

Article 7

Planning Permit Procedures

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Comment [MJ1]: This is the only section of this chapter with recommended changes.

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Chapter 18.70

PERMIT APPLICATION FILING AND PROCESSING

Comment [MJ2]: No changes proposed to this section. Please skip ahead to page 7.

Sections:

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18.70.020	Authority for Land Use and Zoning Decisions
18.70.030	Multiple Permit Applications
18.70.040	Application Preparation and Filing
18.70.050	Application Fees
18.70.060	Developer Indemnification
18.70.070	Initial Application Review
18.70.080	Project Evaluation and Staff Reports

18.70.010 - Purpose

This Chapter provides procedures and requirements for the preparation, filing, and initial processing of the planning permit applications required by this Development Code.

18.70.020 - Authority for Land Use and Zoning Decisions

Table 7-1 (Review Authority) identifies the Review Authority responsible for reviewing and making decisions on each type of application required by this Development Code.

18.70.030 - Multiple Permit Applications

A. Concurrent filing. An applicant for a development project that requires the filing of more than one application (e.g., Tentative Map, Use Permit, etc.), shall file all related applications concurrently, together with all application fees required by Section 18.70.050 (Application Fees), unless these requirements are waived by the Director.

B. Concurrent processing. Multiple applications for the same project shall be processed concurrently, and shall be reviewed, and approved or disapproved by the highest Review Authority designated by this Development Code for any of the applications (e.g., a project for which applications for Zoning Map amendment and a Use Permit are filed shall have both applications decided by the Council, instead of the Commission acting upon the Use Permit as otherwise provided by Table 7-1).

TABLE 7-1 - REVIEW AUTHORITY

Type of Action	Applicable Code Section	Role of Review Authority (1)		
		Director	Planning Commission	City Council
Administrative and Legislative				
Cultural Heritage-Related Actions	18.74	Recommend	Recommend	Decision
Development Code Amendment	18.94	Recommend	Recommend	Decision
General Plan Amendment	18.94	Recommend	Recommend	Decision
Interpretation	18.12	Decision (2)	Appeal	Appeal
Specific Plans and Amendment	18.78	Recommend	Recommend	Decision
Zoning Map Amendment	18.94	Recommend	Recommend	Decision
Planning Permits				

The Fort Bragg Inland Land Use and Development Code is current through Ordinance 909, passed February 10, 2014.

Type of Action	Applicable Code Section	Role of Review Authority (1)		
		Director	Planning Commission	City Council
Planning permits for which an EIR or EIS has been prepared (3)	18.71.050, 18.71.090, 18.71.060	Recommend	Recommend	Decision
Administrative Variance	18.71.070	Decision (2)	Appeal	Appeal
Certificate of Appropriateness (COA)	18.74.050	Decision (2)	Decision	Appeal
Design Review	18.71.050	Decision (2)	Decision	Appeal
Limited Term Permit	18.71.030	Decision (2)	Appeal	Appeal
Minor Use Permit (MUP)	18.71.060	Decision (2)	Appeal	Appeal
Planned Development Permit	18.71.090	Recommend	Decision	Appeal
Sign Permit	18.38	Decision (2)	Appeal	Appeal
Use Permit (UP)	18.71.060	Recommend	Decision	Appeal
Variance	18.71.070	Recommend	Decision	Appeal
Zoning Clearance	18.71.020	Decision (2)	Appeal	Appeal

Notes:

- (1) "Recommend" means that the Review Authority makes a recommendation to a higher decision-making body; "Decision" means that the Review Authority makes the final decision on the matter; "Appeal" means that the Review Authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 18.92 (Appeals).
- (2) The Director may defer action and refer the request to the Commission, so that the Commission may instead make the decision.
- (3) The City Council will be the Review Authority (decision) for any planning permit that requires CEQA or NEPA review at the level of an EIR or EIS.

18.70.040 - Application Preparation and Filing

A. Pre-application conference. A prospective applicant is encouraged to request a pre-application conference with the Director before completing and filing a planning permit application. The purpose of this conference is to generally:

1. Provide the opportunity for an applicant to explain the project proposal to City staff who may review a subsequent application; and
2. Inform the applicant of City requirements as they apply to the proposed project based on information provided by the applicant;
3. Discuss the City's review process, possible project alternatives or modifications;
4. Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project;
5. Indicate to the applicant the extent to which the project appears to comply with applicable City regulations, as the project is understood by staff.

Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as either a recommendation for approval or disapproval of the application or project by any City staff. Any failure by City staff to identify all required studies or all applicable requirements shall not constitute a waiver of those requirements.

B. Application contents. Each application for a permit, amendment, or other matter pertaining to this Development Code shall be filed with the Director on a City application form, together with required fees and/or deposits, and all other information and materials required by the City's list of required application contents, as identified in the Department handout for the specific type of application. Applicants are encouraged to contact the Director before submitting an application to verify which materials are necessary for application filing.

C. Eligibility for filing. An application may only be filed by the owner of the subject property, or other person with the written consent of the property owner. With the Director's approval, a lessee with the exclusive right to use the property for a specified use may file an application related to that use.

D. Rejection of application. If the Director determines that an application cannot lawfully be approved by the City (e.g., a request for a Zoning Map amendment or Tentative Map could not be granted in the absence of a concurrent General Plan amendment application; or a Use Permit application proposes a use that is not allowable in the subject zoning district, etc.), the Director shall not accept the application for processing.

18.70.050 - Application Fees

A. Fee schedule. The Council shall establish a schedule of fees for the processing of the applications required by this Development Code, hereafter referred to as the City's Fee Schedule. The fee schedule is intended to allow recovery of all costs incurred by the City in processing permit applications to the maximum extent allowed by the law.

B. Timing of payment. No application shall be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for denial or revocation of any permit or other requested entitlement, notwithstanding any other provisions of this Development Code.

C. Refunds and withdrawals. Application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, no refund due to a disapproval shall be allowed. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to date and the status of the application at the time of withdrawal.

18.70.060 - Developer Indemnification

A. Applicant agreement. At the time of submitting an application for a discretionary land use approval, the applicant shall agree as part of the application, to defend (with legal counsel of City's selection), indemnify, and hold harmless the City and its agents, attorneys, employees, and officers, from any action, claim, or proceeding brought against the City or its agents, employees, and officers to attack, set aside, void, or annul a discretionary land use approval of the City, which action is brought within the applicable statute of limitations. The required indemnification provided herein shall include damages awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with the action.

B. City notification of applicant. In the event that an action, claim, or proceeding referred to in Subsection A., above is brought, the City shall promptly notify the applicant of the existence of the action, claim, or proceeding and shall cooperate fully in the defense of the action, claim, or proceeding.

C. City participation in defense. Nothing in this Section shall prohibit the City from participating in the defense of any action, claim, or proceeding if the City elects to bear its own attorney's fees and costs and defends the action in good faith.

18.70.070 - Initial Application Review

A. Review for completeness. The Director shall review each application for completeness and accuracy before it is accepted as being complete and officially filed. The Director's determination of completeness shall be based on the City's list of required application contents (see Section 18.70.040.B - Application contents), and any additional written instructions provided to the applicant in any pre-application conference, and/or during the initial application review period.

1. Notification of applicant. As required by State law (Government Code Section 65943), within 30 calendar days of application filing, the applicant shall be informed in writing, either that the application is

complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the Director's letter, shall be provided.

2. Appeal of determination. Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Director is not required, the applicant may appeal the Director's determination in compliance with Chapter 18.92 (Appeals).

3. Time for submittal of additional information. When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur. The time available to an applicant for submittal of additional information is limited by following Subparagraph (A.4).

4. Expiration of application.

- a. If an applicant fails to provide the additional information specified in the Director's letter within 180 days following the date of the letter, the application shall expire and be deemed withdrawn, without any further action by the City.
- b. The Director may grant one 90-day extension.
- c. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated fees.

5. Environmental information. After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring).

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

18.70.080 - Project Evaluation and Staff Reports

A. Staff evaluation. The Director shall review all discretionary applications filed in compliance with this Article to determine whether they comply and are consistent with the provisions of this Development Code, other applicable provisions of the Municipal Code, the General Plan, and any applicable specific plan.

B. Staff report. The Director shall provide a written recommendation to the Commission and/or Council (as applicable) as to whether the application should be approved, approved subject to conditions, or disapproved.

C. Report distribution. Each staff report shall be furnished to the applicant at the same time as it is provided to the Review Authority before action on the application.

Chapter 18.71

PERMIT REVIEW AND DECISIONS

Sections:

- 18.71.010 Purpose of Chapter
- 18.71.020 Zoning Clearance
- 18.71.030 Limited Term Permit
- 18.71.050 Design Review
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- 18.71.090 Planned Development Permit

18.71.010 - Purpose of Chapter

A. Permit review procedures. This Chapter provides procedures for the final review, and approval or disapproval of the planning permit applications established by this Development Code.

B. Subdivision review procedures. Procedures and standards for the review and approval of subdivision maps are found in Article 8 (Subdivision Regulations and Procedures).

C. Application filing and initial processing. Where applicable, the procedures of this Chapter are carried out after those described in Chapter 18.70 (Permit Application Filing and Processing), for each application.

18.71.020 - Zoning Clearance

A. Purpose. Zoning Clearance is the procedure used by the City to verify that a proposed land use or structure complies with the list of activities allowed in the applicable zoning district, and the development standards applicable to the use.

B. Applicability. Where Article 2 (Zoning Districts and Allowable Land Uses) or other provision of this Development Code requires a Zoning Clearance as a prerequisite to establishing a land use, the Zoning Clearance shall be required at the time of Department review of any building, grading, or other construction permit, or other authorization required by this Development Code for the proposed use.

C. Review and approval. The Director shall issue the Zoning Clearance after first determining that the request complies with all Development Code provisions applicable to the proposed use. An approval may be in the form of a stamp, signature, or other official notation on approved plans, a letter to the applicant, or other certification, at the discretion of the Director.

18.71.030 - Limited Term Permit

A. Purpose. This Section establishes procedures and standards for the granting of Limited Term Permits for short-term activities. Compliance with applicable standards ensures that the establishment, maintenance or operation of the short-term activity would not be detrimental to the public health, safety, and welfare of persons residing or working in the neighborhood of the proposed activity.

B. Minor short-term activities. A Limited Term Permit allows short-term activities that might not meet the normal development or use standards of the applicable zoning district, but may otherwise be acceptable because of their temporary nature.

C. Limited Term Permit required. Short-term activities shall not be established, operated, or conducted in any manner without the approval and maintenance of a valid Limited Term Permit.

D. Review Authority. Limited Term Permits may be reviewed and approved or disapproved administratively by the Director, in compliance with this Section.

E. Exempt short-term activities. The following short-term activities are allowed without the necessity of obtaining a Limited Term Permit. Short-term activities that do not fall within the following categories shall comply with Subsection F. (Allowed short-term activities).

- 1. Construction yards - On-site.** On-site contractors' construction yards for an approved construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the construction project, whichever first occurs.
- 2. Emergency facilities.** Emergency public health and safety needs/land use activities, as determined by the City Manager.
- 3. Events on sites approved for public assembly.** An event on the site of, or within, a golf course, religious facility, school, theater, meeting hall, or other similar facility designed and approved by the City for public assembly.
- 4. Fund-raising car washes.**
 - a. Car washes on property within a commercial, industrial, or institutional zoning district, limited to a maximum of two days per month for each sponsoring organization.
 - b. Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Revenue and Taxation Code.
- 5. Garage sales.** Garage sales, not to exceed three per year and two consecutive days.
- 6. Public property or public right-of-way.** Construction and maintenance activities conducted on public property that are authorized by an encroachment permit.
- 7. Sidewalk sales.** Sidewalk sales conducted in the Central Business District.

F. Allowed short-term activities. A Limited Term Permit may authorize the following short-term activities within the specified time limits, but in no event for more than 12 months. Other short-term activities that do not fall within the categories defined below shall instead comply with the planning permit requirements and development standards that otherwise apply to the property.

- 1. Construction yards - Off-site.** Off-site contractors' construction yards, for an approved construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the construction project, whichever first occurs.
- 2. Events.** Art and craft exhibits, carnivals, circuses, concerts, fairs, farmer's markets, festivals, flea markets, food events, open-air or drive-in theaters, outdoor entertainment/sporting events, religious revivals, rummage sales, second hand sales, swap meets, and other special events within a 12-month period for up to: 1) five seven consecutive days, or 2) four two-day weekends, 3) one-day event per week, or other similar event timing as determined by the director within a 12-month period. Events are -allowed only on non-residentially zoned properties. These activities shall be referred to the Technical Advisory Committee (TAC) for a recommendation prior to action on the Limited Term Permit.
- 3. Location filming.** The temporary use of a specific site for the location filming of commercials, movies, videos, etc., for the time specified by the Director, but not to exceed 12 months. This activity shall be referred to the Technical Advisory Committee (TAC) for a recommendation prior to action on the Limited Term Permit.
- 4. Model homes.** A model home or model home complex may be authorized before the completion of subdivision improvements in compliance with the following standards.
 - a. The sales office and any off-street parking shall be converted back to residential use and/or removed before the issuance of the Final Occupancy Permit or within 14 days from the sale of the last parcel in the subdivision, whichever first occurs.

Comment [M33]: Allows for more flexibility in special events. Events, such as Farmer's Market, do not meet the current definition.

- b. The model home complex shall be used to sell only units within the subdivision within which the complex is located.
- c. Model home permits will be finalized and the model homes will be allowed to be open to the public only after all subdivision improvements are completed and accepted by the City.
- d. Model home sign permits will be issued only after all subdivision improvements are completed and accepted by the City.
- e. The Review Authority may require other conditions of approval deemed necessary to protect the public health, safety, and general welfare of persons residing or working in the neighborhood.

5. Seasonal sales lots. Seasonal sales activities (e.g., Halloween, Thanksgiving, Christmas, etc.) including temporary residence/security trailers, on non-residentially zoned properties, for up to 30 days. These activities shall be referred to the Technical Advisory Committee (TAC) for a recommendation prior to action on the Limited Term Permit.

6. Temporary occupancy during construction.

- a. Major development projects.** Temporary structures and property may be used during the construction phase of an approved major development project (e.g., residential projects with five or more dwelling units or any commercial or industrial project). The structures or property may be used as offices or for the storage of equipment and/or tools, provided the temporary structures are located within the City.
- b. Minor development projects.** An existing dwelling unit or a temporary structure and property may be used during the construction phase of an approved minor development project (e.g., residential projects with four or fewer dwelling units). The structure or property may be used as a temporary residence, an office, or for the storage of equipment and/or tools.
- c. Appropriate conditions.** The permit shall contain reasonable and necessary conditions regarding the following matters:
 - i) Provisions for adequate ingress and egress.
 - ii) Provisions for the work to be performed on-site.
 - iii) Provisions for the storage of asphalt, concrete, and dirt at designated sites within the subject property; provided the applicant furnishes a schedule, acceptable to the Director, for the periodic disposal or recycling of these materials.
 - iv) Provisions designed to minimize potential conflicts between the work to be performed on-site and the ordinary business and uses conducted within the City.
- d. Length of permit.** The permit may be approved for up to 12 months following the issuance of the companion Building Permit, or upon completion of the subject development project, whichever first occurs.
- e. Extension of permit.** The permit may be extended by the Director if a written request for extension is submitted at least 14 days before expiration of the permit and reasonable reasons are provided by the applicant to justify the requested extension (e.g., the delay was caused by reasons beyond the control of the applicant). The permit may be extended for up to an additional 12 months.
- f. Condition of site following completion.** All temporary structures and related improvements shall be completely removed from the subject site following expiration of the Limited Term Permit or within 30 days of completion of the development project, whichever first occurs.

7. Temporary real estate sales offices. A temporary real estate sales office may be established within the area of an approved subdivision, solely for the first sale of homes. An application for a temporary real estate office may be approved for a maximum of 12 months from the date of approval.

8. Temporary structures. A temporary classroom, office, or similar structure, including a manufactured or mobile unit, may be approved for a maximum of 12 months from the date of approval, as an accessory use or as the first phase of a development project.

9. Temporary work trailers. A trailer or mobile home may be used as a temporary work site for employees of a business, provided that:

- a. The use is authorized by a Building Permit for the trailer or mobile home, and the Building Permit for the permanent structure;
- b. The use is appropriate because:
 - i) The trailer or mobile home will be in place during construction or remodeling of a permanent commercial or manufacturing structure for a maximum of 12 months, or upon expiration of the Building Permit for the permanent structure, whichever first occurs; or
 - ii) The applicant has demonstrated that the temporary work site is a short-term necessity for a maximum of 12 months, while a permanent work site is being obtained; and
- c. The trailer or mobile home is removed before final building inspection or the issuance of a Certificate of Occupancy for the permanent structure.

10. Similar temporary activities. A temporary activity that the Director determines is similar to the other activities listed in this Subsection, and compatible with the applicable zoning district and surrounding land uses.

G. Development standards. The Director shall establish the following standards based on the type of short-term activity, using the requirements of the applicable zoning district, and Articles 3 and 4 for guidance:

1. Access, floor areas, heights, landscaping, off-street parking, setbacks, signs, utilities, and other structure and property development improvements and features;
2. Measures for removal of the activity and site restoration, to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this Development Code; and
3. Limitation on the duration of an approved “temporary structure,” to a maximum of 12 months, so that it shall not become a permanent or long-term structure.

H. Application filing and processing. An application for a Limited Term Permit shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Limited Term Permits, and any applicable fees.

I. Project review, notice, and hearing.

- 1. Director’s review.** Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Development Code.
- 2. No public notice or hearing required.** No public notice or hearing is required before the Director’s decision on a Limited Term Permit.

J. Findings and decision. A Limited Term Permit shall be approved by the Director only after the Director first finds that the requested short-term activity complies with applicable standards in this Section.

K. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on a Limited Term Permit application.

1. Condition of the site following short-term activity. Each site occupied by a short-term activity shall be cleaned of debris, litter, or other evidence of the temporary activity on completion or removal of the activity, and shall thereafter be used in compliance with the provisions of this Development Code. Performance security may be required before initiation of the activity to ensure cleanup after the activity is finished.

2. Performance security for temporary structures. Before issuance of a Limited Term Permit the applicant shall provide performance security in a form and amount acceptable to the Director to guarantee removal of all temporary structures within 30 days following the expiration of the Limited Term Permit.

18.71.050 - Design Review

A. Purpose. Design Review is intended to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-town, coastal, historic, and rural character of the community.

B. Applicability. All new structures, any relocation, exterior addition(s), or changes of or to existing structures, and any other physical improvements shall be subject to Design Review, whether or not a Building Permit is required, unless exempt in compliance with Subsection B.3. (Improvements exempt from Design Review), below. Design Review shall be required in addition to all other planning permit or approval requirements of this Development Code and the Municipal Code.

1. Improvements subject to Design Review by the Commission.

a. The following improvements shall always require Design Review by the Commission:

- i) A project resulting in three or more residential dwelling units on a single parcel, including apartments, condominiums, townhouses, and other multi-family residential development projects.
- ii) All nonresidential development projects, including:

~~(a) Commercial, offices, and industrial structures~~ or additional of more than ~~250~~120 square feet;

~~(b) Marinas and yacht harbors; and~~

~~(c) Cultural, fraternal, quasi-public, religious, social, and similar structures for places of assembly;~~

- iii) The aesthetic impact of grading or filling of land.

b. The following improvements shall require Design Review by the Commission only if in conjunction with a development project:

- i) Removal of natural ground cover, trees, or vegetation.
- ii) Installation of a fence, wall, or retaining wall visible from a public right-of-way.
- iii) Landscaping including vegetation, irrigation systems, and low level lighting.
- iv) Signs included with plans for any project listed above.
- v) Exterior lighting.

2. Improvements subject to Design Review by the Director. The following improvements shall be subject to Design Review by the Director, when constructed as a stand-alone project [e.g. not constructed in

Comment [MJ4]: 120 feet is a very small structure and exempt from obtaining a building permit.

Comment [MJ5]: Not in the inland area

Comment [MJ6]: Included in a above.

conjunction with a development project, otherwise it is subject to review and approval by the Commission as required in 18.71.050(B)(1)]:

- a. The construction or rehabilitation/remodeling/addition of any detached accessory structure or garage that exceeds 16 feet in height.
- b. The construction of a commercial structure or addition of less than ~~25120~~ square feet.
- c. Removal of natural ground cover, trees, or vegetation;
- ~~d. Installation of a fence, wall, or retaining wall visible from a public right-of-way;~~
- ~~e. Landscaping including vegetation, irrigation systems, and low level lighting;~~
- f. Signs that do not require Commission review; or
- ~~g. Exterior lighting; or~~
- h. Other work determined by the Director to be substantially similar in scope to improvements subject to Design Review by the Director.

3. Improvements exempt from Design Review. The following improvements are exempt from Design Review:

- a. One single-family dwelling on a single parcel, a second unit on a single parcel, a duplex, and or – any related residential accessory structures of less than 16 feet in height;
- b. Structural improvements not visible from a public right-of-way;
- ~~d. Installation of a fence, wall, or retaining wall visible from a public right-of-way;~~
- ~~e. Landscaping including vegetation, irrigation systems, and low level lighting;~~
- ~~g. Exterior lighting;~~
- c. Work determined by the Director to be minor or incidental within the intent and objectives of this Section; and
- d. Ordinary maintenance and repair of structures, landscaping, and fencing.

C. Application filing and processing. An application for Design Review shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by the information and materials specified in the Department handout for Design Review, and the materials identified in Section D. (Requirements for submittal), below. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

D. Requirements for submittal. Each plan submitted for Design Review shall be drawn to scale with all dimensions shown.

1. Site plans. The site plan shall show the following proposed and existing physical improvements and features:

- a. All structures and other improvements on the subject parcel shall be shown demonstrating setback lines and the distance structures are from property lines.
- b. The plan shall show the location of all adjoining streets including pavement, curb, and sidewalk.
- c. On adjoining parcels the general location of primary and accessory structures, curb cuts, driveways and parking lots.

Comment [MJ7]: The City does not as a rule engage in design review for minor projects such as these, so long as they conform with the City's zoning ordinance design review of these projects should not be necessary.

Comment [MJ8]: See note above.

2. Architectural elevations.

- a. Elevations of all sides of new structures shall be shown.
- b. If the exterior of an existing structure is to be changed, all existing and proposed elevations of the structure shall be shown.
- c. Exterior materials and colors of all proposed and existing structures shall be indicated or generally described. Color and material samples shall be submitted.
- d. All mechanical equipment or similar features located above the roof shall be shown.

3. Floor and roof plans. Floor and roof plans for all structures shall be shown.

4. Landscape plans. A detailed landscape plan shall be submitted for the entire site, in compliance with Chapter 18.34 (Landscaping Standards).

5. Sign plans. A detailed sign plan shall be submitted for the entire site, in compliance with Chapter 18.38 (Signs).

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Development Code.

1. Notice and hearing. The Commission shall conduct a public hearing on an application for a Design Review before a decision on the application. Notice of the hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

FF. Project review criteria. The Review Authority shall evaluate each application to ensure that the project:

1. Complies with the purpose and requirements of this Section;
2. Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;
3. Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;
4. Provides efficient and safe public access, circulation, and parking;
5. Provides appropriate open space and landscaping, including the use of water efficient landscaping;
6. Is consistent with the General Plan, any applicable specific plan; and
7. Complies and is consistent with the City's Design Guidelines.

GF. Findings and decision. The Review Authority shall approve or disapprove an application for Design Review approval concurrently with the approval or disapproval of any other planning permit (e.g., Use Permit, Minor Use Permit, Variance or Administrative Variance, Zoning Clearance) required for the project, if the Design Review application is filed with the City at the same time. Design Review approval shall require that the Review Authority first find that the project, as proposed or with changes resulting from the review process and/or conditions of approval, complies with all applicable criteria identified in Subsection E. (Project review criteria), above.

1. An application for Design Review may be approved, conditionally approved, or disapproved.
2. The Director shall review construction drawings, final plans, and other similar documents for compliance with the approved Design Review, any conditions of approval, and any approved or required modifications to the approved plans.

Comment [MJ9]: Add hearing requirement for design Review permit heard by Planning Commission. This ensures proper noticing.

3. A Design Review decision shall become effective upon the expiration of 10 days following the decision, unless an appeal is made in compliance with Chapter 18.92 (Appeals).

II.G. Conditions of approval. The Review Authority may require any reasonable and necessary conditions of approval to ensure that the project will comply with the findings required by Subsection F., above. The violation of any condition so imposed shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

II.H. Expiration of Design Review approval.

1. **Time limit.** Design Review approval in compliance with this Section shall lapse and become void 12 months from the date of approval, unless before the expiration of the 12 months, a Building Permit is issued and construction is commenced and diligently pursued towards completion.
2. **Exceptions.** The only exception to the above is Commission Design Review approval for a period not to exceed two years in a case where it is anticipated that the time for project development will exceed 12 months.
3. **Extension of approval.** Design Review approval may be extended by the Director for an additional period of 12 months; provided no changes in conditions or requirements have occurred before the expiration of 12 months from the date of the original approval, and an application for an extension is filed with the Department at least 30 days before the date of expiration.

II.I. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following the decision on an application for Design Review.

18.71.060 - Use Permit and Minor Use Permit

A. Purpose. A Use Permit or Minor Use Permit provides a process for reviewing uses and activities that may be appropriate in the applicable zoning district, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site.

B. Applicability. A Use Permit or Minor Use Permit is required to authorize proposed land uses identified by Article 2 (Zoning Districts and Allowable Land Uses) as being allowable in the applicable zoning district subject to the approval of a Use Permit or Minor Use Permit.

C. Review Authority.

1. **Use Permits.** Use Permits shall be approved or disapproved by the Commission.
2. **Minor Use Permits.** Minor Use Permits shall be approved or disapproved by the Director.
 - a. The Director may choose to refer any Minor Use Permit application to the Commission for hearing and decision.
 - b. A Minor Use Permit application shall only be issued if there is evidence that the project is eligible for a California Environmental Quality Act (CEQA) exemption in compliance with State law and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring). Projects that are otherwise eligible for a Minor Use Permit, but are not eligible for a CEQA exemption, shall be processed as a Use Permit.

D. Application filing and processing. An application for a Use Permit or Minor Use Permit shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall include the information and materials specified in the Department handout for Use Permits, and the following information.

1. **Fiscal and economic analysis.** An application for a Big Box Retail project as defined in Article 10 (Glossary) shall include a fiscal and economic analysis.

2. Traffic Study. A traffic study shall be required for uses determined by the Director or Director of Public Works to be high trip generators.

- a. The traffic study shall identify both cumulative and project-specific traffic impacts.
- b. All traffic impacts shall be reduced, to the maximum extent feasible, through compliance with applicable development standards and/or conditions of approval.

It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Development Code.

1. Use Permit.

a. Notice and hearing. The Commission shall conduct a public hearing on an application for a Use Permit before a decision on the application. Notice of the hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

2. Minor Use Permit. Before a decision on a Minor Use Permit, the public notice shall be provided in compliance with Chapter 18.96 (Public Hearings), and as follows.

a. Public notice. The notice shall state that the Director will decide whether to approve or disapprove the Minor Use Permit application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

b. Hearing. When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96, and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. Findings and decision. An application for a Use Permit or Minor Use Permit may be approved subject to conditions, or disapproved by the Review Authority. The Review Authority shall approve a Use Permit or Minor Use Permit only after first finding all of the following:

1. The proposed use is consistent with the General Plan and any applicable specific plan;
2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.
5. The proposed use complies with any findings required by Section 18.22.030 (Commercial District Land Uses and Permit Requirements).

G. Conditions of approval. In approving a Use Permit or Minor Use Permit, the Review Authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection F. (Findings and decision), above. The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Use Permit or Minor Use Permit.

18.71.070 - Variance and Administrative Variance

A. Purpose. The Variance and Administrative Variance provide a process for City consideration of requests to waive or modify certain standards of this Development Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.

B. Applicability. A Variance or Administrative Variance may be granted to waive or modify any requirement of this Development Code except: allowed land uses; residential density; specific prohibitions (for example, prohibited signs), or procedural requirements.

C. Review Authority.

1. Variance. A Variance application shall be reviewed, and approved or disapproved by the Commission.

2. Administrative Variance. An Administrative Variance application shall be reviewed, and approved or disapproved by the Director.

a. The Director may grant an Administrative Variance to reduce any of the following requirements of this Development Code up to a maximum of ~~10~~ **25** percent:

- i) Distance between structures;
- ii) Parcel dimensions (not including area);
- iii) Setbacks;
- iv) On-site parking, loading, and landscaping;
- v) Sign regulations (other than prohibited signs);
- vi) Lot coverage; and/or
- vii) Floor area ratio.

b. The Director may choose to refer any Administrative Variance application to the Commission for hearing and decision.

D. Application filing and processing. An application for a Variance or Administrative Variance shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Variances or Administrative Variances. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with this Section, and all other applicable requirements of this Development Code.

1. Variance. The Commission shall conduct a public hearing on an application for a Variance before a decision. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

2. Administrative Variances. Before a decision on an Administrative Variance, the City shall provide notice of a public hearing in compliance with Chapter 18.96 (Public Hearings).

Comment [MJ10]: The 10% threshold is very small. 10% of a ten foot setback is one foot. No enough to be meaningful as a consequent virtually all variance requests must go to the Planning Commission.

a. Initial notice. The notice shall state that the Director will decide whether to approve or disapprove the Administrative Variance application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

b. Notice and conduct of hearing. When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96 (Public Hearings), and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. Findings and decision.

1. General findings. The Review Authority may approve a Variance or Administrative Variance only after first making all of the following findings.

a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;

b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and

c. The Variance or Administrative Variance is consistent with the General Plan and any applicable specific plan.

2. Findings for off-site parking Variance. The approval of a Variance to allow some or all of the parking spaces required for a nonresidential project to be located off-site, or to allow in-lieu fees or facilities instead of the required on-site parking spaces, shall require that the Review Authority first make both of the following findings in compliance with Government Code Section 65906.5, instead of those required by Subsection F.1. above.

a. The Variance will be an incentive to, and a benefit for, the nonresidential development; and

b. The Variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

3. Reasonable accommodation. The Review Authority may also grant a Variance or Administrative Variance to the site planning or development standards of this Development Code in compliance with this Section, based on the finding that the Variance or Administrative Variance is necessary to accomplish a reasonable accommodation of the needs of a disabled person in compliance with the Americans with Disabilities Act (ADA). (Housing Element, Program H-3.9.1)

G. Conditions of approval. In approving a Variance or Administrative Variance, the Review Authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection F. (Findings and decision), above. The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Variance or Administrative Variance.

18.71.080 - Emergency Permit

A. Purpose. This Section provides procedures for the issuance of Emergency Permits deemed necessary to perform work to resolve problems resulting from a situation falling within the term “emergency” as defined in Article 10 of this Development Code (Glossary).

B. Applicability. When immediate action by a person or public agency is required to resolve an emergency, requirements to obtain the otherwise appropriate development permit may be waived by the Director upon receiving

notification of the emergency, identification of the type of work required to resolve the emergency, and the location of work to be performed.

C. Review Authority. The Director shall have the discretion to grant Emergency Permits in compliance with this Section, provided that the City Manager may choose to assume all responsibilities delegated to the Director pertaining to the issuance of emergency permits.

D. Method and content of notification. Notification of the emergency to the Director shall be by letter or facsimile, if time allows, or by telephone or personal contact, if time does not allow. The person notifying the Director shall report to their best knowledge:

1. The nature and location of the emergency;
2. The cause of the emergency, insofar as this can be established;
3. The remedial, protective, or preventive work required to resolve the emergency;
4. The circumstances during the emergency that appeared to justify the proposed courses of action; and
5. The probable consequences of failing to take the actions necessary to resolve the emergency.

E. Verification.

1. The Director shall verify that an emergency does exist insofar as time allows.
2. The Director and the person or public agency that made the notification shall document the facts related to the emergency.

F. Public notice. The Director shall provide public notice of the proposed emergency actions, by use of radio, television, or print media, as determined to be appropriate by the Director based on the nature of the emergency.

G. Required findings, conditions.

1. **Findings.** Before granting the Emergency Permit, the Director shall first find that:
 - a. An emergency exists that requires action more quickly than allowed by City procedures customarily required for the processing of appropriate development permits;
 - b. Public comment has been considered regarding the emergency and the proposed actions, if time allows;
 - c. The work is consistent with the nature of the emergency; and
 - d. The work authorized by the permit qualifies for emergency exemption under CEQA.
2. **Conditions of approval.** If granted, an Emergency Permit shall be subject to reasonable and necessary terms and conditions, including the following.
 - a. Language clearly indicating that the work accomplished under an Emergency Permit is considered temporary until the appropriate development permit is issued for the work;
 - b. An expiration date for the Emergency Permit; and
 - c. A condition specifying the need to apply for the appropriate development permit once the emergency is resolved, or within 90 days following the date of issuance, whichever first occurs.

The violation of any condition of approval shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Reporting.

1. The Director shall report, in writing or orally, to the Council at each regular meeting of the Council while an Emergency Permit is in effect. The report shall state the nature of the emergency, the progress of the work to resolve the emergency, and any other pertinent information.
2. Copies of any written report shall be available at the Council meetings and shall be mailed to all persons who have requested notification and associated reports in writing.

I. Time limits. An approved Emergency Permit shall be valid for a maximum of 60 days following the date of issuance; provided that the permit shall expire and become void seven days following the date of issuance if it is not properly exercised, or if the emergency ceases to exist.

J. Normal permits required. The responsible person or public agency shall apply for the appropriate development permit otherwise required by this Development Code within 90 days following the date of issuance of the Emergency Permit or once the emergency is resolved, whichever occurs first. Failure to file the necessary applications and obtain the development permits normally required by this Development Code shall result in enforcement action in compliance with Chapter 18.98 (Enforcement and Penalties). During the processing of the appropriate development permit applications, all work required to remedy the emergency may continue until the emergency is satisfactorily resolved.

18.71.090 - Planned Development Permit

A. Purpose. The Planned Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each Planned Development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. Applicability. A Planned Development Permit application may be filed and processed only under the following circumstances.

1. **Minimum site area.** A Planned Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site larger than five acres.
2. **Timing of permit.** No Building or Grading Permit shall be issued on a site for which a Planned Development Permit is proposed until the Planned Development Permit has been approved in compliance with this Section.
3. **Scope of approval.**
 - a. Planned Development Permit approval may adjust or modify, where determined by the Review Authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.), provided that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article 2.
 - b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter 18.31 (Density Bonuses and Affordable Housing Incentives).

C. Application filing and processing. An application shall be filed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Planned Development Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection F. (Commission action), below.

D. Review Authority. A Planned Development Permit may be granted by the Commission.

E. Project review, notice, and hearing.

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

2. Public hearing. The Commission shall conduct a public hearing on an application for a Planned Development Permit before the approval or disapproval of the permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

F. Commission action. Following a public hearing, the Commission may approve or disapprove a Planned Development Permit, and shall record the decision and the findings upon which the decision is based.

1. Required findings. The Commission may approve a Planned Development Permit only after first finding that:

- a. The project is consistent with the General Plan and any applicable specific plan, and allowed within the applicable zoning district;
- b. The project complies with all applicable provisions of this Development Code other than those modified by the Planned Development Permit;
- c. The approved modifications to the development standards of this Development Code are necessary and appropriate to accommodate the superior design of the proposed project, its compatibility with adjacent land uses, and its successful mitigation of any identified environmental impacts;
- d. The development authorized by the Planned Development Permit approval will be of significantly higher quality, more energy efficient, more conserving of resources, and will produce fewer and less serious environmental impacts than development that could otherwise occur in compliance with the requirements of this Development Code without adjustment.
- e. The project complies with all applicable provisions of the City's Design Guidelines;
- f. The project can be adequately, conveniently, and reasonably served by public facilities, services, and utilities;
- g. The planning concepts and design features of the project are reasonably suited to the characteristics of the site and the surrounding neighborhood;
- h. The location, size, planning concepts, design features, and operating characteristics of the project are and will be compatible with the character of the site, and the land uses and development intended for the surrounding neighborhood by the General Plan;
- i. The site is adequate for the project in terms of size, shape, topography, and circumstances; and
- j. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2. Conditions of approval. In approving a Planned Development Permit, the Commission may impose any conditions deemed reasonable and necessary to ensure that the project will comply with the findings required by Subsection F.1.

G. Time limit and expiration.

1. A Planned Development Permit may specify a development completion period acceptable to the Review Authority.
2. If a time limit is not specified in the permit, the completion period shall not exceed two years.

3. If project construction has not commenced within the required time limit, the Planned Development Permit shall automatically be terminated and deemed void, with no further action required by the City.

H. Planned Development Permit amendment.

1. **Commission action on requested changes.** Any requested change in the Planned Development Permit, other than those allowed by Subparagraph 3., below, shall be submitted to the Review Authority that originally approved the permit for review and approval following the same review notice and hearing procedures as for the original approval.
2. **Added conditions.** The Review Authority may, as a condition of approval, impose added changes or conditions on the Planned Development Permit amendment as it deems reasonable and necessary to carry out the purpose and intent of the original Planned Development Permit and this Section.
3. **Minor changes by Director.** Minor changes in the Planned Development Permit which do not involve an increase in building area, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Subparagraph 18.76.080 (Changes to an Approved Project).

1. **Post approval procedures.** The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for Planned Development Permit approval.

Chapter 18.72

ENVIRONMENTAL IMPACT ASSESSMENT AND MITIGATION MONITORING

Comment [MJ11]: This section was updated in 2014. No changes are recommended.

Sections:

- 18.72.010 Purpose of Chapter
- 18.72.020 Authority
- 18.72.030 Guiding Principles
- 18.72.040 Applicability
- 18.72.050 Exemptions from CEQA
- 18.72.060 Review Authority
- 18.72.070 Time Limits
- 18.72.080 Review and Determination Procedures
- 18.72.090 Negative Declarations & Mitigated Negative Declarations
- 18.72.100 Draft Environmental Impact Reports
- 18.72.110 Final Environmental Impact Reports
- 18.72.120 Standards of Adequacy
- 18.72.130 Findings
- 18.72.140 Notice of Determination
- 18.72.150 Environmental Compliance and Monitoring Program
- 18.72.160 Fees and Deposits
- 18.72.170 Appeal

18.72.010 - Purpose of Chapter

This Chapter implements the requirements of the California Environmental Quality Act (CEQA) by providing the City, as lead agency, with criteria, objectives, principles, and procedures for applying the requirements of CEQA to proposed projects, including the preparation and processing of Negative Declarations, Mitigated Negative Declarations, Environmental Impact Reports (EIR), and other environmental review documents for projects that are subject to CEQA. The basic purposes of CEQA, and the provisions of this Chapter are to:

- A. Inform government decision makers and the public about the potential environmental effects of proposed activities;
- B. Identify ways that potential environmental damage may be avoided or significantly reduced;
- C. Prevent significant, avoidable environmental impacts by requiring changes in projects, either by the adoption of alternatives or the imposition of mitigation measures; and
- D. Disclose to the public why a project was approved if that project could cause significant environmental effects.

18.72.020 - Authority

These guidelines are adopted to implement the California Environmental Quality Act of 1970, California Public Resources Code Section 21082 et seq., referred to in this Chapter as “CEQA,” and Title 14, Chapter 3, Sections 15000, et seq., of the California Code of Regulations, referred to in this Chapter as the “CEQA Guidelines.”

18.72.030 - Guiding Principles

The following principles shall serve as a guide for all applications submitted to the City for review and approval and determined to be projects under CEQA:

- A. Timing of review.** Environmental considerations shall be dealt with at the earliest point possible by emphasizing the use of an initial study. Any potentially adverse effects that are properly mitigated through re-design may preclude more extensive environmental review.
- B. Extent of review.** The least extensive environmental review consistent with the purpose of this Chapter shall be utilized (e.g., an Environmental Impact Report would not be required if a Negative Declaration can legitimately

be prepared). In this way, sufficient environmental protection would be afforded while minimizing the project review period.

C. Mitigation measures. The primary goal of the environmental review process shall be to incorporate mitigation measures in the project proposal to be considered by the Review Authority where necessary and appropriate to reduce the potential for significant environmental impacts.

D. Mitigation monitoring.

1. Where mitigation of environmental impacts is required, the mitigation measures shall be monitored over time to ensure that the steps taken are adequate for the intended purpose, in compliance with Section 15097 of the CEQA Guidelines.
2. An applicant for a project for which mitigation monitoring is required shall be responsible for all costs associated with the monitoring program, in compliance with Section 18.72.160 (Fees and Deposits).

18.72.040 - Applicability

These implementation measures are intended to augment CEQA and the CEQA Guidelines. This Chapter is not intended to replace CEQA, and **full compliance with CEQA is required regardless of the provisions of this Chapter.**

A. City actions. These guidelines shall apply to all City actions in the implementation of CEQA.

B. Conflicting provisions. In the event of any conflict between the provisions of this Chapter, and CEQA or the CEQA Guidelines, **CEQA and the CEQA Guidelines shall prevail.**

18.72.050 - Exemptions from CEQA

A proposed project shall be exempt from CEQA if it is exempt by State statute (statutorily exempt), categorical exemption, general rule, or by rejection or disapproval of the project, in compliance with CEQA Guidelines Section 15061. Statutory exemptions include ministerial projects, as defined in CEQA Guidelines Section 15369. See also Section 18.72.080.C (Statutorily and categorically exempt projects).

18.72.060 - Review Authority

Negative Declarations, Mitigated Negative Declarations and Environmental Impact Reports. Negative Declarations, Mitigated Negative Declarations and Environmental Impact Reports shall be reviewed and approved or disapproved by the same body (Planning Commission or City Council) that has the project approval authority (see Section 18.70.030, Table 7-1).

18.72.070 - Time Limits

Time limits governing the preparation and review of CEQA documents are in CEQA Guidelines Sections 15100 through 15112.

A. Time limits for City action. The City shall complete and approve a Negative Declaration and a Mitigated Negative Declaration in not more than 180 days; and complete and certify an EIR in compliance with CEQA Guidelines Section 15108. The time limits may be waived when a project must comply with both CEQA and the National Environmental Policy Act (NEPA), or the applicant has requested or consented to a waiver of the time limits.

B. Suspension of time limits. An unreasonable delay by an applicant in meeting requests by the City necessary for the preparation of a Negative Declaration or an EIR shall suspend the running of the time limits identified in Subsection A., above, for the period of the unreasonable delay. Alternatively, the City may disapprove a project application, in accordance with Section 15109 of the CEQA Guidelines.

18.72.080 - Review and Determination Procedures

A. Application content and completeness. Each application shall contain sufficient information to allow a determination of whether environmental review is required and, if so, the type of environmental document that shall be prepared. An application without this information shall be deemed complete in compliance with Section 18.70.070 (Initial Application Review).

1. Project description. A planning permit application filed in compliance with Section 18.70.040 (Application Preparation and Filing) shall include a detailed project description, for City use in the preparation of an initial study to evaluate the potential environmental impacts of the project in compliance with CEQA Guidelines Section 15063(a).

2. Additional information. The City may require an applicant to supply additional data and information necessary for making an environmental determination, in compliance with CEQA Guidelines Section 15063(e).

B. Preliminary determination. Upon receipt by the City of an application for project approval, or a proposal for a public project, the Director shall make a preliminary determination as to whether environmental review in compliance with this Chapter is required, and what type of environmental document shall be required. The Director shall report the determination either to the applicable City department, if the project is ministerial or otherwise exempt from CEQA, or to the applicant or applicant's representative.

C. Statutorily and categorically exempt projects. A project identified by the CEQA Guidelines as statutorily or categorically exempt (CEQA Guidelines Sections 15260 through 15285, or 15300 through 15332, respectively) is not subject to the provisions of this Chapter, unless it conforms to an exception to a categorical exemption listed in Section 15300.2 of the CEQA Guidelines. If the proposed project requires notice of a public hearing or other notice in compliance with other provisions of this Development Code, the notice shall also include a statement that the project is statutorily or categorically exempt, as applicable. Following the approval of a project that has been determined to be exempt, the City may also file a Notice of Exemption in accordance with Section 15062 of the CEQA Guidelines. The City shall file a Notice of Exemption for any project for which the City received comments or letters in opposition to the project from the public.

D. Initial study. An initial study shall be prepared by the Department in compliance with CEQA Guidelines Section 15063, to determine the required level of environmental review (e.g., Negative Declaration, Mitigated Negative Declaration or EIR). If an EIR is required, the Director may waive the requirement for an initial study.

E. Environmental determination. In determining whether the proposed project may have a significant effect on the environment, and therefore what level of environmental review is required for the project (ND, MND or EIR), the Director shall make a determination based on the Initial Study and in compliance with CEQA Guidelines Sections 15063 through 15065, 15070, 15081.5 and CEQA Appendix G.

18.72.090 - Negative Declarations (ND) & Mitigated Negative Declarations (MND)

A. Notice of intent. If the Director determines that a Negative Declaration or Mitigated Negative Declaration shall be prepared, a notice of intent to adopt a Negative Declaration (or a Mitigated Negative Declaration) shall be published, posted and/or mailed in compliance with CEQA Guidelines Section 15072.

B. Contents. A Negative Declaration or a Mitigated Negative Declaration shall include the elements required in CEQA Guidelines Section 15071.

C. Public review period. Public review for a proposed Negative Declaration or Mitigated Negative Declaration shall comply with CEQA Guidelines Section 15073.

D. Recirculation of Negative Declaration or Mitigated Negative Declaration. If, after the City gives notice of its intent to adopt a ND or MND, and prior to its adoption, the ND or MND is substantially revised (as defined in Section 15073.5(b) of the CEQA Guidelines), the ND or MND must be recirculated in accordance with Section 15073.5(a) of the CEQA Guidelines, unless recirculation is not required pursuant to Section 15073.5(c) of the CEQA Guidelines, or unless revisions to the project require the preparation and certification of an EIR, pursuant to Section 15073.5(d) of the CEQA Guidelines.

E. Required findings. In adopting a Negative Declaration or Mitigated Negative Declaration, the Review Authority shall first determine that the project will not have a significant adverse effect on the environment and make required CEQA findings pursuant to Section 15074(b) of the CEQA Guidelines.

F. Hearing and adoption.

1. Action on Negative Declarations and Mitigated Negative Declarations.

- a. Before making a determination on a project, the Review Authority shall consider the ND or MND in conjunction with a hearing on the project permit application.
- b. The Review Authority shall either adopt the ND or MND, or return it to the Department for further study.
- c. The applicant shall address any adverse impacts identified by the Review Authority and may revise the project to mitigate the impacts, subject to, or in accordance with, the procedures for substituting or deleting mitigation measures that are found to be infeasible or otherwise undesirable, as described in Section 15074.1 of the CEQA Guidelines.
- d. When a Review Authority adopts a MND, it shall also adopt a program for monitoring or reporting on the mitigation measures identified in the MND, in accordance with Section 15097 of the CEQA Guidelines and Section 18.72.150(E).

G. Notice of Determination. Following project approval, a Notice of Determination shall be prepared and signed by the Director, and shall be filed with the County Clerk and with the Office of Planning and Research, if required by CEQA Guidelines Section 15075. See also Public Resources Code Sections 21080.4 and 21152(a).

18.72.100 - Draft Environmental Impact Reports

A. Notice of Preparation. Immediately after determining that an EIR is required for a project, the Director shall send a Notice of Preparation (NOP) to each responsible agency by certified mail and to the State Clearinghouse in compliance with CEQA Guidelines Section 15082.

B. Preparation and adequacy.

1. **Preparation of Draft EIR.** When an EIR is required, it shall be prepared by a consultant under contract to the City or by City staff, with the applicant paying for all costs of EIR preparation. If the EIR is to be prepared by a consultant, the City shall request EIR proposals under established City criteria and select a qualified consultant from respondents.
2. **Administrative review.** The Director shall review an administrative Draft EIR and either determine that it is adequate and authorize preparation of the Draft EIR, or determine that the administrative Draft EIR is inadequate and return it to the preparer for additional work.

C. EIR contents. Each EIR prepared by or for the City shall include discussion of all topics required by CEQA Guidelines Sections 15120, 15122 through 15131. The EIR shall be prepared in compliance with Sections 15140 through 15148. Data and conclusions may be drawn from other reports accepted by the City and appropriately referenced within the EIR in compliance with CEQA Guidelines Sections 15150 and 15148. The EIR shall address all potential environmental impacts.

D. Distribution and review. The City shall provide for notice and public review of the Draft EIR in compliance with CEQA Guidelines Section 15087.

E. Public hearing. A public hearing is not required by CEQA, however it is preferred for all Draft EIRs. If a public hearing is held for consideration of a Draft EIR, the following applies:

1. The hearing shall occur during the public review period.
2. Notice of the public hearing shall be provided in compliance with CEQA Guidelines Section 15087(c).

18.72.110 - Final Environmental Impact Reports

A. Response to comments. Upon completion of the public review period, the Director shall collect all comments on the Draft EIR and provide them to the City's consultant or City staff. All comments (including late comments received prior to certification of the EIR) and appropriate responses shall be included in the Final EIR in compliance with CEQA Guidelines Section 15088.

B. Review. If requested by the Director, the EIR preparer shall submit for review an administrative draft of the Final EIR. The Director shall either determine that it is adequate and authorize preparation of the Final EIR, or determine that it is inadequate and return it to the preparer for further analysis. (CEQA Guidelines Section 15084)

C. Contents of Final EIR. A Final EIR shall contain the information described in Section 15132 of the CEQA Guidelines.

D. Certification of Final EIR.

1. No action shall be taken to approve a project that requires an EIR until the Review Authority has certified that the Final EIR has been prepared in compliance with CEQA, that it has been reviewed and considered by the Review Authority, and that it represents the City's independent judgment and analysis.
2. A public hearing is preferred for certification of a Final EIR and may be held in conjunction with the hearing on the project application(s).
3. If a public hearing is held in conjunction with the certification of an EIR, the notice of the public hearing shall be provided in compliance with CEQA Guidelines Section 15087(c).

E. Distribution of Final EIR. Copies of the Final EIR shall be placed in the City Clerk's office, public library, and in other locations designated by the Director.

18.72.120 - Standards of Adequacy

A. Sufficient degree of analysis. An EIR should be prepared with a sufficient degree of analysis to provide the Review Authority with the information which enables them to consider all of the potential environmental consequences in compliance with CEQA Guidelines Section 15151.

B. Responsibility for adequacy. The draft and Final EIRs shall reflect the City's independent judgment in compliance with CEQA Guidelines Section 15084.

C. Determination of Inadequacy of EIR. If the Review Authority determines that the Final EIR is inadequate, it shall be returned to the City's consultant or City staff for further processing.

D. Recirculation of EIR. If, after the City gives notice of availability of a Draft EIR for public review, and prior to its certification, significant new information (as defined in Section 15088.5(a) of the CEQA Guidelines), is added to the EIR, the EIR must be recirculated in accordance with Section 15088.5 of the CEQA Guidelines, unless recirculation is not required pursuant to Section 15088.5(b) of the CEQA Guidelines, or unless only partial recirculation of the EIR is required, pursuant to Section 15088.5(c) of the CEQA Guidelines.

18.72.130 - Findings

Before the Review Authority acts on a project for which an EIR has been certified, it shall certify that it has reviewed and considered the information identified in the EIR, and it shall determine whether the project would or would not have a significant effect on the environment.

A. Required findings. The Review Authority shall not approve or carry out a project where the certified EIR identifies one or more significant environmental effects, unless the Review Authority makes one or more of the required findings, supported by written evidence, in compliance with CEQA Guidelines Section 15091.

B. Statement of Overriding Considerations. The Review Authority may approve a project which may result in significant adverse impacts on the environment only if the Review Authority first adopts written findings clearly identifying the social and economic benefits that outweigh the possibility of environmental damage and issues a Statement of Overriding Considerations in compliance with CEQA Guidelines Section 15093.

18.72.140 - Notice of Determination and Disposition of EIR

A. After the approval or disapproval of a project for which a Final EIR has been certified, the Director shall file a Notice of Determination with the County Clerk in compliance with CEQA Guidelines Section 15094. If the project requires discretionary approval from a State agency, the Notice of Determination also shall be filed with the Office of Planning and Research.

B. Following certification of an EIR, the Director shall comply with the filing, distribution and retention requirements for the certified EIR, as described in Section 15095 of the CEQA Guidelines.

18.72.150 - Environmental Compliance and Monitoring Program

A. Purpose. This Section establishes procedures for the environmental compliance and monitoring of project conditions imposed as a result of the certification of an EIR or a Mitigated Negative Declaration with mitigation measures based on project conditions of approval, in compliance with CEQA Guidelines Section 15097. (Also see Public Resources Code Section 21081.6.)

B. Negative Declaration. A project with a Negative Declaration that includes no mitigation measures or project conditions does not require an environmental compliance and monitoring program, as long as the plans, specifications, actual construction, use, or operation comply with all applicable City standards and requirements.

C. Mitigated Negative Declaration. A project with a Mitigated Negative Declaration shall be processed as follows.

1. Before the application is submitted to the Review Authority for final action, the Director shall prepare a list of all proposed conditions of approval, including those required to reduce to levels of insignificance any identified environmental impacts, and conditions required to ensure project compliance with applicable City codes, policies, and regulations.
2. Each condition shall be written so that it is either time specific, quantifiable, or dependent upon further approval by the Community Development Director and shall specify the City department or other agency responsible for monitoring compliance.
3. A copy of the proposed conditions, along with the staff report shall be provided to the applicant.
4. Following final City action to approve or conditionally approve the application, the applicant shall sign a copy of the approving action indicating full understanding of, and agreement to comply with all of the conditions and required mitigation measures, including any modifications or additional conditions required by the Review Authority.

D. EIR. A project that requires an EIR shall be processed as follows:

1. The Draft EIR shall include a proposed environmental compliance measure prepared in compliance with CEQA Guidelines Section 15126.4, with conditions including those required to reduce to levels of insignificance any identified environmental impacts, and conditions required to ensure project compliance with all applicable City codes, policies, and regulations.
2. The proposed conditions of approval shall be incorporated into the Draft EIR in a chapter or section clearly identified as containing recommended or proposed conditions of approval.
3. Each condition shall be written so that it is either time specific or quantifiable, and shall specify the City department or other agency responsible for monitoring compliance.
4. The conditions shall be part of the public and agency review process.
5. The Final EIR shall include the chapter or section with the conditions revised for the final document.
6. Following final City action to approve or conditionally approve the application, the applicant shall sign a copy of the approving action indicating full understanding of, and agreement to comply with all of the conditions and mitigations, including any modifications or additional conditions required by the Review Authority.

E. Mitigation Monitoring and Reporting Program. For a project with an MND or EIR that includes mitigation measures, the lead agency shall implement a Mitigation Monitoring and Reporting Program in compliance with CEQA Guidelines Section 15097 and as defined below:

1. Following Adoption of an MND or certification of an EIR, but prior to project approval, the Review Authority shall adopt a Mitigation Monitoring and Reporting Program (MMRP) pursuant to CEQA Guideline Section 15091 (d).
2. The Community Development Department shall take lead responsibility for administering the mitigation monitoring and reporting requirements associated with MNDs and EIRs certified by the Review Authority.
3. The Project proponent shall take lead responsibility for implementation of all mitigation measures in a Project MMD or EIR, including but not limited to those that are special conditions of a permit approval.
4. Non-compliance with required Mitigation Measures shall be subject to all enforcement mechanisms available to the City under Chapter 18.98 - Enforcement and Penalties.

F. Compliance with conditions. No certificate, license, or permit for use or occupancy shall be issued by the City until the Director has verified that the project is in compliance with all applicable conditions.

1. If conditions are scheduled for compliance in phased intervals, the next phase shall not commence until the Director has determined that all approved conditions have been satisfied for the previous phases.
2. If a permit condition requires a regular or periodic report, the permit holder shall be responsible for submittal of the appropriate report before the specified date.
3. If the City requires the services of a qualified professional in order to determine compliance with conditions or reporting requirements, the permit holder shall reimburse the City for all of the costs associated with obtaining the required services.

G. Reimbursement of monitoring costs. The permit holder shall be required to reimburse the City for all costs associated with the environmental compliance and monitoring program.

H. Failure to comply. In addition to the enforcement provisions identified in Chapter 18.98 (Enforcement and Penalties) and the Municipal Code, failure to comply with all project conditions, including making payments to reimburse the City for expenses incurred in the implementation of the environmental compliance and monitoring program, shall result in the City commencing any or a combination of the following measures:

1. Issuing a Stop Work Order halting all activities until all conditions have been satisfactorily completed;
2. Seeking injunctive relief from a court of competent jurisdiction;
3. Filing a lien against the property in the amount of any moneys owed;
4. Issuing a Stop Work Order and seeking injunctive relief ordering restoration of the environment, damages, and court costs incurred in the event of damage to the environment for which mitigation measures were expressly incorporated into the project; and/or
5. Refusing to allow the construction, use, occupancy, or issuance of a Business License for any project not in compliance with its conditions of approval.

18.72.160 - Fees and Deposits

Fees for the estimated cost for the preparation and/or processing, and reproduction of an Initial Study, Negative Declaration, Mitigated Negative Declaration, Environmental Impact Report, Mitigation Monitoring and Reporting Program, notices, related environmental documents, other essential administrative costs, and deposits covering the cost of environmental document preparation, shall be payable to the City in a Developer Deposit Account in accordance with the City's Fee Schedule.

18.72.170 - Appeal

A determination or decision relating to this Chapter may be appealed in compliance with Chapter 18.92 (Appeals).

Chapter 18.74

CULTURAL RESOURCE PROTECTION

Sections:

- 18.74.010 Purpose of Chapter
- 18.74.020 Applicability
- 18.74.030 Historic Landmark Designation
- 18.74.040 Certificate of Appropriateness - Requirements
- 18.74.050 Certificate of Appropriateness - Review and Approval
- 18.74.060 Certificate of Appropriateness - Proposed Demolition
- 18.74.070 Certificate of Appropriateness - Disaster Damage
- 18.74.080 Adaptive Reuse and Other Rehabilitation Incentives
- 18.74.090 Duty to Maintain and Repair
- 18.74.100 Unsafe or Dangerous Condition

18.74.010 - Purpose of Chapter

A. Purpose. This Chapter provides procedures and requirements that are intended to protect sites and structures identified by the community as culturally and/or historically significant, that contribute to Fort Bragg's character and identity, and that should be preserved and/or restored.

B. Benefits to be derived from historic preservation activities. The following benefits are intended to be illustrative of those available to property owners who participate in historic preservation activities:

1. **State Historic Building Code.** Use of the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC), rather than the Uniform Building Code (UBC).
2. **Secretary of the Interior's Standards for Rehabilitation.** Use of the Secretary of the Interior's Standards for Rehabilitation.
3. **Waiver of standards.** Waiver of Development Code standards (e.g., reduced off-street parking), in compliance with Section 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).
4. **Approval of a land use not otherwise allowed.** The approval of a change to a land use that is not otherwise allowed in the subject zoning district, but which is allowed in other zoning districts, in compliance with Section 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).
5. **Mortgage Program tailored for rehabilitation.** The Department of Housing and Urban Development's Federal Housing Administration (FHA) has a flexible loan program that helps developers, investors, and families at all income levels to buy and restore properties in urban and rural historic districts. The program operates through FHA approved lending institutions, and the loans are insured by the FHA.
6. **Federal Financial Assistance for rural buildings.** The U.S. Department of Agriculture's Rural Housing Service offers funds for the acquisition, construction, rehabilitation, or repair of homes and apartment-style housing for low and moderate-income people in rural areas.
7. **Federal Tax Incentives.** Federal tax incentives for historic preservation for the rehabilitation of income-producing (commercial, industrial, or rental residential) structures included on the National Register of Historic Places (or those within a National Register district) through the State Historic Preservation Officer (SHPO).
8. **Financial Assistance from the National Trust Forum.** The National Trust Forum offers financial assistance in the form of grants and loans.
9. **State Tax Incentives.** California property tax abatement incentives were first enacted in 1972 and are available for use by owner-occupied residential and commercial structures (also known as the Mills Act).

18.74.020 - Applicability

A. Compliance with chapter. No person shall alter the exterior of, construct improvements to, or demolish any historic structure except in compliance with the provisions of this Chapter, which shall include the analysis required by the California Environmental Quality Act (CEQA) and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring) to determine historic significance, and the effects of the proposed alterations.

B. Historic resource defined. For purposes of this Chapter, the term “historic resource” is defined as a structure or site listed in the National Register of Historic Places (either individually or as contributing to a district), a property designated as a landmark or monument, a property contributing to a district listed in the National Register of Historic Places or a landmark district, or a property identified in an intensive-level historic resources survey as qualifying for a historic designation (either individually or as part of a district).

C. Definition of other terms and phrases. The terms and phrases used in this Chapter are defined in Article 10 (Glossary).

D. Responsibility to maintain. The owner or person in control of a historic resource (e.g., structure or site) has the responsibility to maintain the resource in good repair in compliance with Section 18.74.090 (Duty to Maintain and Repair), below.

18.74.030 - Historic Landmark Designation

The Council may designate an improvement, natural feature, or site as a historic landmark and any area within the City as a historic district in compliance with this Section, based on the Council’s evaluation of the age of the subject structure(s), distinguishing characteristics, distinct geographical area, familiar visual feature(s), significant achievement, and/or other distinctive features.

A. Procedure. The designation of a historic landmark or district on Fort Bragg’s Historic Register, or the removal of a historic landmark or district from the register, shall comply with the procedures established by this Development Code for amendments (Chapter 18.94), including public notice and hearings in compliance with State law, a recommendation by the Commission, and a final decision by the Council.

B. Permit issuance during nomination process. No permit for any improvement or structure within a proposed historic district or relative to a nominated historic landmark shall be issued while the nomination process is pending.

C. Initiation of nomination process.

1. Either the City or a property owner(s) may initiate a program for nomination of a historic resource (Program CD-6.1.6).
2. Initiation shall comply with the procedures established by this Development Code for amendments in compliance with Chapter 18.94 (Amendments).
3. The nomination/amendment, if approved, would result in a Historic District designation.

D. Placement on the Historic Register. The nominated district, site, or structure shall be placed on the Historic Register after being officially accepted by the Council, and the designation shall be recorded for each affected parcel in the Office of the County Recorder.

E. Removal from the Historic Register.

1. A designated local historic resource may only be removed from the Historic Register in the following cases:
 - a. When a Certificate of Appropriateness has been approved for demolition; or
 - b. After five years of being designated, the property owner may submit a de-nomination statement outlining reasons for removal from the Register. The de-nomination request shall be processed in compliance with the procedure for nomination listed above. The de-nomination statement shall provide written proof and documentation that the findings used to designate the structure were largely in error, or

that new information has been discovered, material to the decision to designate the resource, which was not discovered through the exercise of due diligence at the time of the original designation.

2. If delisting a designated resource is proposed, the lead agency shall conduct environmental review in compliance with the California Environmental Quality Act (CEQA) and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring), as they relate to historic resources.

18.74.040 - Certificate of Appropriateness - Requirements

A. Purpose. A Certificate of Appropriateness (COA) is intended to protect structures, improvements, natural features, objects, and areas of architectural, cultural, economic, historic, political, and social importance from unnecessary and/or inappropriate alteration, demolition, or removal.

B. Applicability.

1. **COA required.** A COA is required for the alteration, demolition, moving, or removal of any landmark or structure designated on the City's Historic Register, any individual historic resource, or any contributing historic resource within a historic district, and for any alteration, demolition, moving, or removal of any potential historic resource identified through the City's review of a land use and/or development permit application or CEQA review, by the City, any agent of the City, or a private party.
2. **Activities exempt from a COA.** Activities that are exempt from the requirements for a COA are interior remodeling and ordinary repair and maintenance activities that do not alter the physical features or architectural appearance of the exterior of a historic resource.
3. **A COA shall:**
 - a. Be required in addition to and processed concurrently with any other permits required by this Development Code; and
 - b. Accompany any permit or any work otherwise altering the exterior architectural features or appearance of the resource.
4. **Alteration defined.** For the purposes of this Chapter, the term "alteration" shall be defined as any act or process, through private or public action, that changes the specified character defining a historic resource or significant physical features or architectural appearance of the exterior of a historic resource, including additions, new construction, reconstruction, or removal of any resource.
5. **Changes in character defined.** For the purposes of this Chapter, the phrase "changes in character" shall be defined to include modification of the exterior of a structure, architectural detail, surface paving, the addition of new structures, the cutting or removal of trees, landscaping and other natural features, the disturbance of archaeological sites or areas, and the placement or removal of any significant objects (e.g., fences, landscaping, and accessories, light fixtures, plaques, signs) affecting the significant visual or historical qualities of the property.
6. **Waiver of development standards.** When approving a COA, the Review Authority may allow, as a form of incentive, a waiver of specified development standards for a designated historic resource, in compliance with Section 18.74.080 C. (Types of incentives allowed).

C. Application preparation and filing. A COA application shall be filed with the Department. The application shall include plans and specifications showing the proposed change in architectural appearance, color and texture of materials, the proposed architectural design of the structure, and any additional information identified in the Department handout for Certificates of Appropriateness, or as may be required by the Director. The application shall also show the relationship of the proposed work to the surrounding environs. A COA application may propose discreet alterations of a historic resource or may propose a long-term plan of rehabilitation and preservation of a particular resource.

D. Application for demolition. An application for demolition of a historic resource, a structure within a historic district, or for new construction on a historic resource property shall include plans and specifications for the

proposed new structure or addition and shall include information pertaining to landscaping, massing, relationship to site and streetscape, scale, and signs. The application shall be accompanied by any additional information identified in the Department handout for Certificates of Appropriateness, or as may be required by the Director for an informed evaluation of the proposed work.

E. Within a historic district.

1. Both individual resources and contributing resources are subject to all Certificates of Appropriateness findings and requirements.
2. Non-contributing resources are not subject to the requirements of this Section, but will be reviewed to ensure that proposed development on the non-contributing property will not degrade the historical character of the historic district.

F. CEQA. The review and approval of a COA shall require environmental review in compliance with the California Environmental Quality Act (CEQA) and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring), as they relate to historic resources.

18.74.050 - Certificate of Appropriateness - Review and Approval

A public hearing shall be scheduled for a COA as soon as practicable after receipt of the application.

A. Public notice and hearing required. Notice of the public hearing shall be given at least 10 days before the hearing by mailing to the property owner of record and all owners of property within 300 feet of the exterior boundaries of the subject site, and by publication in a newspaper of general circulation within the City in compliance with Chapter 18.96 (Public Hearings).

B. Review and approval.

1. **Authority of the Commission.** The Commission may approve or disapprove a COA, in whole or in part. Notice of the Commission's decision shall be sent to the applicant and owners and occupants of the subject property within 10 days of the date of the decision.
2. **Authority of the Director.**
 - a. The Director may approve a COA for a proposal for minor architectural elements and details, paint or other colorings or finishes, minor site improvements, or signs.
 - b. The Director may also approve fences, replacement in-kind of windows, doors, roofs, or exterior materials, or proposals which are determined by the Director to be ordinary maintenance or repair, and which are conducted in a manner that preserves the archaeological, cultural, and historic value of the historic resource through conformance with any applicable prescriptive standards and/or design guidelines adopted by the City, and/or the guidelines of the Secretary of the Interior's Standards for Rehabilitation.
 - c. Director approval of a COA shall first require making all of the findings required by Subsection D. (Findings for Certificate of Appropriateness).
 - d. Minor changes or modifications to a COA can be approved by the Director, even if the Director was not the Review Authority.
 - e. The Director may defer action and refer a COA application to the Commission for a hearing and final decision.
3. **Criteria for review.**
 - a. In evaluating a COA application, the Review Authority shall use any applicable design guidelines and the Secretary of the Interior's Standards for Rehabilitation and shall consider the factors (e.g., the existing and proposed architectural style, arrangement, color, design, materials, and texture to be used) with regard to the original distinguishing architectural characteristics of the historic resource.

- b. In addition, the Director may require that the proposed work be reviewed by a preservation architect.
- c. Wherever feasible, the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC) shall be used in allowing any alteration to a historic resource.

C. Investigation for COA. The Review Authority may require the applicant to furnish material evidence, including detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Certificates of Appropriateness, or as may be required by the Director. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection D. (Findings for Certificate of Appropriateness), below.

D. Findings for Certificate of Appropriateness.

1. Alterations, generally. A COA shall be issued for a proposed alteration only if the Review Authority first finds that:

- a. The proposed work will neither adversely affect the significant architectural features of the historic resource nor adversely affect the character or historic, architectural, aesthetic interest, or value of the historic resource and its site;
- b. The proposed work conforms to any prescriptive standards and design guidelines adopted by the City for the particular resource, and to the Secretary of the Interior's Standards for Rehabilitation, and does not adversely affect the character of the historic resource; and
- c. In the case of construction of a new improvement upon a historic resource property, the use and design of the improvement shall not adversely affect, and shall be compatible with, the use and design of existing historic resources within the same historic district.

2. Alterations found not to be adverse. The effect of alteration on a historic resource that would otherwise be found to be adverse may be considered not adverse for the purpose of this Section when the alteration is:

- a. Limited to the rehabilitation or restoration of improvements; and
- b. Conducted in a manner that preserves the archaeological, cultural, and historic value of the historic resource through conformance with any prescriptive standards and design guidelines adopted by the City for that historic resource, historic resource property, or historic district, and to the Secretary of the Interior's Standards for Rehabilitation.

E. Conditions for Certificate of Appropriateness. The Review Authority may approve a COA subject to any condition deemed reasonable, necessary, or desirable to effect the purposes of this Chapter. The conditions shall be covenants running with the land.

F. Period of validity of Certificate of Appropriateness.

- 1. A COA shall become void unless construction is commenced within 24 months from the date of approval.
- 2. A COA may be extended by the Director for an additional 24 months by applying to the Department a minimum of 30 days before expiration of the COA.
- 3. A COA may be extended only once, and a new COA is required thereafter.
- 4. If the project is not completed within 24 months after the expiration of the last Building Permit, a new COA shall be required to complete the work.

18.74.060 - Certificate of Appropriateness - Proposed Demolition

The following requirements shall apply in cases involving the proposed demolition of a historic resource, in addition to all other applicable provisions of this Chapter.

A. Research required. Appropriate archival research shall be conducted to determine the cultural and historic significance of any historic resource proposed for demolition in compliance with this Section. All costs associated with the research effort shall be paid for by the project proponent.

B. Required findings. Following a public hearing conducted in compliance with Chapter 18.96 (Public Hearings), the Commission shall approve a COA for the demolition of a historic resource only in conjunction with the concurrent approval of a proposed replacement project, and only after first making all of the following findings:

1. The historic resource cannot be remodeled, rehabilitated, or reused in a manner that would allow:
 - a. A reasonable use; or
 - b. A reasonable rate of return.
2. The repair and/or renovation of the historic resource are not feasible or the Building Official has determined that the structure represents an imminent safety hazard. (Program CD-6.2.3)
3. Disapproval of the application will diminish the value of the subject property so as to leave substantially no value.

C. Justifiable hardships. Personal, family, or financial difficulties, loss of prospective profits and Building Code violations shall not justify the issuance of a COA in compliance with Subsection D. (Economic hardship), below.

D. Economic hardship.

1. **Only in cases of economic hardship.** Demolition that is not in compliance with the findings required by Subsection B., above, may be approved only in cases of economic hardship.
2. **Economic hardship defined.** A substantial cost to the property owner that is patently unreasonable in comparison to the benefit conferred to the community should the owner be limited to following the guidelines for preserving or protecting the subject property.
3. **Required findings.** In order to approve demolition on the basis of economic hardship, the Commission shall first find all of the following:
 - a. The sale or rental of the property is impractical when compared to the cost of holding the property for uses allowed in the subject zoning district;
 - b. An adaptive reuse study has been conducted and found that utilization of the property for lawful purposes is prohibited or impractical;
 - c. Disapproval would substantially diminish the value of the property;
 - d. Disapproval would unreasonably damage the owner of the property in comparison to the benefit conferred on the community;
 - e. All means involving City sponsored incentives (e.g., amendments to this Development Code, Building Code modifications, financial assistance, and/or grants) have been explored to relieve the economic hardship;
 - f. Without approval of the proposed construction, demolition, exterior alteration, remodeling, or removal, the reasonable use of or return from a designated landmark or property within a historic district will be denied to a property owner; and
 - g. In the case of a proposed demolition, the Director shall make an additional finding that the designated landmark cannot be remodeled or rehabilitated in a manner that would allow a reasonable use of or return from the property to the owner.

E. Effect of demolition.

1. If approval of a COA will result in the demolition of a historic resource, the applicant shall be required to memorialize the resource proposed for demolition in compliance with the standards of the Historic American Building Survey (HABS).
2. The documentation may include an archaeological survey, floor plans, measured drawings, photographic records, or other documentation specified by the Commission. (Program CD-6.2.2)
3. When appropriate, the Commission may require that a memorialization of the resource be incorporated into the proposed redevelopment of the site including the following:
 - a. Book or pamphlet;
 - b. Photographic display;
 - c. Small museum or exhibit;
 - d. Use of original architectural fixtures; and/or
 - e. Other methods deemed appropriate by the Commission.

F. 120-day waiting period. If the COA is approved, the demolition shall be allowed only after the 120-day waiting period has expired in order to allow interested parties time to purchase and move the historic resource.

18.74.070 - Certificate of Appropriateness - Disaster Damage

A COA is required to add to, alter, demolish, reconstruct, repair, replace, or restore a disaster-damaged historic resource in compliance with this Development Code, except where the Building Official determines that an unsafe or dangerous condition exists in compliance with Section 18.74.100 (Unsafe or Dangerous Condition), below.

18.74.080 - Adaptive Reuse and Other Rehabilitation Incentives

A. Purpose.

1. The rehabilitation incentives provided by this Section are intended to encourage the maintenance, preservation, and rehabilitation of historic resources in the City, recognizing that maintaining and rehabilitating a historic resource places increased burdens on the affected property owner.
2. These rehabilitation incentives are intended to reduce those burdens so that property owners will be encouraged to invest in maintaining the City's historic resources.

B. Applicability.

1. Upon designation of a structure or improvement as a designated historic resource, the property owner may apply to the City for guidance and assistance in rehabilitating the resource.
2. The application for rehabilitation incentives is considered the necessary planning permit; the applicant need not submit additional applications for other permits required by this Development Code, but shall comply with any City requirements for a Building Permit, Grading Permit, etc.

C. Types of incentives allowed. The Commission or Council may grant any or all of the following rehabilitation incentives.

1. Adaptive reuse, including the approval of a change to a land use that is not otherwise allowed in the subject zoning district, but which is allowed in other zoning districts;
2. Mills Act Agreements;
3. Permit fee waivers; and/or

4. Reduction and/or substantial modification in the development standards of this Development Code.

D. Application content. Applications shall include the information required by the Director.

E. Review and approval of rehabilitation incentives.

1. Hearing and action.

- a. The Review Authority shall hold a public hearing to determine the eligibility of a property for rehabilitation incentives and shall, by resolution, approve or disapprove any incentives.
- b. The action of the Commission on a Mills Act agreement shall be a written recommendation to the Council. The Council has final approval authority in Mills Act decisions.
- c. Public notice for the hearing shall comply with State law and Chapter 18.96 (Public Hearings).

2. Required findings for approval. The Review Authority may recommend or grant rehabilitation incentives, only after first making all of the following findings:

a. Findings for all incentives.

- i) Each incentive to be granted serves to compensate the property owner for the increased burden, in terms of maintenance and expense, that the rehabilitation would entail;
- ii) No approved incentive would impair the aesthetic, architectural, or historic integrity of the resource; and
- iii) No proposed incentive would be detrimental to the public health, safety, or general welfare.

b. Findings for adaptive reuse. In addition to the above findings, the Review Authority shall first make the following findings before granting approval of an adaptive reuse:

- i) The change of use would occupy no more floor area than the original use;
- ii) The proposed use would not significantly impair the physical character of the area in which it is located; and
- iii) The change of use would result in substantial restoration of the significant and architectural features or exterior architectural appearance of the resource, and/or will result in a maintenance plan that will ensure the upkeep and continued maintenance of the resource over the expected life of the project.

3. Conditions of approval. In approving rehabilitation incentives, the Review Authority may impose any conditions of approval deemed reasonable and necessary to ensure compatibility between the new use and the surrounding area.

18.74.090 - Duty to Maintain and Repair

A. Responsibility to maintain and repair. The owner, occupant, or other person in actual charge of a historic resource shall keep in good repair all of the exterior portions of the improvement, structure, and all interior portions whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature and any other specifically designated features of the property.

B. Failure to maintain. If periodic maintenance and upkeep is not done, and the resource falls into disrepair, the fact that it is in disrepair may not be used as justification for demolition or any other alteration which would cause adverse effect as defined in this Chapter.

18.74.100 - Unsafe or Dangerous Condition

A. Imminent hazard. In the case of damage to a structure that is the result of an isolated incident, the Director may approve a COA for a structure for which there is a threat of imminent hazard as determined by the Building Official, without public notice.

B. Widespread damage. In the case of widespread damage to structures throughout the City (e.g., from an earthquake), the Director shall stay all notices to demolish designated or potential historic resources, including all structures in designated or potential districts, until a structural engineer with expertise in the restoration of historic structures has evaluated the nature and extent of the damage to each structure, and recommended steps to stabilize each structure.

C. Evaluation of damage. The City shall isolate damaged structures to allow persons with appropriate expertise to further evaluate the damage.

D. Action in case structure cannot be stabilized. In cases where a structural engineer with expertise in the restoration of historic structures has determined that the structure cannot be stabilized, the Director may issue a COA for the demolition of one or more structures.

Chapter 18.76

PERMIT IMPLEMENTATION, TIME LIMITS, AND EXTENSIONS

Sections:

- 18.76.010 Purpose of Chapter
- 18.76.020 Effective Date of Permits
- 18.76.040 Applications Deemed Approved
- 18.76.050 Permits to Run with the Land
- 18.76.060 Performance Guarantees
- 18.76.070 Time Limits and Extensions
- 18.76.080 Changes to an Approved Project
- 18.76.090 Resubmittal
- 18.76.100 Covenants of Easements

18.76.010 - Purpose of Chapter

This Chapter provides requirements for the implementation or “exercising” of the permits required by this Development Code, including time limits and procedures for granting extensions of time.

18.76.020 - Effective Date of Permits

The approval of a planning permit shall become effective on the 11th day following the date of application approval by the appropriate Review Authority, where no appeal of the Review Authority’s action has been filed in compliance with Chapter 18.92 (Appeals).

18.76.040 - Applications Deemed Approved

A planning permit application for a parcel that is deemed approved by operation of law in compliance with State law (Government Code Section 65956) shall be subject to all applicable provisions of this Development Code, which shall be satisfied by the applicant before a Building Permit is issued or a land use not requiring a Building Permit is established.

18.76.050 - Permits to Run with the Land

An Administrative Variance, Design Review, Minor Use Permit, Planned Development Permit, Use Permit, or Variance approval that is granted in compliance with Chapter 18.71 (Permit Review and Decision) shall be deemed to run with the land through any change of ownership of the subject site, from the effective date of the permit, except in any case where a permit expires and becomes void in compliance with Section 18.76.070 (Time Limits and Extensions), below. All applicable conditions of approval shall continue to apply after a change in property ownership.

18.76.060 - Performance Guarantees

A. Deposit of security.

1. As a condition of approval of an Administrative Variance, Design Review, Minor Use Permit, Use Permit, or Variance, upon a finding that the City’s health, safety, and welfare warrant, the Review Authority may require the execution of a covenant to deposit security, and the deposit of security in a reasonable amount to ensure the faithful performance of one or more of the conditions of approval of the Administrative Variance, Design Review, Minor Use Permit, Use Permit, or Variance in the event that the obligor fails to perform.
2. The security shall, as required by law or otherwise at the option of the City, be in the form of cash, a certified or cashier’s check, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the City.
3. The security shall remain in effect until all of the secured conditions have been performed to the satisfaction of the Director of Public Works in conjunction with the Director.

Any security required in compliance with this Section shall be payable to the City.

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

C. Failure to comply.

1. Upon failure to perform any secured condition, the City may perform the condition, or cause it to be done, and may collect from the obligor, and surety in case of a bond, all costs incurred, including administrative, engineering, legal, and inspection costs.
2. Any unused portion of the security shall be refunded to the obligor after deduction of the cost of the work.
3. To the extent that the Director can demonstrate that the obligor willfully breached an obligation in a manner that the obligor knew, or should have known, would create irreparable harm to the City, the entire amount of the bond or deposit may be withheld.
4. The Director's determination may be appealed to the Council by the obligor by filing an appeal with the City Clerk within 10 days after the decision to withhold the bond, in compliance with Chapter 18.92 (Appeals).

18.76.070 - Time Limits and Extensions

A. Time limits.

1. Unless a condition of approval or other provision of this Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below.
2. The permit shall not be deemed "exercised" until the permittee has substantially commenced the approved activity or has actually commenced the allowed use on the site in compliance with the conditions of approval.
3. After it has been exercised, a planning permit shall remain valid and run with the land in compliance with Section 18.76.050 (Permits to Run with the Land), as long as a Building Permit is active for the project, and after a final building inspection or Certificate of Occupancy has been granted.
4. If a project is to be developed in approved phases, each subsequent phase shall be exercised within 24 months from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below. If the project also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the permit shall be exercised before the expiration of the Tentative Map, or the permit shall expire and become void.

B. Extensions of time. Upon written request by the applicant, the Director may extend the time for an approved planning permit to be exercised.

1. Filing and review of request.

- a. Time for filing.** The applicant shall file a written request for an extension of time with the Director before the expiration of the permit, together with the filing fee required by the City's Fee Schedule.
- b. Evidence to be provided.** The Director shall determine whether the applicant has made a good faith effort to exercise the permit. The burden of proof is on the applicant to establish, with substantial evidence, that circumstances beyond the control of the applicant (e.g., demonstrated problems with completing the acquisition of the parcel, poor weather during periods of planned construction, etc.) have prevented exercising the permit.
- c. Public hearing.** If the original approval required a public hearing, the Director shall hold a public hearing on a proposed extension of time, after providing notice of the public hearing in compliance with Chapter 18.96 (Public Hearings).

2. Action on extension request. A permit may be extended as follows for no more than two additional 12-month periods beyond the expiration of the original approval, provided the Director first finds that there have been no changes in the conditions or circumstances of the site or project so that there would have been grounds for disapproval of the original project.

a. Director's action. Upon good cause shown, the first 12-month extension may be approved, approved with modifications, or disapproved by the Director, whose decisions may be appealed to the Commission, in compliance with Chapter 18.92 (Appeals).

b. Commission action. One subsequent 12-month extension may be approved, approved with modifications, or disapproved by the Commission, whose decisions may be appealed to the Council in compliance with Chapter 18.92 (Appeals).

C. Effect of expiration. After the expiration of a planning permit in compliance with Subsection A.1., no further work shall be done on the site until a new planning permit and any required Building Permit or other City permits are first obtained.

18.76.080 - Changes to an Approved Project

Development or a new land use authorized through a planning permit granted in compliance with this Development Code shall be established only as approved by the Review Authority, and in compliance with any conditions of approval, except where a change to the project is approved as follows.

A. Application. An applicant shall request a proposed change in writing, and shall also furnish appropriate supporting information and materials explaining the reasons for the request. A change may be requested either before or after construction, or establishment and operation of the approved land use.

B. Public hearing. If the original project approval required public notice and a hearing, public notice shall be provided, and the Review Authority shall conduct a public hearing on the requested changes in compliance with Chapter 18.96 (Public Hearings).

C. Changes approved by the Director.

1. The Director may authorize one or more changes to an approved site plan, architecture, or the nature of the approved land use where the Director first finds that the changes:

- a. Are consistent with all applicable provisions of this Development Code;
- b. Do not involve a feature of the project that was a basis for or subject of findings in a Negative Declaration or Environmental Impact Report for the project;
- c. Do not involve a feature of the project that was specifically addressed or was the subject of conditions of approval for the project or that was a specific consideration by the Review Authority (e.g., the Director, Commission, or Council) in the project approval; and
- d. Do not result in an expansion of the land use.

2. The Director may choose to refer any requested change to the original Review Authority for review and final action.

D. Changes approved by original Review Authority. A proposed change that does not comply with the criteria in Subsection C. shall only be approved by the original Review Authority for the project through a new permit application processed in compliance with this Development Code.

18.76.090 - Resubmittal

A. Resubmittal after disapproval with prejudice.

1. The Review Authority may disapprove an application for a discretionary planning permit, or amendment, on the grounds that two or more similar applications for the same parcel have been disapproved in the past two years, or that another cause exists for limiting the re-filing of the application.
2. For a period of 12 months following the date of the disapproval with prejudice of a discretionary planning permit or amendment, no application for the same or substantially similar planning permit or amendment shall be filed for the same site, except where the Director determines that substantial new evidence or proof of changed circumstances warrants further consideration.

B. Resubmittal after disapproval without prejudice. There shall be no limitation on subsequent applications for a site where a project was disapproved without prejudice.

C. Director's determination, appeal. The Director shall determine whether a new application is for a planning permit, or amendment that is the same or substantially similar to a previously approved or disapproved permit or amendment, and shall either process or reject the application in compliance with this Section. The Director's determination may be appealed to the Commission, in compliance with Chapter 18.92 (Appeals).

18.76.100 - Covenants of Easements

A. Applicability. When necessary to achieve the land use goals of the City, the City may require a property owner holding property in common ownership to execute and record a Covenant of Easement in favor of the City, in compliance with State law (Government Code Section 65870 et seq.) A Covenant of Easement may be:

1. Required to provide for emergency access, ingress and egress, landscaping, light and air access, open space, parking, or for solar access; and
2. Imposed as a condition of approval by the Review Authority.

B. Form of covenant. The form of the Covenant shall be approved by the City Attorney, and the Covenant of Easement shall:

1. Describe the real property subject to the easement and the real property to be benefitted by the easement;
2. Identify the City approval or planning permit granted that relied on or required the Covenant; and
3. Identify the purposes of the easement.

C. Recordation. A Covenant of Easement shall be recorded in the County Recorder's Office.

D. Effect of covenant. From and after the time of its recordation, a Covenant of Easement shall:

1. Act as an easement in compliance with Civil Code Section 801 et seq., except that it shall not merge into any other interest in the real property. Civil Code Section 1104 shall be applicable to the conveyance of the affected real property; and
2. Impart notice to all persons to the extent afforded by the recording laws of the State.

Upon recordation, the burdens of the Covenant shall be binding on, and the Covenant shall benefit all successors-in-interest to the real property.

E. Enforceability. A Covenant of Easement shall be enforceable by the successors-in-interest to the real property benefitted by the Covenant, and the City. Nothing in this Section creates standing in any person, other than the City, and any owner of the real property burdened or benefitted by the Covenant, to enforce or to challenge the Covenant or any requested amendment or release.

F. Release of covenant. A Covenant of Easement may be released by the Director, or by another appropriate Review Authority in the event of an appeal, at the request of any person, including the City, or an affected property owner.

- 1. Process for release.** The release of a Covenant of Easement shall require that the Review Authority first:
 - a. Conduct a noticed public hearing in compliance with Chapter 18.96 (Public Hearings); and
 - b. Find that the Covenant on the site is no longer necessary to achieve the land use goals of the City.
- 2. Recordation.** A notice of the release of the Covenant of Easement shall be recorded by the Director in the County Recorder's Office.
- 3. Fees.** The applicant for a release of a Covenant of Easement shall pay the fee for the processing of the release established by the City's Fee Schedule.

Chapter 18.78

SPECIFIC PLANS

Sections:

18.78.010	Purpose of Chapter
18.78.020	Applicability
18.78.030	Minimum Project Area
18.78.040	Initiation
18.78.050	Preparation and Content
18.78.060	Processing and Review
18.78.070	Adoption of Specific Plan
18.78.080	Implementation and Amendments

18.78.010 - Purpose of Chapter

This Chapter provides procedures for the preparation, processing, review, adoption, and amendment of specific plans.

18.78.020 - Applicability

A. When required. When required by the Council, the General Plan, or this Development Code to systematically implement the General Plan for any part of the City, a specific plan shall be prepared, processed, approved, and implemented in compliance with this Chapter.

B. Review Authority. An application for a specific plan shall be considered by the Commission, and approved or disapproved by the Council.

C. Effect of specific plan. The regulations provided by an adopted specific plan shall replace those of the applicable zoning district, and the development standards and design guidelines identified in the specific plan shall take precedence over the general standards contained in this Development Code and any City adopted design guidelines.

18.78.030 - Minimum Site Area

The minimum site area for a specific plan shall be five acres. The site may be one lot under single ownership or a combination of adjoining parcels subject to a unified planning concept.

18.78.040 - Initiation

A specific plan may be initiated by a resolution by the Council, or by the filing of an application with the Department by the owner or authorized agent of property for which the specific plan is sought. If the property is under more than one ownership, all of the owners or their authorized agents shall join in filing the application.

18.78.050 - Preparation and Content

The draft specific plan shall include detailed information in the form of text and diagram(s), organized in compliance with State law (Government Code Section 65451).

A. Preparation. A specific plan shall be prepared in the same manner as a general plan, pursuant to Government Code Section 65453. Therefore, a specific plan shall be prepared in accordance with the procedural requirements set forth in Government Code Sections 65351 through 65354.5, which govern the preparation, referral and consultation requirements for a general plan.

B. Required information. At a minimum, the following information shall be provided (see also Government Code Section 65451):

- 1. Proposed land uses.** The distribution, location, and extent of land uses proposed within the area covered by the specific plan, including open space areas;

2. Infrastructure. The proposed distribution, extent, intensity, and location of major components of public and private circulation/transportation, drainage, energy, potable water, sewers, solid waste disposal, utilities, coastal access to surrounding developed and undeveloped areas if located within the Coastal Zone, and other essential facilities proposed to be located within the specific plan area and needed to support the proposed land uses;

3. Land use and development standards. Standards, criteria, and design guidelines by which development would proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;

4. Implementation measures. A program of implementation measures, including financing, methods, programs, regulations, and public works projects, necessary to carry out and provide:

- a. Development and conservation standards and criteria, infrastructure, and land uses;
- b. Public services, facilities and utilities, based on a nexus between development exactions being imposed and the development-induced needs being met by those exactions;
- c. Orderly phasing of the development; and
- d. Other measures needed to protect the health, safety, and well-being of the community.

5. Relationship to General Plan. A discussion of the relationship of the specific plan to the goals, policies, and objectives of the General Plan; and

6. Additional information. The specific plan shall contain additional information deemed to be necessary by the Director based on the characteristics of the area to be covered by the plan, applicable goals, policies, and objectives of the General Plan, or any other issue(s) determined by the Director to be relevant.

B. Costs to be borne by the applicant. The specific plan, and all environmental studies required as a result of the specific plan, shall be paid for by the applicant who may be repaid by future developers of other portions of the specific plan area on a pro rata basis.

18.78.060 - Processing and Review

A draft specific plan shall be processed in the same manner as required for general plans by State law, and as follows:

A. Public meetings required for City-initiated specific plans.

1. Before preparation of the draft specific plan, the City shall hold at least one public meeting to identify potential community impacts and concerns relating to the proposed plan concept.
2. Before consideration of the draft specific plan by the Commission and Council, the City shall hold at least one public meeting to review the plan with the local community.
3. Public notice of the public/neighborhood meetings is required in compliance with Chapter 18.96 (Public Hearings).

B. Application filing. The following shall apply if the specific plan is initiated by the filing of a specific plan application:

1. An application for a specific plan shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing).
2. The application shall be accompanied by the information identified in the Department handout for specific plan applications and Section 18.78.050 (Preparation and Content), above.

C. Environmental review. The draft specific plan shall be subject to environmental review as identified in Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring).

D. Staff report. A written staff report shall be prepared for the draft specific plan which shall include detailed recommendations and proposed findings necessary for adoption of the plan.

E. Public hearings. A proposed specific plan shall be subject to public hearings before both the Commission and Council before its adoption, as follows:

1. Commission.

- a. The Director shall schedule a public hearing on the proposed specific plan.
- b. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).
- c. After the public hearing, the Commission shall forward a written recommendation, and reasons for the recommendation, to the Council whether to approve, approve in modified form, or disapprove the proposed specific plan, based on the findings identified in Section 18.78.070 (Adoption of Specific Plan), below.

2. Council.

- a. After receipt of the Commission's recommendation, the City Clerk shall schedule a public hearing on the proposed specific plan.
- b. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).
- c. After the public hearing, the Council may adopt the specific plan, disapprove the plan, or adopt the plan with modifications, with appropriate findings in compliance with Section 18.78.070 (Adoption of Specific Plan), below; provided, any substantial modifications to the plan that were not previously considered by the Commission shall be first referred to the Commission for its recommendation, in compliance with State law (Government Code Section 65356).

18.78.070 - Adoption of Specific Plan

A. Council's action. The Council may adopt a specific plan only after first finding that:

1. The proposed specific plan is consistent with the General Plan;
2. The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc. as identified in the proposed specific plan), will ensure that future development will not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and base zoning district in which the property is located;
3. The proposed specific plan will:
 - a. Ensure quality development by encouraging greater creativity and aesthetically pleasing designs for the individual components of the development and the development as a whole;
 - b. Ensure the timely provision of essential public services and facilities consistent with the demand for the services and facilities; and

c. Promote a harmonious variety of housing choices and commercial and industrial activities, if applicable; attain a desirable balance of residential and employment opportunities; and result in a high level of amenities and the preservation of the natural and scenic qualities of open space.

4. The subject site is:

- a. Physically suitable for the proposed land use designations;
- b. Physically suitable for the type and density/intensity of development being proposed;
- c. Adequate in shape and size to accommodate the proposed development; and
- d. Served by streets adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development.

B. Adoption. The specific plan shall be adopted by ordinance, or by resolution of the Council, in compliance with State law (Government Code Section 65453).

18.78.080 - Implementation and Amendments

A. Development within specific plan area. After the adoption of a specific plan, all proposed development and new land uses within the area covered by the specific plan shall be consistent with the specific plan. No project, Tentative Map, Parcel Map for which a Tentative Map was not required, Conditional Use Permit, Design Review Permit, or amendment to this Development Code may be approved/adopted within an area covered by a specific plan unless it is first found to be consistent with the specific plan.

B. Specific plan fee. The Council may impose a specific plan fee on development permits within the specific plan area, in compliance with State law (Government Code Section 65456).

C. Amendments.

1. An adopted specific plan may be amended through the same procedure specified in Government Code Section 65358, which governs amendments to a general plan.
2. The specific plan may be amended as often as deemed necessary by the Council, in compliance with State law (Government Code Section 65453).