

Division 7:

Permit Processing Procedures

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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

Amended by Ord. No. 2363

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

Amended by Ord. No. 2363

Amended by Ord. No. 2375

- 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 ⁽¹⁾		
		Director	Commission	Council
Legislative Actions				
Development Agreements and Amendments	9107.11	Recommend ⁽¹⁾	Recommend	Decision
Development Code Amendments	9108.03	Recommend ⁽¹⁾	Recommend	Decision
General Plan Amendments	9108.03	Recommend ⁽¹⁾	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 ⁽²⁾⁽⁴⁾	Appeal
Home Occupation Permits	9107.13	Decision ⁽³⁾	Appeal	Appeal
Interpretations	9101.03	Decision ⁽³⁾	Appeal	Appeal
Minor Use Permits	9107.09	Decision ⁽³⁾	Appeal	Appeal
Planned Developments	9107.15	Recommend	Decision ⁽⁴⁾	Appeal
Reasonable Accommodations	9107.17	Decision	Appeal	Appeal
Sign Permits	9103.11	Decision ⁽³⁾	Appeal	Appeal
Site Plan and Design Review (See Table 7-3 for specified thresholds.)	9107.19	Decision ⁽³⁾	Decision/ Appeal ⁽⁴⁾	Appeal
Site Plan and Design Review: Homeowners Association Areas (See Table 7-4 for specified thresholds.)	9107.20	Decision ⁽⁶⁾	Appeal	Appeal
Temporary Use Permits	9107.23	Decision ⁽³⁾	Appeal	Appeal

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

Protected Tree Permits				
Removal of Dead, Diseased, and Hazardous Tree	9110.01	Decision	Appeal	Appeal
Tree Encroachment	9110.01	Decision	Appeal	Appeal
Removal of Healthy Tree	9110.01	Decision	Appeal	Appeal
Variances	9107.25	Recommend	Decision ⁽⁴⁾	Appeal
Zoning Clearances (ADU)	9107.27	Issue	Appeal ⁽⁵⁾	Appeal ⁽⁵⁾

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.

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 9107.20) 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;
 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 9107.05 – Administrative Modifications

Subsections:

9107.05.010 Purpose and Intent

9107.05.020 Applicability

9107.05.030 Application Filing, Processing, and Review

9107.05.040 Allowed Modifications, Review Authority, and Noticing Requirements

9107.05.050 Findings and Decision

9107.05.060 Burden of Proof

9107.05.070 Conditions of Approval

9107.05.080 Use of Property before Final Action

9107.05.090 Post Decision Procedures

9107.05.010 Purpose and Intent

The purpose of the Administrative Modification is to provide a procedure to secure an appropriate improvement of a parcel, to prevent unreasonable hardship, and/or to promote uniformity of development.

9107.05.020 Applicability

- A. When practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this Section occur by reason of a strict interpretation of any of the provisions of this Development Code, the applicable Review Authority specified in Table 7-2 (Allowed Modifications, Review Authority, and Noticing Requirements), may in specified cases, grant an Administrative Modification from the provisions of this Development Code under conditions deemed necessary to ensure that the spirit and purposes of this Development Code will be observed and public safety and welfare will be secured.
- B. The applicable Review Authority may approve an Administrative Modification that allows for an adjustment from any of the development standards specified in Table 7-2 (Allowed Modifications, Review Authority, and Noticing Requirements).

9107.05.030 Application Filing, Processing, and Review

- A. **Filing.** An application for an Administrative Modification 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 Administrative Modification applications, 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 by Section 9107.05.050 (Findings and Decision), below.
- B. **Processing and Review Procedures.** Following receipt of a completed application, the Director shall investigate the facts necessary for action consistent with the purpose of this Section. 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).
- C. **Notice and Hearing Requirements.** A public notice shall be required for a Major Director's Review and a public notice and hearing shall be required for a Commission's Review on an Administrative Modification application. If required, the public hearing shall be scheduled once the Director has determined the application complete. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with Subsection 9107.05.040 (Allowed Modifications, Review Authority, and Noticing Requirements), below, and Section 9108.13 (Public Notices and Hearings).

9107.05.040 Allowed Modifications, Review Authority, and Noticing Requirements

Amended by Ord. No. 2347

Amended by Ord. No. 2369 & 2370

Amended by Ord. No. 2375

Amended by Ord. No. 2401

- A. Table 7-2.** In order to secure an appropriate improvement of a parcel, prevent an unreasonable hardship, and/or to promote uniformity of development, the applicable Review Authority shall have the authority to approve, conditionally approve, or deny Administrative Modifications for those matters specified in Table 7-2 (Allowed Modifications, Review Authority, and Noticing Requirements), below. Table 7-2 also identifies the applicable Review Authority responsible for reviewing and making decisions on each type of Administrative Modification application allowed by this Section, as well as the type of notice or hearing, if any, required by this Section.

Table 7-2 Allowed Modifications, Review Authority, and Noticing Requirements			
Type of Administrative Modification Allowed¹	Minor Director's Review	Major Director's Review	Commission's Review
	No Notice or Hearing Required	Notice, but No Hearing Required	Notice and Hearing Required
Conversions of existing attic areas within main dwellings in the R-M, R-0, and R-1 zones; provided the requests do not result in an additional structure story or any exterior alterations within required setback areas		X	
Distance between structures	X		
Driveway and parking stall size requirements (Residential zones)	X		
Driveway and parking stall size requirements (Commercial, Industrial, and Downtown zones)		X	
Fence, wall, and hedge regulations, except along the street side of a corner parcel	X		
Fence and landscaped buffer regulations (Subsection 9106.09.020 B.)		X	
Front lot line determination	X		
Front yard setback for additions to existing structures		X	
Height of noncommercial structures - Solar panels only	X		
Height of noncommercial structures			X
Interior side setbacks in the R-M, R-0, and R-1 zones for detached accessory structures		X	
Interior side setbacks in the R-M, R-0, and R-1 zones for single-story additions to an existing dwelling where the portion of the addition(s) which does not comply with the setback requirements consists of a total of 30 linear feet or less and maintain(s) the same or greater setback than the existing structure walls; and further provided, a minimum interior side setback of three feet in the R-1 and five feet in the R-M and R-0 zones is maintained	X		
Interior side setbacks in the R-M, R-0, and R-1 zones for single-story additions to an existing dwelling where the portion of the addition(s) which does not comply with the setback requirements consists of a total of more than 30 linear feet and maintain(s) the same or greater setback than the existing structure walls; and further provided, a minimum interior side setback of three feet in the R-1 and five feet in the R-M and R-0 zones is maintained		X	
Interior side setbacks		X	
Landscaping and Hardscaping Standards		X	
Loading Requirements	X		
Lot Size (area, depth, and width)			X
Minimum Density		X	
Ornamental Features (height or number of features)		X	
Open Space Standards		X	
Nonconforming residential structures – alterations or expansions (Subsection 9106.05.020)		X	

Table 7-2
Allowed Modifications, Review Authority, and Noticing Requirements

Type of Administrative Modification Allowed ¹	Minor Director's Review	Major Director's Review	Commission's Review
	No Notice or Hearing Required	Notice, but No Hearing Required	Notice and Hearing Required
Nonconforming residential uses – alterations or expansions (Subsection 9106.03.010)		X	
Nonconforming single-family residential properties (small additions) (Subsection 9106.03.030.A.4)		X	
Parking Plan			X
Perimeter Parking Lot Landscaping	X		
Reduce the number of required parking spaces in a commercial, mixed-use, or industrial zoned properties	X (1-3 Spaces)	X (4-6 Spaces)	X (7 spaces or greater)
Rear setbacks – first floor additions to existing dwellings or detached accessory structures		X	
Rebuilding of single-family dwellings; provided the new portion(s) of the project comply with current Development Code requirements		X	
Setbacks for mechanical and plumbing equipment	X		
Setbacks for wireless communication facilities		X	
Sign regulations	X		
Special setbacks; provided a setback from a street shall be modified only with a written declaration of the City Engineer that the modification, if granted, will not adversely affect any foreseeable need for widening the street	X		
Street side setbacks for first floor additions to existing dwellings or for accessory structures		X	
Subdivision Design and Improvements (Section 9105.01.110)		X	
Swimming pool regulations	X		
Tennis and paddle tennis courts — Construction and operations standards		X	
Trash Enclosures in Subparagraphs 9103.01.130 C.2. relating only to the number and size of enclosures and D.2. the location of enclosures.	X		
Utility and storage space requirements	X		
When the maximum number of units allowed in the R-2 and R-3 zones has a fractional remainder of .05 or less, the Commission may allow the maximum number of units to be rounded up to the next highest whole number, but in no case greater than 30 du/acre in the R-3 zone.			X
Modifications Only to Commission			
Below-grade or subterranean parking in the R-M, R-0, and/or R-1 zones, provided the request does not result in more than one story below grade.			X
Modification to any of the setbacks for a new dwelling			X
Rebuilds			X
Second story setback on an existing dwelling			X

1. In cases where a specific modification is not listed but it is a standard that can be deviated under this Review Authority, the Director shall assign the modification to a category substantially similar in category, including its noticing requirements.

B. Notice Requirements for Minor Director's Review – Not Required.

Neither a notice nor public hearing shall be required for a Minor Director's Review of an Administrative Modification application. The Director may defer action and refer any Administrative Modification request to the Commission for consideration and final decision.

C. Notice Requirements for Major Director's Review – Notice Required

1. Notice shall be provided in compliance with Section 9108.13 (Public Notices and Hearings) and shall be mailed to 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 of the exterior boundaries of the parcel that is the subject of the hearing; and any other person whose property may, in the judgment of the Director, be affected by the proposed project at least 14 days before the date of the Director's consideration and final decision as stated in the notice.
2. The mailed notice shall state that the Director will consider and decide whether to approve, conditionally approve, or deny the Administrative Modification application on a date specified in the notice.
3. The Director may defer action and refer any Administrative Modification request to the Commission for consideration and final decision.

D. Notice and Hearing Requirements for Commission's Review – Notice and Hearing Required. A notice and public hearing shall be required for the Commission's decision on an Administrative Modification application. The public hearing shall be scheduled once the Director has determined the application complete. The notice shall be mailed to 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 of the exterior boundaries of the parcel that is the subject of the Administrative Modification application. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings).

E. Appeal Provisions

1. **Minor and Major Director's Reviews.** The Director's Review of a Minor or Major Administrative Modification may be appealed to the Commission and then the Council in compliance with Section 9108.07 (Appeals).
2. **Commission's Review.** The Commission's Review of an Administrative Modification may be appealed to the Council in compliance with Section 9108.07 (Appeals).

9107.05.050 Findings and Decision

- A. Authorized Actions.** The applicable Review Authority shall record the decision in writing and shall recite the findings upon which the decision is based. The Director may also defer action on a Minor or Major Director's Review and refer the application to the Commission for review and final decision.
- B. Required Findings.** The applicable Review Authority may approve an Administrative Modification application, with or without conditions, only if it first makes at least one of the following findings.
1. Promote uniformity of development;
 2. Prevent an unreasonable hardship; or
 3. Secure an appropriate improvement of a parcel.

9107.05.060 Burden of Proof

The burden of proof to establish the evidence in support of the findings, required by Subsection 9107.05.050 (Findings and Decision), above, is the responsibility of the applicant.

9107.05.070 Conditions of Approval

In approving an Administrative Modification application, the applicable 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 9107.05.050 (Findings and Decision), above.

9107.05.080 Use of Property before Final Action

No permits or approvals shall be issued for any improvement involved in an application for an Administrative Modification until and unless the same shall have become final, in compliance with Subsection 9108.11.030 (Effective Dates of Permits).

9107.05.090 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 an Administrative Modification application.

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Section 9107.07 – Certificates of Demolition

Subsections:

- 9107.07.010 Purpose and Intent**
- 9107.07.020 Applicability/Permit Requirements**
- 9107.07.030 Procedures for Certificates of Demolition**
- 9107.07.040 Director's Review**
- 9107.07.050 Referral to Commission**
- 9107.07.060 Automatic Stay**
- 9107.07.070 Emergency Demolition**
- 9107.07.080 Post Decision Procedures**

9107.07.010 Purpose and Intent

The purpose of this Section is to provide a process for the application, processing, review, and issuance of Certificates of Demolition, if warranted, in compliance with this Section.

9107.07.020 Applicability/Permit Requirements

- A. Before Filing for a Project.** Before an application is filed for a project that would be subject to a Demolition Permit, the Director shall determine whether the structure is 50 years or older. The following information regarding the structure's age shall determine the Director's appropriate action:
1. If the structure is 50 years or older, or the age of the structure cannot be determined, the procedures specified in Subsection 9107.07.030 A., below shall be followed.
 2. If the structure is less than 50 years old, the Building Official shall issue a Demolition Permit if all other requirements for a permit are met.
 3. If the structure is older than 50 years and not exempt in compliance with CEQA, the procedures specified in Subsection 9107.07.030 B., below shall be followed.
- B. Enforcement and Penalties.** Any person that demolishes a structure without an approved Certificate of Demolition shall be guilty of a misdemeanor and subject to appropriate enforcement procedures in compliance with Section 9108.15 (Enforcement).

9107.07.030 Procedures for Certificates of Demolition

A. Structures that are 50 Years or Older, and Structures of Unknown Age

1. If the structure is 50 years old or older, or the age of the structure cannot be determined, a qualified Architectural Historian or Historian, at the expense of the property owner, shall conduct an assessment to determine if the structure and/or site has any historical significance and is eligible for listing in the California Register of Historic Resources. The application shall provide evidence and supporting documentation as to the historic significance or lack of significance of the structure, including photographic evidence as to the current condition, and an evaluation by a qualified Architectural Historian or Historian. If a survey was completed of the subject structure and the survey is more than five years old, the survey can only be used as a guide.
2. The qualified Architectural Historian or Historian shall document the structure and complete a full evaluation of the structure(s) and/or site and complete the California Department of Parks and Recreation Primary Record Form (DPR 523A), a Building, Structure, and Object (BSO) Record Form (DPR 523B), and Location Map Form (DPR 523J) and

submit the forms with the City's application for a Certificate of Demolition. Detailed instructions for preparing the documentation forms may be found at the California Office of Historic Preservation website.

3. If a complete set of DPR forms was required, the evaluator shall submit the completed DPR forms to the South Central Coastal Information Center (SCCIC) at the California State University at Fullerton where they all house all the historical resources within Los Angeles County in compliance with California Historical Resource Information System standards.
4. Individuals seeking information about consultant(s), who are qualified to do the requisite documentation, may search a website that is maintained by the Office of Historic Preservation at the CHRIS Consultants List website. The consultant shall meet one of the following criteria specified in the National Park Service's Secretary of Interior's Standards of professional qualifications:
 - a. **Architectural History.** The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation, or closely related field plus one of the following:
 - (1) At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
 - (2) Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.
 - b. **Historic Architecture.** The minimum professional qualifications in historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:
 - (1) At least one year of graduate study* in architecture preservation, American architecture history, preservation planning, or closely related field; or
 - (2) At least one year of full-time professional experience* on historic preservation projects.
 - (3) Note: *Graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

- B. Buildings or Structures that are Fifty (50) Years or Older, and Structures of Unknown Age That Are Not Exempt from CEQA.** The Evaluator shall determine if the building, structures, objects or site is eligible for listing in the California Register of Historical Resources, per the definitions in Section 21084.1 of the California Environmental Quality Act (CEQA) Statute and Section 15064.5 of the CEQA Guidelines. Under CEQA, evaluation of the potential impact to "historic resources" is a two-step process: the first is to determine whether the property is an "historic resource" as defined in Section 15064.5(a)(3) of CEQA; and, if it is an "historic resource," the second is to evaluate whether the action or project proposed by the Applicant would cause a "substantial adverse change" or "materially impaired" to the historic resource. Once this determination has been made, the type of environmental documentation needed for the proposed project can be determined.

9107.07.040 Director's Review

- A. Within 30 days following the receipt of an Application for a Certificate of Demolition and the evaluation of the structure that was completed by a qualified Architectural Historian or Historian, the Director shall evaluate the request and consider all of the following Secretary of the Interior's Standards:
1. The architectural, cultural, or historical significance of the structure;
 2. The age of the structure;
 3. The state of repair of the structure in question;

4. Additions, alterations, changes, modifications, and updates to the exterior architectural features of the structure that would disqualify it from consideration for registration on the National Register of Historic Places or on the California Register of Historic Places; and
 5. All other factors it finds necessary and appropriate to carry out the intent of this process.
- B. If the Director determines that the structure may be demolished or removed based on the evaluation completed by a qualified Architectural Historian or Historian, the Building Official shall issue a Demolition Permit after a Building Permit has been issued for a new replacement structure by Building Services.
- C. If the Director determines that there is substantial evidence that the structure reasonably meets national, State, or local criteria for historical significance, the Director may refer the request to the Commission.

9107.07.050 Referral to Commission

- A. **Complete Application.** An application for a Certificate of Demolition that has been referred by the Director to the Commission shall be accompanied by a California Environmental Quality Act (CEQA) Initial Study, full evaluation of the potential historic resource, plans, and specifications for the proposed new construction, including other necessary documents to support the request. An application shall be filed and processed in compliance with Section 9107.03 (Application Processing Procedures) and with the required fee in compliance with the Fee Schedule.
- B. **Notice and Hearing Required.** The Commission shall consider the Certificate of Demolition at a public hearing. The public hearing shall be scheduled once the Director has determined the application complete. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with to Section 9108.13 (Public Notices and Hearings).
- C. **Decision.** Should avoidance of demolition and/or preservation not be a feasible option, the Commission may require the qualified Architectural Historian or Historian to develop a mitigation program as part of the Initial Study that may include, but would not be limited to, formal documentation of the structure using historical narrative and photographic documentation, façade preservation, or placement of a plaque or historical marker.
- D. **Appeals**
1. Appeals from the Commission's decision shall be made to the Council. The appeal shall be filed and processed in compliance with Section 9108.07 [Appeals])
 2. Upon receipt of an appeal, the Director shall fix a date for a public hearing to be conducted in compliance with Section 9108.13 (Public Notices and Hearings).

9107.07.060 Automatic Stay

If a structure is nominated to the California or National Register of Historical Resources, an automatic stay (no action may be taken by the City) shall be placed on the request to demolish the structure until the State Office of Historic Preservation completes a review of the nomination.

9107.07.070 Emergency Demolition

Structures that have been severely damaged as a result of an earthquake, fire, or other natural disaster, and which require immediate demolition because of an imminent threat to public safety, are exempt from the procedures specified in this Section. A determination to demolish a severely damaged structure for the reasons specified above shall be made by the Director based on a recommendation by the Building Official.

9107.07.080 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 Certification of Demolition application.

Section 9107.09 – Conditional Use Permits and Minor Use Permits

Subsections:

- 9107.09.010 Purpose and Intent**
- 9107.09.020 Applicability**
- 9107.09.030 Application Requirements**
- 9107.09.040 Project Review, Notice, and Hearing**
- 9107.09.050 Findings and Decision**
- 9107.09.060 Conditions of Approval**
- 9107.09.070 Permit to Run with the Land**
- 9107.09.080 Post Decision Procedures**

9107.09.010 Purpose and Intent

- A. Purpose.** The purpose of this Section is to provide two distinct procedures for reviewing land uses that may be appropriate in the applicable zone, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site.
- B. Special Consideration.** Certain types of land uses may require special conditions in a particular zone or physical location within the City as a whole because they possess unique characteristics or present special problems that make automatic inclusion as allowed uses either impractical or undesirable due to potential and unforeseeable impacts to the surrounding area.
- C. Intent.** The Conditional Use Permit and Minor Use Permit procedures are intended to provide sufficient flexibility in the use regulations in order to further the objectives of this Development Code and to provide the City with the opportunity to impose special conditions in order to mitigate potential impacts that could result from allowing the use(s) at the requested location.

9107.09.020 Applicability

Approval of a Conditional Use Permit or Minor Use Permit, as applicable, is required to authorize proposed land uses specified by Division 2 (Zones, Allowable Uses, and Development Standards) as being allowable in the applicable zone when subject to the approval of a Conditional Use Permit or Minor Use Permit.

9107.09.030 Application Requirements

- A.** An application for a Conditional Use Permit or Minor Use Permit 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 Conditional Use Permit and Minor Use Permit applications, 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 by Section 9107.09.050 (Findings and Decision), below. 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.** 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 there shall be attached copies of all notices and actions pertaining to the application.

9107.09.040 Project Review, Notice, and Hearing

Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Section and this Development Code.

A. Conditional Use Permits

1. The Commission shall conduct a public hearing on an application for a Conditional Use Permit before making a decision on the application.
2. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings).
3. The Commission's decision is appealable to the Council in compliance with Section 9108.07 (Appeals).

B. Minor Use Permits. Before a decision on a Minor Use Permit is made, the City shall provide mailed notice in compliance with Section 9108.13 (Public Notices and Hearings), and as follows.

1. Notice Required

- a. The mailed notice shall state that the Director will decide whether to approve, conditionally approve, or deny the Minor Use Permit application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.
- b. Any written request for a hearing shall be based on issues of significance directly related to the application (e.g., provision of evidence that the request cannot meet one or more of the findings specified in Section 9107.09.050 [Findings and Decision], below).
- c. If the Director determines that the evidence has merit and can be properly addressed by a condition(s) added to the Minor Use Permit approval, the Director may consider the permit without a hearing in compliance with Subparagraph 2. b., below.

2. Hearing

- a. If a public hearing is requested and the provisions of Subparagraph B. 1. c., above, do not apply, a hearing before the Director shall be scheduled, noticed, and conducted in compliance with Section 9108.13 (Public Notices and Hearings).
 - b. If no public hearing is requested, the Director shall render a decision on or after the date specified in the notice referred to in Subparagraph B. 1. a., above.
3. The Director's decision is appealable to the Commission and then the Council in compliance with Section 9108.07 (Appeals).

9107.09.050 Findings and Decision
Amended by Ord. No. 2375

A. Review Authority's Action. The application for a Conditional Use Permit or Minor Use Permit may be approved, approved subject to subject to conditions, or denied by the Review Authority.

B. Required Findings. The Review Authority may approve a Conditional Use Permit or Minor Use Permit only if it first makes all of the following findings:

1. The proposed use is consistent with the General Plan and any applicable specific plan; and is allowed within the applicable zone, subject to the granting of a Conditional Use Permit, and complies with all other applicable provisions of this Development Code and the Municipal Code;
2. The design, location, size, and operating characteristics of the proposed activity will be compatible with the existing and future land uses in the vicinity;
3. The site is physically suitable in terms of:

- a. Its design, location, shape, size, and operating characteristics of the proposed use in order to accommodate the use, site improvements, loading, and parking;
 - b. Streets and highways adequate to accommodate public and emergency vehicle (e.g., fire and medical) access;
 - c. Public protection services (e.g., fire protection, police protection, etc.); and
 - d. The provision of utilities (e.g., potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.).
4. The measure of site suitability shall be required to ensure that the type, density, and intensity of use being proposed will not adversely affect the public convenience, health, interest, safety, or general welfare, constitute a nuisance, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

C. Notice of Decision. Within five days following final action by the Review Authority on an application for a Conditional Use Permit or Minor Use Permit, notice of the decision in the matter shall be mailed to the applicant at the address shown on the application and to all other persons who have filed a written request for notice with the Department.

9107.09.060 Conditions of Approval

- A. Reasonable and Necessary.** In approving a Conditional Use Permit or Minor Use Permit, the Review Authority may impose any conditions deemed reasonable and necessary to ensure that the approval will be in compliance with this Section, State law, and with the findings required by Subsection 9107.09.050 (Findings and Decision), above.
- B. Expansion of Uses.** No expansion of uses or services as described in the original application shall be allowed unless a Conditional Use Permit or Minor Use Permit, as applicable, is first filed and approved for the proposed expansion, in compliance with this Section.

9107.09.070 Permit to Run with the Land

A Conditional Use Permit or Minor Use Permit approved in compliance with the provisions of this Section shall continue to be valid upon a change of ownership of the business, parcel, service, structure, or use that was the subject of the permit application in the same area, configuration, and manner as it was originally approved in compliance with this Section.

9107.09.080 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 Conditional Use Permit or Minor Use Permit application.

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Section 9107.11 – Development Agreements

Subsections:

- 9107.11.010 Purpose and Intent
- 9107.11.020 Application
- 9107.11.030 Filing, Processing, and Review
- 9107.11.040 Contents of Development Agreement
- 9107.11.050 Execution and Recordation
- 9107.11.060 Amendment and Cancellation of Development Agreements
- 9107.11.070 Modification or Suspension of Development Agreements
- 9107.11.080 Periodic Review
- 9107.11.090 Effect of Development Agreements
- 9107.11.100 Approved Development Agreements
- 9107.11.110 Post Decision Procedures

9107.11.010 Purpose and Intent

- A. Purpose and Intent.** A development agreement is a contract between the City and a person with a legal or equitable interest in land subject to development, in compliance with Government Code Article 2.5 (Development Agreements) (Government Code Sections 65864 through 65869.5, inclusive). A development agreement is intended to provide assurance to the applicant that an approved project may generally proceed subject to the policies, rules, regulations, and conditions of approval applicable to the project at the time of approval, regardless of any changes to City policies, rules, and regulations after project approval. In return, the City is provided assurance that the project would promote important Citywide goals and policies that have been officially recognized by the Council, and provide the City with significant, tangible benefits beyond those that may be required by the City through project conditions of approval.
- B. Construing the Provisions.** In construing the provisions of any development agreement entered into in compliance with this Section, those provisions shall be read to fully effectuate, and to be consistent with, the language of this Section, Government Code Article 2.5, and the agreement itself. Should any apparent discrepancies between the meaning of these documents arise, reference shall be made to the following documents, and in the following order:
1. The provisions of Government Code Article 2.5;
 2. The provisions of this Section; and
 3. The plain terms of the development agreement itself.

9107.11.020 Application

- A. Equitable Interest.** Person(s) having a legal or equitable interest in real property located within the City, or for property to be annexed to the City, may apply through the City Manager to enter into a development agreement provided the following criteria are met:
1. The status of the applicant, having a legal or equitable interest in the subject real property, is established to the satisfaction of the City Manager. A qualified applicant may also include an authorized agent of the applicant; and
 2. The application is made on approved forms, contains all lawfully required documents, materials, and information, and is filed with the City Manager in compliance with Section 9107.03 (Application Processing Procedures).

B. City Manager's Review and Recommendations

1. The City Manager is empowered to receive, review, process, and prepare, together with recommendations for Commission and Council consideration, all applications for development agreements.
2. The City Manager may require an applicant to provide proof of interest in the real property and of the authority of the agent to act for the applicant. The proof may include a preliminary report issued by a title company licensed to do business in the State evidencing the requisite interest of the applicant in the real property. Before processing the application, the City Manager may obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into a development agreement.
3. The City Manager may call upon all other City departments for timely assistance in complying with this Section.
4. The City Manager shall review the application and may reject it if it is incomplete or inaccurate,
5. The City Manager shall endorse on the application the date it is received.

- C. Fees.** Processing fees, as established by the Fee Schedule, shall be collected for the filing and processing of an application for a development agreement made in compliance with this Section. Additionally, appropriate fees shall be established and collected for amendments to a development agreement and the periodic review identified in Subsection 9107.11.080 (Periodic Review), below.

9107.11.030 Filing, Processing, and Review
Amended by Ord. No. 2375

- A. Filing.** An application for a development agreement shall be filed with the City Manager in compliance with Section 9107.03 (Application Processing Procedures).
- B. Contents.** The application shall be accompanied by all of the detailed data/materials identified in the most up-to-date Department handout for development agreement applications, in compliance with Section 9107.11.040 (Contents of Development Agreement), below.
- C. Project Review Procedures.** Following receipt of a completed application, the City Manager shall investigate the facts necessary for action consistent with the purpose of this Section and shall prepare a report and recommendation indicating the application's compliance with the General Plan, any applicable specific plan, this Development Code, and the Zoning Map. Initial review of the application, including time requirements and requests for information, shall be conducted in compliance with Subsection 9107.03.060 (Initial Application Completeness Review).

D. Notice and Hearings

1. The City Manager, upon finding the application for a development agreement complete and in compliance with the provisions of the California Environmental Quality Act (CEQA), shall set the application, together with recommendations, for public hearing before the Commission. Following conclusion of the public hearing, the Commission shall make a written recommendation to the Council that it approve, conditionally approve, or deny the application, based on the findings identified in Subsection E. (Findings and Decision), below.
2. Upon receipt of the Commission's recommendations, the City Clerk shall set the application and written report of the Commission for a public hearing before the Council.
 - a. Following conclusion of the public hearing, the Council shall approve, conditionally approve, or deny the application, based on the findings identified in Subsection E. (Findings and decision), below. It may, but need not, refer matters not previously considered by the Commission during its hearing back to the Commission for report and recommendation. The Commission may, but need not, hold a public hearing on matters referred back to it by the Council.

- b. The Council may not approve the development agreement unless it first finds that the provisions of the development agreement are consistent with the General Plan, any applicable specific plan, this Development Code, and the Zoning Map,
- 3. Notice of the public hearings shall be provided and the hearings shall be conducted in compliance with the following.
 - a. Notice of the hearings identified in this Subsection shall be given in the form of a notice of intention to consider approval of a development agreement in compliance with Government Code Section 65867 and Section 9108.13 (Public Notices and Hearings).
 - b. The notice requirements referred to in this Subsection are declaratory of existing State law (Government Code Sections 65867, 65090 and 65091). If State law prescribes a different notice requirement, notice shall be given in that manner. The notices required by this Subsection are in addition to any other notices required by law for other actions to be considered concurrently with a development agreement.
 - c. The Commission and/or Council, as applicable, may direct that notice of the public hearings shall be given in a manner that exceeds the notice requirements specified by State law.
 - d. The failure to receive notice by any person entitled to notice required by State law or these regulations does not affect the authority of the City to enter into a development agreement.
 - e. The public hearings shall be conducted as nearly as may be in compliance with the procedural standards specified in Government Code Section 65804 for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.
 - f. Formal rules of evidence or procedure applicable in judicial actions and proceedings shall not apply in any proceeding concerning a development agreement. No action, inaction, or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court on the ground of the improper admission or rejection of evidence or by reason of any error, informality, irregularity, neglect, or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever, unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury was done if error is shown.

E. Findings and Decision. The Commission may recommend approval and the Council may approve a development agreement only if it first makes all of the following findings:

- 1. The development agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable specific plan, this Development Code, and the Zoning Map;
- 2. The development agreement will promote the public convenience, health, interest, safety, general welfare, and good land use practice;
- 3. The project will be compatible with the uses authorized in, and the regulations prescribed for, the zone in which the real property is located;
- 4. The project will not adversely affect the orderly development of property or the preservation of property values;
- 5. The project will provide the City with important, tangible benefits beyond those that may be required by the City through project conditions of approval; and
- 6. For development agreements that include a subdivision, that the tentative map prepared for the subdivision will comply with Government Code Section 66473.7.

9107.11.040 Contents of Development Agreement

A. Mandatory Contents. A development agreement shall contain the applicable provisions specified in the most up-to-date Department handout for development agreement applications, in compliance with Government Code Section 65865.2, including specific language identifying the duration of the agreement.

B. Payment of Impact Fees, Deferral, and in Lieu Dedications

1. An application shall include a schedule of impact, public facilities, and service mitigation fees due and payable from the applicant at those times and in those amounts as established by separate resolution of the City, which is in effect at the time of execution of the development agreement.
2. A proposed development agreement may also provide:
 - a. For the limitation upon increases of applicable impact, public facilities, and service mitigation fees. The period for which the fee shall be limited shall be established in the agreement not to exceed five years from the execution of the development agreement. Upon expiration of the limitation period, the full amount of applicable impact, public facilities, and service mitigation fees as specified in the existing City ordinances or resolutions shall be payable in connection with the subject development project;
 - b. As determined by the City on a case by case basis, for the deferral of payment of impact fees, for those times and on those terms to be specified in the development agreement; and
 - c. For the applicant's construction and dedication of public improvements to partially or fully satisfy those impact fees applicable to the development project. The development agreement shall specifically identify the public improvements to be constructed and dedicated to the City as separate exhibits and the amount of fees to be satisfied by the construction and dedication.

C. Permissive Contents. A development agreement may also contain the applicable provisions specified in the most up-to-date Department handout for development agreement applications, in compliance with Government Code Section 65865.2.

D. Duration of a Development Agreement

1. **Maximum Initial Term.** The maximum initial term of a development agreement shall be 10 years.
2. **Single Extension**
 - a. The terms of a development agreement may provide for a single extension of the initial term for an additional five years following expiration of the initial term, provided all of the following have occurred:
 - (1) The developer provides written notice to the City at least 180 days before expiration of the initial term;
 - (2) The developer has made substantial progress in completing the project as determined in the sole discretion of the Council; and
 - (3) The developer is not then in uncured default of the development agreement.
 - b. The City may impose additional terms and conditions upon an extension to the term of a development agreement.

9107.11.050 Execution and Recordation

A. Adoption of Ordinance Becomes Effective

1. If the Council approves the development agreement, it shall do so by the adoption of an ordinance. The ordinance shall refer to and incorporate by reference the text of the development agreement.
2. The City shall not execute a development agreement until on or after the date upon which the ordinance approving the agreement, enacted in compliance with Subsection 9107.11.030 D (Notice and Hearings), above, becomes effective.
3. After the ordinance approving the development agreement takes effect, the City may enter into the agreement and the Mayor shall sign the agreement.

B. Recordation of Agreement

1. Within 10 days after the City enters into the development agreement, the City Clerk shall have the agreement recorded with the County Recorder.
2. If the parties to the agreement or their successor(s)-in-interest amend or cancel the agreement in compliance with Government Code Section 65868, or if the City terminates or modifies the agreement in compliance with Government Code Section 65865.1 for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of the action recorded with the County Recorder.

9107.11.060 Amendment and Cancellation of Development Agreements

- A. Proposed Amendment or Cancellation.** Either party or successor(s)-in-interest may propose an amendment to or cancellation, in whole or in part, of the development agreement previously entered into. Any amendment or cancellation shall be by mutual consent of the parties or their successor(s)-in-interest, except as provided under Government Code Section 65865.
- B. Same Procedures.** The procedure and notice requirements for proposing and adopting an amendment to or cancellation in whole or in part of the development agreement are the same as the procedure for entering into an agreement in compliance with this Section.
- C. City Initiated Amendment or Cancellation.** Where the City initiates the proposed amendment to or cancellation in whole or part of the development agreement, it shall first give notice to the applicant/contracting party or its successor(s)-in-interest of its intention to initiate the proceedings at least 60 days before giving notice of intention to consider the amendment or cancellation, in compliance with Subsection 9107.11.030 (Filing, Processing, and Review), above.

9107.11.070 Modification or Suspension of Development Agreements

The City may modify or suspend a development agreement if the City determines that failure of the City to do so would place the residents of the area subject to the development agreement, or the residents of the City, or both, in a condition dangerous to their health or safety, or both, in compliance with Government Code Section 65865.3(b).

9107.11.080 Periodic Review

- A. Subject to Periodic Review.** Each approved development agreement shall be subject to all of the following review procedures.
1. The City shall review the development agreement every 12 months from the date the agreement is entered into in order to ascertain the good faith compliance by the applicant/contracting party or its successor(s)-in-interest with the terms of the agreement.
 2. The review schedule shall be specified in the development agreement.
 3. The applicant/contracting party or its successor(s)-in-interest shall submit an Annual Monitoring Report, in a form acceptable to the City Manager, within 10 days after written notice from the City Manager.

4. The time for review may be shortened or a special review called either by agreement between the parties or by initiation in one or more of the following ways:
 - a. Recommendation of the City Manager;
 - b. Affirmative vote of at least three members of the Commission; or
 - c. Affirmative vote of at least three members of the Council.

B. Periodic Review of the Agreement

1. The City Manager shall begin the review proceeding by giving notice that the City intends to undertake a periodic or special review of the development agreement to the applicant/contracting party or its successor(s)-in-interest. The City Manager shall give the notice at least 10 days in advance of the time at which the matter will be considered by the Commission.
2. The Commission shall conduct a public hearing at which the applicant/contracting party or its successor(s)-in-interest must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue is upon the applicant/contracting party or its successor(s)-in-interest.
3. The Commission shall determine upon the basis of substantial evidence whether or not the applicant/contracting party or its successor(s)-in-interest has, for the period under review, complied in good faith with the terms and conditions of the agreement.
 - a. If the Commission finds and determines on the basis of substantial evidence that the applicant/contracting party or its successor(s)-in-interest has complied in good faith with the terms and conditions of the agreement during the period under review, the Commission's findings and determinations shall be transmitted to the Council. The Council shall then either:
 - (1) Receive and file the Commission's report, thereby accepting the Commission's findings and determinations without further action; or
 - (2) Set this matter for public hearing, in which event, the Council shall proceed to conduct the public hearing in compliance with Subsection 9107.11.030 (Filing, Processing, and Review), above.
 - b. If the Commission finds and determines on the basis of substantial evidence that the applicant/contracting party or its successor(s)-in-interest has not complied in good faith with the terms and conditions of the agreement during the period under review, the Commission's findings and determinations shall be transmitted to the Council. The Commission may recommend to the Council that the agreement be terminated or modified.

C. Council's Consideration to Terminate or Modify a Development Agreement

1. Proceedings for termination or modification. A public hearing conducted by the Council in compliance with Subparagraph B. (Periodic review of the agreement), above, shall be subject to the following procedures and requirements. The City shall give notice to the applicant/contracting party or its successor(s)-in-interest of its intention to conduct a public hearing by the Council which might result in termination or modification of the agreement. The notice shall contain all of the following:
 - a. The time and place of the hearing, which shall be conducted by the Council;
 - b. A statement as to whether or not the City proposes to terminate and/or modify the development agreement; and
 - c. Other information that the City Manager considers necessary to inform the applicant/contracting party or its successor(s)-in-interest of the nature of the proceedings.

2. Hearing on termination or modification of development agreement.
 - a. At the time and place set for the hearing on termination or modification, the applicant/contracting party or its successor(s)-in-interest shall be given an opportunity to be heard.
 - b. The applicant/contracting party or its successor(s)-in-interest shall be required to demonstrate good faith compliance with the terms and conditions of the agreement. The burden of proof on this issue shall be on the applicant/contracting party or its successor(s)-in-interest.
 - c. If the Council finds, based upon substantial evidence in the administrative record that the applicant/contracting party or its successor(s)-in-interest has not complied in good faith with the terms and conditions of the agreement, the Council may, among other remedies, terminate or modify the agreement.
 - d. The Council may impose those conditions to the action it takes as it considers reasonable and necessary to protect the interests of the City.
 - e. The decision of the Council on the termination or modification of the agreement shall be final.

9107.11.090 Effect of Development Agreements

- A. Rules in Force at the Time of Execution.** Unless otherwise provided by the development agreement, the policies, regulations, and rules governing allowed uses of the land, density, design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, are the policies, regulations, and rules in force at the time of execution of the development agreement.
- B. Application of New Policies, Regulations, and Rules.** In compliance with Government Code Section 65866, and notwithstanding Subparagraph A., above, a development agreement shall provide for the following reservations of rights, and the City shall not be prevented from applying new policies, regulations, and rules upon the applicant, nor shall a development agreement prevent the City from conditionally approving or denying any subsequent development project application on the basis of the new policies, regulations, and rules where the new policies, regulations, and rules consist of the following:
 1. Processing fees by the City to cover costs of processing applications for development approvals or for monitoring compliance with any development approvals;
 2. Procedural regulations relating to applicable Review Authorities, applications, findings, notices, petitions, records, and any other matter of procedure;
 3. Policies, regulations, and rules governing construction and engineering standards and specifications applicable to public and private improvements, including all uniform codes adopted by the City and any local amendments to those codes adopted by the City;
 4. Regulations which may conflict with the development agreement and any approved plan for development but which are reasonable and necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety;
 5. Regulations that do not conflict with those policies, regulations, and rules specified in the development agreement or any approved plan for development; and
 6. Regulations which may conflict with those policies, regulations, and rules specified in the development agreement or any approved plan for development but to which the applicant/contracting party or its successor(s)-in-interest consents.

9107.11.100 Approved Development Agreements

Development agreements approved by the Council shall be on file with the City Clerk.

9107.11.110 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 Development Agreement application.

Section 9107.13 – Home Occupation Permits

Subsections:

- 9107.13.010 Purpose and Intent**
- 9107.13.020 Applicability**
- 9107.13.030 Filing, Processing, and Review**
- 9107.13.040 Allowed Home Occupations**
- 9107.13.050 Prohibited Home Occupations**
- 9107.13.060 Director's Decision**
- 9107.13.070 Compliance with Standards and Conditions**
- 9107.13.080 Findings and Decision**
- 9107.13.090 Conditions of Approval**
- 9107.13.100 Permit Expiration**
- 9107.13.110 Inspections**
- 9107.13.120 Acknowledgement**
- 9107.13.130 Permit Not Transferable**
- 9107.13.140 Changes in Home Occupation**
- 9107.13.150 Post Decision Procedures**

9107.13.010 Purpose and Intent

It is the purpose of this Section to:

- A. Allow for the conduct of home occupations that are deemed incidental to, and compatible with, surrounding residential uses;
- B. Recognize that a residential property owner or resident has a limited right to conduct a small business from a residence (single-family, multifamily, any mixed use development, or accessory dwelling), and that a neighbor, under normal circumstances, would not be aware of its existence;
- C. Maintain the residential character of residential neighborhoods; and
- D. Prevent the use of home occupations from transforming a residential neighborhood into a commercial area.

9107.13.020 Applicability

- A. Incidental and Secondary Use.** The Home Occupation Permit is intended to allow for home occupations that are conducted within a dwelling located in a residential zone, and are clearly incidental and secondary to the use of the dwelling for residential purposes and compatible with surrounding residential uses.
- B. Home Occupation Defined**
 - 1. A home occupation represents a legal commercial enterprise conducted by an occupant(s) of the dwelling.
 - 2. Home occupations are uses that generally do not interrupt or interfere with the general nature or residential character of the residential neighborhood. The uses that meet the performance standards specified in Section 9107.13.070 (Compliance with Standards and Conditions), below, are allowed home occupations.
 - 3. Any storage of flammable or hazardous materials for a home occupation shall be subject to review and approval of the City Fire Department.

- C. Home Occupation Prohibited Without a Permit.** No person shall engage in business or transact and carry on any business, calling, profession, occupation, or trade, on any property zoned for residential purposes without an approved and unrevoked or unsuspended Home Occupation Permit.
- D. No Permit on Site with Violations.** No permit shall be issued for a property on which there exists a violation of the law.
- E. Permit Required.** The establishment of a home occupation within a residence (single-family, multifamily, mixed use, or accessory dwelling) shall be regulated by a one-time application and fee, in compliance with the Fee Schedule.

9107.13.030 Filing, Processing, and Review

- A. Filing.** An application for a Home Occupation Permit 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 Home Occupation Permit applications, 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 by Subsection 9107.13.080 (Findings and Decision), below. 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. Project Review Procedures.** Following receipt of a completed application, the Director shall investigate the facts necessary for action consistent with the purpose of this Section.
- C. Public Notice Not Required.** A public notice and hearing shall not be required for the Director's decision on a Home Occupation Permit application.

9107.13.040 Allowed Home Occupations

- A. Where Allowed.** Home occupations are allowed in residential zones in compliance with Division 2 (Zones, Allowable Uses, and Development Standards).
- B. Allowed Home Occupations.** Any activity producing income, or intended to produce income, conducted entirely within a residential dwelling by the inhabitants of the dwelling, which use is clearly incidental and secondary to the use of the structure for residential purposes, which does not change the character of the dwelling, and only when conducted in compliance with the applicable locational and operational standards identified in Subsection 9107.13.070 (Compliance with Standards and Conditions), below.

9107.13.050 Prohibited Home Occupations

The following uses are not incidental to or compatible with residential activities and are prohibited as home occupations:

- A. Adult businesses;
- B. Alcohol sales;
- C. Ammunition, explosives, or fireworks, sales, use, or manufacturing;
- D. Barber and beauty shops;
- E. Businesses that entail the commercial breeding, boarding, grooming, harboring, kenneling, raising, and/or training of dogs, cats, or other animals on the premises;
- F. Carpentry (on-site) and cabinet making (does not prohibit a normal wood-working hobby operation);
- G. Fortune telling (Psychic);
- H. Lawn mower and/or small engine repair;

- I. Massage establishments (on-site);
- J. Medical and dental offices, clinics, and laboratories;
- K. Mini storage;
- L. Plant nursery;
- M. Retail or wholesale sales of products stored at the residence;
- N. Storage and/or sales of equipment, materials, and other accessories to the construction and service trades;
- O. Tattoo parlors;
- P. Television, radio, or appliance repair;
- Q. Tobacco/hookah lounges/parlors;
- R. Vehicle repair (body or mechanical), upholstery, automobile detailing (e.g., washing, waxing, etc.) and painting. (This does not prohibit "mobile" or resident-conducted minor repair or detailing at the customer's location);
- S. Vehicle sales;
- T. Welding and machining; and
- U Other similar uses determined by the Director not to be incidental to or compatible with residential activities.

9107.13.060 Director's Decision

- A. Director's Actions.** The Director may approve a Home Occupation Permit that would be operated in compliance with Subsection 9107.13.070 (Compliance with Standards and Conditions) below, or the Director may defer action and refer the application to the Commission for review and final decision.
- B. Business License Required.** Immediately following the effective date of an approved Home Occupation Permit, when no appeal has been filed, the applicant shall obtain a Business License in compliance with Municipal Code Section 6211 (License Required).

9107.13.070 Compliance with Standards and Conditions

- A. Compliance Required.** Home occupations shall comply with the applicable locational, developmental, and operational standards identified in this Section as well as any conditions imposed on the Home Occupation Permit.
- B. Required Standards.** Each home occupation shall comply with all of the standards specified in Subsection 9104.03.140 (Home Occupations).

9107.13.080 Findings and Decision

The Director shall review all Home Occupation Permit applications and shall record the decision in writing with the findings on which the decision is based. The Director (or the Commission on a referral) may approve a Home Occupation Permit application, with or without conditions, only if it first makes all of the following findings. Failure of the Review Authority to make all of the following findings shall result in denial of the Home Occupation Permit application:

- A.** The proposed home occupation will be consistent with the General Plan, any applicable specific plan, and the development and design standards of the subject residential zone;

- B. The proposed home occupation shall meet all of the requirements of this Section and will be located and conducted in full compliance with all of the standards specified in Section 9107.13.070 (Compliance with Standards and Conditions), above, and all conditions imposed on the Home Occupation Permit;
- C. The proposed home occupation will not be detrimental to the public convenience, health, interest, safety, or welfare, or materially injurious to the properties or improvements in the immediate vicinity; and
- D. The proposed home occupation will not interfere with the use or enjoyment of neighboring existing or future residential developments, and will not create traffic or pedestrian hazards.

9107.13.090 Conditions of Approval

In approving a Home Occupation Permit application, the Director (or the Commission on a referral) may impose conditions (e.g., buffers, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, surfacing, time limits, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with this Section and the findings required by Subsection 9107.13.080 (Findings and Decision), above.

9107.13.100 Permit Expiration

Home Occupation Permits shall immediately expire upon discontinuance of the home occupation, as that term is defined in Division 6 (Nonconforming Uses, Structures, and Parcels).

9107.13.110 Inspections

The Director shall have the right at any time during normal City Hall business hours, upon request, to enter and inspect the premises subject to a Home Occupation Permit in order to verify compliance with the locational, developmental, and operational standards identified in Section 9107.13.070 (Compliance with Standards and Conditions), above.

9107.13.120 Acknowledgement

A Home Occupation Permit shall not be valid until signed by the applicant, with the signature acknowledging the applicant's full understanding and agreement with all of the conditions, and agreement to waive any right to later challenge any conditions imposed as unfair, unnecessary, or unreasonable.

9107.13.130 Permit Not Transferable

A new Home Occupation Permit and Business License, for the same or different home occupation conducted by a new resident, shall be obtained before conducting an allowed home occupation.

9107.13.140 Changes in Home Occupation

A change in the type of home occupation activity (e.g., a change from one allowed activity to another allowed activity) conducted by the original resident/permittee shall also require a new Home Occupation Permit and Business License before conducting an allowed home occupation.

9107.13.150 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 Home Occupation application.

Section 9107.15 – Planned Development Permits

Subsections:

- 9107.15.010 Purpose and Intent**
- 9107.15.020 Applicability**
- 9107.15.030 Applicability Filing, Processing, and Review**
- 9107.15.040 Review Authority**
- 9107.15.050 Project Review, Notice, and Hearing**
- 9107.15.060 Findings and Decision**
- 9107.15.070 Planned Development Permit Amendment**
- 9107.15.080 Specific Development Standards**
- 9107.15.090 Development Schedule**
- 9107.15.100 Conditions of Approval**
- 9107.15.110 Use of Property before Final Action**
- 9107.15.120 Post Decision Procedures**

9107.15.010 Purpose and Intent

The purpose of this Section is to provide a process for approving a Planned Development Permit that is intended to:

- A. Ensure Efficient Use of Land and Better Living Environment.** Provide a method whereby land may be designed and developed as a single unit by taking advantage of modern site planning techniques thereby resulting in a more efficient use of land, a better living environment, and a superior site plan, and excellence of design than is otherwise possible through strict application of the development standards specified in Division 2 (Zones, Allowable Uses, and Development Standards) and Division 3 (Regulations Applicable to All Zones – Site Planning and General Development Standards);
- B. Ensure High Standards of Environmental Quality.** Ensure development that meets high standards of environmental quality, public health and safety, the efficient use of the City's resources, and the purpose, intent, goals, policies, actions, and land use designations of the General Plan and any applicable specific plan; and
- C. Provide for Enhanced Amenities.** Incorporate a program of enhanced amenities (e.g., enhanced landscaping, LEED or other “green” related standards, additional and enhanced open space, additional public art, improvements to an existing public facility [e.g., park or trail, etc.]) than typically required by this Development Code.

9107.15.020 Applicability

- A. Allowed Development Projects.** A Planned Development Permit may only be requested for a residential, industrial, office, retail, mixed-use, or business campus-type development project.
- B. Minimum Site Area.** A Planned Development Permit may only be requested for a site(s) with a minimum of one and one-half acres of total gross land area.
- C. Planned Development Permit Precedes Building or Grading Permits.** For projects proposing a Planned Development Permit, a Building or Grading Permit shall not be issued until the Planned Development Permit has been approved in compliance with this Section.
- D. Activities Only Allowed in Base Zone.** A Planned Development Permit may not authorize a land use activity that is not allowed in the base zone.
- E. Modify Standards**

1. The permit may adjust or modify, where necessary and justifiable, all applicable development standards (e.g., building envelope [coverage, FAR, height, and setbacks], fence and wall heights, landscaping, parking, open space, street layout, etc.) identified in this Development Code, with the exception of an increase in the applicable density or intensity above the allowable maximums identified in Division 2 (Zones, Allowable Uses, and Development Standards).
2. Residential development projects with density or intensity standards increased above the maximums identified in Division 2 (Zones, Allowable Uses, and Development Standards) may only be approved in compliance with Government Code Section 65915 and Section 9103.15 (Density Bonuses for Affordable or Senior Housing).

9107.15.030 Applicability Filing, Processing, and Review

An application for a Planned Development Permit 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 Planned Development Permit applications, 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 by Subsection 9107.15.060 (Findings and Decision), below. 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).

9107.15.040 Review Authority

The Commission may approve, approve in modified form, conditionally approve, or deny the Planned Development Permit application, based upon the findings contained in Section 9107.15.060 (Findings and Decision), below.

9107.15.050 Project Review, Notice, and Hearing

A. Application Consistent with the Purpose of this Section

1. Each Planned Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section.
2. The Director shall submit a staff report and recommendation to the Commission for its consideration.

B. Notice and Hearings

1. A public hearing shall be required for the Commission's action on a Planned Development Permit application.
2. The public hearing shall be scheduled once the Director has determined the application complete in compliance with Subsection 9107.03.060 (Initial Application Completeness Review).
3. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings).

9107.15.060 Findings and Decision

A. Commission's Authority. The Commission may approve, conditionally approve, or deny an application for a Planned Development Permit and shall record the decision and the findings upon which the decision is based.

B. Required Findings. The Commission may approve a Planned Development Permit application, with or without conditions, only if it first makes all of the following findings:

1. The Planned Development Permit will:
 - a. Be allowed within the subject base zone;
 - b. Be consistent with the purpose, intent, goals, policies, actions, and land use designations of the General Plan and any applicable specific plan;

- c. Be generally in compliance with all of the applicable provisions of this Development Code relating to both on-site and off-site improvements that are necessary to accommodate flexibility in site planning and property development and to carry out the purpose, intent, and requirements of this Section and the subject base zone, including prescribed development standards and applicable design guidelines, except for those provisions modified in compliance with this Section; and
 - d. Ensure compatibility of property uses within the zone and general neighborhood of the proposed development.
- 2. The proposed project will produce a comprehensive development of superior quality and excellence of design (e.g., appropriate variety of structure placement and orientation opportunities, appropriate mix of structure sizes, high quality architectural design, significantly increased amounts of landscaping and improved open space, improved solutions to the design and placement of parking and loading facilities, incorporation of a program of highly enhanced amenities [e.g., additional public art], LEED or other “green” related standards, etc.) than might otherwise occur from more typical development applications;
 - 3. Proper standards and conditions have been imposed to ensure the protection of the public health, safety, and general welfare;
 - 4. Proper on-site traffic circulation (e.g., pedestrian and vehicular) and control is designed into the development to ensure access for fire suppression and police surveillance equal to or better than what would normally be created by compliance with the minimum setback and parcel width standards specified in Division 2 (Zones, Allowable Uses, and Development Standards);
 - 5. The subject parcel is adequate in terms of size, shape, topography, and circumstances to accommodate the proposed development;
 - 6. Adequate public services and facilities exist, or will be provided, in compliance with the conditions of approval, to serve the proposed development and the approval of the proposed development will not result in a reduction of public services to properties in the vicinity to be a detriment to public health, safety, and general welfare;
 - 7. The proposed development, as conditioned, will not have a substantial adverse effect on surrounding property or their allowed use;
 - 8. If the development proposes to mix residential and commercial uses whether done in a vertical or horizontal manner, the residential use is designed in a manner that it is appropriately buffered from the commercial use and is provided sufficiently enhanced amenities to create a comfortable and healthy residential environment and to provide a positive quality of life for the residents. The enhanced amenities may include additional landscaping, additional common and/or private open space, private or separated entrances, etc;
 - 9. The design, location, operating characteristics, and size of the proposed development will be compatible with the existing and future land uses in the vicinity, in terms of aesthetic values, character, scale, and view protection; and
 - 10. The applicant agrees in writing to comply with any and all of the conditions imposed by the Review Authority in the approval of the Planned Development Permit.

9107.15.070 Planned Development Permit Amendment

- A. Commission Action on Requested Changes.** Requested changes in the Planned Development Permit, other than those allowed by this Section, shall be submitted to the Commission for review and approval.
- B. Added Stipulations Deemed Reasonable and Necessary.** The Commission may, as a condition of approval, impose added stipulations or changes to the Planned Development Permit as it deems reasonable and necessary to carry out the purpose and intent of this Section.

- C. Minor Changes by Director.** Minor changes in the Planned Development Permit that do not involve an increase in the number of dwelling units or an intensity of use may be approved by the Director in compliance with Subsection 9107.11.100 (Changes to an Approved Project).

9107.15.080 Specific Development Standards

- A. Landscaping.** Landscaping shall be provided in compliance with Section 9103.09 (Landscaping Standards), unless modified in compliance with this Section.
- B. Off-street Parking.** Off-street parking provisions shall be provided in compliance with Section 9103.07 (Off-Street Parking and Loading), unless modified in compliance with this Section.
- C. Signs.** Signs shall be provided in compliance with Section 9103.11 (Signs), unless modified in compliance with this Section.

9107.15.090 Development Schedule

An application for a Planned Development Permit shall include a development schedule in compliance with the following:

- A. Permit Application Shall Include Development Schedule.** An application for a Planned Development Permit shall be accompanied by a development schedule clearly identifying, to the best of the applicant's knowledge, the approximate date when the construction of the project can be expected to begin, the anticipated rate of development, and the completion date.
1. The development schedule, if approved by the Commission, shall become a part of the Planned Development Permit and shall be adhered to by the developer/property owner and the owner's successor(s)-in-interest.
 2. The Director shall require the posting of cash, a certificate of deposit, or a performance bond issued by a corporate surety company, in an amount to be determined by the City Engineer, in compliance with Subsection 9108.11.070 (Performance Guarantees), to cover the costs of the public improvements adjacent to the proposed development before the issuance of the Building Permit for the first phase of construction.
- B. Development Schedule for Phased Developments.** The development schedule, if it shows the total project is to be developed in phases, shall indicate the open space and amenities proposed for each individual phase. The developer/property owner shall construct all amenities shown and landscape all open spaces within each phase as it is completed, and before occupancy of any structure located within each particular phase of the development.
- C. Director to Review Overall Progress.** From time to time, the Director shall compare the actual development accomplished in the planned development with the approved development schedule.
- D. Commission May Extend Development Schedule.** Upon a written request by the developer/property owner, for good cause shown, the Commission may extend the time limits of the development schedule; provided any request for an extension of time limits shall be on file in the office of the Director no later than 30 days before the date of expiration.
- E. Suspension During Processing of Extension Request.** The filing of the time extension request shall suspend the actual expiration of the Planned Development Permit until the extension request is approved by the Commission, except that no Building Permit shall be issued related to the Planned Development Permit during the period of suspension.

9107.15.100 Conditions of Approval

In approving a Planned Development Permit, the Commission 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 9107.15.060 (Findings and Decision), above.

9107.15.110 Use of Property before Final Action

No permits or approvals shall be issued for any use or construction involved in an application for a Planned Development Permit until and unless the Planned Development Permit shall have become final, in compliance with Subsection 9108.11.030 (Effective Dates of Permits).

9107.15.120 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 Planned Development Permit application.

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Section 9107.17 – Reasonable Accommodation

Subsections:

9107.17.010 Purpose and Intent

9107.17.020 Applicability

9107.17.030 Application Requirements

9107.17.040 Review Authority

9107.17.050 Review Procedures

9107.17.060 Findings and Decision

9107.17.070 Rescission of Approval of Reasonable Accommodation

9107.17.010 Purpose and Intent

It is the policy of the City to provide individuals with disabilities Reasonable Accommodation in rules, policies, practices, and procedures to ensure the equal access to housing and facilitate the development of housing for individuals with disabilities in compliance with the California Fair Employment and Housing Act, the Federal Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (referred to in this Section as the “Acts”). This Section provides a procedure for making requests for Reasonable Accommodations in land use, zoning and building regulations, policies, practices, and procedures of the City to comply fully with the purpose and intent of the fair housing laws and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

9107.17.020 Applicability

Amended by Ord. No. 2400

A. Eligible Applicants

1. A request for Reasonable Accommodation may be made by any person with a disability, their representative or any entity, when the application of a zoning law or other land use regulation, policy, or practice acts as a barrier to fair housing opportunities.
2. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment.
3. This Section is intended to apply to those persons who are defined as disabled or handicapped under the Acts.

B. Eligible Requests

1. A request for Reasonable Accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
2. A request for Reasonable Accommodation shall comply with Subsection 9107.17.030 (Application Requirements), below.

- C. RLUIPA.** Deviations from the requirements and regulations specified in this Development Code may be approved if it is found that consistent with the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), enforcement of a regulation results in a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless it is determined that imposition of the burden on that assembly, institution, or person accomplishes furtherance of a compelling governmental interest where the burden is found to be the least restrictive means of furthering that compelling governmental interest.

9107.17.030 Application Requirements
Amended By Ord. No. 2400

- A. Application.** An application for a Reasonable Accommodation 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 Reasonable Accommodation applications. Any information identified by an applicant as confidential shall be retained in a manner to respect the privacy rights of the applicant and shall not be made available for public inspection. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection 9107.17.060 (Findings and Decision), below. 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. Filing with Other Land Use Applications.** If the project involves both a request for Reasonable Accommodation and some other discretionary approval (e.g., Conditional Use Permit, Site Plan and Design Review, etc.), then the applicant shall file the information required by Subsection A. (Application), above, together with the materials required for the other discretionary permit.

9107.17.040 Review Authority

- A. Director.** A request for Reasonable Accommodation shall be reviewed, and a determination shall be made, by the Director if no approval is sought other than the request for Reasonable Accommodation.
- B. Other Review Authority.** A request for Reasonable Accommodation submitted for concurrent review with another discretionary land use application shall be reviewed and determined by the authority reviewing the companion discretionary land use application.

9107.17.050 Review Procedures
Amended by Ord. No. 2400

- A. Director's Review.** The Director shall make a written determination within 30 days following the submittal of a complete application and either approve, approve with modifications, or deny a request for Reasonable Accommodation in compliance with Subsection 9107.17.060 (Findings and Decision), below.
- B. Other Review Authority.** For requests for reasonable accommodations involving any applications for discretionary approval, the application for reasonable accommodation shall be processed and considered separately from any discretionary elements of the same proposal. The applications for discretionary approval shall be separately considered and shall be subject to the procedures for consideration in compliance with the applicable review procedure for the companion discretionary review, depending on the type of application. The appropriate Review Authority shall act on all discretionary permits, but not the reasonable accommodation request.
- C. Stays.** If necessary to reach a determination on the request for Reasonable Accommodation, the Review Authority may request additional information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the 30-day period to issue a decision is stayed until the applicant responds to the request.

9107.17.060 Findings and Decision
Amended by Ord. No. 2400

- A. Findings.** The written decision to approve or deny a request for Reasonable Accommodation that will be consistent with the Acts shall be based on consideration of all of the following factors:
1. Whether the housing, which is the subject of the request, will be used by an individual defined as disabled under the Acts;
 2. Whether the request for Reasonable Accommodation is necessary to make specific housing available to an individual with a disability under the Acts;

3. Whether the requested Reasonable Accommodation would impose an undue financial or administrative burden on the City; as defined in the Fair Housing Laws and interpretive case law;
 4. Whether the requested Reasonable Accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning;
- B. Grant with Modifications.** In approving a request for Reasonable Accommodation, the Review Authority may grant the request with modifications deemed reasonable and necessary to ensure that the Reasonable Accommodation will comply with the findings required by Subsection A (Findings), above.
- C. Written Decision.** The written decision on the request for a Reasonable Accommodation shall include the Review Authority's findings and any other relevant information upon which the decision is based. All written decisions shall give notice of the applicant's right of appeal in compliance with Subsection E. The notice of decision shall be sent to the applicant.
- D. Other Applicable Regulations.** While a request for Reasonable Accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
- E. Appeal.** The written decision of the Review Authority shall be final unless appealed.
1. Within 30 days of the date of the reviewing authority's written decision, an applicant may appeal an adverse decision. Appeals from the adverse decision shall be made in writing;
 2. If an individual needs assistance in filing an appeal on an adverse decision, the jurisdiction will provide assistance to ensure that the appeals process is accessible;
 3. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection;
 4. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available;

9107.17.070 Rescission of Approval of Reasonable Accommodation Amended by Ord. No. 2400

- A. Rescission.** A grant made in compliance with this Section may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances (e.g., the individual defined as disabled under the Acts vacates the subject site, etc.), unless allowed to remain in compliance with Subsection B (Discontinuance), below.
- B. Discontinuance**
1. A Reasonable Accommodation shall lapse if the exercise of rights granted by it is deemed ceased or discontinued for at least 180 consecutive days. For purposes of this Subsection, the terms ceased or discontinued shall be defined as an abandonment of the rights, irrespective of the owner's or occupant's intent.
 2. If the person(s) initially occupying a residence vacate, the Reasonable Accommodation shall remain in effect only if the Review Authority first determines that:
 - a. The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with this Development Code; or
 - b. The accommodation is to be used by another qualifying individual with a disability.
 3. The Review Authority may request the applicant or the successor(s)-in-interest to the property to provide documentation that subsequent occupants are qualifying persons with disabilities. Failure to provide the documentation within 10 days following the date of a request by the Review Authority shall constitute grounds for discontinuance by the City of a previously approved Reasonable Accommodation.

Section 9107.19 – Site Plan and Design Review

Subsections:

- 9107.19.010 Purpose and Intent**
- 9107.19.020 Applicability**
- 9107.19.030 Authority**
- 9107.19.040 Application Filing, Processing, and Review**
- 9107.19.050 Findings and Decision**
- 9107.19.060 Conditions of Approval**
- 9107.19.070 Issuance of Other Required Permits and Approvals**
- 9107.19.080 Minor Changes by Director**
- 9107.19.090 Post Decision Procedures**

9107.19.010 Purpose and Intent

- A. Purpose.** The purpose of this Section is to provide a process for the appropriate review of development projects.
- 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.

9107.19.020 Applicability

- A. Site Plan and Design Review Required.** No one shall construct any structure, or relocate, rebuild, or significantly enlarge or modify any existing structure or site until a Site Plan and Design Review has been approved in compliance with this Section and Table 7-3 (Review Authority for Site Plan and Design Review), below.
- B. Referral to Director.** The Building Official shall refer to the Director all applications for Building or Grading Permits subject to the requirements of this Section.
- C. Located within Homeowner's Associations (HOA's).** Single-family residential properties/homes located within the City designated homeowner's association areas are not subject to the City's Site Plan and Design Review process. However, the Associations shall adhere to and apply the Design Guidelines as well as the Association's enabling resolution in their Design Review Process.
- D. 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 are met.
2. Any permit or approval specified in Subparagraph 1., above, issued in violation of this provision shall be deemed void.

E. Definitions. The term “significantly enlarge or modify” shall be defined as follows:

1. **Residential Enlargement or Modification.** Residential enlargements or modifications larger than 500 square feet or 25 percent of the existing gross floor area before the addition, whichever is less;
2. **Nonresidential Enlargement or Modification.** Nonresidential enlargement, modification, reconstruction, rehabilitation, or remodel equal to or exceeding 25 percent of the existing gross floor area of the structure before the construction; and
3. **Unimproved Nonresidential Property.** In the case of improvements to unimproved nonresidential property or improvements to nonresidential property that would not require modification of a structure, all plans shall be reviewed.

F. Use of the City’s Design Guidelines

1. **Established by Council Resolution.** General design review criteria and related guidelines for residential and nonresidential projects shall be established by resolution of the Council.
2. **Influence Design.** The City’s Design Guidelines are intended to be used to generally influence the design of single-family, multifamily, commercial, industrial, and mixed use development, and the exterior alterations or re-development of land uses. The Design Guidelines should be used as a starting point for the creative design process and should not be looked upon as the only solution for design.
3. **Strive for Creativity and Innovation.** Owners of properties should strive to be creative and innovative and look beyond franchise or boilerplate architectural, signage, and landscape architectural design treatment.

9107.19.030 Authority
Amended by Ord. No. 2400

- A. Site Plan and Design Review Required.** Structures erected or modified to accommodate the land use activities listed in Division 2 (Zones, Allowable Uses, and Development Standards) shall require the approval of a Site Plan and Design Review.
- B. Required Before Issuance of Other Required Permits.** Site Plan and Design Review approval shall be required before the issuance of a Building or Grading Permit, Business License, or Certificate of Occupancy for any new structure (not including fences or walls), and existing structures to be reconstructed or remodeled (including facade improvements) that increase the gross floor area by 500 square feet (for residential projects only) or 25 percent of the existing gross floor area of the structure before the construction, whichever is less, or to increase structure height.

C. Applicable Review Authority

1. Applicable Review Authority

- a. The applicable Review Authority shall be as specified in Table 7-3 (Review Authority for Site Plan and Design Review), below. The three levels of review specified in Table 7-3 shall be further defined as follows:
 - (1) Director (Very Minor Review). Review and decision by the Director with no public notice or hearing required.
 - (2) Director (Minor Review). Review and decision by the Director with public notice required, in compliance with Subparagraph 9107.19.040 E. 2., below, as specified for the review of single-family dwellings.
 - (3) Commission (Major Review). Review and decision by the Commission with public notice and hearing required, in compliance with Section 9108.13 (Public Notices and Hearings).

- b. The applicable Review Authority may instead defer action and refer the application to the Review Authority that would normally consider the matter as if an appeal had been filed in compliance with Table 7-1 (Review Authority) and Table 7-3 (Review Authority for Site Plan and Design Review).

2. **Exceptions to Table 7-3.** If the Site Plan and Design Review application is filed along with a companion discretionary land use application (e.g., Conditional Use Permit, etc.) the decision to approve or deny the Site Plan and Design Review shall be made by the Review Authority responsible for reviewing the companion discretionary land use application in compliance with the applicable review procedures for the companion discretionary review and Table 7-1 (Review Authority). The decision to approve or deny the Site Plan and Design Review shall be made in compliance with Subsection F. (Required findings), below.

Table 7-3			
Review Authority for Site Plan and Design Review			
Type of Construction Activity	Role of Review Authority ^{(1) (2) (3)}		
	Director (Very Minor Review)	Director (Minor Review)	Commission (Major Review)
Antennas and Wireless Communication Facilities ⁽⁴⁾			
Panel – New panel with substantial changes resulting in an increase in dimensions of the existing facilities.	Recommend	Decision	Appeal
Standalone Facility	Recommend	Recommend	Decision
All other Antennas and Wireless Communication Facilities are subject to the issuance of a Zoning Clearance			
Residential New Construction, Additions, and/or Accessory Structures			
New single-family residence	Recommend	Decision	Appeal
Minor first floor single-family residential additions and detached accessory structures.	Decision	Appeal	Appeal
Second story addition to an existing residence.	Recommend	Decision	Appeal
All development located on hillsides having a natural slope gradient of 20 percent or greater	Recommend	Decision	Appeal
Multifamily Residential New Construction, Additions, and/or Modifications			
Multifamily residential construction proposing up to 20 dwelling units, excluding parcel or tract maps.	Recommend	Decision	Appeal
Multifamily residential construction proposing 21 or more dwelling units.	Recommend	Recommend	Decision
Multifamily residential construction proposing 16 or more dwelling units in the DMU, CBD, MU, Residential Flex Overlay zones and DMU Overlay Zone ⁽⁵⁾	Recommend	Decision	Appeal
Any addition (main building or accessory structures) or change in number of units	Recommend	Decision	Appeal
Other Residential Construction or Improvements			
Covered patios, facade improvements, fences, gates, gazebos, patio enclosures, roofing materials, trellises, walls, window change outs, swimming pools, spa, decks, roofs, landscaping, and other types of exterior alterations, as deemed appropriate by the Director.	Decision	Appeal	Appeal
Nonresidential Construction			
Nonresidential enlargements or modifications, up to a maximum of 1,500 square feet or 25 percent of the existing gross floor area, whichever is less	Decision	Appeal	Appeal

**Table 7-3
Review Authority for Site Plan and Design Review**

Type of Construction Activity	Role of Review Authority ^{(1) (2) (3)}		
	Director (Very Minor Review)	Director (Minor Review)	Commission (Major Review)
Nonresidential enlargements or modifications, that exceeds 1,501 square feet or 25 percent of the existing gross floor area.	Recommend	Decision	Appeal
Nonresidential construction, up to a maximum of 20,000 square feet of gross floor area.	Decision	Appeal	Appeal
Nonresidential construction, 20,001 square feet or more of gross floor area.	Recommend	Decision	Appeal
All development projects in excess of two acres or structures in excess of 40,000 square feet.	Recommend	Recommend	Decision
Other Nonresidential Construction or Improvements			
Cargo Containers	Decision	Appeal	Appeal
Covered patios, facade improvements, fences, gates, gazebos, patio enclosures, roofing materials, trellises, walls, window change outs, awnings, decks, roofs, landscaping, parking, outdoor dining area, and other types of exterior alterations, as deemed appropriate by the Director.	Decision	Appeal	Appeal
Other Review			
Shared/Joint and Off-Site Parking Plans	Recommend	Decision	Appeal
Outdoor Dining	Recommend	Decision	Appeal

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; "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 Review Authority may defer action and refer the request to the next higher Review Authority for the final decision.
- (3) Any decision of the Commission is appealable to the Council, in compliance with Section 9108.07 (Appeals).
- (4) Antennas and Wireless Communication Facilities.
 - (a) Panel. A wireless communication facility where the antennae are mounted on the roof or top of a building or structure, or the side of a building or structure, other than on a standalone facility.
 - (b) Standalone Facility. A wireless communication facility where the antennae are mounted to a dedicated ground-based structure in order to elevate the antennae to a useable altitude (ie: monopole, cell tower, etc.).
- (5) Multifamily Residential Development. Owner-occupied and rental multifamily uses (including those in a mixed-use format) in which 20 percent or more of units are affordable to lower-income households.

9107.19.040 Application Filing, Processing, and Review

Amended by Ord. No. 2347

Amended by Ord. No. 2375

- A. Application Filing.** An application for a Site Plan and Design Review 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 Site Plan and Design Review applications, together with the required fee in compliance with the Fee Schedule. Additionally, the applicant shall reimburse the City for all costs associated with Site Plan and Design Review performed by the City's architectural and landscape design consultants before final approval of the Site Plan and Design Review. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection 9107.19.050 (Findings and Decision), below. 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 is being made also requires some other discretionary approval (e.g., Conditional Use Permit, etc.), then the applicant shall file the information required by Subsection A (Application filing), above, together for concurrent review with the application for the companion discretionary approval. Only the formal application and associated fee for the companion discretionary approval shall be required in order to comply with the Site Plan and Design Review filing requirements.
- C. Application Review.** Each application for a Site Plan and Design Review shall be reviewed to ensure that the application is consistent with the purpose of this Section; applicable development standards and regulations of this Development Code; and adopted Design Guidelines and policies that may apply.
1. A Site Plan and Design Review is initiated when the Department receives a complete application package including the required information and materials specified in the Department handout 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 and the effect of the proposed development on adjacent properties by comparing the project plans to established development standards, regulations, and 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 Department 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 City to consider the application withdrawn and of no further effect.
 4. After the Site Plan and Design Review application has been deemed complete, the Review Authority shall either approve or deny the Site Plan and 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, and various regulations of the City in compliance with Subsection 9107.19.050 (Findings and Decision), below.
 5. The following criteria shall be considered during the review of a Site Plan and Design Review application:
 - a. Compliance with this Section, this Development Code, and all other applicable City regulations and policies;
 - b. Consistency with the General Plan and any applicable specific plan;
 - c. Consistency with any adopted Design Guidelines, policies, and standards..
 - d. Efficient site and layout and design. In terms of the following:

- (1) The arrangement and relationship of proposed structures to one another and to other developments in the vicinity and whether the relationship is harmonious and based on good standards of design;
 - (2) Efficiency and safety of public access and parking;
 - (3) 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;
 - (4) Appropriate open space and use of water efficient landscaping;
 - e. Compatibility with neighboring properties and developments; in terms of scale and aesthetic treatment of proposed structures with public areas
- D. On-Site Inspection.** An application for a Site Plan and Design Review may require that the Director 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, Tenant Notification, Hearing, and Appeal Provisions**
1. **Director's Site Plan and Design Reviews (Very Minor Review).** Neither a public notice nor public hearing shall be required for the Director's decision on a Site Plan and Design Review (Very Minor Review) application.
 2. **Single-Family Dwelling Exception.** The only exception to the notice and public hearing provisions for the Director's decision specified in Subparagraph 1., above, is for Site Plan and Design Review for the construction of a new or modification (i.e., increase in floor area or the addition of a second story) of an existing single-family dwelling. In the case of a single-family dwelling, the following notice provisions shall apply:
 - a. The City shall send a mailed notice stating that the Director will decide whether to approve, conditionally approve, or deny a Site Plan and Design Review for a single-family dwelling application on a date specified in the notice.
 - b. The notice shall contain a request for comments on the application.
 - c. In order to be considered, the comments shall be received by the Director no later than 14 days following the date specified in the notice.
 - d. The notice shall be mailed to 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 of the exterior boundaries of the parcel that is the subject of the Site Plan and Design Review application; and any other person(s) whose property might, in the judgment of the Director, be affected by the proposed project, in compliance with Section 9108.13 (Public Notices and Hearings).
 3. **Director's Site Plan and Design Reviews (Minor Review).** A public notice shall be required for the Director's decision on a Site Plan and Design Review (Minor Review) application, in compliance with Subparagraph 9107.19.040 E. 2., above, as specified for the review of single-family dwellings.
 4. **Tenant Notification.** The property owner shall notify the tenants of the proposed project before the City can deem the project complete. The notice must be delivered to all existing tenants by Certified Mail from the United States Postal Service. The letter shall specify the type of development proposed and the contact information of the property owner.
 5. **Commission's Site Plan and Design Reviews.** A public notice and hearing shall be required for the Commission's decision and the Council's decision, if an appeal of the Commission's decision has been filed, on a Site Plan and Design 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).
 6. **Appeals.** The Review Authority's decision may be appealed, in compliance with Section 9108.07 (Appeals).

9107.19.050 Findings and Decision
Amended by Ord. No. 2375

- 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 9107.03.060 (Initial Application Completeness Review).
- B. Review Authority's Action within 30 days.** Within 30 days following the filing of the completed application, the Review Authority shall approve, approve with conditions, or deny the Site Plan and Design Review application.
- C. Referral to the Commission.** If the Site Plan and Design Review application submitted is of significant consequence or magnitude or involves potential public controversy, the Director may defer action and refer the application to the Commission for review and final decision.
- D. Next Commission Agenda.** The referral shall be placed on the agenda of the next available regular Commission meeting following the referral.
- E. Other Review Authority.** The decision to approve or deny the Site Plan and Design Review shall be made by the authority responsible for reviewing the companion discretionary land use application (e.g., Conditional Use Permit, etc.) in compliance with the applicable review procedure for the companion discretionary review. The decision to approve or deny the Site Plan and Design Review shall be made in compliance with Subsection F. (Required findings), below.
- F. Required Findings.** The Review Authority may approve a Site Plan and Design Review application, only if it first makes all of the following findings. The proposed development will:
 - 1. Be in compliance with all applicable development standards and regulation in the Development Code;
 - 2. Be consistent in the objectives and standards of the applicable Design Guidelines;
 - 3. Be compatible in terms of scale and aesthetic design with surrounding properties and developments;
 - 4. Have an adequate and efficient site layout in terms of access, vehicular circulation, parking and landscaping; and
 - 5. Be in compliance with all of the applicable criteria identified in Subparagraph 9107.19.040.C.5 above

9107.19.060 Conditions of Approval

- A. May Impose Conditions.** In approving a Site Plan and Design Review 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 9107.19.050 (Findings and Decision), above.
- B. Requirements for Dedication and Infrastructure.** The conditions may include requirements for the offers of adequate dedication of land for public purposes and the provision of public infrastructure to the extent necessitated by the development.

9107.19.070 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 or a revised Site Plan and Design Review 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.** 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 and the conditions imposed on the review.

- C. Determination by Director.** Compliance shall be determined by the Director, or in the case of disagreement with the applicant, by the applicable Review Authority.

9107.19.080 Minor Changes by Director

The Director may approve minor changes in a Site Plan and Design Review that do not involve an increase in structure area or height, an increase in the number of dwelling units, a significant architectural change, or an intensity of use in compliance with Subsection 9108.11.100 (Changes to an Approved Project).

9107.19.090 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 application.

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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.

9107.20.020 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 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 9107.03.010.
- 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 7-4 (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).

Table 7-4
Review Authority for Site Plan and Design Review: Homeowners Association Areas

Types of Construction Activity	Review Authority ⁽⁴⁾⁽⁵⁾		
	City Review (Very Minor Review)	Short Review (Minor Review)	Regular Review (Major Review)
Fences and/or walls ^{(1) (2)}	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 ⁽³⁾	Decision		
Mechanical equipment ⁽³⁾	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 ⁽¹⁾		Decision	
Fountains, water features, or statues ⁽¹⁾		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

Notes:

- (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

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.

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.

Section 9107.21 – Specific Plans

Subsections:

- 9107.21.010 Purpose and Intent
- 9107.21.020 Applicability
- 9107.21.030 Initiation of Specific Plans
- 9107.21.040 Application Filing and Initial Review
- 9107.21.050 Application Processing
- 9107.21.060 Adoption or Amendment of a Specific Plan
- 9107.21.070 Retroactivity

9107.21.010 Purpose and Intent

- A. **Purpose.** Specific plans are a significant planning tool. The purpose of this Section is to provide a method for preparing, processing, reviewing, and adopting specific plans to, in compliance with Government Code Section 65450 et seq. or as that section may be amended or replaced from time to time. In addition, it is the purpose of this Section to provide a method for amending specific plans to ensure their continued effectiveness and responsiveness to market demands over time.
- B. **Intent.** After the Council has adopted the General Plan, or any amendment to the General Plan, the Department may, or as directed by the Council, shall prepare or cause the preparation of specific plans for the systematic implementation of the General Plan.

9107.21.020 Applicability

- A. **Specific Plan Required.** When required by the Council, the General Plan, or this Development Code to systematically implement the General Plan for any part of the City, a specific plan shall be prepared, processed, approved, and implemented in compliance with this Section.
- B. **Flexibility and Innovation.** A specific plan is designed to provide for adequate flexibility, innovative use of land resources and development, a variety of building, development, and housing types, land use mixes, site design, development concepts, and an effective and safe method of pedestrian and vehicular circulation.
- C. **Council Authority Under the City Charter.** The Council is authorized to prepare, adopt, and amend specific plans in compliance with Article II, Section 200 of the City Charter. Nothing in this Section shall be construed as adopting directly or indirectly those provisions of the Government Code from which the City of Arcadia, a Charter City is exempt.
- D. **Commission and Council Review.** An application for a specific plan shall be considered by the Commission and Council.

9107.21.030 Initiation of Specific Plans

A specific plan or its amendment may be initiated in the following manner:

- A. **Council.** By the majority consensus of the Council, with or without a recommendation from the Commission; or
- B. **Property Owner(s).** By an application being filed by the owner(s) of one or more parcels, or the owner's authorized agent, that would be the subject of the specific plan. If the property for which a specific plan or specific plan amendment is proposed is held in multiple ownerships, all the owners or their authorized agents shall join in filing the application. If initiated by a property owner(s), a pre-application conference as specified in Subparagraph C., below is required.

- C. Pre-Application Conference Required.** A pre-application conference with the Director before the filing of a specific plan application is required, in compliance with Section 9107.03.020 (Application Submittal).
1. The purpose of the pre-application conference is to allow the property owner(s) or property owner's agent to obtain information before entering into binding commitments incurring substantial expense in the preparation of plans, surveys, and other data. Coordination and preparation of environmental documentation shall be discussed.
 2. The preliminary consultations shall include, but are not limited to, the following:
 - a. Proposed land uses to be developed within the project area;
 - b. Development concepts to be employed;
 - c. Schematic plans, illustrative material, and narrative sufficient to describe the general relationships between land uses, and the intended design character and scale of principal features; and
 - d. A preliminary time schedule for development, including quantitative data (e.g., population, building units, land use acreage, and other data) sufficient to illustrate phasing of development and potential impact on public service requirements.
 3. Pre-application review shall not constitute any representation on the part of the City that a specific plan will be prepared or approved for the property or that any other application pending or otherwise will be approved.
- D. Neighborhood Meeting(s).** A neighborhood meeting is strongly encouraged with surrounding property owners and arranged by the project proponent(s).
- E. For property Located in Unincorporated Territory.** If the property for which a specific plan or specific plan amendment is proposed is located in unincorporated territory it will serve as rezoning for the property. Whether initiated by the City or by the owner(s), a proposal and/or the adoption or amendment of a specific plan for unincorporated territory will not constitute any representation on the part of the City that the City will apply for a sphere of influence amendment or annexation in compliance with Government Code Sections 56428 and 56453.

9107.21.040 Application Filing and Initial Review

If initiated by a property owner(s), the specific plan application or an amendment shall comply with all of the following.

- A. Filing.** An application for a specific plan or an amendment shall be filed and processed in compliance with Section 9107.03 (Application Processing Procedures). The application shall include the information and materials specified by the most up-to-date Department handout for specific plan applications and Subsection 9107.21.050 (Application Processing), below, 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 finding required by Subsection 9107.21.060 (Adoption or Amendment of a Specific Plan), below. 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. Minimum Site Area.** The minimum site area for a specific plan shall be one and one-half acres in total land area. The site may be one parcel under single ownership or a combination of adjoining parcels subject to a unified planning concept.
- C. Project Review Procedures.** Following receipt of a completed application, the Director shall investigate the facts necessary for action in compliance with this Section and Section 9107.03 (Application Processing Procedures).
- D. Public Notice and Hearing Provisions.** All specific plan applications shall be subject to the following public notice and hearing provisions.
1. Public hearings shall be required for the Commission's recommendation and the Council's action on a specific plan or an amendment.

2. The public hearings shall be scheduled once the Director finds the application complete in compliance with Subsection 9107.03.060 (Initial Application Completeness Review).
3. Notice of the public hearings shall be given and the hearings shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings).

9107.21.050 Application Processing

If initiated by a property owner(s), the draft specific plan shall be processed in the same manner as required for a Zoning Map Amendment by State law, and as follows.

A. Director's Evaluation

1. After the filing of a draft specific plan, the Director shall review the draft plan to determine whether it is in compliance with the provisions of this Section.
2. If the draft plan is not in compliance, it shall be returned to the applicant with written specification(s) as to why it does not comply, and with suggested revisions to ensure compliance.
3. When a draft plan is returned by the applicant to the Department and the Director determines it is complete and in compliance with this Section, the plan shall be deemed to be accepted for processing, in compliance with Subsection 9107.03.060 (Initial Application Completeness Review).

B. Environmental Review Required. The draft specific plan shall be subject to environmental review as identified in Subsection 9107.03.070 (Environmental Assessment).

C. Distribution of Materials. Copies of the draft specific plan shall be distributed by the Director to the relevant City departments, and each local agency with special expertise, along with any environmental documentation.

D. Staff report. A written staff report shall be prepared for the draft specific plan that shall include detailed recommendations and, if appropriate, suggested changes to the text and/or diagrams of the specific plan, as determined to be necessary to make it acceptable for adoption.

E. Commission's Recommendations. Following the public hearing, the Commission shall indicate by resolution whether the specific plan or specific plan amendment is recommended to the Council for approval, approval in modified form, or denial in compliance with Subsection 9107.21.060 (Adoption or Amendment of a Specific Plan), below, and Section 9108.03 (Amendments). The City Clerk shall be notified of the Commission's recommendation.

F. Council Review and Action. The Council, after receipt of the report and recommendations of the Commission, shall hold a public hearing to consider the specific plan or the specific plan amendment.

1. The Council may approve, approve with modifications, or deny a proposed specific plan or specific plan amendment in compliance with Subsection 9107.21.060 (Adoption or Amendment of a Specific Plan), below, and Section 9108.03 (Amendments). Approval of the specific plan or specific plan amendment shall be by ordinance.
2. If the Council approves the specific plan with modifications, a final reproducible specific plan document shall be submitted to the City within 30 days following the first reading of the ordinance adopting the specific plan.

G. Public Notice and Hearing Provisions. Notice of the public hearings specified in Subparagraphs E. and F., above, shall be given and the hearings shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings).

9107.21.060 Adoption or Amendment of a Specific Plan

A. Mandatory Finding for Adoption or Amendment. The Commission may recommend approval and the Council may approve a specific plan or specific plan amendment only if it first makes all of the following findings:

1. The proposed specific plan or specific plan amendment is consistent with the General Plan, including its goals, objectives, policies, and action programs.
 2. The proposed specific plan or specific plan amendment is a desirable planning tool to implement the provisions of the General Plan.
 3. The proposed specific plan or specific plan amendment will not adversely affect the public health, safety and general welfare or result in an illogical land use pattern.
 4. In the case of a specific plan amendment, the following additional finding shall be made before its adoption: The proposed specific plan amendment will not create internal inconsistencies within the specific plan and is consistent with the purpose and intent of the specific plan it is amending.
 5. In the case of a specific plan located within unincorporated territory, the following additional finding shall be made before its adoption: The proposed specific plan is consistent with the planning and rezoning designation provided for the specific plan area or alternatively functions as rezoning for the unincorporated territory.
- B. Frequency of Amendments.** The specific plan may be amended as often as deemed necessary by the Council in compliance with Government Code Section 65453.
- C. Project Consistency Under a Specific Plan.** No local public works project may be approved, no tentative map or parcel map for which a tentative map was not required may be approved, and no Development Code Text or Zoning Map amendment may be approved within an area covered by a specific plan unless it is first found consistent with the adopted specific plan in compliance with Government Code Section 65455.
- D. Repeal of a Specific Plan or Amendment.** A specific plan or specific plan amendment may be repealed in the same manner as it is required to be amended, in compliance with this Section.

9107.21.070 Retroactivity

This Section shall apply to any specific plan or specific plan amendment application filed and accepted as complete by the City on or after January 1, 1995.

Section 9107.23 – Temporary Use Permits

Subsections:

- 9107.23.010 Purpose and Intent**
- 9107.23.020 Definition**
- 9107.23.030 Applicability**
- 9107.23.040 Exempt Temporary Uses**
- 9107.23.050 Allowed Temporary uses**
- 9107.23.060 Application Filing and Processing**
- 9107.23.070 Action by the Review Authority**
- 9107.23.080 Findings and Decision**
- 9107.23.090 Conditions of Approval**
- 9107.23.100 Extensions for Temporary Use Permits**
- 9107.23.110 Condition of Site Following Temporary Use**
- 9107.23.120 Post Decision Procedures**

9107.23.010 Purpose and Intent

The purpose of this Section is to allow for short term activities that would be compatible with adjacent and surrounding uses when conducted in compliance with this Section.

9107.23.020 Definition

For purposes of this Section, a temporary (short-term) land use activity is defined as a land use that is interim, non-permanent, and/or seasonal in nature, and generally not conducted for more than 30 consecutive days in duration.

9107.23.030 Applicability

Amended by Ord. No. 2375

- A. Minor Short-Term Activities.** A Temporary Use Permit allows short-term activities that might not meet the normal development or use standards of the applicable zone, but may otherwise be acceptable because of their temporary nature.
- B. Temporary Use Permit Required.** In compliance with Subsection 9107.23.050 (Allowed Temporary Uses), below, temporary land uses shall not be established, operated, or conducted in any manner without the approval and maintenance of a valid Temporary Use Permit approved in compliance with this Section.
- C. Categories of Land Uses.** The following three categories of temporary land uses identify the level of permit required, if any, based on the proposed duration, location, size, and type of use:
 - 1. Exempt Temporary Uses.** Exempt temporary uses are identified in Subsection 9107.23.040 (Exempt Temporary Uses), below; and
 - 2. Temporary Uses Requiring a Temporary Use Permit.** Temporary uses requiring a Temporary Use Permit are identified in Subsection 9107.23.050 (Allowed Temporary Uses), below.
 - 3. Activities Located within the RTE (Race Track Event) Overlay and S-1 Zone**
 - a. RTE (Race Track Event) Overlay.** All Temporary Use Permit applications for temporary activities to be conducted within the RTE (Race Track Event) Overlay, shall require action by the applicable Review Authority specified in Subsection D (Applicable Review Authority) below.

- b. **S-1 Zone.** For every reference to activities conducted within the RTE (Race Track Event) Overlay, it shall also be understood to include activities within the S-1 zone.
- D. **Applicable Review Authority.** The applicable Review Authority for Temporary Use Permits shall be in compliance with the following:
 - 1. **Director.** Temporary Use Permits for activities to be conducted in all locations within the City, except for those activities conducted within the RTE (Race Track Event) Overlay, shall be subject to the review and determination by the Director. No notice shall be required.
 - 2. **Events within the RTE (Race Track Event) Overlay.** Temporary Use Permits for those activities to be conducted within the RTE (Race Track Event) Overlay shall be subject to the review and determination by the following Review Authorities:
 - a. **Director.** If the activity will host less than 10,000 people at any one time, or drive thru/drive-in event, the permit shall be subject to the review and determination by the Director. No notice shall be required. For a one-day event that draws more than 10,000 people at any one time, it may be approved by the Director.
 - b. **Council.** If the activity will exceed the thresholds specified in Subparagraph a., above, the permit shall be referred to the Council for review and determination.
 - 3. **Events within the RTE (Race Track Event) Overlay – Recurring Events**
 - a. Temporary Use Permits for recurring activities (previously approved annually occurring activities that exceed the thresholds specified in Subparagraph a., above) to be conducted within the RTE (Race Track Event) Overlay shall be subject to the review and determination by the Director.
 - b. The Director shall have the authority to review and make a determination on an application submitted for a subsequent or recurring activity that exceeds the size and/or duration thresholds, or the Director may refer the application to the Council for their review and determination.
 - c. In order to approve a recurring activity that exceeds the thresholds specified in Subparagraph a., above, the Director shall first make all of the following findings:
 - (1) The previous activity complied with City's Noise Ordinance requirements; and
 - (2) All conditions of approval for the previously approved Temporary Use Permit were satisfactorily met and adhered to throughout and following the event.
 - d. If the findings specified in Subparagraph c., above, cannot be made, the application shall be referred to the Council for review and determination.

9107.23.040 Exempt Temporary Uses

The following minor and limited duration temporary uses are exempt from the requirement for a Temporary Use Permit. Uses that do not fall within the categories defined below shall comply with Subsection 9107.23.050 (Allowed Temporary Uses), below.

A. Construction Yards — On-Site

- 1. On-site contractors' construction yard(s), in conjunction with an approved construction project on the same parcel.
- 2. One adult caretaker may be present during non-construction hours.
- 3. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit, authorizing the construction project, whichever first occurs.

- B. Yard Sales Conducted on Private Property.** Yard sales conducted on private property when conducted in compliance with Section 9104.02.360 (Yard Sales).
- C. Emergency Facilities.** Emergency public health and safety needs/land use activities, as determined by the Council.
- D. Publicly-Owned Property.** Events that are to be conducted on publicly owned property and rights-of-way and are sponsored by educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Internal Revenue Code.
- E. Temporary Portable Storage Containers on Residential Property.** Temporary Portable Storage Containers located on residential property that comply with standards listed in Subsection 9104.020.320 (Storage Containers - Temporary Portable).

9107.23.050 Allowed Temporary uses

Amended by Ord. No. 2347

Amended by Ord. No. 2375

The following temporary uses are allowed, subject to the issuance of a Temporary Use Permit, and only when conducted in compliance with Subsection 9107.23.090 (Conditions of Approval), below. Activities conducted on sites located within the RTE (Race Track Event) Overlay or S-1 zone may be allowed longer or recurring time periods within which to operate in compliance with Subparagraph 9107.23.030 D. (Applicable Review Authority), above.

- A. Car Washes.** Car washes, limited to one event each month for each sponsoring organization, not exceeding three days in length. Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Internal Revenue Code.
- B. Contractors' Construction Yards — Off-Site.** The permit may be effective for up to 12 months, or the expiration of the companion Building Permit, authorizing the construction project, whichever first occurs.
- C. Events**
 - 1. Amusement rides, arts and crafts exhibits, auctions, carnivals, circuses, concerts, fairs, farmer's markets, festivals, flea markets, food events, outdoor entertainment/sporting events, non-profit fund raising, rodeos, rummage sales, second-hand sales, and swap meets for 14 consecutive days or less, or six two-day weekends, within a 12-month period.
 - 2. Outdoor displays and retail sales events conducted by a retail business holding a valid Business License in the City may be allowed a maximum of three outdoor retail sales events (excluding City sponsored activities) each calendar year in compliance with the standards identified in Subsection 9104.02.110 (Display and Retail Activities – Outdoor). For purposes of this Subsection an outdoor retail sales event shall be no longer than four consecutive days in duration.
 - 3. Outdoor gatherings/meetings and group activities for seven consecutive days or less, within a 12-month period.
 - 4. Outdoor vehicle sales events conducted by established vehicle sales facilities for 30 consecutive days or less, within a 12-month period.
 - 5. Seasonal sales (i.e., Halloween pumpkin sales and Christmas tree sales lots) only by businesses holding a valid Business License in the City; provided the activity may only be held from October 1st through October 31st, of the same year for the Halloween pumpkin sales, and from the day after Thanksgiving through December 26th, of the same year for Christmas tree sales.
 - 6. Mobile food vending in compliance with Section 9104.02.220 and up to 6-months within a 12-month period.
 - 7. Any temporary use deemed appropriate by the Director, including the duration of the temporary use.

- D. On-Location Filming.** The temporary use of a specified and approved location for occasional commercial filming (e.g., commercials, movie(s), videos, etc.), in compliance with Government Code Section 65850.1. The Director shall find that the approval would not result in a frequency of use likely to create incompatibility between the temporary filming activity and the surrounding areas.
- E. Storage During Construction.** Storage of equipment during construction activities for up to 12 months, or the expiration of the companion Building Permit, authorizing the construction project, whichever first occurs;
- F. Temporary Sales Trailers**
1. A trailer may be used for temporary sales activities (e.g., model home sales, etc.).
 2. A permit for temporary sales trailer(s) may be approved for up to 12 months.
- G. Temporary Structures.** A temporary classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved, for a maximum time period of 12 months, as an accessory use or as the first phase of a development project, in the commercial, industrial, and downtown zones.
- H. Temporary Work Trailers**
1. A trailer or mobile home may be used as a temporary work site for employees of a business:
 - a. During construction or remodeling of a permanent commercial, industrial, or mixed-use structure, when a valid Building Permit is in force; or
 - b. Upon demonstration by the applicant that the temporary work site is a short-term necessity, while a permanent work site is being obtained.
 2. A permit for temporary work trailer(s) may be approved for up to 12 months.
- I. Other Similar Temporary Uses.** Similar temporary uses that, in the opinion of the Director, are compatible with the subject zone and surrounding land uses.

9107.23.060 Application Filing and Processing

- A. Filing.** An application for a Temporary Use Permit shall be filed with the Department in the following manner:
1. An application for a Temporary Use Permit 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 Temporary Use Permit applications, together with the required fee in compliance with the Fee Schedule. 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).
 2. The application shall be filed with the Department at least 30 days before the date that the proposed temporary use is scheduled to take place.
- B. Evidence.** It is the responsibility of the applicant to establish evidence in support of the findings required by Section 9107.23.080 (Findings and Decision), below.

9107.23.070 Action by the Review Authority **Amended by Ord. No. 2347**

A. Project Review Procedures

1. **Director's Action within 30 Days.** Within 30 days following receipt of an application deemed complete by the Director, the Director shall investigate the facts necessary for action consistent with the purpose of this Section.
2. **Action of the Director.** The Director shall grant, conditionally grant, or deny the Temporary Use Permit application in compliance with Sections 9107.23.080 (Findings and Decision) and 9107.23.090 (Conditions of Approval), below, or defer action and refer the application to the Commission.
3. **Activities within the RTE (Race Track Event) Overlay or S-1 Zone.** See Subsection 9107.23.030 D (Applicable Review Authority), above.

B. Public Notice and Hearing Not Required for the Director's Action on a Temporary Use Permit

1. **Director's Actions – Citywide.** The following notice and hearing provisions shall apply City-wide, except for those activities on sites located within the RTE (Race Track Event) Overlay per Section 9107.23.030.3.a or S-1 zone.
 - a. Neither a public notice or hearing shall be required for the Director's decision on a Temporary Use Permit application.
 - b. However, the Director may choose to provide for a public notice and hearing, in compliance with Section 9108.13 (Public Notices and Hearings).

C. Public Notice and Hearing Shall Be Required for the Commission's or Council's Action on a Temporary Use Permit

1. A public notice and hearing shall be required if the application is referred or appealed to the Commission or Council.
2. A public notice and hearing shall be required if the application is for a Temporary Use Permit which is to be conducted within the RTE (Race Track Event) Overlay or S-1 zone, and which requires review and determination by the Council, rather than the Director, in compliance with Subsection 9107.23.030 D (Applicable Review Authority), above.
3. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings). The only deviation from Section 9108.13 is that a 1,000-foot radius for noticing shall be used in the RTE Overlay and S-1 Zones, rather than the required 300-foot radius for all other types of applications.

D. Notice of Decision. Upon approval of a Temporary Use Permit, notice of the decision shall be given to the applicant and any interested person(s).

9107.23.080 Findings and Decision

A. Director's Review. The Director shall review applications and shall record the decisions in writing with the findings on which the decisions are based.

B. Required Findings. The applicable Review Authority may approve a Temporary Use Permit application, with or without conditions, only if it first makes all of the following findings:

1. The operation of the requested temporary use at the location proposed, within the time period specified, and subject to appropriate conditions will not jeopardize, endanger, or otherwise constitute a menace to the public convenience, health, safety, or general welfare;
2. The proposed site is adequate in size and shape to accommodate the temporary use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the site;
3. The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use will or could reasonably be expected to generate;

4. Adequate temporary parking to accommodate vehicular traffic to be generated by the temporary use will be available either on-site or at alternate locations acceptable to the Director;
5. The location for the proposed temporary use would not adversely interfere with existing uses on the subject property, and would not impede or adversely impact pedestrian access ways and/or vehicular circulation patterns; and
6. The applicant agrees in writing to comply with any and all of the conditions imposed by the Review Authority in the approval of the Temporary Use Permit.

9107.23.090 Conditions of Approval

- A. May Impose Conditions.** In approving a Temporary Use Permit application, the applicable Review Authority may impose conditions that are deemed reasonable and necessary to ensure that the permit would be in compliance with this Section and the findings required by Subsection 9107.23.080 (Findings and Decision), above. Additionally, the permit shall be in compliance with any of the applicable standards specified in Subsection 9104.03.270 (Seasonal Sales). Noncompliance with any condition(s) or the standards specified in Subsection 9104.02.270 (Seasonal Sales) shall constitute a violation of this Section.
- B. Appropriate Conditions.** The conditions may address any pertinent factors affecting the operation of the temporary activity or use, and may include the following:
1. **Fixed Period of Time.** Unless otherwise stated in the permit, a provision for a fixed period of time not to exceed 30 days for a temporary use not occupying a structure, including promotional activities, or 12 months for all other temporary uses or structures, or for a shorter period of time, as determined appropriate by the Director, unless granted an extension of time in compliance with Subsection 9107.23.100 (Extensions for Temporary Use Permits), below;
 2. **Operating Hours and Days.** Regulation of operating hours and days, including limitation of the duration of the temporary use, as identified in Subsection 1., above;
 3. **Temporary Pedestrian and Vehicular Circulation.**
Provision for adequate temporary pedestrian and vehicular circulation, parking facilities (including vehicular ingress and egress), and public transportation, if applicable;
 4. **Regulation of Nuisance Factors.** Regulation of nuisance factors including prevention of glare or direct illumination on adjacent parcels, dirt, dust, gases, heat, noise, odors, smoke, trash, and vibration;
 5. **Regulation of Temporary Structures.** Regulation of temporary structures and facilities, including their number, placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
 6. **Sanitary and Medical Facilities.** Provision for sanitary and medical facilities, as appropriate;
 7. **Waste Collection, Recycling, and/or Disposal.** Provision for solid, hazardous, and toxic waste collection, recycling, and/or disposal;
 8. **Police/Security and Safety Measures.** Provision for police/security and safety measures, as appropriate;
 9. **Regulation of Signs as Follows:**
 - a. Any additional temporary window signs related to the temporary activity shall be allowed only during the activity and shall be approved as to size and placement at the time of application approval;
 - b. The location of all signs shall comply with the driveway and intersection visibility standards;
 - c. Small directional signs may be allowed;

- d. No signs shall be installed before issuance of the Temporary Use Permit; and
- e. All signs are subject to the approval of the Director.

10. Setbacks and Buffers. Setbacks and buffers;

11. Separation from Residential Uses. No equipment or apparatus related to the temporary use shall be placed or maintained within 100 feet of any residential uses;

12. Outdoor Lighting. Regulation of outdoor lighting;

13. Special Sales. If special sales are proposed, limitations on the location where sales may occur, the number of vendors, and the scope of goods to be sold;

14. Food Sales. If food sales are involved, obtainment of all appropriate Health Department permits;

15. Performance Bond. Submission of a performance bond or other security measures, in compliance with Subsection 9108.11.070 (Performance Guarantee) and satisfactory to the Director, to ensure that any temporary structures and facilities used will be removed from the site within a reasonable time following the activity and that the property will be restored to its former condition, or better, as determined by the Director;

16. Compliance with Municipal Code Required. A requirement that the approval of the requested Temporary Use Permit is contingent upon compliance with applicable provisions of the Municipal Code and the successful approval of any/all required permits from any other department or governing agency; and

17. Other Conditions. Other conditions that would ensure the operation of the proposed temporary use in an orderly and efficient manner, and in full compliance with the purpose of this Section.

9107.23.100 Extensions for Temporary Use Permits

Time extensions for Temporary Use Permits may be granted in compliance with Subsection 9108.11.090 (Time Extensions).

9107.23.110 Condition of Site Following Temporary Use

Each site occupied by a temporary use shall be cleaned, to the satisfaction of the Director, of debris, litter, and any other evidence of the temporary use upon completion or removal of the temporary use, and the site shall then continue to be used in compliance with this Development Code.

9107.23.120 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 Temporary Use Permit application.

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Section 9107.25 – Variances

Subsections:

- 9107.25.010 Purpose and Intent**
- 9107.25.020 Applicability**
- 9107.25.030 Review Authority**
- 9107.25.040 Application Filing, Processing, and Review**
- 9107.25.050 Findings and Decision**
- 9107.25.060 Precedents**
- 9107.25.070 Burden of Proof**
- 9107.25.080 Conditions of Approval**
- 9107.25.090 Use of Property before Final Action**
- 9107.25.100 Post Decision Procedures**

9107.25.010 Purpose and Intent

Amended by Ord. No. 2401

A. The Purpose of this Section is to Ensure That:

1. Variances are only approved when, because of special circumstances applicable to the property, the strict application of this Development Code denies the owner of the property privileges enjoyed by other property located nearby and in an identical zone; and
2. Conditions are applied that would ensure that the Variance shall not constitute an approval of special privilege(s) inconsistent with the limitations upon other property in the vicinity and zone in which the subject property is located.

B. Does not Extend to Land Uses

1. The power to approve Variances does not extend to land uses, unless the requested use variance is for a well-established existing use, and granting the variance would demonstrably improve public safety or welfare.
2. Flexibility in allowable land uses is provided in Section 9107.09 (Conditional Use Permits and Minor Use Permits).

9107.25.020 Applicability

- A. When practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this Section occur by reason of a strict interpretation of any of the provisions of this Development Code, the Commission, upon its own motion or upon the verified application of any interested person, may in specific cases initiate proceedings for the granting of a Variance from the provisions of this Development Code under conditions deemed necessary to ensure that the spirit and purposes of this Development Code will be observed, public safety and welfare secured, and substantial justice done.
- B. The Commission may approve a Variance that allows for an adjustment from any of the development standards required by this Development Code.

9107.25.030 Review Authority

The Commission shall approve or deny Variance applications, and impose conditions deemed reasonable and necessary to preserve the public convenience, health, interest, safety, or general welfare, in compliance with this Section and State law and necessary to make the findings required by Subsection 9107.25.050 (Findings and Decision) below.

9107.25.040 Application Filing, Processing, and Review

- A. Filing.** An application for a Variance 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 Variance applications, together with the required fee in compliance with the Fee Schedule.
- B. Project Review Procedures.** Following receipt of a completed application, the Director shall investigate the facts necessary for action consistent with the purpose of this Section. 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).
- C. Notice and Hearing Required.** A public hearing shall be required for the Commission's decision on a Variance application. The public hearing shall be scheduled once the Director has determined the application complete. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with Section 9108.13 (Public Notices and Hearings).

9107.25.050 Findings and Decision Amended by Ord. No. 2401

- A. Authorized Actions.** The Commission shall, by resolution, record the decision in writing and shall recite the findings upon which the decision is based, in compliance with Government Code Section 65906 or as that section may be amended from time to time.
- B. Required Findings.** The Commission may approve a Variance application, with or without conditions, only if it first makes all of the following findings:
 - 1. There are special exceptional or extraordinary circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;
 - 2. Strict compliance with Development Code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity and under an identical zoning classification;
 - 3. Granting the Variance would not:
 - a. Constitute a grant of special privileges inconsistent with the limitations on other properties in the same vicinity and zone in which the subject property is situated;
 - b. Be materially detrimental to the public health or general welfare or injurious to the property or improvements in the vicinity or zone in which the property is located; or
 - c. Adversely affect the General Plan;
 - 4. The requested Variance would not allow a use or activity that is not otherwise expressly authorized by the regulations governing the subject parcel, unless the requested use variance is for a well-established existing use, and granting the variance would demonstrably improve public safety or welfare.

9107.25.060 Precedents

Each application shall be reviewed on an individual case-by-case basis and the approval of a prior Variance is not admissible evidence for the approval of a new Variance.

9107.25.070 Burden of Proof

The burden of proof to establish the evidence in support of the findings, required by Subsection 9107.25.050 (Findings and Decision), above, is the responsibility of the applicant.

9107.25.080 Conditions of Approval

In approving a Variance application, the Commission may impose conditions deemed reasonable and necessary to ensure that the approval would be in compliance with this Section, State law, and the findings required by Subsection 9107.25.050 (Findings and Decision), above.

9107.25.090 Use of Property before Final Action

No permits or approvals shall be issued for any improvement involved in an application for a Variance until and unless the same shall have become final, in compliance with Subsection 9108.11.030 (Effective Dates of Permits).

9107.25.100 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 Variance application.

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Section 9107.27 – Zoning Clearances

Subsections:

- 9107.27.010 Purpose**
- 9107.27.020 Applicability**
- 9107.27.030 Review Procedure**
- 9107.27.040 Post Decision Procedures**

9107.27.010 Purpose **Amended by Ord. No. 2347**

Zoning Clearance is a nondiscretionary administrative verification procedure used by the City to verify that a proposed land use, improvement, or structure complies with the list of activities allowed in the applicable zone and the development standards applicable to the use, improvement, or structure.

9107.27.020 Applicability **Amended by Ord. No. 2347** **Amended by Ord. No. 2400**

Where Division 2 (Zones, Allowable Uses, and Development Standards) or another provision of this Development Code requires a Zoning Clearance as a prerequisite to establishing a land use, improvement, or structure, a Zoning Clearance shall be required at the time of the Director's review of any of the following:

- A. Initiation of a Land Use.** A Zoning Clearance shall be obtained before the initiation or commencement of any use of land not requiring the construction of a structure or improvement.
- B. Change of Use**
 - 1. Whenever a use is proposed to be changed from a use for which a Zoning Clearance has been issued, whether or not the new use involves a new lessee, operator, or owner, a new Zoning Clearance shall first be obtained.
 - 2. A Zoning Clearance shall also be required even if the lessee, operator, or owner of the previous use did not file for or receive a Zoning Clearance.
- C. Business License.** A Zoning Clearance shall be obtained before the City issues a new or modified Business License.
- D. Change of Tenancy or Ownership.** A new Zoning Clearance shall be obtained for a change of lessee, operator, or owner even when the change does not involve a change in the use being conducted on the subject property. The purpose of this provision is to ensure that the new lessee, operator, or owner is made aware of the Development Code requirements applicable to the subject use and any conditions of approval imposed on a discretionary permit authorizing the subject use.
- E. New Paving or Impervious Surfaces Not Requiring a Construction Permit.** A Zoning Clearance shall be obtained before installing asphalt, concrete, or other paving flatwork on the ground that would affect the impervious surface coverage or structure coverage standards specified in Division 2 (Zones, Allowable Uses, and Development Standards).
- F. Other Activities.** Any other activities as specified in this Development Code.
- G. Accessory Dwelling Units:** Unless otherwise exempt, a Zoning Clearance for Accessory Dwelling Units shall be obtained prior to submittal of an application for a building plan check and a permit to construct an accessory dwelling unit.

- H. Multifamily Housing Developments.** Unless otherwise exempt, a Zoning Clearance for multifamily housing developments on commercial properties in Downtown Area shall be obtained prior to submittal of an application for a building plan check and a permit to construct multifamily housing developments. A qualifying development includes residential uses in the DMU Overlay focus area and the Residential Overlay in CG Zones where 20% or more affordable units are provided.

9107.27.030 Review Procedure
Amended by Ord. No. 2347

- A. Application.** Review of an application for an Accessory Dwelling Unit shall be broadly reviewed by the Development Services Department.
- B. Director's Responsibility.** The Director shall issue the Zoning Clearance only after first determining that the request complies with all Development Code provisions applicable to the proposed use or structure.
- C. Form of Approval**
1. An approval may be in the form of a stamp, signature, or other official notation on approved plans, a letter to the applicant, or other certification, at the discretion of the Director.
 2. The approval shall reference this Section.

D. Procedures and Review for Accessory Dwelling Units

1. The Director will approve or disapprove of an application for an accessory dwelling unit permit within 120 days after receiving a complete application. Certain accessory dwelling units may have a specific, adverse impact upon public health and safety. If the Director makes a finding, based on substantial written evidence, that the accessory dwelling unit would have a specific, adverse impact upon the public health and safety, the application may not be approved. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
2. Except as otherwise provided in this chapter, the construction of an accessory dwelling unit shall be subject to the applicable fees adopted by the City.

9107.27.040 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 Director's action on a Zoning Clearance.