

## CHAPTER 2:

### PROCEDURES AND ENTITLEMENTS

#### ARTICLE B. PLANNING PERMITS AND ENTITLEMENTS

- 9-2B-1: PURPOSE AND APPLICABILITY:
- 9-2B-2: APPLICATION PROCESSING PROCEDURE:
- 9-2B-3: ZONING CLEARANCE:
- 9-2B-4: TEMPORARY USE PERMIT:
- 9-2B-5: TREE PERMIT FOR TREES ON PRIVATE PROPERTY:
- 9-2B-6: REASONABLE ACCOMMODATION:
- 9-2B-7: SIMILAR USE DETERMINATION:
- 9-2B-8: OFFICIAL ZONING INTERPRETATION:
- 9-2B-9: HOME OCCUPATION PERMIT:
- 9-2B-10: ADMINISTRATIVE USE PERMIT:
- 9-2B-11: MINOR DEVIATION:
- 9-2B-12: MINOR SITE PLAN AND ARCHITECTURAL REVIEW:
- 9-2B-13: SIGN PROGRAM:
- 9-2B-14: CONDITIONAL USE PERMIT:
- 9-2B-15: MAJOR SITE PLAN AND ARCHITECTURAL REVIEW:
- 9-2B-16: VARIANCE:
- 9-2B-17: PUBLIC CONVENIENCE OR NECESSITY:
- 9-2B-18: HIGHWAY ORIENTED SIGN PERMIT:
- 9-2B-19: PLANNED UNIT DEVELOPMENT:
- 9-2B-20: SPECIFIC PLAN:
- 9-2B-21: DEVELOPMENT AGREEMENT:
- 9-2B-22: ZONING AMENDMENT:
- 9-2B-23: PREZONING:
- 9-2B-24: GENERAL PLAN AMENDMENT:

#### 9-2B-1: PURPOSE AND APPLICABILITY:

The purpose of this article is to establish procedures for administering all planning related permits and entitlements required and regulated by the city.

Each permit and entitlement type is described in this article in terms of purpose and applicability, approving authority, and processing provisions. Exemptions to permit requirements are listed throughout. General processing procedures are established in article A, "General Application Processing Procedures", of this chapter. (Ord. 2012-01, 4-17-2012)

#### 9-2B-2: APPLICATION PROCESSING PROCEDURE:

The procedure for processing each planning permit and entitlement listed in this article shall be as provided in article A, "General Application Processing Procedures", of this chapter, unless otherwise specified herein.

A. Application Content: Subsection 9-2A-5A, "Application Contents", of this chapter identifies the requirements for submittal of any application to the city for planning permits and entitlements. This includes a completed application on a form as prescribed by the city, any

required information listed on the application form for the type of permit, an application fee as established by city council resolution, and any other relevant information as may be requested by the city in order to provide the designated approving authority with adequate information on which to base a decision.

B. Appeals: Any appeal of a decision for any permit or entitlement provided in this article shall be pursuant to sections 9-2A-7, "Recommending, Approval, And Appeal Authority" and 9-2A-8, "Appeals", of this chapter.

C. Expiration: All approved permits and entitlements are subject to the provisions set forth in section 9-2A-9, "Permit Time Limits, Extensions, And Expiration", of this chapter. (Ord. 2012-01, 4-17-2012)

**Comment [SB1]:** Remove Section 9-2B-2. It is not needed. There are no new requirements specified, only reference to other sections.

### **9-2B-3: ZONING CLEARANCE:**

A. Purpose: The purpose of the zoning clearance process is to ensure that all new and modified uses and structures comply with applicable provisions of this title, using administrative procedures.

B. Applicability: Zoning clearance is required for the following actions:

1. All structures that require a building permit (e.g., new structures greater than 120 square feet) except permits for interior work only;
2. Signs;
3. Business licenses;
4. All planning entitlement and permit approvals to ensure compliance with applicable conditions of approval; and
5. Other city applications that may be subject to the provisions of this title, including, but not limited to, encroachment permits and grading and improvement plans as deemed necessary.

C. Approving Authority And Procedure: The planning director shall be the designated approving authority for zoning clearance. The procedures shall be as follows:

1. Generally: No application form is necessary for zoning clearance. This process will be conducted by the planning director as part of the building permit application review. Zoning clearance shall be granted only when the planning director finds the proposal to be in conformance with all applicable provisions of this title. The planning director may modify plans in whole or in part, apply conditions of approval, or require guarantees to ensure compliance with applicable provisions of this title. Building permits shall not be issued without approval of zoning clearance.
2. Signs: The process for reviewing signs shall be as generally provided above, except that additional information describing the existing signs on the project site and the new proposed signs shall be required on a form provided by the planning department.

D. Public Hearing And Notice: Public notice and public hearing is not required for zoning clearance.

E. Approval Findings: Zoning clearance shall be granted only when the planning director finds the proposal to be in conformance with all applicable provisions of this title. Any permit or application listed in subsection B, "Applicability", of this section shall not be issued without approval of zoning clearance. (Ord. 2012-01, 4-17-2012)

**Comment [SB2]:** Section 9-2B-3 is a more formal way of describing the method for the Planning Director to enforce the zoning ordinance on building permits and business licenses. The text is okay as is, but changes can be made administratively as to how the ordinance is interpreted.

#### **9-2B-4: TEMPORARY USE PERMIT:**

A. Purpose: A temporary use permit provides a mechanism for administrative review and determinations for proposed and qualifying short term activities and to ensure that such activities are consistent with the general plan and provisions of this title.

B. Applicability: A temporary use permit is required for short term activities listed in chapter 4, article C, "Temporary Uses", of this title.

C. Approving Authority: The designated approving authority for temporary use permits shall be the planning director.

D. Public Hearing And Notice: The issuance of a temporary use permit is an administrative function of the planning director, and no public hearing or notice is required.

E. Approval Findings: The planning director shall make all of the following findings to approve or conditionally approve a temporary use permit:

1. The proposed use is a temporary use and will be limited to a specific duration of time, as established in the temporary use permit.
2. The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity of the proposed use.
3. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
4. The use, as described and conditionally approved, will not function or be located in a manner that restricts access to any required parking spaces.
5. Approved measures for the removal of the use and site restoration have been required to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this title.
6. The approval includes provisions to ensure that each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the provisions of this zoning code. The approving authority may require appropriate security before initiation of the use to ensure proper cleanup after the use is terminated.

7. The proposed temporary use is consistent with the general plan, applicable specific plans, and the provisions of this title.

F. Conditions Of Approval: The planning director may place conditions on the temporary use permit, such as, but not limited to, buffers, hours of operation, landscaping and maintenance, lighting, off site improvements, parking, performance guarantees, property maintenance, signs, surfacing, time limits, and traffic circulation. Conditions must be deemed reasonable and necessary to the specific temporary use permit request. (Ord. 2012-01, 4-17-2012)

**9-2B-5: TREE PERMIT FOR TREES ON PRIVATE PROPERTY:**

A. Purpose: The purpose of a tree permit for trees on private property (hereinafter referred to as a "tree permit") is to provide a process for the review and consideration of the removal of trees on private property and not considered street trees under title 7, chapter 5, "Street Trees", of the municipal code, and that are of an important nature to the community. The city has a desire to protect trees on private property through the development review process and require mitigation for the loss of trees as established in the general plan.

**Comment [SB3]:** It is likely difficult to comprehensively enforce this code for all trees. Is the City still interested in this level of oversight for trees on private property?

B. Applicability: A tree permit shall be required prior to work within the critical root zone or the cutting down, removal, topping, or relocation of a landmark tree, heritage tree, or protected tree on private property as defined in section 9-5D1-4, "Tree Preservation", of this title. Exemptions to this requirement are:

1. Street trees as defined and regulated in title 7, chapter 5, "Street Trees", of the municipal code, which shall comply with the tree permit requirements of that chapter;
2. Trees of local importance on developed private property;
3. Removal and pruning work by utility providers; and
4. In case of emergency caused by the tree being in a hazardous or dangerous condition requiring immediate action for the safety of human life or buildings or structures, such tree may be removed by permission of the planning or public works director.

C. Approving Authority: The designated approving authority for tree permits shall be the planning director.

D. Public Hearing And Notice: The issuance of a tree permit is an administrative function of the planning director, and no public hearing or notice is required.

E. Approval Findings: The planning director shall make all of the following findings to approve or conditionally approve a tree permit:

1. For a development project, every effort has been made to incorporate the tree(s) into the design of the project and the only appropriate alternative is the removal of the tree;
2. For requests not associated with a development project, the tree presents a threat to public health and safety and must be removed; and

3. The removal of the tree will not have a negative impact on the health, safety, or viability of surrounding trees, nor will it negatively impact the aesthetics or general welfare of the surrounding area.

F. Standards: Work authorized under an approved tree permit shall be conducted in accordance with the standards of this title, specifically including section 9-5D1-4, "Tree Preservation", of this title.

G. Mitigation: Mitigation for the loss of the tree as allowed under an approved tree permit shall be mitigated in accordance with the requirements of this title, specifically including section 9-5D1-4, "Tree Preservation", of this title. (Ord. 2012-01, 4-17-2012)

**9-2B-6: REASONABLE ACCOMMODATION:**

A. Purpose: The purpose of allowing reasonable accommodation is to provide a process for individuals with disabilities to make requests for reasonable accommodation for relief from the various land use, zoning, or rules, policies, practices, and/or procedures of the city. Typical improvements considered to be ministerial in nature would include ramps, walls, handrails, or other physical improvements necessary to accommodate a person's handicap. It is the policy of the city, pursuant to the federal fair housing act (as amended) and the California fair employment and housing act, to provide persons with disabilities reasonable accommodation in rules, policies, and procedures that may be necessary to ensure equal access to housing.

**Comment [SB4]:** This allowance for Reasonable Accommodation is appropriate and commendable, as many codes are silent about conflicts between zoning standards and needs of those with disabilities. That said, Section 9-2B-6 can be shortened considerably. The code would be revised so that zoning related decisions would be made administratively by the Planning Director, and building code related decisions would be made by the Chief Building Official.

B. Requesting Reasonable Accommodation:

1. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation(s) relating to the various land use, zoning, or rules, policies, practices, and/or procedures of the city.
2. If an individual needs assistance in making the request for reasonable accommodation(s) or appealing a determination regarding reasonable accommodation(s), the planning director will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant.
3. A request for reasonable accommodation(s) with regard to city regulations, rules, policies, practices, and/or procedures may be filed on an application form provided by the city at the time that the accommodation may be necessary to ensure equal access to housing.

C. Specific Application Requirements: The applicant shall provide the following information when requesting reasonable accommodation:

1. A completed city application indicating the applicant's name, address, and telephone number;
2. Address of the property for which the request is being made;
3. The current actual use of the property;

4. The zoning code provision, regulation, or policy from which reasonable accommodation is being requested;
5. The basis for the claim that the person(s) for whom the reasonable accommodation is sought is/are considered disabled under the fair housing act and why the accommodation is reasonably necessary to make specific housing available to the person(s); and
6. Such other relevant information as may be requested by the city.

D. Approval Authority:

1. The planning director shall have the authority to consider and take action on requests for reasonable accommodation. When a request for reasonable accommodation is filed with the planning department, it will be referred to the planning director for review and determination. The planning director shall issue a written determination of his or her action within fifteen (15) days of the date of receipt of a completed application and may:
  - a. Grant or deny the accommodation request; or
  - b. Grant the accommodation request subject to specified nondiscriminatory condition(s).
2. All written determinations of actions of the planning director shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process (e.g., requesting that city staff attempt to schedule an appeal hearing as soon as legally and practically possible), if necessary. The notice of action shall be sent to the applicant by mail.
3. If necessary to reach a determination or action on the request for reasonable accommodation, the planning director may request further information from the applicant specifying in detail what information is required. In the event a request for further information is made, the fifteen (15) day period to issue a written determination shall be stayed until the applicant fully and sufficiently responds to the request.

E. Considerations: The city may consider, but is not limited to, the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling:

1. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability;
2. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation;
3. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants;

4. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting;
  5. The city may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the city's zoning code:
    - a. Whether the requested accommodation would fundamentally alter the character of the neighborhood;
    - b. Whether the accommodation would result in a substantial increase in traffic or insufficient parking;
    - c. Whether granting the requested accommodation would substantially undermine any express purpose of either the city's general plan or an applicable specific plan;
    - d. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.
- F. Approval Findings: In making a determination regarding the reasonableness of a requested reasonable accommodation, the approving authority shall make the following findings:
1. The housing which is the subject of the request for reasonable accommodation will be used for an individual protected under the fair housing act.
  2. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the fair housing act.
  3. The requested reasonable accommodation does not impose an undue financial or administrative burden on the city and does not fundamentally alter city zoning, development standards, policies, or procedures.
  4. The requested accommodation will not result in a fundamental alteration in the nature of the city's zoning, as "fundamental alteration" is defined in fair housing laws and interpretive case law.
  5. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or physical damage to neighboring property. (Ord. 2012-01, 4-17-2012)

**9-2B-7: SIMILAR USE DETERMINATION:**

- A. Purpose And Applicability: All possible land uses may not be listed within the provisions of this title, and new uses may evolve over time. When a particular use is not specifically listed in this zoning code and it is unclear whether the use is permitted, the provisions established in this section allow the approving authority, by formal action, to determine whether or not a

proposed use is similar to a permitted or conditionally permitted use and whether such proposed use may be permitted in a particular zoning district.

B. Approving Authority: The planning director shall be the designated approving authority for similar use determinations.

C. Public Hearing And Notice: The issuance of a similar use determination is an administrative function of the planning director, and no public hearing or notice is required.

D. Approval Findings: In determining "substantial similarity", the approving authority shall make all of the following findings:

1. The characteristics of and activities associated with the proposed use are equivalent to one or more of the listed uses and will not involve a higher level of activity or population density than the uses listed in the zoning district (e.g., traffic, hours of operation, intensity of use, population density);
2. The proposed use will be consistent with the purposes of the applicable zoning district; and
3. The proposed use will be consistent with the general plan, any applicable specific plan, and this zoning code.

E. Documentation Of Determinations: Determinations shall be made in writing and shall contain the facts that support the determination. The city shall maintain all such determinations on record for review by the general public upon request. The decision shall be provided, in writing, to the applicant, interested parties, and decision makers. The notice shall include:

1. A brief statement explaining the criteria and standards considered relevant to the decision;
2. A statement of the standards and facts relied upon in rendering the decision; and
3. Statement of appeal rights and appeal deadlines.

F. Keeping Of Similar Use Determinations: The planning director shall maintain a complete record of all similar use determinations available for public review. (Ord. 2012-01, 4-17-2012)

#### **9-2B-8: OFFICIAL ZONING INTERPRETATION:**

A. Applicability And Authority To Prepare: Whenever the planning director determines that an ambiguity in a zoning regulation exists, or a formal request for an interpretation is made by an applicant, property owner, or interested party to the planning director, an official zoning interpretation shall be prepared as described herein.

**Comment [SB5]:** Consider changing the Similar Use process in Section 9-2B-7 from something that sounds like an entitlement to a code that gives the Planning Director authority to interpret the Use Table and make determinations as needed, but not to require formal documentation. Many uses not listed involve unique circumstances and the decisions made are often not useful as precedents.

- B. **Official Zoning Interpretation Defined; Threshold For Preparation Of Official Zoning Interpretation:** An "official zoning interpretation" is a recorded decision on the meaning and/or application of the development standards, allowed use regulations, or other standards contained within this title. An official zoning interpretation is only prepared to address an ambiguity and is not prepared as part of the normal application of the code in review of development applications and zoning clearance. It is not used to determine if a proposed use is similar to another use listed in the code as such determinations are made through the similar use determination process described in section 9-2B-7, "Similar Use Determination", of this article.
- C. **Content Of Official Zoning Interpretation:** Official zoning interpretations shall be prepared by the planning director, in writing, and shall cite the provisions being interpreted, together with any explanation of the meaning or applicability of the provision(s) in the particular or general circumstances that caused the need for the interpretation.
- D. **Procedure For Interpretations:** Official zoning interpretations shall be prepared as follows:
1. **Action By The Planning Director:** The planning director shall prepare an official zoning interpretation within ten (10) days from the date of request. A copy of the official zoning interpretation shall be provided by the planning director to the city manager, city attorney, city council, and to the applicant, property owner, or interested party requesting the interpretation within five (5) days of being prepared.
  2. **Referral To The Planning Commission:** The planning director may, in his or her sole discretion, refer a request for an official zoning interpretation to the planning commission for review and interpretation. The matter shall be heard by the planning commission at the next available regular meeting after submission of the request for the interpretation.
- E. **Keeping Of Official Zoning Interpretations:** The planning director shall maintain a complete record of all official interpretations available for public review, indexed by the chapter number of this title that is the subject of the interpretation.
- F. **Codification Of Official Zoning Interpretations:** To the extent practical, official zoning interpretations shall be incorporated into this title by amendment as soon as is practical. (Ord. 2012-01, 4-17-2012)

**Comment [SB6]:** Suggest that the Official Zoning Interpretation process in Section 9-2B-8 be substantially changed. This process seems overly burdensome on the Planning Director. Interpretations can be made daily. If a pattern emerges, then the Planning Department can recommend an ordinance change to resolve recurring issues.

**9-2B-9: HOME OCCUPATION PERMIT:**

- A. **Purpose:** The purpose of the home occupation permit is to provide a process for the review and permitting of home occupations prior to their establishment.
- B. **Applicability:** All home occupations as described in chapter 4, "Use Regulations", of this title shall obtain a home occupation permit prior to the issuance of a business license and the establishment of the home occupation. There are two (2) types of home occupation permits as follows:
1. **Minor Home Occupation Permit:** A minor home occupation permit is a ministerial approval that is conducted to ensure home occupations are conducted consistent with the development standards of section 9-4D-5, "Home Occupations", of this title.

2. Major Home Occupation Permit: A major home occupation permit is intended for the review and discretionary approval of those home occupations that may generate significant vehicular and pedestrian traffic and thereby have the potential to adversely impact the surrounding residential neighborhood.

**Comment [SB7]:** Consider eliminating Major Home Occupations, and converting them into use permits. This will avoid confusion between the two types.

C. Approval Authority: The designated approving authority for home occupation permits shall be the planning director.

D. Public Notification: The public notification of an application for a home occupation permit shall be made as follows:

1. Minor Home Occupation Permit: Minor home occupation permits are ministerial in nature. No public notification shall be required.
2. Major Home Occupation Permit: Major home occupation applications shall require the planning department to mail written notices to the property owners within three hundred feet (300') of the subject property informing them about the applicant's request. This notification shall state that unless any written objection is filed with the planning department within ten (10) days, the department may grant the home occupation application. If no written objection to the applicant's request is received within the stated period and the application meets all the standards stated in section 9-4D-5 of this title, the planning director shall grant the application. If written objection from any property owner within three hundred feet (300') of the subject property is received within the stated period, the application shall, thereupon, be elevated to the planning commission for review and decision, subsequent to public notice being provided as described in section 9-2A-6, "Public Notice, Hearings, And Decisions", of this title.

**Comment [SB8]:** Remove. See note above.

E. Approval Findings: A home occupation permit shall be granted only when the designated approving authority determines that the proposed home occupation complies with all of the following findings:

1. The proposed home occupation is consistent with the general plan, any applicable specific plan, and all applicable provisions of this title (e.g., section 9-4D-5 of this title); and
2. The establishment, maintenance, or operation of the home occupation applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use or to the general welfare of the city.

F. Postapproval Implementation: Requirements for implementation of an approved home occupation permit shall be provided as follows:

1. Minor Home Occupation Permit: A minor home occupation permit is ministerial in nature. As such, the planning director may not impose conditions on the issuance of the permit. However, the applicant may be provided with a list of items necessary for compliance and conformance with this title and the general plan.

2. Major Home Occupation Permit: The designated approving authority may impose conditions and/or require guarantees in order to ensure compliance with this title and to prevent adverse or detrimental impact to the surrounding neighborhood. (Ord. 2012-01, 4-17-2012)

**9-2B-10: ADMINISTRATIVE USE PERMIT:**

- A. Purpose: The purpose of an administrative use permit is to allow for the individual review of land uses having unique or unusual site development features or operating characteristics to ensure consistency with this title and the general plan. These land uses benefit from focused, administrative review outside of the general business license and zoning clearance process.
- B. Applicability: An administrative use permit is required prior to the establishment of any use for which an administrative use permit is required by this title. See section 9-4B-2, table 9-4B-2, "Allowed Uses And Required Entitlements For Base Zoning Districts", of this title, which identifies specific land uses that require an administrative use permit prior to issuance of subsequent permits (e.g., building permit, business license). Examples include, but are not limited to, child daycare facility - family daycare home, large; dwelling, second unit in the DMX-2 zoning district; dwelling, two-family in the RLD zoning district; crop production in the RLD zoning district; and assembly uses.
- C. Approval Authority: The planning director shall be the designated approving authority for administrative use permits.
- D. Process: No public hearing or notice is required for an administrative use permit unless elevated to the planning commission as provided in subsection 9-2A-7B, "Elevation", of this chapter.
- E. Approval Findings: An administrative use permit shall be granted only when the designated approving authority determines that the proposed use or activity complies with all of the following findings:
1. The proposed use is consistent with the general plan, any applicable specific plans, and all applicable provisions of this title; and
  2. The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use or to the general welfare of the city.
- F. Postapproval Implementation: An administrative use permit is ministerial in nature. As such, the planning director may not impose conditions on the issuance of the permit. However, the applicant may be provided with a list of items necessary for compliance and conformance with this title and the general plan. Conditions may only be imposed in the event the necessary findings cannot be made without the conditions and only after a public hearing by the planning commission. (Ord. 2012-01, 4-17-2012)

**Comment [SB9]:** Remove. The Planning Director should not be setting conditions. If that's the case, then a regular use permit should be used instead.

**9-2B-11: MINOR DEVIATION:**

- A. Purpose: The purpose of the minor deviation is to allow some flexibility in project design with regard to specific development standards.
- B. Applicability: To achieve more flexible standards, the designated approving authority may grant minor deviations to the building height, setback, lot coverage, and parking provisions, not to exceed ten percent (10%) of the respective development standards in the underlying zoning district for the subject parcel. All other deviations require approval of a variance application. Minor deviations do not apply to the use of property.
- C. Approval Authority: The designated approving authority for minor deviations is the planning director.
- D. Process: No public hearing or notice is required for a minor deviation unless elevated to the planning commission as provided in subsection 9-2A-7B, "Elevation", of this chapter.
- E. Approval Findings: A minor deviation shall be granted only when the designated approving authority makes all of the following findings:
  - 1. The deviation(s) improves the site, architectural, and/or overall project design; and
  - 2. The deviation(s) is materially consistent with the project and is compatible with surrounding uses and structures.
- F. Postapproval Implementation: A minor deviation is ministerial in nature. As such, the planning director may not impose conditions on the issuance of the permit. However, the applicant may be provided with a list of items necessary for compliance and conformance with this title and the general plan. Conditions may only be imposed in the event the necessary findings cannot be made without the conditions and only after a public hearing by the planning commission. (Ord. 2012-01, 4-17-2012)

**Comment [SB10]:** Remove. The Planning Director should not be setting conditions. If that's the case, then a regular variance should be used instead.

**9-2B-12: MINOR SITE PLAN AND ARCHITECTURAL REVIEW:**

- A. Purpose: The purpose of minor site plan and architectural review is for the review of the design and layout of new development in the city to ensure that it is consistent with the regulations of this title prior to the issuance of subsequent permits, such as improvement plans and building permits.
- B. Applicability: Minor site plan and architectural review shall be required prior to the issuance of any ministerial building permits or site improvement plans and prior to or in conjunction with discretionary action of corresponding development applications (e.g., conditional use permit, variance).
  - 1. Review Required: Minor site plan and architectural review is required for all of the following activities:

- a. New nonresidential or mixed use developments of less than ten thousand (10,000) gross square feet;
  - b. Additions of less than ten thousand (10,000) square feet to existing commercial, office, and industrial buildings;
  - c. Custom single-family homes in the neighborhood residential (RN) district and within planned unit developments;
  - d. Changes to the exterior facade of existing buildings (other than single-family residential) anywhere in the city (including downtown), such building materials and structural changes affecting at least fifty percent (50%) of the facade;
  - e. The establishment of new signs in the downtown as required by subsection 9-6-3E, "Signs", of this title;
  - f. Painting outside the historic color palette within the downtown; and
  - g. Conceptual plan for a mixed use center as required by chapter 7, "Mixed Use Development Standards", of this title.
2. Exemptions: The following activities are specifically exempt from minor site plan and architectural review. However, such structures may require additional permits, such as a ministerial building permit, to ensure compliance with adopted building code standards and applicable zoning regulations.
- a. Single-family custom homes, except in the neighborhood residential (RN) zoning district or within planned unit developments;
  - b. Additions to or the exterior remodels of single-family residential homes within normal setbacks;
  - c. Accessory structures consistent with the provisions of section 9-5A-8, "Residential Accessory Structures", of this title;
  - d. Changes to the exterior facade of existing buildings (other than single-family residential) anywhere in the city (including downtown), such as building materials and structural changes affecting less than fifty percent (50%) of the facade;
  - e. Painting existing buildings in the DMX zoning districts with historic color palettes as described in subsection 9-6-4C, "Colors And Painting", of this title;
  - f. Repairs and maintenance to the site or structure that do not add to, enlarge, or expand the area occupied by the land use, or the floor area of the structure and that employ the same materials and design as the original construction;
  - g. Interior alterations that do not increase the gross floor area within the structure, or change/expand the permitted use of the structure (including solar collectors); and

h. Construction, alteration, or maintenance by a public utility or public agency of underground or overhead utilities intended to service existing or nearby approved developments (e.g., water, gas, electric or telecommunication supply or disposal systems, including wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and similar facilities and equipment).

C. Approval Authority: The designed approval authority for minor site plan and architectural design review shall be the planning director.

D. Process: No public hearing or notice is required for a minor site plan and architectural review unless elevated to the planning commission as provided in subsection 9-2A-7B, "Elevation", of this chapter.

E. Approval Findings: A minor site plan and architectural review permit, or any modification thereto, shall be granted only when the designated approving authority makes a finding that the proposed project is consistent with the objectives of the general plan and complies with applicable zoning regulations, specific plan provisions, and improvement standards adopted by the city.

F. Postapproval Implementation: A minor site plan and architectural design review permit is ministerial in nature. As such, the planning director may not impose conditions on the issuance of the permit. However, the applicant may be provided with a list of items necessary for compliance and conformance with this title and the general plan. Conditions may only be imposed in the event the necessary findings cannot be made without the conditions and only after a public hearing by the planning commission. (Ord. 2012-01, 4-17-2012)

#### **9-2B-13: SIGN PROGRAM:**

A. Purpose: A sign program provides a process for the city's review of, and decisions related to, requests for signs for multi-tenant projects. The intent of a sign program is to allow for the integration of a project's signs with the design of the structures to achieve a unified architectural statement and to approve common sign regulations for multi-tenant projects. No deviations from city sign standards are allowed through a uniform sign program.

B. Applicability: A sign program shall be required for all new multi-tenant shopping centers, office parks, and other multi-tenant, mixed use, or otherwise integrated developments of three (3) or more separate tenants/uses that share buildings, public spaces, landscape, and/or parking facilities.

C. Specific Application Requirements: As part of the application, the applicant shall submit a draft sign program that shall include criteria for building-attached signs, freestanding building signs, and the integrated development itself to establish consistency of sign type, location, center logo, and/or letter height, lines of copy, illumination, and construction details of signs for the project.

- D. Approval Authority: The designated approving authority for sign programs shall be the planning director.
- E. Public Hearing And Notice: No public hearing or notice is required for a sign program unless elevated to the planning commission as provided in subsection 9-2A-7B, "Elevation", of this chapter.
- F. Approval Findings: A sign program, or revisions thereto, may be approved only when the designated approving authority makes all of the following findings:
1. That the proposed sign program is consistent with the development standards for signs as provided in chapter 5, article F, "Signage", of this title; and
  2. The design, location, and scale of proposed signs for the integrated development are in keeping with the architectural character of the development.
- G. Postapproval Implementation: A sign program is ministerial in nature. As such, the planning director may not impose conditions on the issuance of the permit. However, the applicant may be provided with a list of items necessary for compliance and conformance with this title and the general plan. Conditions may only be imposed in the event the necessary findings cannot be made without the conditions and only after a public hearing by the planning commission. (Ord. 2012-01, 4-17-2012)

**Comment [SB11]:** Remove text. See notes above.

#### **9-2B-14: CONDITIONAL USE PERMIT:**

- A. Purpose: The purpose of a conditional use permit is for the individual review of uses, typically having unique or unusual site development features or operating characteristics. A use permit is intended to ensure compatibility with surrounding areas and uses where such uses are deemed essential or desirable to the various elements or objectives of the general plan.
- B. Applicability: A conditional use permit is required prior to the establishment of any use for which a conditional use permit is required by this title.
- C. Approval Authority: The planning commission shall be the designated approving authority for conditional use permits.
- D. Public Hearing And Notice: Public hearing and notice are required for a conditional use permit pursuant to section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.
- E. Approval Findings: A conditional use permit shall be granted only when the designated approving authority determines that the proposed use or activity complies with all of the following findings:
1. The proposed use is consistent with the general plan, any applicable specific plans, and all applicable provisions of this title;
  2. The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general

welfare of persons residing or working in the neighborhood of such use or to the general welfare of the city;

3. The site of the proposed use is physically suitable for the type, density, and intensity of the use and related structures being proposed; and
4. It will not be contrary to the specific intent clauses, development regulations, or performance standards established for the zoning district in which it is located. The proposed use and related structures are compatible with other land uses, transportation, and service facilities in the vicinity.

F. Conditions Of Approval: The designated approving authority may impose conditions and/or require guarantees in order to ensure compliance with this title and to prevent adverse or detrimental impact to the surrounding neighborhood. (Ord. 2012-01, 4-17-2012)

#### **9-2B-15: MAJOR SITE PLAN AND ARCHITECTURAL REVIEW:**

A. Purpose: The purpose of major site plan and architectural review is for the review of the design and layout of new development in the city to ensure that it is consistent with the regulations of this title and will not result in a detriment to the city or the environment. The city desires to maintain and enhance Lemoore's sense of place; design commercial and mixed use centers to be of pedestrian scale so people can feel comfortable and congregate in these areas; promote visually appealing architecture and high quality developments that promote a small town atmosphere; and protect and accentuate Lemoore's environmental assets, its surrounding natural landscape, agricultural farmland, open canals, and wetlands.

**Comment [SB12]:** Site Plan reviews could be made into ministerial permits approved at the staff level. It would require changes to a number of code sections, including a review of the pre-plotting procedures.

B. Applicability: Major site plan and architectural review shall be required prior to the issuance of any ministerial building permits or site improvement plans and prior to or in conjunction with discretionary action of corresponding development applications (e.g., conditional use permit, variance).

1. Review Required: A major site plan and architectural review is required for the following items:
  - a. New nonresidential or mixed use developments of ten thousand (10,000) gross square feet or more;
  - b. Additions of ten thousand (10,000) square feet or more to existing commercial, office, and industrial buildings;
  - c. New multi-family residential developments (e.g., apartments, condominiums, townhomes);
  - d. Any new construction of buildings (e.g., new stores) of any size in the downtown;
  - e. The design and layout of new residential subdivisions as part of the tentative subdivision map process as provided in title 8, chapter 7, "Land Division", of the municipal code;

- f. Master home plans for, and preplotting placement of, residential units within single-family residential subdivisions (e.g., planned unit developments);
  - g. Demolition or exterior alterations and additions to nonresidential buildings that are more than seventy five (75) years old.
- 2. Exemptions: Those activities exempt from minor site plan and architectural design review as provided in subsection 9-2B-12B2 of this article shall also be exempt from major site plan and architectural design review.
- C. Approval Authority: The designed approval authority for major site plan and architectural design review shall be the planning commission.
- D. Public Hearing And Notice: Public hearing and notice are required for a major site plan and architectural review pursuant to section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.
- E. Approval Findings: A major site plan and architectural review permit, or any modification thereto, shall be granted only when the designated approving authority makes all of the following findings:
  - 1. The proposed project is consistent with the objectives of the general plan and complies with applicable zoning regulations, specific plan provisions, and improvement standards adopted by the city;
  - 2. The proposed architecture, site design, and landscape are suitable for the purposes of the building and the site and will enhance the character of the neighborhood and community;
  - 3. The architecture, including the character, scale and quality of the design, relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and signing, and similar elements, establishes a clear design concept and is compatible with the character of buildings on adjoining and nearby properties;
  - 4. The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation; and
  - 5. In the case of proposed alterations, additions, or demolitions to nonresidential buildings that are more than seventy five (75) years old:
    - a. Alterations And Additions: The project design is compatible with secretary of the interior standards for the treatment of historic properties and with the downtown revitalization plan.
    - b. Demolitions: The applicant has demonstrated that the existing use cannot generate a reasonable rate of return; the existing building constitutes a hazard to public safety and is economically infeasible to rehabilitate, the design quality of the replacement building will be superior to the existing building and will be compatible with adjacent

buildings and the character of downtown Lemoore, or the proposed demolition or removal is necessary to allow a project that will have public benefits outweighing the public benefits of retaining the existing building.

F. Conditions Of Approval: The designated approving authority may impose conditions and/or require guarantees in order to ensure compliance with this title and to prevent adverse or detrimental impact to the surrounding neighborhood. (Ord. 2012-01, 4-17-2012)

**9-2B-16: VARIANCE:**

A. Purpose And Applicability: In accordance with California Government Code section 65906, variances provide relief from the strict application of development standards and provisions of this title if specified findings can be made. A variance from the zoning code may not be granted to:

1. Allow a land use not otherwise permitted in the zoning district;
2. Increase the maximum allowed residential density except as allowed by state law;
3. Waive or reduce parking requirements by more than thirty percent (30%); or
4. Waive or modify a procedural requirement.

B. Approving Authority: The designated approving authority for a variance shall be the planning commission. The planning director provides a recommendation and the planning commission approves, conditionally approves, or denies the variance in accordance with the requirements of this title.

C. Public Hearing And Notice: Public hearing and notice are required for a variance pursuant to section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.

D. Approval Findings: The approving authority may approve and/or modify any variance application in whole or in part, with or without conditions, only if the applicant can demonstrate that the circumstances of their particular case can justify making all of the following findings:

1. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of this zoning code denies the property owner privileges enjoyed by other property owners in the vicinity and within the same zoning district;
2. Granting the variance is necessary for the preservation and enjoyment of substantial property rights enjoyed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought;
3. Granting the variance will not adversely affect the interests of the public or the interests of residents and property owners in the vicinity of the premises in question; and

4. The variance is consistent with the general plan, any applicable specific plan or development agreement, and the intent of this title.

E. Conditions Of Approval: In approving a variance, the designated approving authority:

1. Shall impose conditions to ensure that the variance does not grant special privileges inconsistent with the limitation on other properties in the vicinity and the zoning district in which the property is located;
2. May impose any reasonable conditions (e.g., the placement, height of structures, buffers, landscaping and maintenance, off site improvements, performance guarantees, screening, surfacing, hours of operation) to ensure that the approval complies with the findings required by this section. (Ord. 2012-01, 4-17-2012)

**9-2B-17: PUBLIC CONVENIENCE OR NECESSITY:**

A. Purpose And Applicability: In 1994, section 23958.4 was added to the state Business And Professions Code to give cities and other local agencies the authority, but not the obligation, to make public convenience or necessity determinations in certain proceedings for issuance of alcoholic beverage licenses within the city. Pursuant to section 23958.4, the council may delegate this authority to a city department, officer, or other employee. The purpose of this section is to make such delegation and to establish a procedure for processing and considering requests for determinations of public convenience or necessity for issuance of such licenses.

Any person whose application for any alcohol license is subject to a determination of public convenience or necessity by the city pursuant to section 23958.4 of the Business And Professions Code shall submit an application to the city for a determination whether or not the public convenience and necessity would be served by the granting of such license.

B. Approving Authority: Determinations of whether public convenience or necessity would be served by issuance of those alcoholic beverage licenses specified in paragraph (b)(2) of section 23958.4 of the Business And Professions Code shall be made by the planning commission.

C. Process: A public hearing before the designated approving authority shall be required prior to determining if the application provides for the public convenience or necessity. Notice of the hearing shall be provided as described in section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.

D. Review Of Applications: The designated approving authority shall review the application, along with all information submitted by the applicant, as well as the recommendations of the chief of police, the planning director, and other departments of the city. The designated approving authority shall consider all other relevant documents and other written information submitted by the applicant or other interested persons, shall receive, hear and consider relevant oral and written testimony by the applicant and other interested persons; and shall consider any other information, including, without limitation, written or oral testimony, that the designated approving authority deems necessary to make the determination of public convenience or necessity. (Ord. 2012-01, 4-17-2012)

**9-2B-18: HIGHWAY ORIENTED SIGN PERMIT:**

- A. Purpose: The purpose of the highway oriented sign permit is to provide a process for the review and discretionary approval of commercial signs that are oriented to the highway as defined in this title. The intent of requiring discretionary review is to ensure that the siting, size, and design of a highway oriented sign is in keeping with the character of the surrounding environment, that it does not create an unsafe condition for motorists, and that it does not create a public nuisance.
- B. Applicability: A highway oriented sign permit shall be obtained prior to the establishment of a "highway oriented sign" as defined in this title and as provided in chapter 5, article F, "Signage", of this title.
- C. Approval Authority: The designated approving authority for a highway oriented sign permit is the planning commission.
- D. Public Hearing And Notice: Public hearing and notice are required for a highway oriented sign permit pursuant to section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.
- E. Approval Findings: In approving a highway oriented sign permit, the designated approving authority shall make all of the following findings:
1. The proposed sign is consistent with the general plan and all applicable provisions of this title;
  2. The establishment, maintenance, or operation of the highway oriented sign will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use, or the general welfare of the city;
  3. Should the applicant request, and the approving authority grant, additional height beyond that allowed in subsection 9-5F-5D, "Highway Oriented Signs", of this title to a maximum of eighty feet (80'), the approving authority shall also make the following additional findings:
    - a. That the additional height is necessary to ensure safe viewing from the highway; and
    - b. That approval of the additional height will not be contrary to the specific intent of the signage regulations established in chapter 5, article F, "Signage", of this title.
  4. Should the applicant request, and the approving authority grant, a reduced spacing of signs than that required in subsection 9-5F-5D, "Highway Oriented Signs", of this title, the approving authority shall also make the following additional finding:
    - a. The reduced distance between highway oriented signs will not cause a safety impact or create sign clutter contrary to a small town atmosphere.

**Comment [SB13]:** Highway signs could become a ministerial permit approved by staff if desired.

F. Conditions Of Approval: The designated approving authority may impose conditions and/or require guarantees in order to ensure compliance with this title and to prevent adverse or detrimental impact to the surrounding neighborhood. (Ord. 2012-01, 4-17-2012)

**9-2B-19: PLANNED UNIT DEVELOPMENT:**

- A. Purpose: The purpose of the planned unit development is to provide a process to allow diversity in the relationship between buildings and open spaces to create interesting physical environments and to maximize the development potential of underutilized or problematic land areas. This land use entitlement is intended to demonstrate that the development plan with any proposed deviations is consistent with the general plan and will result in a quality project that is compatible with surroundings, preserves site resources, minimizes hazards, and provides a public benefit.
- B. Applicability: To qualify for a planned unit development designation, projects must include developed or undeveloped property with one or more contiguous parcels totaling a minimum of two (2) acres in size. Projects of less than two (2) acres may be considered when determined that the development area is underutilized or problematic (e.g., infill, reuse, redevelopment) and that the surrounding area will be better served by the project.
- C. Approving Authority: The designated approving authority for a planned unit development is the city council.
- D. Public Hearing And Notice: Public hearing and notice are required for adoption and amendments to planned unit developments pursuant to section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.
- E. Deviations From Development Standards: The approving authority may grant requests to deviate from the development standards (e.g., minimum lot area, yard requirements, building heights), but shall not grant exceptions to the allowed land use or density of the base zoning district. Physical development standards may be modified if the plan includes examples of superior design, environmental preservation, and public benefit amenities, and the approving authority makes all of the required findings herein.
- F. Approval Findings: The approving authority shall make the following findings to approve a planned unit development application:
  - 1. The proposed project does not exceed the total density allowed under the base zoning district or the general plan land use designation.
  - 2. The proposed project is superior to development that could occur under the development standards of the base district in at least two (2) of the following ways:
    - a. Greater open space and common areas than required.
    - b. Greater landscaping than required that enhances the public street appearance (including street trees, benches, lights, special paving, water fountains, etc.) or increases landscape buffers with adjacent properties.

- c. Superior site design. Utilization of the applicable design guidelines to achieve a superior site design.
- d. Superior subdivision design. Utilization of the applicable residential design standards to achieve a superior subdivision design.
- e. Greater connectivity to surrounding public streets, bike paths, pedestrian walkways, and public open spaces than required by zoning or subdivision regulations.
- f. Enhanced environmental preservation by clustering development to preserve sensitive plant or wildlife habitat, biological resources, or contiguous open space.
- g. Reduced impacts on surrounding properties, in terms of privacy, access to sunlight, shadow, views, building bulk, noise, or other types of negative impacts, beyond what would be achieved under existing requirements.

3. The proposed project shall not be substantially detrimental to adjacent property, and will not materially impair the purposes of this title or the public interest.

G. Delineation Of Planned Unit Development Areas: On the zoning map, a planned unit development shall be delineated as an overlay zoning district and shall be listed in this title as provided in chapter 9, article B, "Planned Unit Development (PUD) Overlay Zoning Districts", of this title. (Ord. 2012-01, 4-17-2012)

**9-2B-20: SPECIFIC PLAN:**

- A. Purpose: The purpose of a specific plan is to provide a vehicle for implementing the city's general plan on an area specific basis. The specific plan is intended to serve as a regulatory document, consistent with the general plan. In the event there is an inconsistency or conflict between an adopted specific plan and comparable provisions of this title, the specific plan shall prevail. This section is consistent with California Government Code section 65450 et seq. This section describes the process for adopting and amending specific plans, and approving subsequent development under a specific plan.
- B. Applicability: The city's general plan encourages preparation of specific plans and identifies certain areas of the city which require specific plans for development. Specific plan zoning may be considered for other areas of the city.
- C. Approval Authority: The designated approving authority for specific plans is the city council, which shall hold a public hearing prior to taking action. The planning commission shall review specific plans, hold a public hearing, and make recommendations regarding the content of the plan, or any amendments. The city council shall approve or deny any specific plan or amendment thereto.
- D. Specific Application Requirements: In addition to the minimum content requirements of California Government Code section 65451, the specific plan application shall include the following items:

- 1. Statement of the relationship of the specific plan to the general plan;

2. Policies for development and standards for regulating development within the plan area;
3. The proposed land uses for all areas covered by the plan;
4. The types and configurations of buildings to be included in all developments within the plan area;
5. The location of and types of streets;
6. Public facilities and infrastructure required to serve developments within the specific plan area;
7. A parking and circulation plan for off street parking areas showing the location of parking lots, the approximate number of spaces, and the approximate location of entrances and exits;
8. Proposed conservation, open space, and/or recreation areas, if any; and
9. Any other programs, guidelines, or standards appropriate for the area covered by the plan.

E. Environmental Review: It is anticipated that under the California environmental quality act (CEQA) and state CEQA guidelines most specific plans will require preparation of an environmental impact report (EIR). Once certified, the EIR for a specific plan may be relied upon for further entitlements sought subsequent to adoption of the specific plan to the extent allowed by CEQA. Unless otherwise exempt, an initial study shall be prepared for all subsequent applications to determine whether additional CEQA review is required.

**Comment [SB14]:** Remove text. Predetermining the required CEQA document is not supported by CEQA guidelines.

F. Public Hearing And Notice: Public hearing and notice are required for a specific plan pursuant to section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.

G. Approval Findings: Specific plans and any amendment thereto shall be approved only when the city council makes all of the following findings:

1. The proposed specific plan is consistent with the general plan goals, policies, and implementation programs;
2. The land use and development regulations within the specific plan are comparable in breadth and depth to similar zoning regulations contained in this title; and
3. The administration and permit processes within the specific plan are consistent with the administration and permit processes of the zoning code.

H. Adoption: Adoption of the specific plan shall be by ordinance of the city council and shall constitute final action and approval of the specific plan. Authorization for construction in accordance with the specific plan may only be granted after the effective date of the adoption.

I. Delineation Of Specific Plan Areas: On the zoning map, a specific plan zoning district shall be delineated in a manner similar to that of any other zoning district, except that each specific plan zoned area shall also bear a number, text, or other symbol which distinguishes it from other specific plan areas. See chapter 8, "Specific Plan Zoning Districts", of this title.

J. Application Of Specific Plan Development Requirements: Where conditions of the specific plan are more restrictive than the zoning code development standards, the conditions of the specific plan shall apply. Where a standard is not addressed in the specific plan, the zoning code shall apply. (Ord. 2012-01, 4-17-2012)

**9-2B-21: DEVELOPMENT AGREEMENT:**

A. Purpose: This section establishes procedures and requirements for the review and approval of development agreements when applied for as part of a land use entitlement in compliance with the provisions of California Government Code sections 65864 through 65869.5. The city council finds and declares the use of development agreements is beneficial to the public, in that:

1. Development agreements increase the certainty in the approval of development projects, thereby preventing the waste of resources, reducing the cost of development to the consumer, and encouraging investment in and commitment to comprehensive planning, all leading to the maximum efficient utilization of resources at the least economic cost to the public.
2. Development agreements provide assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, thereby strengthening the public planning process, encouraging private participation in comprehensive planning, and reducing the economic costs of development.
3. Development agreements enable the city to plan for and finance public facilities, including, but not limited to, streets, sewerage, transportation, drinking water, school, and utility facilities, thereby removing a serious impediment to the development of new housing.

Note that development agreements are substantially different than disposition and development agreements, which are agreements between a private party and the city's redevelopment agency.

B. Applicability Of Regulations: Only a qualified applicant, a person who has legal or equitable interest in the real property which is the subject of the development agreement (or his or her authorized agent), may submit an application for a development agreement.

C. Approving Authority: The designated approving authority for development agreements is the city council, which shall hold a public hearing prior to taking action. The planning commission shall hold a public hearing on the proposed development agreement and make a recommendation to the city council.

- D. Flexibility Of Development Regulations: To the extent permitted by law, any development agreement if adopted by the city may modify development rules, regulations, and policies governing permitted uses of land and density, and governing design, improvements, construction standards and specifications, and phasing applicable to development of the property involved in the agreement. Nothing contained in these regulations shall prevent the developer or the city from proceeding with normal tentative map or final map processes on any phase of a development which is the subject of a development agreement at any time during its term.
- E. Application Contents: The contents of a development agreement shall be as set forth in Government Code sections 65865.2, 65867.5(c) if applicable, and 65868.5.
- F. Public Hearing And Notice: Public hearing and notice are required for a development agreement pursuant to section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.
- G. Approval Findings: A development agreement may only be granted when the city council makes all of the following findings specifying that the development agreement:
1. Is consistent with the objectives, policies, and general land uses specified in the general plan and any applicable specific plans;
  2. Is compatible and in conformity with public convenience, general welfare, and good land use and zoning practice;
  3. Will not be detrimental to the health, safety, and general welfare of the city;
  4. Will not adversely affect the orderly development of property or the preservation of property values.
- H. Amendment And Cancellation Of Agreement: Any party to the agreement may propose an amendment to or cancellation in whole or part of the development agreement, the procedure for which is the same as the procedure for entering into the agreement initially. Notice of intention to amend or cancel any portion of the development agreement shall be given as provided in section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.
- I. Recordation: Within ten (10) days after the city enters into the development agreement or any amendment thereof, the city clerk shall cause the agreement or amendment to be recorded with the county recorder. Additionally, the city clerk shall be the official custodian of the development agreement file. Said file shall include an executed copy of the agreement and the originals of all exhibits, reports of periodic review, amendments, and/or cancellations to the development agreement.
- J. Periodic Review: The planning director shall review the development agreement every twelve (12) months from the date the development agreement is entered into and provide a written report to the city council. The burden of proof is on the applicant to provide necessary information verifying good faith compliance with the terms of the development agreement. The applicant shall also bear the cost of such review in accordance with the fee established by city council resolution. If the planning director finds that any aspect of the development project is not in good faith compliance with the terms of the development agreement, the

planning director may schedule the matter before the appropriate approving authority for review for possible amendment or revocation. (Ord. 2012-01, 4-17-2012)

**9-2B-22: ZONING AMENDMENT:**

- A. Purpose: The purpose of a zoning amendment is to allow modification to any provisions of this title (including the adoption of new regulations or deletion of existing regulations), or to rezone or change the zoning designation on the zoning map for any parcel(s). This section is consistent with California Government Code section 65853.
- B. Approval Authority: The designated approving authority for zoning amendments is the city council, which shall hold a public hearing on the planning commission recommendation prior to taking action. The planning commission shall hold a public hearing and then shall provide a recommendation, which recommendation shall include the reasons for the recommendation and the relationship of the proposal to the general plan and the specific plans. The city council approves or denies the zoning amendment in accordance with the requirements of this title.
- C. Initiation Of Amendment: A zoning amendment to this title may be initiated by motion of the planning commission or city council, by application by property owner(s) of parcel(s) to be affected by zoning amendment, or by recommendation of the planning director to clarify text, address changes mandated by state law, maintain general plan consistency, address boundary adjustments affecting land use designation(s), or for any other reason beneficial to the city.

When an application is filed by a property owner (or authorized representative), the submittal requirements for applications of subsection 9-2A-5A, "Application Contents", of this chapter shall be observed. This includes a completed application on a form as prescribed by the planning director, any required information listed on the application form for the type of permit, an application fee as established by city council resolution, and any other relevant information as may be requested by the planning director in order to provide the designated approving authority with adequate information on which to base a decision.

- D. Approval Findings: Zoning amendments shall be granted only when the city council finds that the zoning amendment (text or map) is consistent with the general plan goals, policies, and implementation programs.
- E. Adoption: Adoption of the zoning amendment by ordinance of the city council shall constitute final action and approval of the amendment. Authorization for construction or occupancy in accordance with the amendment may only be granted upon or after the effective date of the action. (Ord. 2012-01, 4-17-2012)

**9-2B-23: PREZONING:**

- A. Purpose: The purpose of prezoning is to establish the designation of land use by zoning district for unincorporated property adjoining the city, within the sphere of influence, prior to annexation.
- B. Process: The method of accomplishing prezoning shall be the same as for zoning amendment as provided in section 9-2B-22, "Zoning Amendment", of this article. Such

zoning shall become effective at the time annexation becomes effective. (Ord. 2012-01, 4-17-2012)

**9-2B-24: GENERAL PLAN AMENDMENT:**

- A. Purpose: The purpose of a general plan amendment is to allow for modifications to the general plan text (e.g., goals, policies, or implementation programs) or to change the general plan land use designation on any parcel(s).
- B. Approval Authority: The designated approving authority for general plan amendments is the city council, which shall hold a public hearing prior to taking action. The planning commission shall hold a public hearing and provide a recommendation. The city council approves or denies the general plan amendment in accordance with the requirements of this title.
- C. Frequency Of Amendment: Pursuant to Government Code section 65358, no mandatory element of the general plan may be amended more frequently than four (4) times during any calendar year. Subject to that limitation, an amendment may be made at any time and may include more than one change to the general plan.
- D. Initiation Of Amendment: A general plan amendment may be initiated by the planning commission or city council, by application by property owner(s) of parcel(s) to be affected by the general plan amendment, or by recommendation of the planning director to clarify text, address changes mandated by state law, maintain internal general plan consistency, address boundary adjustments affecting land use designation(s), or for any other reason beneficial to the city.

When an application is filed by a property owner (or authorized representative), the submittal requirements for applications of subsection 9-2A-5A, "Application Contents", of this chapter shall be observed. This includes a completed application on a form as prescribed by the planning director, any required information listed on the application form for the type of permit, an application fee as established by city council resolution, and any other relevant information as may be requested by the planning director in order to provide the designated approving authority with adequate information on which to base a decision.

- E. Public Hearing And Notice: The city shall provide notice and a public hearing for the approval, modification, revocation, or appeal of an application for a general plan amendment in accordance with section 9-2A-6, "Public Notice, Hearings, And Decisions", of this chapter.
- F. Approval Findings: The city council may approve a general plan amendment upon finding that the amendment is in the public interest and that the general plan as amended will remain internally consistent. In the event that a general plan amendment is requested by a private property owner, the applicant shall demonstrate to the city council that there is a substantial public benefit to be derived from such amendment and how the proposed amendment furthers the goals of the general plan.
- G. Adoption: Adoption of the general plan amendment by the city council shall constitute final action and approval of the amendment. (Ord. 2012-01, 4-17-2012)