

CHAPTER 20.2

PERMITS AND APPROVALS

20.2.10 PURPOSE AND INTENT 2-2

20.2.20 DEVELOPMENT REVIEW PROCESS 2-2

20.2.30 GENERAL PLAN AMENDMENTS 2-2

20.2.40 AMENDMENTS TO ZONE DISTRICTS AND OTHER PROVISIONS 2-6

20.2.50 CONDITIONAL USE PERMITS 2-7

20.2.60 VARIANCES 2-9

20.2.70 DEVELOPMENT AGREEMENTS 2-11

20.2.80 DESIGN REVIEW 2-18

20.2.90 TEMPORARY OCCUPANCY PERMITS 2-23

20.2.100 SPECIAL EVENT PERMITS 2-25

20.2.110 TENANT IMPROVEMENTS 2-27

20.2.120 NON-CONFORMING USE AND STRUCTURES PROVISIONS 2-28

20.2.130 APPLICATION FILING 2-30

20.2.140 PUBLIC HEARING AND NOTIFICATION PROCEDURES 2-32

20.2.150 APPROVAL TO EXTEND WITH LAND 2-33

20.2.160 EFFECTIVE DATE OF DECISION 2-33

20.2.170 LAPSE OF APPROVALS AND EXTENSIONS OF TIME 2-33

20.2.180 APPEALS 2-34

20.2.190 REVOCATION OF PERMITS 2-35

20.2.10 **PURPOSE AND INTENT**

These provisions are intended to prescribe the procedure for filing applications for permits, appeals, amendments, and approvals when required or permitted by this Title. These provisions will provide the framework by which applications will be determined to be complete and permitted to be filed.

20.2.20 **DEVELOPMENT REVIEW PROCESS**

This Section establishes and explains the processes and procedures that must be followed, and the application types required to be filed, before new land uses or modifications of existing land uses can be legally initiated.

1. The City shall maintain appropriate processes and procedures to ensure that proposed development projects are afforded an adequate and impartial review in accordance with City ordinances, resolutions, policies and standards.
2. Whenever an application that is inconsistent with the General Plan and/or this Title is filed, that inconsistency shall be noted as part of the application. In addition, filing of a zone change to make the original application consistent shall be filed concurrently. The approving authority for the original application may deny the application or approve it, conditioned upon obtaining the necessary change in zoning to eliminate the inconsistency prior to recordation of a final map in the instance of a division of land or prior to filing of any applications for construction permits if a division of land is not involved.

20.2.30 **GENERAL PLAN AMENDMENTS**

1. Purpose and Intent

As conditions within the City change it may, from time to time, become necessary to amend the General Plan to enhance its effectiveness. In addition, State law requires that the General Plan be periodically reviewed and updated. The purpose of this Section is to provide a method for amending the General Plan to ensure its continued effectiveness.

2. Authority

The City Council may amend all or part of the General Plan, or any Element thereof. All zone districts, specific plans (for which a development agreement or vesting subdivision or parcel map has not been adopted), and any other plans of the City that are affected by a General Plan amendment, and which by law must be consistent with the General Plan, shall be reviewed and amended concurrently, to ensure consistency between the General Plan and implementing zoning, specific plans, and other plans.

TABLE 2.A
Consistency of City Zone Districts with
General Plan Land Use Designations

		General Plan Land Use Designations								
		A	CF	RA	LR	MR	HR	C	SC	I
Zone Districts	PD	C	C	C	C	C	C	C	C	C
	CF	C	C	C	C	C	C	C	C	C
	H	C	C	C	C	C	C	C	C	C
	PE	C	C	C					C	C
	DI	C	C	C					C	C
	A	C		C						
	RA			C	C					
	R-1				C	C				
	R-2					C	C	C		
	R-3					C	C	C		
	DC							C		
	NC							C		
	GC							C	C	
	CRC							C	C	C
	I								C	C
	SP	C	C	C	C	C	C	C	C	C
	AP		C							
PA		C	C	C	C	C				

"C" denotes that Zone District is consistent with the applicable General Plan Designation

TABLE 2.A
Consistency of City Zone Districts with
General Plan Land Use Designations
(Cont'd)

General Plan Land Use Designations**Residential Designations**

RA Rural Density Residential
 LR Low Density Residential
 MR Medium Density Residential
 HR High Density Residential

Commercial Designations

C Commercial
 CS Service Commercial

Industrial Designations

I Industrial

Public Facilities Designations

CF Community Facility

Open Space Designations

A Agricultural

Zone Districts**Special Districts**

PD Planned Development
 CF Community Facilities
 H Airport Approach Height Combining
 DI Drilling Island
 PE Petroleum Extraction Combining
 SP Specific Plan
 AP Airport
 PA Park

Residential Districts

RA Residential Agricultural
 R-1 Single Family Residential
 R-2 Light Multiple Family Residential
 R-3 Multiple Family Residential

Commercial Districts

DC Downtown Commercial
 NC Neighborhood Commercial
 GC General Commercial

Employment Districts

CRC Community Retail Commercial
 I Industrial

Agricultural Districts

A Agricultural

3. Restriction on Number of Amendments

Elements of the General Plan shall be amended no more frequently than permitted by State law.

4. Initiation of Amendments to the General Plan

An amendment to the General Plan or any Element thereof may be initiated by any of the following actions:

- a. A request, made and approved by the City Council;
- b. An application from a property owner or his/her authorized agent, provided that such application involves the development or modification of property located within the area affected by such amendment;
- c. An application from any affected party, provided that such application involves only revisions to the goals, objectives, policies, and implementation programs of the General Plan; or
- d. A request made by the Community Development Director to the City Council subject to approval by the City Council.

5. Authority and Hearings

Authority for approval of General Plan amendments shall be vested in the City Council. The Community Development Director shall forward recommendations to the City Council regarding General Plan amendments. A public hearing before the City Council shall be noticed and held after a recommendation is made by the Community Development Director to approve a proposed General Plan amendment. The City Council may approve, approve with modifications, or disapprove any such proposed amendment.

6. Required Findings

An amendment to the General Plan shall not be approved unless all of the following findings are made:

- a. The proposed amendment is consistent with the goals, objectives, policies, and programs of the General Plan, or the General Plan as revised by the proposed amendment, and will not result in any internal inconsistencies within the General Plan; and
- b. The proposed amendment will not adversely affect the public health, safety, or general welfare; and
- c. The proposed amendment is consistent with the purposes and intent of this Title, unless such amendment proposes to change, supplement, or alter any part of this Title, whereas said amendment must be consistent with all applicable sections including these findings; and
- d. The potential environmental impacts of the proposed amendment are insignificant, have been mitigated, or there are overriding considerations that outweigh the potential impacts.

20.2.40 AMENDMENTS TO ZONE DISTRICTS AND OTHER PROVISIONS

1. Purpose and Intent

This Section establishes the procedures for amending zone district regulations and boundaries as well as other provisions of this Title. The amendment process is necessary to provide and ensure consistency between this Title, the General Plan and State law, to increase the effectiveness of this Title, and to improve clarity in implementing General Plan goals, objectives, and policies.

2. Amendments to Zone Districts and Other Provisions.

An amendment to zone districts or other provisions of this Title may be initiated by any of the following actions:

- a. A request made and approved by the City Council;
- b. A request made by the Community Development Director to the City Council subject to approval by the City Council;
- c. An application from a property owner, or his/her authorized agent, provided that such application involves the development or modification of property located within the area affected by such amendment; or
- d. An application from any affected party, provided that such application involves only revisions to the text of this Title and does not require redistricting of properties for which the affected party is not the owner or the authorized representative of the owner.

3. Authority

Authority for approval of amendments to this Title, including amendments to the Official Zoning Map, shall be vested in the City Council. The Community Development Director shall forward recommendations to the City Council regarding such amendments.

City Council Review and Action

- a. A public hearing before the City Council shall be noticed and held within the time limits specified by State law, after an initiated application is deemed complete and after required environmental documentation has been completed. A longer period of time may be prescribed by the City Council in the case of a City initiated amendment.
- b. The City Council shall approve, approve with modifications, or disapprove the proposed amendment.
- c. A City Council action disapproving a proposed amendment, regardless of how such amendment was initiated, shall be final.

4. Required Findings

All of the following findings shall be made prior to adoption any amendment to this Title, including amendments to the official zoning map.

- a. The proposed change of zone or text revision is consistent with the goals, objectives, policies, and programs of the General Plan and is necessary and desirable to implement the provisions of the General Plan; and
- b. The proposed change of zone or text revision will not adversely affect the public health, safety, and welfare or result in an illogical land use pattern; and

- c. The proposed change of zone or text revision is consistent with the purpose and intent of the remainder of this Title not under consideration; and
 - d. The potential environmental impacts of the proposed change of zone or text revision are insignificant, have been mitigated, or there are overriding considerations that outweigh the potential impacts.
5. Pre-Zoning
- a. For the purpose of establishing zoning regulations that would become effective upon annexation, property outside the corporate boundaries of the City, but within the sphere of influence, may be classified within one or more zone districts in the same manner and subject to the same procedural requirements as prescribed herein for properties within the City.
 - b. Upon passage of an ordinance establishing the applicable pre-zoning designation for property outside the City, the official zoning map shall be revised to identify the zone district(s) applicable to such property with the label "Pre-" in addition to such other map designations as may be applicable.

20.2.50**CONDITIONAL USE PERMITS**

1. Purpose and Intent

A conditional use permit is intended to control the establishment of those uses that have some special impact or uniqueness, such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. The conditional use permit application provides for the review of the location and design of the proposed use, configuration of improvements, potential impact on the surrounding area from the proposed use, and the evaluation of the use based on fixed and established standards. The review also determines whether the proposed use should be permitted by weighing the public need for and benefit to be derived from the use against any adverse impact it may cause.

2. Authority

Authority for approval of conditional use permits shall be vested in the City Council.

3. Application

An application for a conditional use permit shall be filed with the Community Development Department in a manner prescribed by the Community Development Director.

4. Public Hearing

The City Council shall consider each application for a conditional use permit at a noticed public hearing.

5. Findings

Following review and consideration of an application, the City Council may approve a conditional use permit application in whole or in part, with or without conditions, provided the City Council prepares a written decision which contains the findings of fact upon which the City Council's decision is based. In preparing this written decision, all of the following findings of fact must be made in an affirmative manner.

- a. The proposed use is permitted within the subject zone district pursuant to the provisions of this Section, complies with all applicable provisions of this Title, is consistent with the goals, policies, and objectives of the General

- Plan, and is consistent with the applicable development policies and standards of the City; and
- b. The proposed use would not impair the integrity and character of the zone district in which it is to be established or located; and
 - c. The site is suitable for the type and intensity of use or development proposed; and
 - d. There are adequate provisions for water, sanitation, public utilities and services to ensure public health and safety; and
 - e. The proposed use will not be detrimental to the public health, safety, or welfare, or materially injurious to properties and improvements in the vicinity; and
 - f. The proposed use would not result in a significant effect on the environment; unless overriding considerations outweigh the potential impacts.

6. Conditions of Approval

In granting a conditional use permit, the City Council shall require that the use and development of the property conform with the site plan, architectural drawings, statements submitted in support of the application, and with such modifications thereof as may be deemed necessary to protect the public health, safety, and general welfare and to secure the objectives of the General Plan. The City Council may also impose such other conditions as may be deemed necessary to achieve these purposes, including, but not limited to, the following matters:

- a. Requirements for setbacks, yard areas, and open spaces.
- b. Fences, walls, buffers, and screening.
- c. Parking, parking areas, and vehicular ingress and egress in addition to the minimum requirements of Chapter 20.13 of this Title.
- d. Landscaping and maintenance of landscaping and grounds.
- e. Regulation of signs.
- f. Control of noise, vibration, odors, and other potentially dangerous or objectionable elements.
- g. Limits on hours of operation or duration of approval.
- h. Time period within which the proposed use shall be developed.
- i. Requirements for street improvements and dedications.
- j. Building design and elevations.
- k. Such other conditions as may be determined to assure that development will be in accordance with the intent and purposes of this Title.
- l. Reasonable guarantees of compliance with required conditions, such as a deed restriction or requiring the applicant to furnish security in the form of money or surety bond in the amount fixed by the administering agency.
- m. Requirements for periodic review by the City Council, and such other conditions as the City Council may deem necessary to ensure compatibility with surrounding uses, to preserve the public health, safety, and welfare, and to enable the City Council to make the findings required by Section 20.2.50.6 of this Chapter.

7. Acceptance of Conditions

A conditional use permit shall not become effective for any purpose unless an "Acceptance of Conditions" form, which should be signed prior to City Council public hearing, has been signed by the applicant and returned to the Community Development Department and no appeal, consistent with the provisions of Section 20.2.180 of this Chapter, has been filed with the Community Development Department.

A conditional use permit may be recorded against the property.

8. Revisions/Modifications

Requests to revise or modify an approved conditional use permit may be requested by the applicant or the City Council.

a. Revisions/Modifications Requested by Applicant.

A revision or modification to an approved conditional use permit including, but not limited to change in conditions, expansions, intensification, location, hours of operation, or change of ownership, may be requested by an applicant. The applicant shall supply necessary information as determined by the Community Development Director to indicate reasons for the requested change. The requested revision or modification shall be processed in the same manner as the original conditional use permit.

b. Review by the City Council.

The City Council may periodically review any conditional use permit to ensure that it is being operated in a manner consistent with conditions of approval or in a manner not detrimental to the public health, safety, or welfare, or materially injurious to properties in the vicinity. If, after review, the City Council deems that there is sufficient evidence to warrant a full examination, a public hearing date shall be set. At such public hearing, the City Council may modify or revoke the conditional use permit pursuant to the provisions of this Title.

20.2.60

VARIANCES

1. Purpose and Intent

The purpose of a variance is to provide for equity in use of property, and to prevent unnecessary hardships that might result from a strict or literal interpretation and enforcement of certain regulations prescribed by this Title.

2. Authority

The authority to grant a minor variance shall be vested with the Community Development Director. The authority to grant a major variance, as defined herein, shall be vested with the City Council. A variance from the terms of the regulations of this Title shall be granted only when it is demonstrated that the strict application of the zoning regulations deprives such property of privileges enjoyed by other properties in the general vicinity and in the same zone district due to special circumstances applicable to the property in question, including size, shape, topography, location or surroundings. Consequently, a variance to a zoning regulation prescribed by this Title may be granted with respect to development standards including, but not limited to, walls, fences, screening and landscaping, site area, width and depth, coverage, front, side, and rear yards, height of structures, usable open space, and on-street and off-street parking and loading facilities. In approving a variance, the Community Development Director and City Council may impose reasonable conditions of approval.

3. Minor Variances

- a. The Community Development Director may approve requests for minor variances to modify the following requirements of this Title.
- (1) Minor parking lot improvements.
 - (2) Up to thirty percent (30%) of parking and loading space requirements, not to exceed two (2) spaces.
 - (3) Up to twenty percent (20%) of front yard setback requirements.
 - (4) Up to forty percent (40%) of side yard setback requirements, but no closer than three (3) feet from the property line.
 - (5) Up to twenty-five (25%) of rear yard setback requirements, but no closer than five (5) feet from the property line.
 - (6) Up to ten percent (10%) of area requirements, excluding lot area and dimension requirements.
 - (7) Up to ten percent (10%) of the maximum building coverage requirements.
 - (8) Up to ten percent (10%) of maximum gross floor area requirements.

4. Major Variances

Any request for a variance other than a minor variance shall be termed a major variance, and shall be reviewed and acted upon by the City Council.

5. Required Findings

The City Council, and/or the Community Development Director, shall make all the following findings in a decision to grant a variance request:

- a. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship not otherwise shared by others within the surrounding area or vicinity; and
- b. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the vicinity and under the same zoning classification; and
- c. That the strict interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the vicinity and under the same zoning classification; and
- d. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and under the same zoning classification; and
- e. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity; and
- f. That the granting of the variance is consistent with the objectives and policies of the General Plan and the intent of this Title.

6. Conditions

Conditions of approval for a variance may include, but shall not be limited to:

- a. Requirements for open spaces, fences, wall, landscaping screening buffers, erosion control measures, and flood control measures including maintenance thereof.
- b. Requirements for dedications and street improvements;
- c. Regulation of vehicular ingress and egress and traffic circulation;
- d. Regulation of hours of operation and such other conditions deemed necessary to ensure compatibility with surrounding land uses to preserve the public health, safety, and welfare.
- e. A variance permit shall not become effective for any purpose unless an "Acceptance of Conditions" form, which should be signed prior to City Council public hearing, has been signed by the applicant and returned to the Community Development Department and no appeal, consistent with the provisions of Section 20.2.180 of this Chapter, has been filed with the Community Development Department.
- f. A variance permit may be recorded against the property

20.2.70 DEVELOPMENT AGREEMENTS

Development agreements may be entered into and implemented by the City pursuant to the following procedures:

1. Purpose
 - a. The Legislature of the State of California adopted Section 65864 et. seq. of the Government Code, authorizing local governments to enter into development agreements with applicants for development projects. Under appropriate circumstances, development agreements will strengthen the public planning process, encourage private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services and the allocation of costs therefore in order to achieve the maximum utilization of public and private resources in the development process, and assure, to the extent feasible, that appropriate measures to enhance and protect the environment of the City are achieved.
 - b. The objective of such an agreement is to provide assurances that, upon approval of the project, the applicant may proceed with the project in accord with existing policies, rules and regulations, subject to the conditions of approval, thus vesting certain development rights in the property. Development agreements will also ensure that all conditions of approval, including the construction of off-site improvements made necessary by such land developments, will proceed in an orderly and economical fashion to the benefit of the City. The purpose of this Chapter is to establish procedures and requirements for consideration of development agreements by the City consistent with State law.
2. Application Requirements and Forms
 - a. An applicant may propose that the City consider entering into a development agreement pursuant to Article 2.5, Title 7 of the California Government Code commencing with Section 65864, by filing an application with the Community Development Department and demonstrate that the project satisfies the eligibility requirements of this Section. The form of said application shall be provided by the Community Development Director.

b. Applicant

An application may be filed only by the property owner or other person having a legal or equitable interest in the property that is the subject of the development agreement or by that person's authorized agent. The term "applicant" shall also include any successor in interest to the property owner, or successor in interest to any other person having a legal or equitable interest in the property.

c. Eligibility Requirements

The City Council finds that it may be in the City's best interest to enter into a development agreement when construction of the project will be phased over a several year period, is a large-scale development, shall occupy substantial acreage, or in some other way requires long-term certainty on the part of the developer and the City. The City Council reserves the sole right to determine whether a development agreement is appropriate and in the best interest of the City for a specific development project.

3. Proposed Development Agreement

a. Each application shall be accompanied by a list of proposed conditions for a development agreement, which shall specify the duration of the agreement, the permitted uses of the property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes.

b. A proposed development agreement may include conditions, terms, restrictions and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions and requirements for subsequent discretionary actions shall not unreasonably prevent development of the land for the uses and to the density or intensity of the development set forth in the agreement. A proposed development agreement may also provide that construction shall be commenced within a specified time, and that the project or any phases thereof be completed within a specified time.

c. A program and standards for periodic review of the development agreement shall be included.

d. Appropriate provisions, acceptable to the City Attorney, providing security for the performance of the developer under the development agreement shall be included.

e. A development agreement shall include all conditions imposed by the City with respect to the development project, including those conditions required as a result of any environmental review prepared under the California Environmental Quality Act. Agreements for special purposes may be adopted covering only certain aspects of the project. Any such special purpose development agreement shall be identified as such.

f. All development agreements shall contain an indemnity and insurance clause, in form and substance acceptable to the City Attorney, requiring the developer to indemnify the City against claims arising out of the development process, provided that such a provision does not violate applicable law or constitute a joint venture, partnership or other participation in the business affairs of the developer by the City.

g. All development agreements, or any part of such development agreements, may be subject to subsequent condemnation proceedings by the City.

h. A proposed agreement may include such additional conditions, terms, restrictions or requirements as determined by the City Council to be in the public interest.

4. Parties to the Development Agreement
 - a. Only a qualified applicant may file an application to enter into a development agreement with the City. The Community Development Director may require an applicant to submit proof of his interest in the real property and of the authority of the agent to act for the applicant. Such proof may include a preliminary title report issued by a title company licensed to do business in the State of California evidencing the requisite interest of the applicant in the real property. Before processing an application, the Community Development Director 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 as a qualified applicant.
 - b. In addition to the City and the qualified applicant, any federal, State or local governmental agency or body may be included as a party to any development agreement. Any such additional party may be made a party to a development agreement pursuant to the provisions of the Joint Exercise of Powers Act (Government Code 6500, et seq.) providing for joint powers agreements, or provisions of other applicable federal, State or local law, in order to create a legally binding agreement among such parties.
5. Review of Application
 - a. The Community Development Director shall endorse the application on the date it is received. The application shall be reviewed and may be rejected if it is incomplete or inaccurate. If the application is complete, it will be accepted for filing. The Community Development Director shall review the application and determine any additional requirements necessary to complete the agreement form. After receiving the required information, a staff report and recommendation shall be prepared which will state whether or not the development agreement, as proposed or in an amended form (specifying the nature of the amendments), would be consistent with the General Plan and any applicable Specific Plan, and with the provisions contained herein, and whether it meets the needs and requirements of the City.
 - b. The Community Development Director shall, as part of his review of the application, circulate copies of a proposed development agreement to those City departments and other agencies having jurisdiction over the development project to be undertaken pursuant to the development agreement, for review and comment by such City agencies. The proposed development agreement shall be reviewed for legal sufficiency and a proposed ordinance authorizing the City to enter into the development agreement, for action by the City Council upon hearing thereof as specified herein shall be prepared. The staff report and recommendation of the Community Development Director shall include any appropriate recommendations received by other agencies.
 - c. The Community Development Director shall, at the applicant's expense and in accord with City procedures for implementation of the California Environmental Quality Act, undertake environmental review and, upon completion of such review, transmit the application, together with a recommendation thereon, to the City Council.
 - d. Upon receipt of the application, the results of the environmental review, and the recommendations of the Community Development Director, the City Council shall schedule a public hearing. Notice of intention to consider the application shall be given as provided in Sections 65090 and 65091 of the California Government Code and as provided for in Section 20.2.150 of this Chapter. In addition, if the application is being processed together with the development project, notice of such intention shall be given as required for consideration of the development project.

e. Review Standard

The City Council may recommend use of a development agreement as a method of implementing or providing standards and criteria for any development approval including but not limited to;

- (1) A development approval pursuant to this Title;
- (2) An amendment to the General Plan;
- (3) The formation of an assessment district, benefit district, maintenance district, special benefit district, or any other mechanism for the installation of required on-site and/or off-site improvements; and/or
- (4) Mitigation measures imposed upon a development project after approval of an environmental impact report or mitigated negative declaration in which such mitigation measures have been proposed as a mechanism for eliminating or reducing environmental impacts.

f. Recommendation of the Community Development Director

Prior to the public hearing, the Community Development Director shall make his/her recommendation in writing to the City Council. The recommendation shall include the Community Development Director's determination as to whether or not the proposed development agreement meets the following criteria:

- (1) It is consistent with the objectives, policies, general land uses, and programs specified in the General Plan and any applicable Specific Plan;
- (2) It is compatible with the uses authorized in, and the regulations prescribed for the zone district in which the real property is or will be located;
- (3) It is in conformity with and will promote public convenience, general welfare and good land use practice;
- (4) It will not be detrimental to the health, safety and general welfare;
- (5) It will not adversely affect the orderly development of property or the preservation of property values; and
- (6) It will promote and encourage the development of the proposed project.

6. Hearing by City Council

a. Adoption by Ordinance

A development agreement is a legislative act, and shall be enacted by ordinance only after a public hearing before the City Council is held pursuant to the procedures described herein. The ordinance shall refer to and incorporate by reference the text of the development agreement.

b. Conduct of Hearing

At the hearing, the City Council shall consider the Community Development Director's recommendation, together with any additional public testimony, and may approve, disapprove, or modify any recommendation of the Community Development Director.

- c. Consistency with the General Plan, and any Specific or Policy Plans. Before the City Council may approve a development agreement, it must find that its provisions are consistent with the General Plan and any applicable specific plans or policy plans of the City. If the City Council approves a development agreement in the form recommended by the Community Development Director, without further findings, it shall be deemed to have also adopted the findings of the Community Development Director.

- d. Execution of a Development Agreement

If the City Council adopts an ordinance approving a development agreement, the parties thereto shall execute the development agreement within thirty (30) calendar days after adoption of the ordinance, provided, however, that the development agreement shall not become effective until the ordinance authorizing the development agreement also becomes effective. The time for executing the agreement may be extended by the mutual consent of the City Council and the applicant.

- e. Recordation

Within ten (10) calendar days after the City enters into a development agreement, the City Clerk shall have the agreement recorded with the Kern County Recorder as required in Government Code Section 65868.5. If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Government Code Section 65868, or if the City determines or modifies the agreement as provided in Government Code Section 65865.1 for failure of the applicant to materially comply in good faith with the terms or conditions in the agreement, the City Clerk shall have notice of such action recorded with the Kern County Recorder.

7. Periodic Review

- a. The City shall periodically review a development agreement at least once every 12 months after the City enters into a development agreement.

- b. Not less than forty-five (45) nor more than sixty (60) calendar days prior to the yearly anniversary of the date a development agreement was entered into, the applicant shall submit evidence to the Community Development Director of the applicant's good faith compliance with the development agreement. Said notification shall be accompanied by a processing fee in such amount as may hereinafter be established by resolution of the City Council.

- c. Finding of Compliance

If the Community Development Director finds good faith compliance by the developer with the terms of a development agreement, a certificate of compliance shall be issued, which shall be in recordable form and may be recorded by the developer in the official records. The issuance of a certificate of compliance by the Community Development Director and the expiration of the appeal period hereinafter specified without appeal, or the confirmation by the City Council of the issuance of the certificate on such appeal, shall conclude the review for the applicable period and such determination shall be final.

- d. Finding of Non-Compliance

If, based on substantial evidence, the Community Development Director finds the developer has not complied in good faith with the terms of a development agreement, the respects in which the developer has failed to comply shall be specified in writing. The Community Development Director shall also specify a reasonable time for the developer to meet the terms of compliance. If such areas of non-compliance are not corrected within the

reasonable time limits as prescribed by the Community Development Director, the development agreement shall be subject to cancellation pursuant to provisions herein.

e. Appeal of Determination

Any interested person may file an appeal of the issuance of a certificate of compliance to the City Council within ten days after the certificate's issuance. The developer may also file an appeal to the City Council of a finding of non-compliance by the Community Development Director within ten days after giving notice of such determination. All appeals before the City Council shall be conducted pursuant to the provisions of Section 20.2.180 of this Chapter at which time evidence shall be taken and findings thereon made.

f. Referral to the City Council

The Community Development Director may refer any review to be conducted hereunder to the City Council. Such referral shall be made together with a staff report of the Community Development Director's preliminary findings. Upon such referral, the City Council shall conduct a noticed public hearing to determine the good faith compliance by the developer with the terms of the development agreement in accordance with the provisions contained herein, and shall direct the issuance of a certificate of compliance upon a finding of good faith compliance, or make the determination of non-compliance on the basis of substantial evidence.

8. Cancellation or Modification

a. Cancellation or Modification by Mutual Consent

Any development agreement may be canceled or modified by mutual consent of the parties, but only in the manner provided in California Government Code Section 65868. Any proposal to cancel or modify a development agreement shall be heard and determined in accordance with the same procedures specified by this Section for approval of a development agreement.

b. If, at any time during the term of a development agreement, the Community Development Director finds, on the basis of substantial evidence, that the developer has not complied in good faith with the terms and conditions of the development agreement, and such non-compliance has not been corrected, the City Council shall conduct a public hearing at which the developer must demonstrate good faith compliance with the terms of the development agreement. The burden of proof of substantial evidence of compliance by the developer is upon the developer. If such compliance cannot be shown, the City Council shall either commence proceedings to cancel the development agreement or recommend new terms and conditions intended to remedy the non-compliance.

c. The City Council shall conduct a noticed hearing, upon the recommendations of the Community Development Director, at which time the developer and any other interested persons shall be entitled to submit such evidence and testimony as may be germane to the issue of the developer's good faith compliance with the terms of the development agreement. If the City Council finds, based on substantial evidence, non-compliance with the terms and conditions of the development agreement, it may either cancel the development agreement upon giving 60 days notice to the developer or, in its discretion, may allow the development agreement to be continued by imposition of new terms and conditions intended to remedy

such non-compliance. The City Council may impose such conditions to the action it takes as it considers necessary to protect the interest of the City. The decision of the City Council shall be final.

- d. In the event that a development agreement should be canceled, or otherwise terminated, unless otherwise agreed all rights of the developer, property owner or successors in interests under the development agreement shall terminate. Any and all benefits, including money or land, received by the City shall be retained by the City. Notwithstanding the above provision, any termination of the development agreement shall not prevent the developer from completing and occupying a building or other improvements authorized pursuant to a valid building permit previously approved by the City or under construction at the time of termination, but the City may take any action permitted by law to prevent, stop, or correct any violation of law occurring during and after construction, and the developer or any tenant shall not occupy any portion of the project or any building not authorized by a previously issued building permit. As used herein, "construction" means work under a valid building permit, and "completing" means completion for beneficial occupancy for developer's use, or if a portion of the project is intended for use by a lessee or tenant, then for such portion. "Completion" means completion except for interior improvements such as partitions, duct and electrical runouts, floor coverings, wall coverings, lighting, furniture, trade fixtures, finished ceilings and other improvements typically constructed by or for tenants of similar buildings. At such time uses shall, to the extent possible, be deemed non-conforming uses, and shall be subject to the non-conforming use provisions of this Title.

9. Miscellaneous Provisions

- a. All development agreements shall be subject to the regulation and requirements of the laws of the State of California; the Constitution of the United States; any codes, statutes, or executive mandates; and any court decision, State or Federal, thereunder. In the event that any such law, code, statute, mandate or decision made or enacted after a development agreement has been entered into prevents or precludes compliance with one or more provisions of the development agreement, such provisions of the development agreement shall be modified or suspended in the manner and pursuant to the procedures specified in the development agreement, as may be necessary to comply with such law, code, statute, mandate, or decision.
- b. A development agreement entails and consists of a separate procedure from other land use planning procedures and shall not take the place of this Title, the General Plan, a conditional use permit, subdivision approval, building permit, or any other City development procedures. If so specified in a development agreement, it shall constitute an approval pursuant to such planning procedures as if separately enacted under other provisions of this Title or other City ordinances; to the extent practicable, public hearings on a proposed development agreement shall be held concurrent with the public hearings on all related land use approvals, and all such approvals shall be made concurrent with the approval of the development agreement.
- c. When approved, a development agreement and any development control maps and all notations, references and regulations that are a part of the development agreement shall be part of the Development Agreement Ordinance. Development control maps include, but are not limited to, regulations intended to carry out any plan respecting location or type of activities; height, bulk, siding or design of structures; location or design of open areas; and landscaping and other comparable regulations.

- d. This Section and any subsequent development agreement with respect to any development agreement enacted under this Chapter, any provision of such a development agreement that is in conflict with this Title shall be void. Unless otherwise provided by the development agreement, the City's rules, regulations and official policies governing permitted uses of land, governing density, and governing design, improvement and construction standards and specifications applicable to development of the property subject to a development agreement shall be those City rules, regulations and official policies in force at the time of the approval of the development agreement by the City Council provided, however, that the developer is subject to all increases in City imposed fees, dedication requirements, and charges with respect to subsequent applications for development and construction within the property subject to a development agreement.

20.2.80**DESIGN REVIEW****1. Purpose and Intent**

- a. Reasonably ensure that construction of new buildings or structures and additions, renovations, conversions, and restorations to existing buildings or structures, including residential, institutional, commercial, and industrial development, (referred hereinafter in Section 20.2.80 of this Chapter as "development") does not have an adverse aesthetic, health, safety or architecturally related negative impact upon existing adjoining properties, or the City in general.
- b. Ensure appropriate site planning techniques in order to promote future development of adjacent properties by providing for such techniques as reciprocal access, integrated parking, building, and siting.
- c. Minimize the effects of grading by discouraging mass grading to ensure that the natural character of terrain is retained.
- d. Encourage improved drainage from lots directly to a street storm drain, or through public or privately maintained easements.
- e. Encourage the use of a variety of housing styles, split level grading techniques, varied lot sizes, site design densities, varied setbacks, maintenance of views and arrangement, and spacing to reduce impacts on adjacent developed properties.
- f. Encourage the use of energy conservation techniques in all new development.
- g. Assist private and public developments to be more cognizant of public concerns for the aesthetics of development.

2. Projects Requiring Design Review

No building permit for residential or commercial development shall be issued until the proposed development has received, as part of the building permit review process, design review approval pursuant to the provisions of this Chapter.

3. City Council Review

- a. The City Council shall review an application for design review for projects that otherwise require approval by the City Council.
- b. The City Council is authorized to approve, modify, or deny the proposed design of any project and to impose reasonable conditions upon such action, as provided in Section 20.2.180 of this Chapter. Conditions may include, but not be limited to, requirements for open space; screening and

buffering of adjacent properties; fences and walls; landscaping; installation and maintenance of landscaping and erosion control measures; vehicular ingress and egress; traffic circulation; signs; grading requirements; establishment of development schedules or time limits for performance or completion of improvements; and such other conditions as the City Council may deem necessary to ensure compatibility with surrounding uses; to preserve the public health, safety and welfare; and to enable the City Council to make the findings necessary for approval.

4. Community Development Director Review
 - a. The Community Development Director shall review all applications for a building permit, as described in Section 20.1.140 of this Title.
 - b. The Community Development Director is authorized to approve or deny applications for design review and to impose reasonable conditions upon such approval, subject to the right of appeal as provided in Section 20.2.180 of this Chapter. Conditions may include, but not be limited to, requirements for open space; screening and buffering of adjacent properties; fences and walls; landscaping; installation and maintenance of landscaping and erosion control measures; vehicular ingress and egress; traffic circulation; signs; grading requirements; establishment of development schedules or time limits for performance or completion of improvements; and such other conditions as the Community Development Director may deem necessary to ensure compatibility with surrounding uses; to preserve the public health, safety and welfare; and to enable the Community Development Director to make the findings necessary for approval. The Community Development Director may, at its discretion, refer any design review decision to the City Council.
5. Design Criteria (Non-Residential)
 - a. The design and layout of a proposed development shall be consistent with the General Plan, the provisions of this Title, City Design Guidelines, and any adopted architectural criteria for specialized areas such as designated historic districts, theme areas, specific plans, or planned developments.
 - b. New, renovated, or remodeled development shall demonstrate that the following general design criteria have been integrated into the design and layout of the proposed development.
 - (1) Establish an architectural and siting design theme that is compatible with surrounding existing and planned development that includes the following elements.
 - (a) A relationship to prominent design features existing in the immediate area (i.e., trees, land form, key elements of adjacent development, etc.);
 - (b) A relationship to existing structures and neighborhood character. This includes prohibiting any device being or resembling security bars, gates, or other similar security devices from being placed over or on windows or doors on the exterior of any building, or the interior of any building if visible from a public street or public right-of-way; except for doors and windows on the ground level portion of the rear of a building facing an alley;
 - (c) A relationship to the natural environment (i.e., washes, native vegetation, and community landscaping).

- (2) Design the development to create pleasing transitions to surrounding development by incorporating the following elements.
 - (a) The bulk of new structure(s) relates to the prevailing or planned scale of adjacent development;
 - (b) Setbacks from streets and adjacent properties relate to the scale of the structure and the function of the street and encourage pedestrian scale and uses; and
 - (c) Tall structures are made less imposing by physically stepping them back from the street.
- (3) Respect the identified views and view corridors of existing developments to the greatest extent possible. Where applicable, view corridors oriented toward existing or proposed community amenities, such as parks, open space, or natural features, are to be enhanced.
- (4) Create subtle variations in architectural and landscape components that provide visual interest, but do not create abrupt changes or cause discord in the overall character of the neighborhood.
- (5) Provide appropriate transitions between different projects by providing buffer areas, landscaping, and other similar treatments (e.g., hedges, walls, fences, berms, or landscaped open space).
- (6) Provide a harmonious appearance of the development with the surrounding environment and existing developments based on the compatibility of individual structures rather than one specific style of architecture.
- (7) Avoid uninterrupted fences and walls, unless they are needed for specific screening, safety, or sound attenuation purpose. Where needed, fences or walls shall be required to:
 - (a) Relate to both the site being developed and surrounding developments, open spaces, streets, and pedestrian ways;
 - (b) Respect existing view corridors to the greatest extent possible; and
 - (c) Incorporate landscape elements or changes in materials, color, or texture in order to discourage graffiti, and prevent undue glare, heat, reflection, or aesthetic inconsistencies.
- (8) Incorporate the following lighting concerns into development proposals.
 - (a) Lighting fixtures are to be attractively designed to complement the overall design theme of the project;
 - (b) Lighting shall create a festive atmosphere within commercial areas by outlining buildings, trees, or other architectural features to encourage nighttime use of those areas by pedestrians; and
 - (c) On-site lighting shall create a safe environment, adhering to established crime prevention standards, but shall not result in nuisance levels of light or glare on adjacent properties.

- (9) Architectural plans for development shall be required to incorporate the following building elevation and screening criteria:
 - (a) All exterior wall elevations of buildings and screen walls shall have architectural treatments that enhance the appearance of the building or wall;
 - (b) Compatible materials and consistent style shall be evident within a development in all exterior elevations; and
 - (c) Within multi-family, commercial, office, and mixed use business park developments, trash enclosures, loading areas, mechanical equipment, and outdoor storage areas shall be screened from view from public streets, and from other public views, as appropriate.

6. Residential Subdivision Land Use Design Criteria

It is the intent of the General Plan and the provisions of this Title to encourage a variety of residential development types that are innovative in design and compatible with surrounding neighborhoods while being conducive to creating a balanced housing market in the City. The following represents components of design requirements for all residential subdivisions, except for the exemptions contained in Section 20.2.80.6.e. (2) and (3).

- a. Housing within new residential subdivisions should, where possible, be situated with recognizable variations in front and side yard building setbacks.
- b. Residential developments should, where possible, maximize a feeling of openness by orienting road axes to open space areas and areas of visual interest.
- c. The use of roof forms, including shed, gable, and hip roofs, alone or in combination shall be used to achieve a variety of roof lines for houses adjacent to public streets. All such roofs shall be of a concrete tile, approved shake, or an architectural style composition shingle with dimensional variations. All other proposed roofing materials shall be subject to review and approval by the City Building Official.
- d. To reduce architectural massing at street corners and to create congruity where a two-story structure is next to a one-story structure, the incorporation of a one-story element into the two-story structure shall be required when feasible.
- e. The minimum size for construction of a new house in the City shall be 1,100 square feet.
- f. All subdividers/developers shall be required to provide landscaping and an irrigation system for each lot of a residential subdivision prior to receiving a final inspection for any house constructed in that subdivision, as follows:
 - (1) Landscaping and an irrigation system for both the front yard and the street side yard, provided the street side yard is not obscured from sight from an adjacent street by fencing, of each lot shall be provided. Said landscaping shall consist of the following: (1) no less than one 15-gallon-size tree, (2) ten percent (10%) of said yard area shall consist of a landscaped planter, and (3) the remaining portion of said yard area not occupied by a driveway, shall be improved with sod including one (1) six (6) station clock and two (2) one (1) inch valves.

- (2) Any proposal for an alternative landscaping plan shall be subject to review and approval by the Community Development Director.
- g. Architectural styles and themes should be compatible with the surrounding environment. However, to assure individuality among projects, each development shall vary its architectural design to avoid monotony and create interest, while remaining compatible with surrounding development.
- h. If custom homes are not proposed, subdividers/developers of residential subdivision tracts shall provide a variety of floor plans and building elevations as depicted in Table 2.B below.

**TABLE 2.B
Residential Floor Plan and
Elevation Guidelines**

Number of Single Family Dwellings	Min. No. of Bldng. Footprints (excludes reverse plans)	Min. No. of Elevations per Bldg. Footprint
1-3	1	1
4-8	2	2
9-18	3	2
19-36	3	3
37-60	4	3
61-99	4	4
100+	5	4

*The required number of building elevations may be reduced by one for every two building footprints added to the required minimum number specified in Table 2.B.

- i. Elevations, for the purpose of meeting the requirements of this Chapter, shall mean the treatment of materials, trim, roofs, or other architectural features which are considerably different than the elevations of any other house in the same subdivision as seen from the street upon which it faces. No two identical elevations shall be placed side by side within a subdivision.
- j. Color
 - (1) The use of monochromatic and complementary accent and trim colors is considered to meet the intent of this Chapter.
 - (2) The use of bright or garish colors (i.e., fluorescent "hot" or "day-glow" colors) shall not be permitted.
 - (3) Using building materials in their natural state, such as brick or stone, is strongly recommended.
 - (4) The use of colors to express individuality and identity within a cohesive and attractive framework is encouraged. Such colors should be in harmony with other colors used in the immediate area.

k. Agricultural Land Uses

Where portions of a proposed development share a common boundary with existing agricultural properties, the following concepts for transitions and buffers shall be incorporated into the development proposal where feasible.

- (1) Orchards, Vineyards, and Groves: The incorporation of existing orchards, vineyards, and groves into new development as landscaping, or as passive open space is encouraged; however, the following provision shall be met:
 - (a) All such trees that are located in a public right-of-way shall be approved for that purpose by the City Engineer/Public Works Director.
 - (b) All trees within common areas shall be provided with the assurance of a continued maintenance mechanism, homeowners association, or special landscape district.

20.2.90**TEMPORARY OCCUPANCY PERMIT**

1. The Community Development Director shall review and act upon all requests for temporary occupancy/land use permits, or extensions thereof, and the City Council shall review and act upon all requests for temporary land use permits, or extension thereof. The Community Development Director, for temporary occupancy permits, and the City Council, for temporary land use permits, shall approve or conditionally approve any such applications subject to the findings and standard conditions set forth in this Chapter.
2. Those uses subject to a temporary occupancy permit include the following:
 - a. Temporary real estate offices on the site of an approved subdivision where lots or houses are being offered for sale.
 - b. Model home(s) on any lot within a tentatively approved subdivision consistent with the provisions of Title 16 (Subdivision Ordinance) of the Municipal Code.
 - c. Construction trailers, commercial cargo/storage containers, temporary office buildings, and security personnel offices on construction sites for which a project has been approved and a building permit or grading permit has been issued by the City, subject to the provisions of this Chapter.
 - d. On-site contractor's yard during the construction phase of an approved project for which a building permit or grading permit has been issued.
 - e. Mobilehome or trailer occupied for security purposes during the construction phase of a project.
 - f. Commercial cargo/storage containers ("Containers") may be placed by a temporary occupancy permit in only the GC, CRC, I, and CF zone districts, subject to the following conditions in a manner consistent with the provisions of this Chapter.
 - (1) Said container(s) shall be adequately screened from view from any street, highway, or adjacent property in a manner consistent with the provisions of this Title.
 - (2) In the GC and CF zone districts, one such Container shall be permitted for each seven thousand five hundred (7,500) square feet of property up to a maximum of four (4) such Containers; in the CRC and I zone districts, one such Container shall be permitted for

- each twenty thousand (20,000) square feet of property up to a maximum of four (4) such Containers.
- (3) Said Container(s) shall not be placed in a manner that will interfere with any required vehicular parking or maneuvering area(s) designated for the property.
 - (4) In no instance may said Container(s) be placed on a parcel of land other than as an accessory/subordinate use to an existing and permitted primary land use.
 - (5) Any container that has been located on a parcel of land for a period of ten (10) years or more, upon the effective date of this Ordinance, may so remain and shall not be required to comply with the requirements of this Chapter unless a change of occupancy occurs or permits are issued by the City to expand, renovate, or improve the property or any structures on the property. In this instance, the requirements listed in subsections 1 through 4 above shall apply.
3. Those uses subject to a temporary occupancy/land use permit include the following:
- In only the DC, NC, GC, CRC, I, or CF zone districts, excepting the provisions of Section 20.2.90.2.f. above, placement of temporary buildings, commercial cargo/storage containers, trailers, coaches and similar items may be permitted subject to an approved temporary land use permit;
4. Temporary permits shall first be issued for a period of time not to exceed twelve (12) months. Extensions to such permits may be granted for additional periods of time, each of which shall not exceed twelve (12) months and shall comply with the procedures, findings and conditions specified by this Chapter.
- a. Temporary permits shall not be extended for a period of time that exceeds five (5) years from the date of Council approval.
 - b. The Community Development Director, for a temporary occupancy permit, or the City Council, for a temporary land use permit, may approve such permits or extensions for shorter periods of time and shall approve such permits subject to conditions where required by this Title or where it is determined reasonable and necessary to do so.
 - c. Prior to issuing a temporary occupancy permit or a temporary land use permit for an extension or renewal for the last allowed period of time, the permittee shall submit to and obtain approval by the Community Development Director or the City Council, as applicable, of a plan to replace the subject temporary use with a legally established permanent use.
 - d. A temporary use or structure that does not have a valid and current permit is hereby declared to be a public nuisance, subject to the enforcement provisions of this Title and other applicable laws.
 - e. A change of ownership or operator of a use or structure, subject to a temporary occupancy permit or a temporary land use permit; or a change of structure or modification of the structure or use allowed on a parcel subject to a temporary occupancy permit or a temporary land use permit shall not affect the time periods established by this Chapter to allow such temporary uses or structures.
 - f. When the last period of time allowed for a temporary occupancy permit or a temporary land use permit by this Chapter has lapsed, the temporary occupancy permit or temporary land use permit and any extension thereof shall be considered void and no new or additional temporary occupancy permits or temporary land use permits may be issued or reinstated for the temporary use or structure that was previously permitted.

5. Cancellation of a Temporary Occupancy Permit
 - a. Non-compliance with the conditions set forth in approving the temporary occupancy permit shall be grounds for the Community Development Director to cancel and void any such temporary occupancy permit.
 - b. The Community Development Director shall give notice of such an action to the permittee. The permittee may appeal such a decision to the City Council by filing an appeal as specified in Section 20.2.180 of this Chapter.

20.2.100 SPECIAL EVENT PERMITS

1. Purpose and Intent

A special event permit is intended to allow for the short-term placement of activities on privately or publicly owned property with appropriate regulations so that such activities will be compatible with the surrounding areas.

2. Authority

Authority for approval of special event permits shall be vested with the Community Development Director.

A special event permit shall not be required for events that occur in theaters, meeting halls, or other permanent public assembly facilities. A special event may be subject to additional permits, other City department approvals, licenses, and inspections as required by this Title or any other applicable laws and regulations.

3. Permitted Special Events

Table 2.C of this Chapter identifies those special events permitted subject to the issuance of a special event permit.

**Table 2.C
Special Event Criteria**

Permitted Temporary Zones Uses (With a Permitted Special Event Permit)	Zones	Max. No. of Days per Calendar Year	Max. No. of Occurrences per Calendar Year
Non-commercial tent meetings	All districts	10	1
Circus with tent	All commercial and industrial districts	10	1
Commercial carnival, fair, concert, exhibit, festival or similar; outdoors or in temporary enclosures	All commercial and industrial districts	10	2
Non-commercial carnival, fair, concert, exhibit, festival or similar uses, either outdoors or in temporary enclosures	Public schools, parks, church grounds, non-profit organization sites, commercial and industrial districts	10	2
Commercial and non-commercial holiday sales, such as pumpkin or Christmas tree sales, and incidental sales of Christmas lights, tree stands and decorations, but excluding gift items	All commercial and employment district zones	30	2
Merchandise sale, outdoors or in mobile or temporary enclosures in conjunction with established businesses	All commercial districts	14	4

4. Criteria for Special Event Permit Issuance

The Community Development Director shall consider the following criteria in rendering its decision relative to a special event permit application:

- a. The operation of the requested special event at the location proposed and within the time period specified will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare;
- b. The proposed site is adequate in size and shape to accommodate the special event without being materially detrimental to the use and enjoyment of other properties located adjacent to and in the vicinity of the site;
- c. 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 special event will or could reasonably be expected to generate; and

- d. Adequate temporary parking to accommodate vehicular traffic to be generated by the special event will be available either on site or at alternate locations acceptable to the Community Development Director.

5. Conditions of Approval

In approving an application for a special event permit, the Community Development Director may impose conditions that are deemed necessary to ensure that the permit will be applied in accordance with the criteria outlined above. These conditions may involve any factors affecting the operation of the temporary use or event, and may include, but are not limited to:

- a. Provision of temporary parking facilities, including vehicular ingress and egress;
- b. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination of adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases, and heat;
- c. Regulation of temporary buildings, structures, and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
- d. Provision of sanitary and medical facilities;
- e. Provision of solid waste collection and disposal;
- f. Police and fire concerns;
- g. Provision of security and safety measures;
- h. Regulation of signs;
- i. Regulation of operating hours and days, including limitation of the duration of the special event to a shorter time period than that requested;
- j. Submission of a performance bond or other surety device to assure that any temporary facilities or structures used for the proposed special event will be removed from the site within a reasonable time following the event and that the property will be restored to its former conditions;
- k. Submission of a site plan indicating any information required by this Section;
- l. A requirement that the approval of the requested special event permit is contingent upon compliance with this Title and with other applicable provisions of other ordinances;
- m. Other conditions that will ensure the operation of the proposed special event in an orderly and efficient manner and in accordance with the intent and purpose of this Section; and
- n. Liability insurance of the type and in the amount required by the City's Risk Management Authority.

20.2.110 TENANT IMPROVEMENTS

1. Purpose and Intent

The purpose of this Section is to provide guidelines for the processing and review of tenant improvements to structures. Any proposed tenant improvement, which in its initial review indicates an increase in land use intensity, e.g., an increase in parking demand, may be subject to additional review as determined by the Building Official.

2. Authority

The Building Official may approve tenant improvements that comply with the requirements, provisions and intentions of this Title.

3. Findings

The Building Official may approve a tenant improvement if all of the following findings can be made:

- a. The improvement is permitted within the applicable district, pursuant to the provisions of this Title, and complies with all of the applicable provisions of this Title.
- b. The site for the proposed use is adequate in size, shape, topography, accessibility and other physical characteristics to accommodate the proposed use and development in a manner compatible with existing and proposed surrounding land uses; and
- c. The improvement will not be detrimental to the public health, safety or welfare, or adversely affect properties and improvements in the vicinity.

20.2.120

NON-CONFORMING USE AND STRUCTURES PROVISIONS

1. Purpose

This Section is intended to limit the number and extent of non-conforming uses by regulating their enlargement, re-establishment after abandonment, and the alteration or restoration after destruction of the structures they occupy. In addition, this Section is intended to limit the number and extent of non-conforming structures by prohibiting their being moved, altered, or enlarged in a manner that would increase the discrepancy between existing conditions and the standards prescribed in this Title.

2. Applicability

This Section shall apply to any site, structure, or use that was legally established, but does not conform to the provisions of this Title as originally adopted or as may be amended from time to time. "Non-conforming" refers to a legally established site that does not meet the minimum dimensional requirements of the applicable zone, or a legally established use that is not permitted by the applicable zone, a legally established structure that, by its size, architecture or location does not meet the standards of the applicable zone, or any combination thereof.

3. Discontinuation of Non-Conforming Use

Whenever a non-conforming use has been discontinued for a continuous period of one hundred eighty (180) days or more, the non-conforming use shall not be re-established, and the use of the structure or site thereafter shall be in conformity with the regulations for the zone district in which it is located, provided that this Section shall not apply to the use of a non-conforming single family dwelling located in a zone district that permits single family dwellings. Discontinuation shall include termination of a use regardless of intent to resume the use.

4. Continuation and Maintenance

- a. Any non-conforming structure or use may be continued and maintained for the periods of time hereinafter set forth provided that there are no structural alterations, except as hereinafter provided:
 - (1) Agricultural crops shall not be subject to the provisions of this Section and/or

- (2) Agricultural uses that involve permanent structures shall be subject to the provisions of this Section; however, such uses shall be permitted to make any changes or improvements that are required by any State law or City ordinances, including structural alterations that are necessary as a part thereof.
 - b. A structure or use may be maintained for the following periods of time after the effective date of the regulation or ordinance that established it as non-conforming:
 - (1) Commercial and office uses such as those primarily permitted in commercial and employment districts: thirty (30) years;
 - (2) Industrial uses such as those primarily permitted within industrial districts: forty (40) years;
 - c. Any structure for which a building permit has been legally issued, and on which substantial construction has been performed in reliance thereon on the site before an amendment to the regulation or ordinance making the use or structure non-conforming, may be continued in accordance with the plans and specifications upon which the permit was issued, subject to the limitations of this Section.
 - d. A property containing a legally established structure that does not conform with applicable development standards for front yards, side yards, rear yards, height, floor area of structures, or open space for the district in which the property is located shall be deemed to be a non-conforming structure and may be used and maintained as provided herein.
 - e. A legally established sign as provided in Chapter 20.14 of this Title.
 - f. Routine maintenance and repairs may be performed on a non-conforming use, structure, or sign.
5. Alterations and Enlargements of Non-Conforming Uses and Structures
 - a. A non-conforming use shall not be moved, altered, or enlarged unless required by law, or unless the moving, alteration, or enlargement will result in the elimination of the non-conformity.
 - b. A non-conforming use shall not be enlarged or extended in such a way as to occupy any part of the structure or site or another structure or site that it did not occupy at the time it became a non-conforming use, or in such a way as to displace any conforming use occupying a structure or site.
 - c. A non-conforming structure shall not be altered or reconstructed so as to increase the discrepancy between existing conditions and the standards for front yard, side yard, rear yard, height of structures, distances between structures, or usable open space prescribed in the regulations for the zone district in which the structure is located.
6. Restoration of a Damaged Structure
 - a. Whenever a non-conforming structure is destroyed to the extent of fifty (50) percent or less by fire, calamity, or act of God, the structure may be restored and the non-conforming use may be resumed, provided that restoration is started within one hundred twenty (120) calendar days and diligently pursued to completion. When the destruction exceeds fifty (50) percent, or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the regulations for the zone district in which it is located, and the non-conforming use shall not be resumed.

- b. The extent of damage shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be reviewed and approved by the Building Official and shall be based on the minimum cost of construction in compliance with the most currently adopted City Building Code.

20.2.130 APPLICATION FILING

1. Purpose and Intent

These provisions are intended to prescribe the procedure for filing applications for permits, appeals, amendments, and approvals when required or permitted by this Title.

2. Application Forms

Requests for permits, appeals, amendments, approvals, and other actions required or permitted by this Title shall require that a completed application on a form provided by the Community Development Department be submitted to the Community Development Director in addition to any other materials, reports, dimensions, plans, or other information required to take an action on the application.

3. Determination of Completeness

No application shall be processed pursuant to this Title prior to the determination by the Community Development Director that the application is complete. A completed application shall consist of:

- a. The application form with all applicable information included on, or attached to the form;
- b. The additional information, reports, dimensions drawings and other material specified on the application form;
- c. A description of how the proposed project or requested action is consistent with the goals, objectives, policies, programs, and other provisions of the adopted General Plan;
- d. Any other information or forms required for implementation of the California Environmental Quality Act pursuant to State and City Guidelines;
- e. Payment in full of the required fees for processing the application; and
- f. Other information as may be required on the application form, as prescribed by the Community Development Director.

The Community Development Director shall determine in writing the completeness of the application, and shall transmit this determination to the applicant within the time limits and in such form and content and with respect to such types of project applications as established by applicable State law and City regulation.

The statutory time periods for processing any applications pursuant to this Title, which are subject by State law to such time limits, shall commence upon the date the application is accepted as complete, as provided in the State law relative to review and approval of development projects.

4. Additional Information

Notwithstanding procedures established in this Chapter for determination of completeness, the Community Development Director may request the applicant to submit additional information in the course of processing the application if such

information could not have been anticipated as part of the original application. Such a request to clarify, amplify, correct, or otherwise supplement submitted information shall not invalidate the original determination that the application was complete at the time the determination was originally made. The Community Development Director may request any additional information needed to prepare adequate environmental documentation pursuant to City and State guidelines implementing the California Environmental Quality Act.

5. Fees

The City Council may by resolution or ordinance establish, and from time to time amend, a schedule of fees for permits, appeals, amendments, and approvals required or permitted by this Title to reimburse the City for costs incurred as the result of this administration of the provisions of this Title.

6. Who May File An Application

Unless otherwise specified in this Title, applications for permits and approvals pursuant to Chapter 20.2 of this Title may be made only by the affected property owner or the property owner's authorized agent or representative.

7. Applicant Notification

At the time of filing an application, the Community Development Director shall inform the applicant that he or she may make a written request to receive notice from the City of any proposal to adopt or amend the General Plan, a Specific Plan, Zoning Ordinance, or an ordinance affecting building permits that may affect the application being filed. The applicant shall specify, in writing, the proposed action for which notice is requested. Prior to taking any of those actions, the Community Development Director shall give notice to any applicant who has requested notice of the type of action proposed and whose development proposal is pending before the City if the Community Development Director determines that the proposal is reasonably related to the applicant's pending development request.

8. Consideration of Concurrent Applications

An application which is dependent on approval of a change of zone or other enabling application(s) shall be processed concurrently with such enabling application(s). The approval authority for such dependent application shall be vested with the body authorized to approve the enabling application(s).

9. Environmental Review

No permit or approval shall be granted pursuant to this Title prior to the completion of applicable environmental review as required by City and State guidelines implementing the California Environmental Quality Act.

10. Time Limit for Approving Applications

- a. When required by State law, action shall be taken on projects requiring the preparation and certification of an Environmental Impact Report, within one year of the date the application was accepted as completed.
- b. When required by State law, final action shall be taken on projects that are exempt from the provisions of California Environmental Quality Act or that require the adoption of a Negative Declaration within one hundred five (105) days of the date that the application was accepted as complete.
- c. Extension of the time limit for action on an application, as specified in the above paragraphs, may be granted if mutually agreed upon by the applicant and Community Development Director.

20.2.140 PUBLIC HEARING AND NOTIFICATION PROCEDURES

1. Purpose

This Section defines procedures for conducting public hearings for applications pursuant to this Title unless otherwise specified in this Title. The purpose of this Section is to ensure public awareness and full open public discussion and debate regarding proposed actions pursuant to this Title.

2. Public Hearing Date

Where required by State law, and unless otherwise specified in this Title, a public hearing on any application shall be scheduled before the City Council on the earliest appropriate date.

3. Notice of Hearings

a. Notice of public hearings shall be given as required by law by all of the following methods:

- (1) Publication in a newspaper of general circulation within the City at least ten (10) calendar days prior to the public hearing;
- (2) Mailing at least ten (10) calendar days prior to the public hearing, to all owners of property within a distance of three hundred (300) feet from the exterior boundaries of the property involved in the application. For this purpose, the last known name and address of each property owner as contained in the records of the latest equalized Kern County Assessor rolls shall be used;
- (3) Mailing at least ten (10) calendar days prior to the public hearing, or delivering at least ten (10) calendar days prior to the public hearing, to each local agency expected to provide essential services or facilities to the project whose ability to provide those facilities and services may be significantly affected;
- (4) Mailing at least ten (10) calendar days prior to the public hearing, or delivering at least ten (10) calendar days prior to the public hearing, to the owner of the subject real property or to the owner's duly authorized agent, and to the project applicant and the applicant's authorized representative, if any;
- (5) Mailing at least ten (10) calendar days prior to the public hearing to any person who has filed a written request with the Community Development Director and has provided the Community Development Director with a self-addressed stamped envelope for that purpose; and
- (6) Any other means prescribed by law, or desired by the City.

b. Exceptions

- (1) If the number of owners to whom notice is to be mailed or delivered pursuant to Paragraph 2 above, herein, is greater than one thousand (1,000), in lieu of mailed or delivered notice may be provided by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the City at least ten (10) days prior to the hearing.
- (2) For a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, such notice shall also be given, as required by law, by mail to each tenant of the subject property and, in addition

to notice of the time and place of the public hearing, shall include notification of the tenant's right to appear and the right to be heard.

- c. The Community Development Director may require that additional notice of the hearing be given in any other manner he deems necessary or desirable to ensure that all notice requirements provided by law for the proposal are complied with.
 - d. All notices of public hearings shall include a description of the project and the identity of the hearing body or officer(s), shall describe the property, the date, time and place of the scheduled hearing, shall make a statement that application and associated documents and environmental review are available for public inspection at a specified location, and the manner in which additional information and/or testimony may be received.
4. Conduct of Public Hearings
- a. Public hearings held pursuant to the provisions of this Title shall be held according to such public hearing rules as the City Council may, from time to time, adopt by resolution or ordinance.
 - b. The Mayor may require that witnesses be sworn, prior to providing testimony at the City Council public hearing, respectively.

20.2.150 **APPROVAL TO EXTEND WITH LAND**

Unless otherwise specified, all permits and approvals granted pursuant to this Title shall run with the land, and shall continue to be valid upon a change of ownership of the site or structure to which it applies.

20.2.160 **EFFECTIVE DATE OF DECISION**

A decision that is subject to appeal shall not become effective for ten (10) calendar days following the action by the appropriate decision making body in order to allow time for the filing of an appeal of the decision.

20.2.170 **LAPSE OF APPROVALS AND EXTENSIONS OF TIME**

1. Projects Not Subject to the Subdivision Map Act and/or Not Involving City Building Permits.

Approvals for projects not subject to the Subdivision Map Act and/or not involving City building permits shall lapse and become void twelve (12) months from the approval date, unless otherwise specified in this Title, unless a different expiration date is specifically established as a condition of approval to the extent permitted by law, unless a valid building permit is in effect in reliance upon the approved entitlement and substantial construction has commenced and is diligently pursued toward completion, or unless the property has been occupied and the approved use fully commenced.

2. Extension of Time
- a. Authority

An extension of time may be granted for projects approved under this Title, where substantial construction has not yet commenced or has not yet been completed or where the property has not yet been occupied and the approved use not fully commenced. Approvals for extension of time may only be granted by the original approving authority.

b. Submittal of Extension Requests

(1) Extension requests for projects not subject to the Subdivision Map Act and/or not involving City building permits shall only be considered if filed with the Community Development Department no less than thirty (30) calendar days nor more than ninety (90) calendar days prior to the expiration date of the permit or approval.

(2) A subdivider may request an extension for projects subject to the Subdivision Map Act by written application to the Community Development Director in accordance with the provisions of the Subdivision Map Act and Title 16 of the Municipal Code.

c. Time Limits on Extensions

Extensions may not exceed a total of three (3) years from the original date of expiration unless otherwise provided by law; and may be for shorter periods of time.

d. Circumstances Under Which Extensions May Be Granted

An extension of the approval of a project may be granted only if it is found that granting of an extension will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

20.2.180

APPEALS

1. Appeal of Action

a. Any person may appeal a decision of the Community Development Director to the City Council where the Community Development Director's decision would otherwise be final.

2. Filing of Appeals

Appeal application forms shall be made available at the office of the Community Development Department to all persons wishing to appeal an action included in this Title. Appeal applications shall be filed with the Community Development Department within ten (10) calendar days following the date of action for which an appeal is made unless otherwise provided in this Title. If the last day to file falls on a holiday or on a Saturday or Sunday, the following business day shall be deemed the last day to act. Appeals shall be forwarded to the City Clerk by the Community Development Director.

3. Appeal Hearings

Public notice of an appeal hearing shall be given in the manner in which the original notice was given. In the case of an appeal of a Community Development Director decision, notice shall be given pursuant to Section 20.2.140 of this Chapter.

4. Effective Date of Appealed Actions

Except as otherwise provided for in this Title, an action that has been appealed shall not become effective until a final determination is made by the City Council.

20.2.190 **REVOCAION OF PERMITS**

1. Purpose and Intent

In order to protect the public health, safety and welfare, and in order to enforce the provisions of this Title, it may, from time to time, become necessary to revoke a previously authorized approval or approved permit. The purpose of this Section is to provide a process for revoking approvals or permits to protect the public health, safety and welfare, as well as the rights to due process of permit holders within the City.

2. Authority

Authority to revoke permits or approvals shall be vested with the City Council where the City Council was the final approving authority in granting the permit or approval. A public hearing pursuant to Section 20.2.140 of this Chapter shall be required for revocation of permits or approvals. Notwithstanding the above, the Building Official shall have the authority to revoke building permits pursuant to the provisions of the Uniform Building Code.

3. Required Findings

A permit or approval subject to revocation pursuant to the provisions of this Section may be revoked by the City Council if any one of the following findings is made:

- a. That the permit or approval was obtained by misrepresentation or fraud;
- b. That the use for which the permit or approval was granted has ceased, and was suspended for six (6) or more consecutive calendar months;
- c. That the conditions of the permit or approval have not been met or the permit or approval granted is being or has been exercised contrary to the terms of the permit or approval or in violation of any statute, ordinance, law, or regulation; or
- d. That the public health, safety and welfare can be served only by revocation.

4. Notification and Time Limits for Correction

- a. The Community Development Director shall notify the holder of the permit or approval in writing of a decision to initiate a pending revocation, shall state specifically the reasons for the proposed revocation, and shall provide a period of thirty (30) calendar days for the holder to correct or show substantial progress toward correcting the defect(s) that serve as the basis for the proposed revocation. In the event said defects are not corrected within thirty (30) calendar days from the date the notice is mailed, or substantial progress is not made during said thirty (30) day period and diligently continued until fully corrected, a public hearing date before the City Council where applicable, shall be set pursuant to the provisions of Section 20.2.140 of this Chapter.
- b. In taking action to revoke a permit, the City Council shall have the discretion to set the effective date of the revocation in order to allow the permit holder adequate and appropriate time in which to make necessary corrections.