0-22,000: 22,000 R-0-15,000: 15,000 R-0-12,500: 12,500	R-1-15,000: 15,000 R-1-10,000: 10,000 R-1-7,500: 7,500	
Minimum Lot Width				
At Front Property Line	100 ft; 44 ft for cul-de-sac lots	100 ft; 57 ft for cul-de-sac lots	75 ft; 44 ft for cul-de-sac lots	
At Front Setback Line	75 ft	100 ft 85 ft on reverse corner lot	75 ft	
Minimum Lot Depth	100 ft	100 ft	100 ft	
Structure Form and Location Standards				
Maximum Floor Area				
Areas North of Huntington Drive (Outside of Homeowners Associations Identified by City Council Resolution)				For Maximum Allowable Floor Area applicable to Homeowners Associations Identified by City Council Resolution (on file with the Planning Department), see Subsection 9102.01.040.A (Floor Area Ratios Standards for Specific Homeowners Association Areas).
Lot Size: Up to 7,500 sf	45% of lot area			
7,501 – 10,000	3,375 sq ft plus 40% of lot area over 7,500 sq ft			
10,001 – 15,000	4,375 sq ft plus 35% of lot area over 10,000 sq ft			
15,001 – 20,000	6,125 sq ft plus 25% of lot area over 15,000 sq ft			
20,001 – 30,000	7,375 sq ft plus 20% of lot area over 20,000 sq ft			
30,001 +	9,375 sq ft plus 15% of lot area over 30,000 sq ft			
Areas South of Huntington Drive (Outside of Homeowners Associations Identified by City Council Resolution)				For measurement standards and general exceptions, see also Subsection 9103.01.030 (Measuring Floor Area and Floor Area Ratio).
Lot Size: Up to 10,000 sf	45% of lot area			
10,001 – 15,000	4,500 sq ft plus 40% of lot area over 10,000 sq ft			
15,001 – 20,000	6,500 sq ft plus 30% of lot area over 15,000 sq ft			
20,001 – 40,000	8,000 sq ft plus 25% of lot area over 20,000 sq ft			
40,001 +	13,000 sq ft plus 32% of lot area over 40,000 sq ft			
Incentive for One-Story Houses	3% of lot area in additional floor area			
Maximum Density	1 unit per lot	1 unit per lot	1 unit per lot	Except as allowed by Subsection 9102.01.080 (Accessory Dwelling Units)

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

**Table 2-2**  
**General Development Standards for**  
**Single-family Residential Zones (R-M, R-0, R-1)**

Development Feature	R-M	R-0	R-1	Additional Requirements
Minimum Setbacks				
Front	25 ft	35 ft	25 ft	See Subsection 9102.01.040 (Additional Residential Development Standards), Subsection 9103.01.060 (Setback Measurements and Exceptions), and Subsection 9102.01.050 (Permitted Projections in Single-family Residential Zones)
Side – first or single story				
Interior	10 ft or 10% of lot width, whichever is greater, but not to exceed 15 ft as a required setback	10 ft or 10% of the lot width, whichever is greater	5 ft or 10% of the lot width, whichever is greater	See Subsection: 9102.01.040 (Additional Residential Development Standards in Single-family Residential Zones).
Corner (street side)	20 ft	20 ft	20 ft	
Reverse Corner (street side)	20 ft	25 ft	25 ft	
Side - second story				
Interior	15 ft or 20% of the lot width, whichever is greater	15 ft or 20% of the lot width, whichever is greater	10 ft or 20% of the lot width, whichever is greater	See Subsection: 9102.01.040 (Additional Residential Development Standards in Single-family Residential Zones).
Corner (street side)	20 ft	20 ft	20 ft	
Reverse Corner (street side)	20 ft	25 ft	25 ft	
Rear - first or single story	25 ft	35 ft	25 ft	Additional rear setback of one foot required on each story for every 10 feet above 150 feet of lot depth. <b>See Subsection 9102.01.040 (Additional Residential Development Standards in Single-family Residential Zones).</b>
Rear - second story	35 ft	35 ft	35 ft	
Maximum Lot Coverage				
1-story dwellings	45%	45%	45%	
2-story dwellings	35%	35%	35%	

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

**Table 2-2  
General Development Standards for  
Single-family Residential Zones (R-M, R-0, R-1)**

Development Feature	R-M	R-0	R-1	Additional Requirements
<b>Maximum Height</b>	25 ft for lots less than 71-foot lot width; an additional 1 ft in height for every additional 1 ft in lot width up to 75 ft lot (30 ft height).  80'-85 ft lot width: 31 ft 85'-1"-90 ft lot width: 32 ft 90'-1"-95 ft lot width: 33 ft 95'-1"-100 ft lot width: 34 ft 100'-1"+ ft lot width: 35 ft	25 ft for lots with less than 75-foot lot width  30 ft for lots with 75-foot width or greater	Citywide: 25 ft for lots with less than 75-foot lot width; 30 ft for lots with 75-foot width or greater  <del>Village Homeowners Association Area: 25 feet for any lot width</del>  <del>Highlands Homeowners Association Area: Less than 75 ft lot width: 25 ft 75'-1"-94 ft lot width: 27 ft 94'-1"-114 ft lot width: 29 ft</del>	See Subsection 9103.01.030 (Measuring Floor Area and Floor Area Ratio)
<b>Maximum Number of Stories</b>	2 stories	2 stories	2 stories	Exposed basements shall be considered a story.
<b>Maximum Street-Facing Porch Height</b>	14 ft	14 ft	14 ft	See Subsection 9102.01.040.I (Porch Height).
<b>Encroachment Plane</b>				
Front Property Line	40 degrees	30 degrees	30 degrees	No portion of any structure shall encroach through a plane projected from the identified angle as measured at the ground level along the front property line. That point shall be located at the intersection of a horizontal projection of the adjacent grade elevation and its intersection with the property line. See Figure 2-1 (Encroachment Plane).
Interior Rear and/or Interior Side	N/A	N/A	N/A	
Corner Street Side Property Line	N/A	40 degrees	40 degrees	

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

**Table 2-3 <sup>(1)</sup>**  
**Additional Development Standards for Homeowners Association Areas**  
**Single-family Residential Zones (R-M, R-0, R-1)**

**Maximum Floor Area in Specific Homeowners Association Areas**

*For measurement standards and general exceptions, see also Subsection 9103.01.030 (Measuring Floor Area and Floor Area Ratio).*

HOA and Lot Size	Floor Area Ratio
<b>Santa Anita Village and Highlands HOAs</b>	
Less than 10,000 sf	35% of lot area
10,001 – 15,000	3,500 sq ft plus 25% of lot area over 10,000 sq ft
15,001 – 20,000	4,750 sq ft plus 10% of lot area over 15,000 sq ft
20,001 – 30,000	5,250 sq ft plus 10% of lot area over 20,000 sq ft
30,001 +	6,250 sq ft plus 10% of lot area over 30,000 sq ft
<b>Lower Rancho and Santa Anita Oaks HOAs</b>	
Less than 10,000 sf	37% of lot area
10,001 – 15,000	3,700 sq ft plus 37% of lot area over 10,000 sq ft
15,001 – 20,000	5,550 sq ft plus 20% of lot area over 15,000 sq ft
20,001 – 30,000	6,550 sq ft plus 20% of lot area over 20,000 sq ft
30,001 +	8,550 sq ft plus 15% of lot area over 30,000 sq ft
<b>Upper Rancho HOA</b>	
Less than 10,000 sf	45% of lot area
10,001 – 15,000	4,500 sq ft plus 40% of lot area over 10,000 sq ft
15,001 – 20,000	6,500 sq ft plus 30% of lot area over 15,000 sq ft
20,001 – 40,000	8,000 sq ft plus 25% of lot area over 20,000 sq ft
40,001+	13,000 sq ft plus 32% of lot area over 40,000 sq ft
<b>Incentive for One-Story Homes in all HOA Areas</b>	
3% of the lot area in additional floor area	

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

<b>Table 2-3 <sup>(1)</sup></b> <b>Additional Development Standards for Homeowners Association Areas</b> <b>Single-family Residential Zones (R-M, R-0, R-1)</b>						
Development Feature	Santa Anita Village (R-1)	Highlands (R-M and R-1)	Lower Rancho (R-0)	Santa Anita Oaks (R-0)	Upper Rancho (R-0)	Additional Requirements
<b>Minimum Setbacks</b>						
Front	25 ft	25 ft	35 ft	65 ft Exceptions: Tract 13544 shall be a minimum of 60 ft  Tracts 13345 and 11013 shall be a minimum of 55 ft and Tract 14565 shall be a minimum of 50 ft	50 ft	See Subsection 9102.01.040 (Additional Residential Development Standards), Subsection 9103.01.060 (Setback Measurements and Exceptions), and Subsection 9102.01.050 (Permitted Projections in Single-family Residential Zones)
<b>Side – first or single story</b>						
Interior	5 ft or 10% of the lot width, whichever is greater	R-M: 10 ft or 10% of lot width, whichever is greater, but not to exceed 15 ft as a required setback  R-1: 6 ft or 10% of the lot width, whichever is greater	10 ft or 10% of the lot width, whichever is greater	10 ft or 10% of the lot width, whichever is greater	15 ft	See Subsection: 9102.01.040 (Additional Residential Development Standards in Single- family Residential Zones).
Corner (street side)	20 ft	20 ft	20 ft	20 ft	20 ft	See Subsection: 9102.01.040 (Additional Residential Development Standards in Single- family Residential Zones).
Reverse Corner (street side)	25 ft	R-M: 20 ft R-1: 25 ft	25 ft	25 ft	25 ft	

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

Table 2-3 <sup>(1)</sup> Additional Development Standards for Homeowners Association Areas Single-family Residential Zones (R-M, R-0, R-1)						
Development Feature	Santa Anita Village (R-1)	Highlands (R-M and R-1)	Lower Rancho (R-0)	Santa Anita Oaks (R-0)	Upper Rancho (R-0)	Additional Requirements
Side - second story						
Interior	10 ft or 20% of the lot width, whichever is greater	R-M: 15 ft or 20% of the lot width, whichever is greater R-1: 10 ft or 20% of the lot width, whichever is greater	15 ft or 20% of the lot width, whichever is greater	15 ft or 20% of the lot width, whichever is greater	15 ft or 20% of the lot width, whichever is greater	See Subsection: 9102.01.040 (Additional Residential Development Standards in Single- family Residential Zones).
Corner (street side)	20 ft	20 ft	20 ft	20 ft	20 ft	
Reverse Corner (street side)	25 ft	R-M: 20 ft R-1: 25 ft	35 ft	35 ft	35 ft	
Rear - first or single story	25 ft	25 ft	35 ft	35 ft	40 ft	Additional rear setback of one foot required on each story for every 10 feet above 150 feet of lot depth. See Subsection 9102.01.040 (Additional Residential Development Standards in Single-family Residential Zones).
Rear - second story	35 ft	35 ft	35 ft	35 ft	35 ft	
Maximum Lot Coverage						
1-story dwellings	45%	45%	45%	45%	45%	
2-story dwellings	35%	35%	35%	35%	35%	
Maximum Number of Stories	2 stories	2 stories	2 stories	2 stories	2 stories	Exposed basements shall be considered a story.
Maximum Street-Facing Porch Height	14 ft	14 ft	14 ft	14 ft	14 ft	See Subsection 9102.01.040.I (Porch Height).

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

<b>Table 2-3 <sup>(1)</sup></b> <b>Additional Development Standards for Homeowners Association Areas</b> <b>Single-family Residential Zones (R-M, R-0, R-1)</b>						
Development Feature	Santa Anita Village (R-1)	Highlands (R-M and R-1)	Lower Rancho (R-0)	Santa Anita Oaks (R-0)	Upper Rancho (R-0)	Additional Requirements
<b>Encroachment Plane</b>						
<b>Front Property Line</b>	30 degrees	R-M: 40 degrees R-1: 30 degrees	30 degrees	30 degrees	30 degrees	No portion of any structure shall encroach through a plane projected from the identified angle as measured at the ground level along the front property line. That point shall be located at the intersection of a horizontal projection of the adjacent grade elevation and its intersection with the property line. See Figure 2-1 (Encroachment Plane).
<b>Interior Rear and/or Interior Side</b>	N/A	N/A	N/A	N/A	N/A	
<b>Corner Street Side Property Line</b>	N/A 40 degrees	40 degrees	40 degrees	40 degrees	40 degrees	

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

<b>Table 2-3 <sup>(1) (3)</sup></b> <b>Additional Development Standards for Homeowners Association Areas</b> <b>Single-family Residential Zones (R-M, R-0, R-1)</b>					
Development Feature	Village (R-1)	Highlands (R-M and R-1)	Lower Rancho (R-0)	Oaks (R-0)	Upper Rancho (R-0)
<b>Maximum Height <sup>(2)</sup></b>	25 ft	<p>R-M: 25 ft for lots less than 71-foot lot width; an additional 1 ft in height for every additional 1 ft in lot width up to 75 ft lot (30 ft height).</p> <p>80-85 ft lot width: 31 ft 85'-1"-90 ft lot width: 32 ft 90'-1"-95 ft lot width: 33 ft 95'-1"-100 ft lot width: 34 ft 100'-1"+ ft lot width: 35 ft</p> <p>R-1: Less than 75 ft lot width: 25 ft 75'-94 ft lot width: 27 ft 94'-1"-114 ft lot width: 29 ft 114'-1" ft lot or larger width: 30 ft</p>	<p>25 ft for lots with less than 75- foot lot width</p> <p>30 ft for lots with 75-foot width or greater</p>	<p>25 ft for lots with less than 75- foot lot width</p> <p>30 ft for lots with 75-foot width or greater</p>	<p>25 ft for lots with less than 75- foot lot width</p> <p>30 ft for lots with 75-foot width or greater</p>

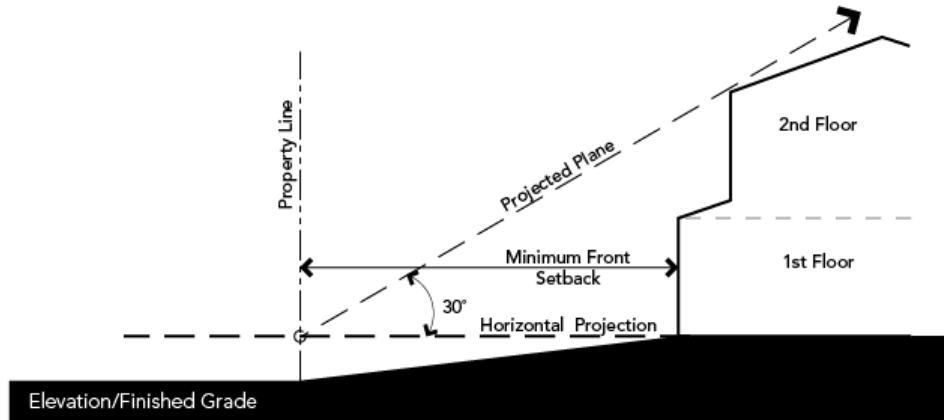
Notes:

(1) In cases where the underlying zoning's Development Standard is greater than the requirements stated in Table 2-3, Additional Development Standards for Homeowners Association Areas Single-family Residential Zones (R-M, R-0, R-1), the underlying zoning shall be used unless an exception is specifically identified.

(2) See Subsection 9103.01.030 (Measuring Floor Area and Floor Area Ratio)

(3) See Subsection 9102.01.040(J) for additional regulations regarding garages and carports.

**Figure 2-1  
Encroachment Plane – R-0 and R-1 Zones**



**9102.01.040 Additional Residential Development Standards in Single-Family Residential Zones  
Amended by Ord. No. 2347**

**(This section has been relocated to the table above)**

**A. Floor Area Standards for Specific Homeowners Association Areas.** Maximum floor area in Lower Ranch, Santa Anita Oaks, Upper Rancho, Santa Anita Village, and Highland Oaks Homeowners Associations, as identified by City Council Resolution (on file with the Planning Department), shall be subject to a maximum floor area as defined in Table 2-3 (Maximum Floor Area in Specific Homeowners Association Areas). For additional development standards and map of the Homeowners' Association (HOA) areas, refer to the applicable City Council Resolution (on file with the Planning Department).

<b>Table 2-3 Maximum Floor Area in Specific</b>	
<b>Lot Size</b>	<b>Floor Area Ratio</b>
<b>Santa Anita Village and Highland Oaks HOAs</b>	
Less than 10,000 sf	35% of lot area
10,001 – 15,000	3,500 sq ft plus 25% of lot area over
15,001 – 20,000	4,750 sq ft plus 10% of lot area over
20,001 – 30,000	5,250 sq ft plus 10% of lot area over
30,001 +	6,250 sq ft plus 10% of lot area over
<b>Lower Rancho and Santa Anita Oaks HOAs</b>	
Less than 10,000 sf	37% of lot area
10,001 – 15,000	3,700 sq ft plus 37% of lot area over
15,001 – 20,000	5,550 sq ft plus 20% of lot area over
20,001 – 30,000	6,550 sq ft plus 20% of lot area over
30,001 +	8,550 sq ft plus 15% of lot area over
<b>Upper Rancho HOA</b>	
Less than 10,000 sf	45% of lot area
10,001 – 15,000	4,500 sq ft plus 40% of lot area over
15,001 – 20,000	6,500 sq ft plus 30% of lot area over
20,001 – 40,000	8,000 sq ft plus 25% of lot area over
40,001 +	13,000 sq ft plus 32% of lot area over
Incentive for One-Story	3% of the lot area in additional floor area

**A. Front Setbacks – Additional Standards in R-M, R-0, and R-1 Zones**

**1. Front Setback Exceptions**

- a. **Front Setback Exception: R-M Zone.** The front setback shall be the average of the two nearest developed lots that front on the same street, unless a greater setback is specified in Subsection 9102.01.030, Table 2-3 (Additional Development Standards for Homeowners Association Areas) or Subsection 9103.01.060 (Setback Measurements and Exceptions).
- b. **Front Setback Exception: R-0 Zone.** The front setback shall be the greater of (a) 35 feet; and (b) the average of the two nearest developed lots, unless a greater setback is specified in Subsection 9102.01.030, Table 2-3 (Additional Development Standards for Homeowners Association Areas) or Subsection 9103.01.060 (Setback Measurements and Exceptions).
- c. **Front Setback Exception: R-1 Zone.** The front setback shall be the greater of (a) 25 feet; and (b) the average of the two nearest developed lots, unless a greater setback is specified in Subsection 9102.01.030, Table 2-3 (Additional Development Standards for Homeowners Association Areas) or Subsection 9103.01.060 (Setback Measurements and Exceptions).

**B. No Parking within Front and/or Street Side Setbacks.** No parking shall be allowed within required front or street side setbacks, or within any landscaped area not designated as a driveway or parking space.

**C. Exceptions to Rear Setbacks on Corner and Reverse Corner Lots in R-0 and R-1 Zones – Attached Single-Story Garage.** On corner and reverse corner lots in the R-0 and R-1 zones, an attached garage portion of a main dwelling that does not exceed one story and 16 feet in height may be located within 15 feet of the rear property line.

**D. Height Exception for Chimneys and Roof-Mounted Vents.** Chimneys and roof-mounted vents shall be allowed to exceed height limits to the minimum extent required by Article VIII (Building Regulations).

**E. Temporary/Portable Structures.** One temporary or portable structure, with the exception of tents and canopies, not exceeding 120 square feet in area and eight feet six inches in height is permitted. The structure shall comply with all setback requirements and, if applicable, be approved by the City's established Homeowners' Association.

**F. Roof Decks.** Roof decks are not permitted in the R-M, R-0, and R-1 zones.

**G. Basements**

1. **Extent.** Basements shall not extend beyond the external walls of the first story of the structure above the basement.
2. **Minimum Setback.** On any lot, the minimum setback to the basement wall is 10 feet from any property line.
3. **Light Wells.** Light wells for basements and exterior stairways to basements are permitted to the extent necessary to comply with Building and Fire Codes. Light wells for basements and exterior stairways shall be set back a minimum of five feet from any property lines.

**H. Porch Height**

1. There shall be no vertical or architectural elements located above the building primary entrance entry that emphasizes the scale and massing of the structure.
2. For projecting porches, the maximum allowable height as required in Table 2-2 shall be measured to the uppermost point of the projecting feature, including roof ridges, railings, cornices, and other decorative features. For recessed porches, the height shall be measured to the uppermost point of the opening.

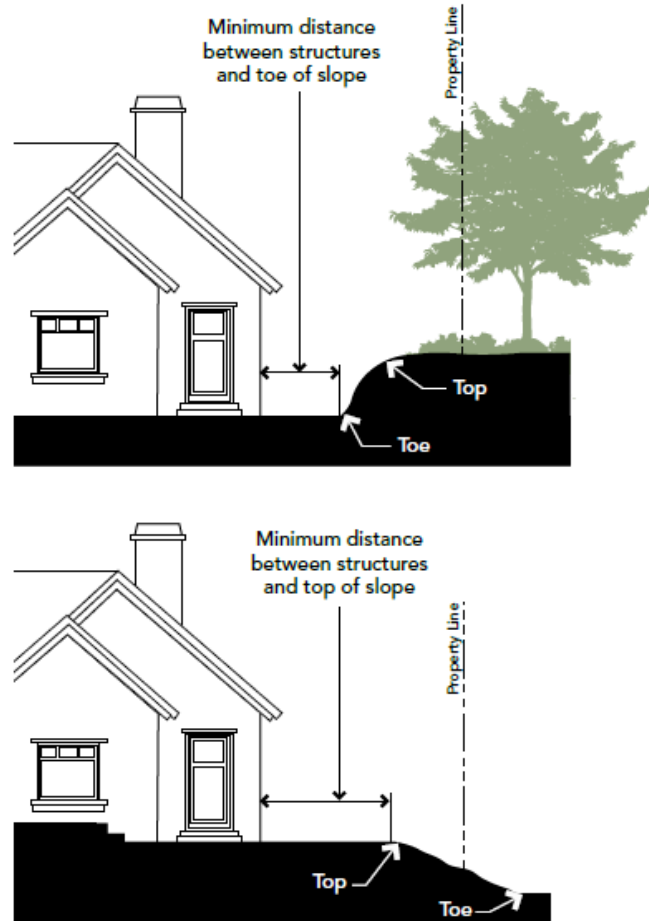
**I. Hillside Development Standards.** Hillside development standards outlined in this Subsection shall apply to development of all new structures, additions to existing structures, and other property improvements in the R-M zone and any lot with an average slope of 20 percent or greater. For the purposes of this Subsection, swimming pools, spas, and fish ponds constructed

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on a lot shall all be considered structures.

1. **Minimum Distance between Structures and Slopes.** In addition to the setback requirements that apply to the underlying zone, the minimum distance between a structure and the top or toe of slope where the slope is between the structure and front, side, and/or rear property line(s) shall be 5 feet. See Figure 2-2 (Minimum Distance Between Structures and Slopes).

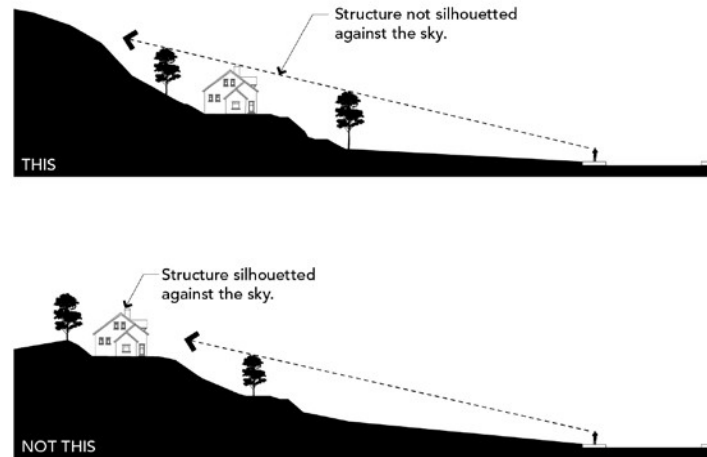
**Figure 2-2**  
**Minimum Distance Between Structures and Slopes**



## 2. Ridgeline Protection

- a. Structures shall be located so that a vertical separation of at least 30 feet is provided between the top of the structure and the top of the ridge or knoll to maintain the natural appearance of the ridge. Grading should also be avoided within 30 vertical feet of the top of a ridge or knoll. Placement of structures should also take advantage of existing vegetation for screening, and should include the installation of additional native plant materials to augment existing vegetation, where appropriate.
- b. Structures shall not be placed so that they appear silhouetted against the sky when viewed from a public street, except where the Review Authority determines that the only feasible building site cannot comply with this standard. See Figure 2-3 (Ridgeline Protection – Residential Hilltop Line of Sight).

**Figure 2-3**  
**Ridgeline Protection – Residential Hilltop Line of Sight**



3. **Landscaping Requirements.** All cut or fill slopes exceeding six feet six inches in vertical height between two or more contiguous lots shall be planted with adequate plant material to protect the slope against erosion. Said planting shall cover the bank within two years from the time of planting. The permittee, owner or developer shall water the planted slopes at sufficient time intervals to promote growth.
  4. **Maintenance and Grading Permit Required.** The owner of any property, or any other person or agent in control of such property, on which is located any retaining walls, cribbing, drainage structures, planted slopes and other protective devices, required pursuant to a permit granted under this Division or required pursuant to the issuance of a grading permit, shall maintain said retaining walls, cribbing, drainage structures, planted slopes and other protective devices in good condition and repair at all times.
- J. Garages and Carports in Homeowners Association Areas.** Carports shall not be permitted in the Homeowners Association Areas. The following regulations shall apply to garages in Homeowners Association Areas:
1. **Santa Anita Village:** Garages shall not dominate the front elevation and shall be setback from the front façade or located in the backyard.
  2. **Lower Rancho:** Garages shall not dominate the front elevation and shall be setback from the front façade or located in the backyard.
  3. **Santa Anita Oaks:** No garage shall be closer to the front property line than the main dwelling. Front facing garage are strongly discouraged. A detached garage shall not be located less than 150 feet from the front property line.  
Exceptions: Tract 11013 which shall be a minimum of 140 ft. Tracts 13345, 14656, & 13544 shall be a minimum of 125 ft.
  4. **Upper Rancho:** No garage door shall be allowed to face the public right-of-way within the front 150 ft of the property. No garage door shall be closer to the street than the dwelling. Corner lots shall be evaluated on a case-by-case basis.  
Exception: Lots 1 through 20 of Tract No. 13184
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## Division 7: Permit Processing Procedures

## **Section 9107.01 – City-Required Permits and Approvals**

### **Subsections:**

- 9107.01.010 Purpose and Intent
- 9107.01.020 Discretionary Permits and Actions
- 9107.01.030 Additional Permits May Be Required
- 9107.01.040 Burden of Proof and Precedence

### **9107.01.010 Purpose and Intent** **Amended by Ord. No. 2347**

This Division establishes the overall structure for the application, review, and action on City-required permit applications and identifies and describes those discretionary permits and other approvals required by this Development Code in Table 7-1 (Review Authority).

### **9107.01.020 Discretionary Permits and Actions**

- A. Administrative Permits and Actions.** Except when combined with legislative actions or other non-administrative actions defined in this Division, the Director, also defined in this Development Code as the designee of the Director, is the designated Review Authority for the following quasi-judicial permits and actions, which are generally limited to interpretation of policy or relatively minor adjustments of Development Code standards. Additionally, the Director has primary administrative authority over certain activities which require the determination of compliance with applicable Development Code provisions. The Director, at the Director's sole discretion, may elevate the level of review to a higher Review Authority.
1. **Administrative Modifications.** An administrative action granting exception (modification or deletion) to certain specified development standards of this Development Code in cases where strict compliance would result in a hardship as specified in and processed in compliance with Section 9107.05 (Administrative Modifications).
  2. **Certificates of Demolition.** An administrative action authorizing the issuance of a Certificate of Demolition in compliance with Section 9107.07 (Certificates of Demolition).
  3. **Development Code Interpretations.** An administrative interpretation of certain provisions of this Development Code in an effort to resolve ambiguity in the regulations and to ensure their consistent application in compliance with Section 9101.02 (Interpretation of the Development Code Provisions).
  4. **Home Occupation Permits.** An administrative permit authorizing the operation of a specified home based occupation in a particular location in compliance with the provisions of this Development Code and in compliance with procedures specified in Section 9107.13 (Home Occupation Permits).
  5. **Minor Use Permits.** An administrative permit authorizing the operation of a specific use of land or a structure in a particular location in compliance with the provisions of this Development Code and in compliance with procedures specified in Section 9107.09 (Conditional Use Permits and Minor Use Permits).
  6. **Reasonable Accommodations.** An administrative permit authorizing limited modifications to properties to accommodate a person with specified disabilities and physical limitations in compliance with specific criteria and performance standards and in compliance with procedures specified in Section 9107.17 (Reasonable Accommodations).
  7. **Sign-Related Permits**
    - a. **Sign Permits.** An administrative permit authorizing a variety of signs, including individual signs for promotional advertising in compliance with specific provisions and conditions of this Development Code and Section 9103.11



2. **Development Agreements and Amendments.** An agreement between the City and a party with legal or equitable interest in the real property relating to the development of property in compliance with Section 9107.11 (Development Agreements).
3. **Development Code Text/Zoning Map Amendments.** An action authorizing either a text amendment to this Development Code or a map amendment changing the zoning designation of particular property in compliance with Section 9108.03 (Amendments).
4. **General Plan Text/Map Amendments.** An action authorizing either a text amendment to the General Plan or a map amendment changing the General Plan land use designation of particular property in compliance with Section 9108.03 (Amendments).
5. **Specific Plans and Amendments.** A regulatory document prepared in compliance with Government Code Section 65450 et seq. for the systematic implementation of the General Plan for a particular area as specified in Section 9107.21 (Specific Plans).

**D. Subdivision Maps and Other Approvals**

1. **Subdivision of Land.** Regulations governing the subdivision of land are established in Division 5 (Subdivisions).
2. **Buildings and Construction.** Provisions for construction and building are established in Municipal Code Article VIII (Building Regulations).

**9107.01.030 Additional Permits May Be Required**

A land use on property that complies with the permit requirement or exemption provisions of this Development Code shall also comply with the permit requirements of other Municipal Code provisions and any permit requirements of other agencies before construction or use of the property is commenced. All necessary permits shall be obtained before starting work or establishing a new use. Nothing in this Development Code shall eliminate the need to obtain any permits required by:

- A. Any other Municipal Code provisions, including Building, Grading, or other construction permits; a Business License in compliance with Municipal Code Section 6211 (License Required), if required; or subdivision approval if required by Division 5 (Subdivisions); or
- B. Any applicable county, regional, State, or Federal regulations.

**9107.01.040 Burden of Proof and Precedence**

- A. **Burden of Proof.** The burden of proof to establish the evidence in support of the required finding(s) for any permit or approval in compliance with this Division is the responsibility of the applicant.
- B. **Precedence**
  1. Each permit shall be evaluated on a case-by-case basis.
  2. The granting of a prior permit either on the subject property or any other property within the City does not create a precedent and is not justification for the granting of a new permit under current review.

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## Section 9107.03 – Application Processing Procedures

### Subsections:

- 9107.03.010 Purpose and Intent
- 9107.03.020 Application Submittal
- 9107.03.030 Eligible Applicants
- 9107.03.040 Submittal Requirements
- 9107.03.050 Filing Fees and Requirements
- 9107.03.060 Initial Application Completeness Review
- 9107.03.070 Environmental Assessment
- 9107.03.080 Application Review and Determinations

### 9107.03.010 Purpose and Intent

Amended by Ord. No. 2347

- A. This Division provides procedures and requirements for the preparation, filing, and initial processing of the land use permit applications required by the City and specified in this Development Code.
- B. Table 7-1 (Review Authority), identifies the Review Authority responsible for reviewing and making decisions on each type of application required by this Development Code.

Table 7-1 Review Authority				
Type of Action	Applicable Code Section	Role of Review Authority <sup>(1)</sup>		
		Director	Commission	Council
Legislative Actions				
Development Agreements and Amendments	9107.11	Recommend <sup>(1)</sup>	Recommend	Decision
Development Code Amendments	9108.03	Recommend <sup>(1)</sup>	Recommend	Decision
General Plan Amendments	9108.03	Recommend <sup>(1)</sup>	Recommend	Decision
Specific Plans and Amendments	9107.21	Recommend	Recommend	Decision
Zoning Map Amendments	9108.03	Recommend	Recommend	Decision
Planning Permits and Approvals and Administrative Actions				
Administrative Modifications	9107.05	See Table 7-2 for specified thresholds		
Certificates of Demolition	9107.07	Decision	Appeal	Appeal
Conditional Use Permits	9107.09	Recommend	Decision <sup>(2)(4)</sup>	Appeal
Home Occupation Permits	9107.13	Decision <sup>(3)</sup>	Appeal	Appeal
Interpretations	9101.03	Decision <sup>(3)</sup>	Appeal	Appeal
Minor Use Permits	9107.09	Decision <sup>(3)</sup>	Appeal	Appeal
Planned Developments	9107.15	Recommend	Decision <sup>(4)</sup>	Appeal
Reasonable Accommodations	9107.17	Decision <sup>(3)</sup>	Appeal	Appeal
Sign Permits	9103.11	Decision <sup>(3)</sup>	Appeal	Appeal
Site Plan and Design Review (See Table 7-3 for specified thresholds.)	9107.19	Decision <sup>(3)</sup>	Decision/ Appeal <sup>(4)</sup>	Appeal
Site Plan and Design Review: Homeowners Association Areas (See Table 7-44 for specified thresholds.)	9107.20	Decision <sup>(6)</sup>	Appeal	Appeal
Temporary Use Permits	9107.23	Decision <sup>(3)</sup>	Appeal	Appeal
Tree Encroachment, Preservation, and Removal	9700	See Section 9702.01.040 for specified thresholds		

CITY OF ARCADIA ZONING CODE – ARTICLE IX: DIVISION AND USE OF LAND  
CHAPTER 1: DEVELOPMENT CODE

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Variances	9107.25	Recommend	Decision <sup>(4)</sup>	Appeal
Zoning Clearances (ADU)	9107.27	Issue	Appeal <sup>(5)</sup>	Appeal <sup>(5)</sup>

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Notes:

- (1) "Recommend" means that the Review Authority makes a recommendation to a higher decision making body; "Decision" means that the Review Authority makes the final decision on the matter; "Issue" means that the Review Authority grants the Zoning Clearance after confirming compliance with all applicable provisions of this Development Code; and "Appeal" means that the Review Authority may consider and decide upon appeals to the decision of an earlier decision making body, in compliance with Section 9108.07 (Appeals).
- (2) The final Review Authority for a Conditional Use Permit granting a Density Bonus, in compliance with Section 9107.03 (Application Processing Procedures) shall be the Council, with the Commission first making a written recommendation to the Council.
- (3) The Director may defer action and refer the request to the Commission for consideration and final decision.
- (4) The Commission may defer action and provide a recommendation to the Council for consideration and final decision.
- (5) A Zoning Clearance (ADU) may only be appealed if a determination pursuant to 9103.070.050.D.4.a or 9107.27.030.D.1 has been made.
- (6) For Site Plan and Design Review: Homeowners Association Areas, the Director Review shall include reviews by the Director under the City Review process, reviews by the HOA ARB Chairperson under the Short Review process and reviews by the HOA Architectural Review Board under the Regular Review process.

### **9107.03.020 Application Submittal**

- A. Concurrent Filing.** An applicant for a development project that requires the filing of more than one application (e.g., Conditional Use Permit, Tentative Map, etc.), shall file all related applications concurrently, together with all application fees required by Subsection 9107.03.050 Filing Fees Requirements), below, unless these requirements are waived by the Director.
  - B. Concurrent Processing.** Multiple applications for the same project shall be processed concurrently, and shall be reviewed, and approved or denied by the highest Review Authority designated by this Development Code for any of the applications. For example, a project for which applications for Zoning Map Amendment and a Conditional Use Permit are filed shall have both applications decided by the Council, instead of the Commission being the final decision making authority for the Conditional Use Permit as otherwise required by Table 7-1 (Review Authority), above. In the example cited, the Commission would still hear all of the applications (the Zoning Map Amendment and the Conditional Use Permit) and forward recommendations to the Council.
  - C. Pre-Application Conference**
    1. A prospective applicant is strongly encouraged to request a pre-application conference with the Director or designated Department Staff member before completing and filing a permit application required by this Development Code.
    2. The purpose of a pre-application conference is to generally:
      - a. Inform the applicant of City requirements as they apply to the proposed project;
      - b. Discuss the City's review process, possible project alternatives, or modifications; and
      - c. Identify information and materials the City will require with the application, including any necessary technical studies and information anticipated for the environmental review of the project.
    3. Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as either a recommendation for approval or denial of the application or project by the City's representative.
    4. Failure of the City's representative to identify all required studies or all applicable requirements at the time of pre-application review shall not constitute a waiver of those studies or requirements.
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#### **9107.03.030 Eligible Applicants**

- A. An application may only be filed by the owner of the subject property or a lessee or authorized agent of the property owner with the written consent of the property owner. With the Director's approval, a lessee with the exclusive right to use the property for a specified use may file an application related to that use.
- B. The application shall be signed by the owner of record or may be signed by the lessee or by authorized agent of the property owner if written authorization from the owner of record is filed concurrently with the application.

#### **9107.03.040 Submittal Requirements**

- A. Each application for a permit, amendment, or other matter pertaining to this Development Code shall be filed with the Department **or ARB Chairperson** on a City application form, together with all required fees and/or deposits and all other information and materials specified in the most up-to-date Department handout for the specific type of application and/or as specified by the Director.
- B. Applicants are encouraged to contact the Director **or ARB Chairperson** before submitting an application to verify which materials are necessary for application filing.
- C. No application shall be received unless it fully complies with the requirements specified for the application.
- D. Applications filed in compliance with this Division shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the City, and shall contain copies of all notices and actions pertaining to the application.

#### **9107.03.050 Filing Fees and Requirements**

##### **A. Fee Schedule**

- 1. The Council shall establish a schedule of fees for the processing of the applications required by this Development Code, hereafter referred to as the Fee Schedule.
- 2. The Fee Schedule is intended to allow recovery of all costs to the maximum extent by law, incurred by the City in processing permit applications.
- 3. The Fee Schedule may be amended as often as deemed necessary by the Council.

##### **B. Timing of Payment**

- 1. Applications shall not be deemed complete, and processing shall not commence, on any application until all required fees or deposits have been paid. Payment of required fees and/or deposits shall not deem the application complete in compliance with Section 9107.03.060 (Initial Application Completeness Review), below.
- 2. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for denial or revocation of any permit or other requested entitlement, notwithstanding any other provisions of this Development Code.

##### **C. Refunds and Withdrawals**

- 1. Application fees cover City costs for public hearings, mailings, staff and consultant time and the other activities involved in processing applications.
  - 2. No refund due to denial shall be allowed.
-

3. In the case of a withdrawal or rejection, the Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to-date and the status of the application at the time of withdrawal or rejection.

#### **9107.03.060 Initial Application Completeness Review**

**A. Review for Completeness.** The Director shall review each application for completeness and accuracy before it is accepted as being complete and officially filed. The Director's determination of completeness shall be based on the City's most up-to-date list of required application contents and any additional written instructions provided to the applicant in any pre-application conference and/or during the initial application review period.

1. **Notification of Applicant.** Except for Site Plan and Design Review (Section 9107.19) and Site Plan and Design Review: Homeowners Association Areas (Section 9107.210) for single-family dwellings and as required by Government Code Section 65943, within 30 days following application filing, the applicant shall be informed in writing, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the Director's letter, shall be provided.
2. **Appeal of Determination.** Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Director is not required, the applicant may appeal the Director's determination in compliance with Section 9108.07 (Appeals).
3. **Time for Submittal of Additional Information.** When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur. The time available to an applicant for submittal of additional information is limited by the following Subparagraph A. 4.
4. **Expiration of Application**
  - a. If an applicant fails to provide the additional information specified in the Director's letter within 90 days following the date of the letter, or shorter time frame as determined by the Director, the application shall expire and be deemed withdrawn without any further action by the City, unless an extension is approved by the Director for good cause shown.
  - b. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated filing fees.
5. **Environmental Information.** After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA), the City's CEQA guidelines, and Section 9107.03.070 (Environmental Assessment), below.

**B. Referral of Application.** At the discretion of the Director, or where otherwise required by this Development Code or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed project.

#### **9107.03.070 Environmental Assessment**

- A. CEQA Review.** After acceptance of a complete application, the project shall be reviewed in compliance with the California Environmental Quality Act (CEQA) to determine whether:
1. The proposed project is exempt from the requirements of CEQA;
  2. The proposed project is not a "project" as defined by CEQA;
  3. A Negative Declaration may be issued;
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4. A Mitigated Negative Declaration may be issued; or
  5. An Environmental Impact Report (EIR) and related documents shall be required.
- B. Compliance with CEQA.** These determinations and, where required, the preparation of appropriate environmental documents, shall be in compliance with CEQA and the City's CEQA guidelines.
- C. Special Studies Required.** One or more special studies, paid for in advance by the applicant, may be required to complete the City's CEQA compliance review. These studies shall become public documents and neither the applicant nor any consultant who prepared the studies shall assert any rights to prevent or limit the documents' availability to the public.

#### **9107.03.080 Application Review and Determinations**

- A. Director's Evaluation.** The Director shall review all discretionary applications filed in compliance with this Division to determine whether they comply and are consistent with the provisions of this Development Code, other applicable provisions of the Municipal Code, the General Plan, and any applicable specific plan.
- B. Commission Investigation.** The Commission shall cause to be made by its own members, or members of its City Staff, an investigation of the facts bearing upon the application that will serve to provide all information necessary to ensure that the action on each application is consistent with the intent of this Development Code and with previously approved amendments, Modifications, or Variances.
- C. Staff Report.** The Director shall provide a written recommendation to the Commission and/or Council (as applicable) as to whether the application should be approved, approved subject to conditions, or denied.
- D. Report Distribution.** Each staff report shall be furnished to the applicant at the same time as it is provided to the Review Authority before action on the application.
- E. Administrative Act.** All acts performed by City officers under the provisions of this Division shall be construed as administrative acts performed for the purpose of ensuring that the purpose and intent of this Division shall apply in special cases, as provided in this Division, and shall not be construed as amendments to the provisions of this Division or the Official Zoning Map.
- F. Notice of the Decision.** Within five days after final action by the applicable Review Authority on an application, notice of the decision in the matter shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request for notices of decision with the Department.
- G. Not Construed as Amendments.** All acts performed by City officers under the provisions of this Division shall be construed as administrative acts performed for the purpose of ensuring that the intent and purpose of this Development Code shall apply in special cases as provided in this Division and shall not be construed as amendments to the provisions of this Development Code or the Official Zoning Map of the City.
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## **Section 9107.20 – Site Plan and Design Review: Homeowners Association Areas**

### **Subsections:**

#### **9107.20.010 Purpose and Intent**

#### **9107.20.020 Applicability**

#### **9107.20.030 Authority**

#### **9107.20.040 Application Filing, Processing, and Review**

#### **9107.20.050 Findings and Decision**

#### **9107.20.060 Conditions of Approval**

#### **9107.20.070 Issuance of Other Required Permits and Approvals**

#### **9107.20.080 Minor Changes by Director**

#### **9107.20.090 Post Decision Procedures**

#### **9107.20.010 Purpose and Intent**

- A. Purpose.** The purpose of this Section is to provide a process for the appropriate review of development projects within Homeowners Association Areas established by City Council Resolution.
- B. Intent.** The intent of this Section is to ensure that all approved site and structural development:
1. Respects the physical and environmental characteristics of the site;
  2. Ensures safe and convenient access and circulation for pedestrians and vehicles;
  3. Exemplifies the best professional high quality design practices;
  4. Allows for and encourages individual identity for specific uses and structures;
  5. Encourages the maintenance of a distinct neighborhood and/or community identity;
  6. Minimizes or eliminates negative or undesirable visual impacts; and
  7. Provides for the adequate dedication of land for public purposes and the provision of public infrastructure, associated with the subject development.

#### **9107.20.20 Applicability**

- A. Site Plan and Design Review Required.** No one shall construct any structure, or relocate, rebuild, or enlarge or modify any existing structure or site, including façade improvement, fences and walls, landscaping, and hardscaping until a Design Review has been approved in compliance with this Section and Table 7-4 (Review Authority for Site Plan and Design Review: Homeowners Association Areas), below.
- B. Compliance with Section Required**
1. Building or Grading Permits, Business Licenses, or Certificates of Occupancy shall not be issued until the requirements of this Section have been met.
  2. Any permit or approval specified in Subparagraph 1., above, issued in violation of this provision shall be deemed void.
- C. Use of the City's Design Guidelines**
-

1. **Established by Council Resolution.** General design review criteria and related guidelines for residential projects shall be established by resolution of the Council.
2. **Influence Design.** The City's Design Guidelines are intended to be used to adhere to and applied to the design of single-family development, and the exterior alterations or re-development of land uses within Homeowners Association Areas. The Design Guidelines should be used as a starting point during design process and to ensure the design is compatible and harmonious with the context of that neighborhood and/or area.
3. **Strive for Creativity and Innovation.** Owners of properties should strive to be creative and innovative and look beyond franchise or boilerplate architectural and landscape architectural design treatment.

#### 9107.20.030 Authority

- A. **Site Plan and Design Review Required.** Structures, fences or walls, or landscaping erected or modified within Homeowners Association Areas to accommodate the land use activities listed in Division 2 (Zones, Allowable Uses, and Development Standards) shall require the approval of a Design Review through the specified review process in Section 9107.10.030, Subsection C.
- B. **Required Before Issuance of Other Required Permits.** Design Review approval shall be required before the issuance of a Building or Grading Permit, or Certificate of Occupancy for any new structure, fences or walls, and existing structures to be reconstructed or remodeled (including facade improvements). Any exceptions shall be specified in Table X-X (Review Authority for Site Plan and Design Review: Homeowners Association Areas), below.
- C. **Applicable Review Authority**
  1. **Applicable Review Authority**
    - a. The applicable Review Authority shall be as specified in Table 7-4 (Review Authority for Site Plan and Design Review: Homeowners Association Areas), below. The three levels of review specified in Table 7-4 shall be further defined as follows:
      - (1) **City Review (Very Minor Review).** Review and decision by the Director with no public notice or hearing required.
        - i. The Director may instead defer action and refer the application to the HOA Architectural Review Board (ARB) Chairperson for review under the Short Review process listed below.
      - (2) **Short Review (Minor Review).** Review and decision by the HOA ARB Chairperson with no public notice or hearing required.
        - i. The HOA ARB Chairperson may instead defer action and refer the application to the Architectural Review Board for review under the Regular Review process listed below.
      - (3) **Regular Review (Major Review).** Review and decision by the HOA Architectural Review Board with public notice and hearing required, in compliance with Section 9108.13 (Public Notices and Hearings).

<b>Table 7-4</b> <b>Review Authority for Site Plan and Design Review: Homeowners Association Areas</b>			
Types of Construction Activity	Review Authority <sup>(4)(5)</sup>		
	City Review (Very Minor Review)	Short Review (Minor Review)	Regular Review (Major Review)
Fences and/or walls <sup>(1) (2)</sup>	Decision		
In-Ground Swimming Pools and Spas without water features	Decision		
In-Ground Swimming Pools and Spas with water features		Decision	
Roof-mounted solar	Decision		
Pool and Spa Equipment <sup>(3)</sup>	Decision		
Mechanical equipment <sup>(3)</sup>	Decision		
Sport courts and related features including but not limited to fencing and lighting		Decision	
Single-story remodels and additions		Decision	
Detached accessory structures - new, additions, and/or remodels		Decision	
Above Ground Swimming Pools and Spas		Decision	
Landscaping and Hardscaping <sup>(1)</sup>		Decision	
Fountains, water features, or statues <sup>(1)</sup>		Decision	
Ground-mounted solar		Decision	
Roofing	Decision		
Façade Improvements on existing structures, including but not limited to window replacements, paint and/or materials changes, etc.		Decision	
New single-family residence			Decision
New second story or second story addition			Decision
<b>Notes:</b> (1) Design Review shall not be required if it is not visible from a public right-of-way. (2) Design Review shall not be required if it is 2 feet or less in height above the lowest adjacent grade. (3) If an Administrative Modification is required, review by the Homeowners Association under the Short Review process shall be required prior to the City processing the Administrative Modification. (4) Any decision is appealable to the Commission and Council, in compliance with Section 9108.07 (Appeals). (5) All projects that are not listed to be eligible to be processed under the City Review or Short Review process shall be processed under the Regular Review process.			

#### 9107.20.040 Application Filing, Processing, and Review

- A. Application Filing.** An application for a Site Plan and Design Review: Homeowners Association Areas shall be filed and processed in compliance with Section 9107.03 (Application Processing Procedures). The application shall include the information and materials specified in the most up-to-date Department handout for Design Review in Homeowners Association Areas, together with the required fee in compliance with the Fee Schedule. It is the responsibility of the applicant to provide evidence in support of the findings required. Initial review of the application, including time requirements and requests for information, shall be in compliance with Subsection 9107.03.060 (Initial Application Completeness Review).
- B. Review with Other Land Use Applications.** If the project for which the request for Site Plan and Design Review: Homeowners Association Areas is being made also requires some other discretionary approval by the Development Services Division (e.g., Certificate of Demolition, Protected Trees, Administrative Modifications, etc.), then the applicant shall submit copies of the requests to the applicable Review Authority for concurrent consideration.

**C. Application Review.** Each application for a Site Plan and Design Review: Homeowners Association Areas shall be reviewed to ensure that the application is consistent with the purpose of this Section, and adopted Design Guidelines and policies that may apply.

1. A Site Plan and Design Review: Homeowners Association Areas is initiated when the ARB Chairperson receives a complete application package including the required information and materials on the Short Review and Regular Review application, information and materials for other land use applications to be concurrently considered, and any additional information required by the applicable Review Authority in order to conduct a thorough review of the proposed project.
2. Upon receipt of a complete application the applicable Review Authority shall review the location, design, site plan configuration, the items listed under item no. 5 below, and the effect of the proposed development on adjacent properties by comparing the project plans to the applicable Design Guidelines and policies.
3. During the course of the review process, the Review Authority may require the submittal of additional information or revised plans. The applicant shall be notified in writing of any revisions or additional information required and shall submit the requested information to the Review Authority within 90 days following the date of the notice or within the period of time designated by the Review Authority. Failure to submit the required information by the end of the business day on the 90th day, or within the period of time designated by the Review Authority, shall cause the Review Authority to consider the application withdrawn and of no further effect.
4. After the application has been deemed complete, the Review Authority shall either approve or deny the Design Review application and, if approved, may impose conditions deemed reasonable and necessary to protect the public health, safety and general welfare and ensure compliance with this Section, adopted Design Guidelines, City Council Resolution, and various regulations of the City in compliance with Subsection 9107.10.050 (Findings and Decision), below.
5. The following criteria shall be considered during the review:
  - a. Compliance with this Section, this Development Code, City Council Resolution, and all other applicable City regulations and policies;
  - b. Efficient site layout and design;
  - c. Compatibility with neighboring properties and developments;
  - d. Efficiency and safety of public access and parking;
  - e. The arrangement and relationship of proposed structures and signs to one another and to other developments in the vicinity and whether the relationship is harmonious and based on good standards of design;
  - f. The compatibility in scale and aesthetic treatment of proposed structures with public areas;
  - g. The adequacy of proposed driveways, landscaping, parking spaces, potential on-site and off-site parking and traffic impacts and other potential impacts upon the environment;
  - h. Appropriate open space and use of water efficient landscaping;
  - i. Consistency with the General Plan and any applicable specific plan; and
  - j. Consistency with any adopted Design Guidelines, policies, and standards.

**D. On-Site Inspection.** An application may require that the ARB Chairperson, or HOA Architectural Review Board to perform an on-site inspection of the subject parcel before confirming that the request complies with all of the applicable criteria and provisions identified in this Section.

**E. Public Notice, Hearing, and Appeal Provisions**

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1. **City Review and Short Review.** Neither a public notice nor public hearing shall be required for the Director's decision or the ARB Chairperson's decision on a City Review or Short Review application.
2. **Regular Reviews.** A public notice and hearing shall be required for ARB's decision on a Regular Review application. Notice of the hearing shall be given and the hearing shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings).
3. **Appeals.** The Review Authority's decision may be appealed to the Planning Commission and the City Council, in compliance with Section 9108.07 (Appeals).

#### **9107.20.050 Findings and Decision**

- A. **Meets Requirements of this Section.** The Review Authority shall determine whether or not the application meets the requirements of this Section in compliance with Subsection 9107.10.060 (Initial Application Completeness Review).
  - B. **Review Authority's Action.**
    1. **City Review and Short Review.** Within 14 calendar days following the filing of the completed application, the applicable Review Authority shall approve, approve with conditions, or deny the application.
    2. **Regular Review.** Within 30 calendar days following the filing of the completed application, the applicable Review Authority shall approve, approve with conditions, or deny the application.
  - C. **Referral to the Short Review process.** If the application submitted for City Review (Very Minor Review) is of significant consequence or magnitude or involves potential public controversy, the Director may defer action and refer the application to the ARB Chairperson for review and final decision under the Short Review (Minor Review) process.
  - D. **Referral to the Regular Review process.** If the application submitted for Short Review (Minor Review) is of significant consequence or magnitude or involves potential public controversy, the ARB Chairperson may defer action and refer the application to the Architectural Review Board for review and final decision under the Regular Review (Major Review) process.
    1. **Next ARB Agenda.** The referral shall be placed on the agenda of the next available regular ARB meeting following the referral.
  - E. **Required Findings.** The Review Authority may approve an application, only if it first makes finding that the proposed development will be consistent with the City adopted Design Guidelines.
  - F. **Notice of the Decision.**
    1. **Short Review.** Within 10 days after final action by the applicable ARB Chairperson on an application, notice of the decision form shall be mailed to the applicant at the address shown upon the application, the Development Services Department, and to all other persons who have filed a written request for notices of decision with the ARB Chairperson.
    2. **Regular Review.** Within 10 days after final action by the applicable ARB on an application, notice of the decision and Findings and Action form shall be mailed to the applicant at the address shown upon the application, the Development Service Department, and to all other persons who have filed a written request for notices of decision with the ARB.
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#### **9107.20.060 Conditions of Approval**

- A. May Impose Conditions.** In approving an application, the Review Authority may impose conditions deemed reasonable and necessary to ensure that the approval would be in compliance with this Section and the findings required by Subsection 9107.20.050 (Findings and Decision), above.

#### **9107.20.070 Issuance of Other Required Permits and Approvals**

- A. Permits or Approvals for Grading, Structures, and Uses.** No permits or approvals shall be issued for any development involved in an application for a Site Plan and Design Review: Homeowners Association Areas or a revised Site Plan and Design Review: Homeowners Association Areas until and unless the same shall have become final, in compliance with Subsection 9108.11.030 (Effective Dates of Permits).
- B. Compliance with Site Plan and Design Review Homeowners Association Areas.** Grading shall not be commenced and no structure shall be altered, enlarged, erected, moved, or rebuilt subject to the provisions of this Section, except in compliance with the approved Site Plan and Design Review: Homeowners Association Areas and the conditions imposed on the review.
- C. Determination by Director.** Compliance shall be determined by the Director.

#### **9107.10.080 Minor Changes by ARB Chairperson**

The ARB Chairperson may approve minor changes to an approved Regular Review (Major Review) application that do not involve an increase in structure area or height, a significant architectural change, or an intensity of use in compliance with Subsection 9108.11.100 (Changes to an Approved Project). The ARB Chairperson may instead defer action and refer the request back to the Architectural Review Board for review under the Regular Review process in compliance with Subsection 9107.10.030 (Authority), above.

#### **9107.10.090 Post Decision Procedures**

The procedures and requirements in Section 9108.11 (Permit Implementation, Time Limits, and Extensions), and those related to appeals, public notices and hearings, revocation, and enforcement in Division 8 (Development Code Administration) shall apply following the decision on a Site Plan and Design Review: Homeowners Association Areas application.

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Division 8:  
Development Code Administration

## Section 9108.01 – Administrative Responsibility

### Subsections:

- 9108.01.010 Purpose and Intent
- 9108.01.020 Planning Agency Defined
- 9108.01.030 City Council
- 9108.01.040 Planning Commission
- 9108.01.050 Development Services Department Director

### 9108.01.010 Purpose and Intent

The purpose of this Section is to describe the authority and responsibilities of the Council, Commission, Director, **Architectural Review Board, Architectural Review Board Chairperson**, Department, and Department staff in the administration of this Development Code.

### 9108.01.020 Planning Agency Defined

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

### 9108.01.030 City Council

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

- A. Review Authority on Specified Planning Matters.** Final decisions on development agreements, Development Code amendments, General Plan amendments, specific plans and amendments, Zoning Map amendments, environmental documents related to any of the forgoing, and other applicable policy or regulatory matters related to the City's planning process as specified in the City Charter, the Municipal Code, and this Development Code;
- B. Appeals.** The review of appeals filed from Commission decisions; and
- C. Compliance.** The above listed functions shall be performed in compliance with Table 7-1 (Review Authority), Division 7 (Permit Processing Procedures), and the California Environmental Quality Act (CEQA).

### 9108.01.040 Planning Commission

- A. Establishment.** The Planning Commission, referred to in this Development Code as the Commission, is hereby established.
- B. Appointment.** The Commission shall consist of five members who shall be appointed by the Council in compliance with Municipal Code Part 5 (Planning Commission) Division 1, and Section 2251 (Membership).
- C. Duties and Authority.** The Commission shall perform the duties and functions prescribed by the Municipal Code and this Development Code, and the Council may, from time to time by resolution, prescribe additional powers and duties not inconsistent with State Law, including the following:
  - 1. The review of development projects, including referrals from the Director;
  - 2. The review of appeals from the Director's decisions;
  - 3. The recommendation, to the Council for final decisions, on development agreements, Development Code amendments, General Plan amendments, specific plans and amendments, Zoning Map amendments, environmental documents

related to any of the forgoing, and other applicable policy or regulatory matters related to the City's planning process as specified in the City Charter, the Municipal Code, and this Development Code; and

4. The above listed functions shall be performed in compliance with Table 7-1 (Review Authority), Division 7 (Permit Processing Procedures), and the California Environmental Quality Act (CEQA).

**D. Meeting Rules.** The Commission shall conduct public hearings and meetings in compliance with the Municipal Code Part 5 and Section 9108.13 (Public Notice and Hearings).

#### **9108.01.050 Development Services Department Director**

**A. Appointment.** The Development Services Department Director, referred to in this Development Code as the Director, shall be appointed by the City Manager.

**B. Definition of the Term "Director."** When used in this Development Code or any permit or condition approved in compliance with this Development Code, the term "Director" shall be as follows and as defined in Division 9 (Definitions): "The Development Services Department Director, referred to in this Development Code as the 'Director' or designee(s) of the Director."

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

1. Have the responsibility to perform all of the functions designated by State law, including, but not limited to the following:
  - a. Annual report related to implementation of the General Plan in compliance with Government Code Section 65400;
  - b. Review of public works projects for conformity to the General Plan in compliance with Government Code Section 65401; and
  - c. Review of acquisition of property for conformity to the General Plan in compliance with Government Code Section 65402.
2. Perform the duties and functions prescribed in this Development Code, including the review of administrative development projects, in compliance with Table 7-1 (Review Authority), Division 7 (Permit Processing Procedures), Government Code Section 65901 et seq., and the California Environmental Quality Act (CEQA);
3. Perform other responsibilities assigned by the Council, Commission, or City Manager;
4. Delegate the responsibilities of the Director to Department staff under the supervision of the Director; and
5. Serve in an advisory capacity for proposed subdivisions, in compliance with Subdivision Map Act Section 66415 et seq. In this capacity, the Director is charged with the responsibility of making investigations and reports on the design and improvement of proposed divisions of real property.

#### **9108.01.060 Homeowners Association Architectural Review Board**

**A. Appointment.** The Homeowners Association Architectural Review Board, referred to in this Development Code as the Architectural Review Board or ARB, shall be selected in accordance with each Homeowners Association's adopted by-laws and any amendments on file with the City Clerk.

**B. Definition of the Term "Homeowners Association Architectural Review Board."** When used in this Development Code or any permit or condition approved in this Development Code, the term "Homeowners Association Architectural Review Board" shall be as follows and as defined in Division 9 (Definitions): "The Homeowners Association Architectural Review Board, referred to in this Development Code as the 'Architectural Review Board' or 'ARB' consists of members appointed in accordance with the by-laws of each City-designated Homeowners Association. The ARB shall be maintained in accordance with City Council Resolution."

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**C. Duties and Authority.** The ARB shall:

1. Perform the duties and functions prescribed by this Development Code and City Council Resolution.
2. Provide recommendation to the Director for final decisions on Tree Permits, Administrative Modifications, and other applicable permits related to the City's planning process as specified in the City Charter, the Municipal Code, and this Development Code; and
3. Perform the duties and functions prescribed in this Development Code, including the review of administrative development projects, in compliance with Table 7-4 (Review Authority for Homeowner Association Areas), Division 7 (Permit Processing Procedures), City Council Resolution, Government Code Section 65901 et seq., and the California Environmental Quality Act (CEQA); and
4. Perform other responsibilities assigned by the Council, Commission, City Manager, or Director.

**D. Meeting Rules.** The ARB shall conduct public hearings and meetings in compliance with Section 9108.13 (Public Notice and Hearings).

**9108.01.070 Homeowners Association Architectural Review Board Chairperson**

- A. **Appointment.** The Homeowners Association Architectural Review Board Chairperson, referred to in this Development Code as the ARB Chairperson, shall be selected in accordance with each Homeowners Association's adopted by-laws and any amendments on file with the City Clerk.
- B. **Definition of the Term "Homeowners Association Architectural Review Board Chairperson."** When used in this Development Code or any permit or condition approved in this Development Code, the term "Homeowners Association Architectural Review Board Chairperson" shall be as follows and as defined in Division 9 (Definitions): "The Homeowners Association Architectural Review Board Chairperson, referred to in this Development Code as the 'ARB Chairperson' or designee(s) of the ARB Chairperson" shall be appointed in accordance with the by-laws of each City-designated Homeowners Association."
- C. **Duties and Authority.** The ARB Chairperson shall:
1. Perform the duties and functions prescribed by this Development Code, and City Council Resolution.
  2. Perform the duties and functions prescribed in this Development Code, including the review of administrative development projects, in compliance with Table 7-4 (Review Authority for Homeowner Association Areas), Division 7 (Permit Processing Procedures), City Council Resolution, Government Code Section 65901 et seq., and the California Environmental Quality Act (CEQA); and
  3. Perform other responsibilities assigned by the Council, Commission, City Manager, or Director.
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## Section 9108.07 – Appeals

### Subsections:

- 9108.07.010 Purpose and Intent
- 9108.07.020 Appeal Subjects and Jurisdiction
- 9108.07.030 Calls for Review
- 9108.07.040 Filing and Processing of Appeals
- 9108.07.050 Judicial Review

### 9108.07.010 Purpose and Intent

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

### 9108.07.020 Appeal Subjects and Jurisdiction

- A. **Code Administration and Interpretation.** Any determination of the Director and/or Department staff on the meaning or applicability of the regulations contained in this Development Code that cannot be resolved with the Director, may be appealed to the Commission and then to the Council:
- B. **Planning Permit Decisions**
  - 1. **ARB or ARB Chairperson Decisions.** Decisions of the ARB or ARB Chairperson on all matters specified in Section 9108.01.060 (Homeowners Association Architectural Review Board) and 9108.01.070 (Homeowners Association Architectural Review Board Chairperson) may be appealed to the Commission.
  - 2. **Director's Decisions.** Decisions of the Director on all matters specified in Section 9108.01.050 (Development Services Department Director) may be appealed to the Commission.
  - 3. **Commission's Decisions.** Any decision of the Commission may be appealed to the Council.

### 9108.07.030 Calls for Review

#### A. Commission or Council Review

- 1. **Commission.** The Commission may call for a review of any determination or decision rendered by the Director, ARB, or Department staff.
- 2. **Council.** The Council may call for a review of any determination or decision rendered by the Commission, Director, ARB, or Department staff.
- 3. **Majority Vote Required.** A call for review may only be commenced by the affirmative vote of the majority of the members present of the applicable Review Authority.

#### B. Process for Calling for a Review

- 1. **Initiation by Commissioners.** Any Commissioner may initiate a call for review of a Director's determination or decision by filing a written request with the Department before the effective date of the action, which means within 10 days following the date of the determination or decision.
  - 2. **Initiation by Council Members**
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- a. Any Council member may initiate a call for review of a Commission's, ~~or~~ Director's, or ARB's determination or decision by filing a written request with the City Clerk before the effective date of the action, which means within 10 days following the date of the determination or decision.
    - b. The Council may call for the review of a Director's, ARB's determination or decision directly, or may direct the Commission to first consider the matter and provide a written recommendation to the Council.
  3. **Consideration of Call for Review.** The Commission or Council, as applicable, shall consider the call for review at its next regularly scheduled meeting.
  4. **Majority Vote by Review Authority.** If the Commission or Council, as applicable, votes to review the determination or decision, a subsequent review hearing shall be scheduled to consider the merits of the review. Following a majority vote to proceed, the request shall be treated in compliance with Subsection 9108.07.040 (Filing and Processing of Appeals).
  5. **Notice to Applicant.** If the Review Authority is reviewing the decision of a discretionary application, the applicant shall be informed of the aspects of the application and the determination or decision that the Review Authority will consider.
  6. **Effect of Call for Review**
    - a. A request for a call for review by a member of a Review Authority shall stay the effective date of a determination or decision until the Review Authority can make a decision on the call for review request.
    - b. The timely filing of a call for review does not extend the time in which an appeal of a determination or decision shall be filed. The normal appeal period shall continue to run in compliance with Subparagraph 9108.07.040 B. (Form and Timing of an Appeal), below.
    - c. If the Review Authority decides to call for review of the subject determination or decision, then the previous determination or decision shall be stayed.
    - d. If the Review Authority decides not to call for review the subject determination or decision, then the determination or decision shall become final unless the appeal period has not expired.
  7. **Filing of an Appeal Pending a Call for Review**
    - a. **Right to File an Appeal.** Any person may file a timely appeal in compliance with this Section even though a call for review has been filed in compliance with this Section.
    - b. **Effect of Filing an Appeal.** The filing of the appeal shall serve to protect the rights of the appellant(s) in the event the call for review is subsequently withdrawn or rejected.
  8. **Withdrawal or Failure of a Call for Review.** If a request for a call for review is withdrawn after filing, or is rejected, the remaining days of the call for review period shall run until the original 10-day period has expired.
  9. **Notice and Public Hearing**
    - a. A call for review hearing shall be a public hearing if the original determination or decision required a public hearing.
    - b. Notice of the public hearing shall be the same as the original determination or decision, in compliance with Section 9108.13 (Public Notices and Hearings).
    - c. The public hearing shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings).
  10. **Fees Not Required.** Fees shall not be required in conjunction with the filing of a call for review.
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**11. Required Votes.** The final action calling for review of a determination or decision shall require an affirmative majority vote of those members lawfully authorized to vote on the matter.

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

#### **9108.07.040 Filing and Processing of Appeals**

##### **A. Eligibility**

- 1. Eligible Appellants.** An appeal in compliance with this Section may be filed by any interested person(s).
- 2. Interested Person(s).** For purposes of this Section an interested person(s) is a person who informed the City of his or her concerns about an application for a permit or approval at a public hearing, either in person or through a representative, or by other appropriate means (e.g., in writing), or was unable to do so for good cause and pays the applicable fee in compliance with the Fee Schedule; and
  - a. Objects to the action taken on the permit or approval;
  - b. Completes the required City appeal form completely and accurately. The appeal will not be deemed complete and timely filed until all information on the appeal form is verified by the office receiving the appeal form; and
  - c. Wishes to appeal any appealable action to a higher Review Authority.
- 3. Appeals by Councilmember or Commissioner.** Any action or decision by the Commission, Director, **ARB, ARB Chairperson**, or Department staff rendered in compliance with this Development Code may be appealed by a Councilmember or Commissioner acting as an individual, in compliance with the requirements of the Fair Political Practices Act.
- 4. Shall Not Be Authorized to Participate.** Any Councilmember or Commissioner filing an appeal as an individual shall not be authorized to participate in any decision concerning that action or decision.

- B. Form and Timing of Appeal.** An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal.

- 1. Pertinent Facts and the Basis for the Appeal.** The pertinent facts and the basis for the appeal shall include, at a minimum, the specific grounds for the appeal, where there was an error or abuse of discretion by the previous Review Authority (e.g., Commission, Director, **ARB, ARB Chairperson**, or other City official) in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record. Appeals filed by a City official, a Commissioner, or a Councilmember shall be exempt from the requirements of this Subparagraph.
  - 2. Shall be Filed within 10 Days.** The appeal shall be filed with the Department ~~or City Clerk, as applicable,~~ within 10 days following the actual date the decision was rendered.
    - ~~a. Appeals addressed to the Commission shall be filed with the Department; and~~
    - b. Appeals addressed to the Council shall be filed with **Planning Services.** ~~the City Clerk.~~
  - 3. Accompanied by Filing Fee.** The appeal shall be accompanied by the filing fee identified in the Fee Schedule.
  - 4. Suspension of Action.** Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered by the applicable Review Authority.
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**C. Scope of Planning Permit Appeals.** An appeal of a decision on any planning permit specified in Division 7 (Permit Processing Procedures) shall be de novo, and shall not be limited to issues raised at the public hearing, or in writing before the hearing, or information that was not known at the time of the decision that is being appealed.

**D. Report and Scheduling of Hearing**

1. When an appeal has been filed, the Director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate Review Authority identified in Subsection 9108.07.020 (Appeal Subjects and Jurisdiction), above.
2. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Section 9108.13 (Public Notice and Hearings).
3. Any interested party may appear and be heard regarding the appeal.

**E. Decision**

1. During the appeal hearing, the Review Authority may:
  - a. Affirm, affirm in part, modify, or reverse the action, determination, or decision that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with this Development Code;
  - b. Adopt additional or different project aspects or conditions of approval, that may address issues or concerns other than the subject of the appeal;
  - c. Deny the planning permit approved by the previous Review Authority, even where the appellant only requested a modification or elimination of one or more project aspects or conditions of approval; or
  - d. If new or different evidence is presented on appeal, the Review Authority may refer the matter to the Director or Commission, as applicable, for further consideration.
  - e. The decision of the Council shall be final.
2. Within 60 days following the initial public hearing, the Review Authority shall render its decision on the appeal, unless it is continued for good cause.
3. In the event of a tie vote by the Review Authority on an appeal, the decision being appealed shall stand.

**F. Provision of Notice of Decision**

1. Following the final decision on an appeal of a permit or other approval required by this Development Code, the City shall provide notice of its final decision to the appellant, applicant, property owner or owner's representative, and to any person who specifically requested notice of the City's final decision.
2. The notice of the final decision shall contain applicable findings, conditions of approval, and the reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City.

**G. Effective Date of Appeal Decision.** No permit or license shall be issued for any use involved in an appeal until the final decision on the application shall have become final in the following manner:

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1. **Commission's Decision.** A decision by the Commission is final and effective ~~after 5:00 p.m.~~ **the end of the business day** on the **10th** day following the actual date the final decision is rendered, if no appeal to the decision has been filed with the Council or called up by the Council.
2. **Council's Decision**
  - a. **Adopted by Ordinance.** A decision of the Council adopted by ordinance is final and shall become effective on the 31<sup>st</sup> day following the date the ordinance is actually adopted by the Council, unless otherwise provided in the adopting ordinance.
  - b. **Adopted by Resolution.** A decision of the Council adopted by resolution is final and shall be effective on the date the decision is rendered.

#### **9108.07.050 Judicial Review**

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

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## Section 9108.09 – Permit Modifications and Revocations

### Subsections:

9108.09.010 Purpose and Intent  
9108.09.020 Modifications  
9108.09.030 Revocations  
9108.09.040 Findings to Modify or Revoke  
9108.09.050 Notice and Hearing Required  
9108.09.060 Appeals

### 9108.09.010 Purpose and Intent

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

### 9108.09.020 Modifications

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

### 9108.09.030 Revocations

The City's action to revoke a permit or approval, instead of modification, shall have the effect of terminating the permit or approval and denying the privileges granted by the original approval.

### 9108.09.040 Findings to Modify or Revoke

- A. Permits.** A Conditional Use Permit, Minor Use Permit, or other City planning permit or approval (except a Variance or Administrative Modification, see Subsection B., below) may be modified or revoked by the Review Authority (e.g., **ARB Chairperson, ARB, Director, Commission, or Council**) that originally approved the permit, if the Review Authority first makes any one of the following findings:
1. Circumstances under which the permit or approval was granted have been changed by the applicant to an extent that one or more of the findings that justified the original approval can no longer be made, and the improvement/use has become detrimental to the public health, safety, or general welfare, or constitutes or is creating a nuisance;
  2. The permit or other approval was granted, in whole or in part, on the basis of a fraud, misrepresentation, or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or approval;
  3. One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated and/or the permit is in violation of any code, law, ordinance, regulation, or statute;
  4. The approved use or structure has not been exercised within 12 months of the date of approval in compliance with Subsection 9108.11.080 (Expiration);
  5. The approved use or structure has ceased to exist or has been suspended for a period in excess of 12 months; or
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7. The improvement/use allowed by the permit or approval has become detrimental to the public health, safety, or general welfare or the manner of operation constitutes or is creating a nuisance.

**B. Variances and Administrative Modifications.** A Variance or Administrative Modification may be modified or revoked by the Review Authority which originally approved the Variance or Administrative Modification, if the Review Authority first makes any one of the following findings, in addition to any one of the findings specified in Subsection A., above:

1. Circumstances under which the original approval was granted have been changed by the applicant to a degree that one or more of the findings contained in the original approval can no longer be made, and the grantee has not substantially exercised the rights granted by the Variance or Administrative Modification; or
2. One or more of the conditions of the Variance or Administrative Modification have not been met, or have been violated, and the grantee has not substantially exercised the rights granted by the Variance or Administrative Modification in compliance with Subsection 9108.11.080 (Expiration).

#### **9108.09.050 Notice and Hearing Required**

- A. Hearing.** The appropriate Review Authority shall hold a public hearing to modify or revoke a permit or approval granted in compliance with the provisions of this Development Code. The hearing shall be noticed and conducted in compliance with Section 9108.13 (Public Notices and Hearings).
- B. Notice.** At least 10 days before the public hearing, notice shall be mailed or delivered to the owner as shown on the County's current equalized assessment roll and to the project applicant, if not the owner of the subject property, for which the permit or approval was granted. The only exception to the 10-day notice provision shall be for Temporary Use Permits which, because of their short term nature, shall only require a 24-hour notice.

#### **9108.09.060 Appeals**

- A.** The decision of the Director, ARB, or ARB Chairperson may be appealed to the Commission and the decision of the Commission may be appealed to the Council, in compliance with Section 9108.07 (Appeals). The decision of the Council shall be final.
- B.** A public hearing shall be required for the appeal of a decision to modify or revoke a permit or approval. Notice of the hearing shall be given and the hearing shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings).
- C.** At the conclusion of the hearing, the Review Authority may sustain the previous Review Authority's decision to modify or revoke the permit or approval, or overturn the decision and order reinstatement of the permit or approval.
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## Section 9108.11 – Permit Implementation, Time Limits, and Extensions

- 9108.11.010 Purpose and Intent
- 9108.11.020 Conformation to Approved Plans
- 9108.11.030 Effective Dates of Permits
- 9108.11.040 Acknowledgement and Acceptance of Conditions
- 9108.11.050 Applications Deemed Approved
- 9108.11.060 Permits to Run with the Land
- 9108.11.070 Performance Guarantees
- 9108.11.080 Expiration
- 9108.11.090 Time Extensions
- 9108.11.100 Changes to an Approved Project

### 9108.11.010 Purpose and Intent

This Section provides requirements for the implementation or "exercising" of the permits or approvals required by this Development Code, including time limits and procedures for approving extensions of time.

### 9108.11.020 Conformation to Approved Plans

- A. **Compliance.** All work performed under a Building Permit, Encroachment Permit, or Grading Permit for which project drawings and plans have received approval by the Director, Department staff, Commission, or Council shall be in compliance with the approved drawings and plans, and any conditions of approval imposed by the Review Authority.
- B. **Changes.** Changes to an approved project shall be submitted and processed in compliance with Subsection 9108.11.100 (Changes to an Approved Project), below.
- C. **Effect of Development Code Amendments on Projects in Progress.** The enactment of this Development Code, or an amendment to this Development Code, may have the effect of imposing different standards on a new land use than those that applied to existing development. (For example, this Development Code or a future amendment could specify different landscaping requirements than specified by the former regulations.) The following provisions determine how the requirements of this Development Code will apply to a development project that is in progress at the time this Development Code or an amendment goes into effect.
  - 1. **Application Deemed Complete.** A planning permit application (Division 7 [Permit Processing Procedures]), which has been deemed complete by the Director before the effective date of this Development Code or any amendment, shall be processed in compliance with the requirements in effect when the application was deemed complete.
  - 2. **Project Under Construction.** A project for which a Building Permit has been issued under the provisions of earlier ordinances of the City which are in conflict with this Development Code, and on which substantial construction has been performed by integration of materials on the site before the effective date of this Development Code, may be continued and completed in compliance with the plans and specifications upon which the permit was originally issued.
  - 3. **Subdivision Maps.** Subdivision maps shall be processed in compliance with the Subdivision Map Act (Government Code Section 66410 et seq.) and Division 5 (Subdivisions).

### 9108.11.030 Effective Dates of Permits

- A. **Approvals, Permits, and Variances.** An Administrative Modification, Certificates of Demolition, Conditional Use Permit, Home Occupation Permit, Minor Use Permit, Planned Development Permit, Reasonable Accommodation, Site Plan and Design Review, **Site Plan and Design Review: Homeowners Association Areas**, Temporary Use Permit, or Variance shall become effective 10 days following the actual date the decision was rendered by the applicable Review Authority.
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**B. Plans/Amendments**

1. Council actions to adopt or amend a development agreement, this Development Code, a specific plan, or the Zoning Map shall become effective on the 31<sup>st</sup> day following the date the ordinance is actually adopted by the Council. For example, an ordinance adopted on October 1<sup>st</sup> will actually be effective on November 1<sup>st</sup>, unless otherwise provided in the adopting ordinance.
2. Council actions to adopt or amend the General Plan shall become effective on the actual date the decision is rendered by the Council, unless otherwise provided in the adopting resolution.

- C. Issued on the Effective Date.** Permits, certificates, and/or other approvals shall not be issued until the effective date, and then only if no appeal of the Review Authority's decision has been filed, in compliance with Section 9108.03 (Appeals).

**9108.11.040 Acknowledgement and Acceptance of Conditions**

- A. Full Understanding and Acceptance.** The applicant, upon receipt of the approved copy of the permit with attached conditions, shall execute an Acknowledgment and Acceptance of Conditions agreement with the City, certifying full understanding and acceptance of the final conditions of approval.
- B. Signed and Dated.** The applicant shall return the Acknowledgment and Acceptance of Conditions agreement to the Department, properly signed and dated, within 30 days following the date of the Acknowledgement.
- C. Appeal.** If the applicant wishes to appeal any or all of the final conditions of approval, the applicant shall file an appeal within 10 days following the actual date the decision was rendered by the applicable Review Authority in compliance with Section 9108.07 (Appeals).
- D. New Owner's or Tenant's Responsibility.** Any new owner or tenant taking over an existing business's Conditional Use Permit or Minor Use Permit shall be required to sign and submit an Acknowledgment and Acceptance of Conditions stating they have been given a copy of the conditions of approval and accept them, before they are issued a new Business License for the subject business.

**9108.11.050 Applications Deemed Approved**

- A. Applicable Provisions.** Any application deemed approved by operation of law in compliance with Government Code Section 65956(b) shall be subject to all applicable provisions of this Development Code, which shall be fully satisfied by the applicant before a Building Permit is issued or a land use not requiring a Building Permit is exercised or established.
- B. Public Hearing.** The application shall be deemed approved only if the application received proper notice in compliance with Section 9108.13 (Public Notice and Hearings) and Government Code Section 65956(b).

**9108.11.060 Permits to Run with the Land**

- A. Run with the Land.** An Administrative Modification, Conditional Use Permit, Minor Use Permit, Planned Development Permit, Site Plan and Design Review, **Site Plan and Design Review: Homeowners Association Areas**, Temporary Use Permit, or Variance approval that is approved in compliance with Section 9107.03 (Application Processing Procedures) shall be deemed to run with the land through any change of ownership of the subject site, from the effective date of the permit, except in any case where a permit expires and becomes void in compliance with Subsection 9108.11.080 (Expiration), below.
- B. Conditions Shall Apply.** All applicable conditions of approval shall continue to apply after a change in property ownership.

**9108.11.070 Performance Guarantees**

- A. Deposit of Security**
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1. As a condition of approval of an Administrative Modification, Conditional Use Permit, Home Occupation Permit, Minor Use Permit, Planned Development Permit, Site Plan and Design Review, **Site Plan and Design Review: Homeowners Association Areas**, Temporary Use Permit, or Variance, upon a finding that the City's health, safety, and general welfare warrant, the Review Authority may require the execution of a covenant to deposit security and the deposit of security in a reasonable amount and form approved by the City Attorney to ensure the faithful performance of one or more of the conditions of approval of the permit or Variance in the event that the obligor fails to perform.
2. The applicant/owner may offer to provide adequate security for the faithful performance of a condition(s) of approval imposed as part of the approval process if the Director determines that the condition(s) may be implemented at a later specified date (e.g., inability to install required landscaping due to weather conditions).
3. The security shall, as required by law or otherwise, be in a form approved by the City Attorney.
4. The security shall remain in effect until all of the secured conditions have been performed to the satisfaction of the Director in conjunction with the City Engineer.
5. Security required in compliance with this Section shall be payable to the City.

**B. Release of Security.** Upon satisfactory compliance with all applicable provisions of this Section, the security deposit shall be released.

**C. Failure to Comply**

1. Upon failure to perform any secured condition, the City may perform the condition, or cause it to be done, and may collect from the obligor all costs incurred, including administrative, engineering, legal, and inspection costs.
2. Any unused portion of the security shall be refunded to the obligor after deduction of the cost of the work.
3. Any cost in excess of the security shall be an obligation of the applicant/owner and a lien on the property benefitted by the provisions of this Subsection.
4. To the extent that the Director can demonstrate that the obligor willfully breached an obligation in a manner that the obligor knew, or should have known, would create irreparable harm to the City, the entire amount of the security may be withheld.
5. The Director's determination may be appealed to the Council by the obligor by filing an appeal with the City Clerk within 10 days following the decision to withhold the security, in compliance with Section 9108.07 (Appeals).

**9108.11.080 Expiration**

**A. Expiration of Permit or Approval.** Unless otherwise specified in the permit or approval, any discretionary permit issued by the City, including, without limitation, any Administrative Modification, Conditional Use Permit, Home Occupation Permit, Minor Use Permit, Planned Development Permit, Site Plan and Design Review, **Site Plan and Design Review: Homeowners Association Areas**, Temporary Use Permit, or Variance, shall comply with the following expiration provisions. See Division 5 (Subdivisions) for expirations related to subdivision maps.:

**1. Exercised**

- a. To ensure continued compliance with the provisions of this Development Code, the permit or approval shall be exercised by the applicant within 12 months following the date of final approval, unless otherwise specified in the permit or approval, or an extension is approved by the applicable Review Authority, in compliance with Subsection 9108.11.090 (Time Extensions). In the event the permit or approval has not been fully exercised in that time period, the permit or approval shall expire and be deemed void (vs. shall be subject to review by the Review Authority who originally granted the permit or approval to determine whether a good faith intent to exercise the permit or approval has been demonstrated).

- b. Additionally, if after construction has started, commencement work is discontinued for a period of 12 months, or the proposed use is discontinued for a period of 12 months, the permit or approval shall be subject to review by the Review Authority who originally granted the permit or approval to determine whether a good faith intent to commence the contemplated use or development granted by the permit or approval has been demonstrated.

## 2. Phasing

- a. Where the permit or approval provides for development in two or more phases or units in sequence, the permit or approval shall not be approved until the Review Authority has approved the final phasing plan for the entire project site. The project applicant shall not be allowed to develop one phase in compliance with the preexisting base zone and then develop the remaining phases in compliance with this Subsection, without prior Review Authority approval.
- b. Pre-approved phases
  - (1) If a project is to be built in pre-approved phases, each subsequent phase shall have 12 months following the previous phase's date of construction commencement to the next phase's date of construction commencement to have occurred, unless otherwise specified in the permit or approval, and the permit or approval shall be subject to review by the Review Authority who originally granted the permit or approval to determine whether a good faith intent to commence the contemplated use or development granted by the permit or approval exists.
  - (2) If the application for the permit or approval also involves the approval of a tentative map, the phasing shall be consistent with the tentative map and the permit or approval shall be exercised before the expiration of the associated tentative map.

## 3. Definition of “Exercise” and Evidence of “Good Faith”. The following shall be a non-exclusive list of factors that the Review Authority may consider when determining whether or not a good faith intent to exercise the permit or approval has been demonstrated:

- a. Whether the applicant has submitted plans in Building Services plan-check.
- b. Whether the applicant has obtained a Building or Grading Permit.
- c. Whether the applicant has diligently continued the approved grading and construction activities in a timely manner in compliance with the subject Building Permit.
- d. Whether the applicant has actually implemented the allowed land use, in its entirety, on the subject property in compliance with the conditions of approval.

## 4. Procedure for Determination

- a. The determination of whether or not a good faith intent to exercise the permit or approval has been demonstrated, as specified in Subparagraph 3., above, shall be made by the original Review Authority. ~~following If a public hearing is required, noticing shall be ed and~~ conducted in compliance with Section 9108.13 (Public Notice and Hearings)~~and 9108.11.090 (Time Extensions), below.~~

**Exception:** The determination of whether or not good faith intent to exercise the approval has been demonstrated, as specified in Subparagraph 3., above, for approvals issued in compliance with Subsection 9107.10 (Site Plan and Design Review: Homeowners Association Areas) shall be made by the original Review Authority.

- b. At the public hearing, the applicable Review Authority shall investigate the facts bearing on each case and render its decision in writing within 30 days following the date of the first hearing, unless continued for further investigation, study, or hearing.
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- c. The applicable Review Authority shall cause to be served on the applicant, and if different, the property owner, its written decision, in compliance with Subparagraph 9107.03.080 F (Notice of the Decision).
  - d. The decision of the applicable Review Authority shall be final following a 10-day appeal period, unless appealed to the applicable Review Authority in compliance with Section 9108.03 (Appeals).
- 5. **Burden of Proof.** It shall be the applicant's burden to prove to the applicable Review Authority, by a preponderance of the evidence, that, no later than the date that the City delivered the public notice required by Section 9108.13 (Public Notice and Hearings), a good faith intent to exercise the permit or approval has been demonstrated.
- B. **Effect of Expiration.** If the applicable Review Authority who originally granted the permit or approval determines that a good faith intent to exercise the permit or approval has not been demonstrated, the Review Authority shall deem the permit or approval expired and void. Thereafter, the following provisions shall control:
  - 1. No further action is required by the City;
  - 2. No further reliance may be placed on the previously approved permit or approval;
  - 3. The applicant shall have no rights previously granted under the permit or approval;
  - 4. The applicant shall be required to file a new application(s) with all required fees and obtain all required approvals before any further construction can commence or any use may be implemented; and
  - 5. Any security provided by the applicant under the previously approved permit or approval may be utilized by the City to provide suitable protection from any harm that may result from the terminated development or use.

#### 9108.11.090 Time Extensions

Requests for a time extension for a permit or approval shall be filed and processed in the following manner:

##### A. Filed Before Expiration.

- 1. The applicant's written request for an extension of time shall be on file with the Department before expiration of the permit or approval, together with the filing fee required by the Fee Schedule.
- 2. **Exception: For Homeowners Association Area the applicant's written request for an extension of time shall be on file with the ARB Chairperson before expiration of the permit or approval.**

##### B. Public Hearing Requirements

- 1. A public hearing shall not be required for the Director's decision on an extension of time.
- 2. However, the Director may conduct a public hearing in compliance with Section 9108.13 (Public Notice and Hearings) if deemed appropriate by the Director.
- 3. A public hearing shall be required for the Commission's decision on an extension of time or the Council's decision if an appeal of the Commission's decision has been filed. The request for extension shall be noticed and the hearing shall be conducted in compliance with Section 9108.13 (Public Notice and Hearings).
- 4. **Exception: For Homeowners Association Area:**
  - a. **A public hearing shall not be required for the ARB Chairperson's decision on an extension of time.**

- b. The ARB Chairperson may, if deemed appropriate, defer action and refer the application to the Architectural Review Board for review under the Regular Review process and require a public hearing in compliance with Section 9108.13 (Public Notice and Hearings).
- c. A public hearing shall be required for the ARB's decision on an extension of time. The request for extension shall be noticed and the hearing shall be conducted in compliance with Section 9108.13 (Public Notice and Hearings).

**C. Suspension of Expiration**

1. The filing of a written extension request shall suspend the actual expiration of the permit or approval until the extension request has been acted upon by the ARB, ARB Chairperson, Director, Commission, and/or Council.
2. Building or Grading Permits shall not be issued in compliance with the permit or approval during the period of the suspension.

**D. Director's Action on First Extension**

1. Upon good cause shown, an extension may be approved, approved with modifications, or denied by the ARB, ARB Chairperson, or Director, subject to the findings identified in Subsection F (Required findings), below.
2. The Director may defer action and refer the request to the Commission for consideration and final action.
3. The ARB, ARB Chairperson, and Director's decision may be appealed to the Commission and then the Council, in compliance with Section 9108.03 (Appeals).
4. The permit or approval may be extended for a maximum of 12-months beyond the expiration date of the original approval, unless otherwise allowed by State law.

**E. Commission's Action on Subsequent Extension**

1. Upon good cause shown, an additional extension may be approved, approved with modifications, or denied by the Commission, subject to the findings identified in Subsection F (Required Findings), below.
2. The Commission's decision may be appealed to the Council, in compliance with Section 9108.03 (Appeals).
3. The permit or approval may be extended for one additional 12-month period, unless otherwise allowed by State law, following the expiration of the original 12 (vs. 24) month period of approval, for a grand total of 48 months following the original date of approval (original 24 months, plus 12 months by the Director, and 12 more months by the Commission).

**F. Required Findings.** An extension of the permit or approval may be granted only if the applicable Review Authority first makes all of the following findings:

1. There have been no changes in circumstances or law that would preclude the Review Authority from making the findings upon which the original approval was based; and
2. Appropriate evidence has been provided by the applicant to document that:
  - a. A good faith intent to exercise the permit or approval has been demonstrated; and
  - b. The extension is required due to an unusual hardship that was not the result of personal action(s) undertaken by the applicant.

**9108.11.100 Changes to an Approved Project**

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**A. Application**

1. A development or new land use allowed through an Administrative Modification, Conditional Use Permit, Home Occupation Permit, Minor Use Permit, Planned Development Permit, Site Plan and Design Review, **Site Plan and Design Review: Homeowners Association Areas**, Temporary Use Permit, or Variance shall be implemented in substantial compliance with the approved drawings and plans, and any conditions of approval imposed by the Review Authority, except where changes to the project are approved in compliance with this Subsection.
2. An applicant shall request desired changes in writing to the Director, and shall also furnish appropriate supporting materials and an explanation of the reasons for the request.

**Exception:** For **Site Plan and Design Review: Homeowners Association Areas** applications, an applicant shall request desired changes in writing to the ARB Chairperson and shall also furnish appropriate supporting materials and an explanation of the reasons for the request.

3. Requested changes may involve changes to the project (e.g., days or hours of operation) as originally proposed by the applicant or approved by the Review Authority.
4. Requested changes may also involve changes to one or more conditions imposed by the Review Authority, but only when actual changes to the project would justify a change to one or more conditions of approval.
5. Changes shall not be implemented until first approved by the applicable Review Authority in compliance with this Subsection, and may be requested either before or after construction or establishment and operation of the approved use.

**B. Notice and Hearing.** If the project application originally required a noticed public hearing, the Review Authority shall hold a public hearing, except for the minor changes outlined below (See Subsection C, Minor Changes by Director.), and shall give notice, in compliance with Section 9108.13 (Public Notice and Hearings).

**C. Minor Changes by an ARB Chairperson or Director.** The ARB Chairperson or Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use only if the changes:

1. Are consistent with all applicable provisions of this Development Code and are in substantial compliance with the original approval; and
2. Do not involve a feature of the project that was:
  - a. A basis for findings in a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report for the project, or determining that the project was exempt from CEQA review;
  - b. A basis for conditions of approval for the project; or
  - c. A specific consideration by the Review Authority (e.g., the Director, Commission, or Council) in granting the permit or approval.

**D. Major Changes.** Major changes include changes to the project involving features specifically described in Subparagraph C. 2., above, and shall only be approved by the Review Authority (e.g., original or appeal Review Authority that rendered the final City action on the application) through a new application, processed in compliance with this Development Code.

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## **Section 9108.13 – Public Notices and Hearings**

- 9108.13.010 Purpose and Intent
- 9108.13.020 Noticing Requirements
- 9108.13.030 Scheduling of Hearing
- 9108.13.040 Hearing Procedures
- 9108.13.050 Recommendation by Commission
- 9108.13.060 Decision and Notice
- 9108.13.070 Effective Date of Decision

### **9108.13.010 Purpose and Intent**

This Section provides procedures for public hearings required by this Development Code. When a public hearing is required, advance notice of the hearing shall be given, and the hearing shall be conducted, in compliance with this Section.

### **9108.13.020 Noticing Requirements**

When this Development Code requires a public hearing before a decision on a permit, or for another matter, the public shall be provided notice of the hearing in compliance with Government Code Sections 65090, 65091, 65094, 65096, and 66451.3, and Public Resources Code 21000 et seq., and as required by this Section.

#### **A. Content of Notice.** Notice of a public hearing shall include all of the following information, as applicable.

1. **Hearing Information.** The date, time, and place of the hearing and the name of the Review Authority; a brief description of the City's general procedure concerning the conduct of hearings and decisions (e.g., the public's right to appear and be heard); and the phone number and street address of the Department, where an interested person could call or visit to obtain additional information.
2. **Project Information.** The date of filing and the name of the applicant; the City's file number assigned to the application; a general explanation of the matter to be considered; and a general description, in text or by diagram, of the location of the property that is the subject of the hearing.
3. **Statement on Environmental Document.** If a proposed Negative Declaration, Mitigated Negative Declaration, final Environmental Impact Report, or statement of exemption from the requirements of CEQA has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, the hearing notice shall include a statement that the Review Authority will also consider approval (or recommendation of adoption/approval for an application requiring Council action) of the proposed Negative Declaration, Mitigated Negative Declaration, certification of the final Environmental Impact Report, or statement of exemption.
4. **Statement Regarding Challenges of City Actions.** A notice substantially stating all of the following: "If you challenge the (nature of the proposed action) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the (public entity conducting the hearing) at, or before, the public hearing" in compliance with Government Code Section 65009(b)(2).
5. **Statement Regarding Commission's Recommendations.** For Council items that involve a recommendation from the Commission (e.g., legislative acts) the notice shall contain the Commission's recommendations.

#### **B. Method of Notice Distribution.** Notice of a public hearing required by this Section, and any other type of notice specified in Division 7 (Permit Processing Procedures), shall be given as follows, as required by Government Code Sections 65090 and 65091.

1. **Mailing.** Notice shall be mailed or delivered not less than 10 days before the scheduled hearing to the following:
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- a. **Project Site Owners, Agent(s), and Applicant.** The owners of the property being considered in the application, the owners' agent(s), and the applicant, in addition to the owner(s) of the mineral rights for maps in compliance with Government Code Section 65091(a)(2);
  - b. **Local Agencies.** Each local agency expected to provide roads, schools, sewage, streets, water, or other essential facilities or services to the property which is the subject of the application, whose ability to provide those facilities and services may be significantly affected;
  - c. **Affected owners.** All owners of real property as shown on the latest assessment rolls of the City or of the County, located within a radius of 300 feet, or a different radius as specified in the actual permit requirements of Division 7 (Permit Processing Procedures), of the exterior boundaries of the parcel that is the subject of the hearing; and any other person whose property might, in the judgment of the Director, be affected by the proposed project; and
  - d. **Persons Requesting Notice.** Any person who has filed a written request for notice with the Director or City Clerk and has paid the required fee for the notice.
2. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subparagraph B. 1., above is more than 1,000, the Director may choose to provide the alternative notice allowed by Government Code Section 65091(a)(3).
  3. **Additional Notice.** In addition to the types of notice required above, the Director may require any additional notice with content or using a distribution method (e.g., posting on the City's web site) as the Director determines is necessary or desirable.

#### 9108.13.030 Scheduling of Hearing

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

Exception: A staff report shall not be required prior to scheduling a public hearing for applications requiring a public hearing under Section 9107.10 (Design Review: Homeowners Association Areas).

#### 9108.13.040 Hearing Procedures

- A. **Time and Place of Hearing.** A hearing shall be held at the date, time, and place for which notice was given.
  - B. **Continued Hearing.** Any hearing may be continued from time to time without further notice; provided that the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
  - C. **Deferral of Final Decision**
    1. The Review Authority may announce a tentative decision, and defer its action on a final decision until appropriate findings and/or conditions of approval have been prepared.
    2. The date of the final action shall be as described in the motion, ordinance, or resolution that incorporates the findings and/or conditions.
  - D. **Summary Information.** A summary of all pertinent testimony offered at a public hearing, together with the names and addresses of all persons testifying shall be recorded and made a part of the permanent files of the case.
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- E. Formal Rules of Evidence or Procedure Not Applicable.** Formal rules of evidence or procedure applicable in judicial actions and proceedings shall not apply in any proceeding subject to this Development Code, except as otherwise required by the City Charter or the Municipal Code, in compliance with Government Code Section 65010.

#### **9108.13.050 Recommendation by Commission**

- A. Recommendation and Findings to the Council.** After a public hearing on a proposed amendment to this Development Code, the General Plan, the Zoning Map, a development agreement, or a specific plan, the recommendation and findings of the Commission shall be forwarded to the Council.
- B. Recommendation and Findings to the Applicant.** The recommendation and findings shall be mailed to the applicant at the address shown on the application.
- C. Recommendation Included in Notice.** The recommendation shall be included in the required notice of the Council's public hearing.

#### **9108.13.060 Decision and Notice Amended by Ord. No. 2347**

##### **A. Decision**

1. The Review Authority may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing, or defer action and continue the matter to a later meeting agenda in compliance with Subsection 9108.13.040 (Hearing Procedure), above.
2. Unless otherwise required by law (i.e., votes by the Commission on a General Plan amendment in compliance with Government Code Section 65354), a majority vote shall be required for any formal action by the applicable Review Authority.
3. Tie votes of the Review Authority for all matters that legally require the adoption of an ordinance, a resolution, or findings shall result in no action by the Review Authority. The motion shall fail to pass and the matter shall terminate any further action by the City until a majority vote of the quorum is achieved.
4. Within 35 days following the conclusion of a public hearing upon any matter, the Commission shall render its decision by formal resolution reciting the findings upon which the decision is based. The failure of the Commission to render a decision within the time specified shall cause the entire matter automatically to be referred to the Council without recommendation for action as it deems warranted under the circumstances. In this event, the Secretary of the Commission shall immediately deliver to the Council all of the records in the matter.
5. At the conclusion of a hearing conducted by the Director, the Director may instead refer the matter to the Commission for review and final decision.
6. All decisions shall be in writing and, if required by law, shall contain the written findings upon which the decision is based.
7. The decision of the Council on any matter shall be final and conclusive.

##### **B. Notice of Decision: Design Review: Homeowners Association Areas**

1. **Provision of Notice.** Within 10 days following the final decision on a Regular Review application by the ARB in compliance with Subsection 9107.10.030 (Authority), for approval required by this Development Code, the ARB shall provide notice of its final action to the applicant, the Development Services Department, and to any person who specifically requested notice of the ARB's final action.
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2. **Contents of Notice.** The notice of the final decision shall contain applicable findings, conditions of approval, reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, and general welfare of the City, and the procedure for appeal.

3. **Delivery of Notice.** The notice of the final decision shall be delivered by first class mail.

**C. Notice of Decision**

1. **Provision of Notice.** Within 10 days following the final decision on an application for a permit or other approval required by this Development Code, the City shall provide notice of its final action to the applicant and to any person who specifically requested notice of the City's final action.

2. **Contents of Notice.** The notice of the final decision shall contain applicable findings, conditions of approval, reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, and general welfare of the City, and the procedure for appeal.

3. **Delivery of Notice.** The notice of the final decision shall be delivered by first class mail.

**9108.13.070 Effective Date of Decision**

A. **ARB Chairperson, ARB, Director's or Commission's Decision.** The decision of the ARB Chairperson, ARB, Director or Commission is final and effective after ~~5:00 p.m.~~ the end of business day on the 10<sup>th</sup> day following the actual date the final decision is rendered if no appeal of that decision has been filed in compliance with Section 9108.03 (Appeals).

**B. Council's Decision**

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

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

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

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