

**Title 18 – Development Code**  
**Article 8 –**  
**Development Code Administration**



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## Chapter 18.104 – Administrative Responsibility

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### Sections:

- 18.104.010 – Purpose and Intent
- 18.104.020 – Planning Agency and Advisory Agency
- 18.104.030 – Planning Manager
- 18.104.040 – Planning Commission
- 18.104.050 – City Council
- 18.104.060 – Subject Matter Experts

### 18.104.010 – Purpose and Intent

The purpose of this chapter is to describe the authority and responsibilities of the City Council, Planning Commission, Planning Manager, Planning and Housing Division, and Planning and Housing Division staff in the administration of the Development Code.

### 18.104.020 – Planning Agency and Advisory Agency

The Planning and Housing Division staff and the Planning Manager, function as the Planning Agency, when so required by provisions of the Government Code. The Planning Commission is the Advisory Agency, in compliance with Government Code Section 65101.

### 18.104.030 – Planning Manager

- A. **Appointment.** The Planning Manager, referred to in the Development Code as the Director, shall be appointed by the City Manager.
- B. **Duties and Authority.** The Director shall:
  1. Have the responsibility to perform all of the functions designated by state law;
  2. Perform the duties and functions prescribed in the Development Code, Government Code Section 65901 et seq., and the California Environmental Quality Act (CEQA).
  3. Have the authority to defer action on an application and refer the request to the Commission for consideration and final action;
  4. Perform other responsibilities assigned by the City Manager, Commission or Council, and
  5. Delegate the responsibilities of the Director to Department staff under the supervision of the Director.
- C. **Imposition of Conditions.** In making decisions on applications, the Director may impose conditions the Director deems reasonable and necessary to implement the General Plan, any applicable specific plans, the Municipal Code, and to further the public health, safety and general welfare of the community.

**18.104.040 – Planning Commission**

- A. Establishment.** The Planning Commission, referred to in the Development Code as the Commission, is designated in Municipal Code Chapter 2.48 and consists of five members appointed by the Council.
- B. Duties and Authority.** The Commission performs the duties and functions prescribed in Municipal Code Chapter 2.48 and the Development Code, and the Council may from time to time by resolution, prescribe additional powers and duties not inconsistent with state law, including the following:
1. The review of development projects, including referrals from the Director;
  2. The review of appeals from the Director's decisions and the Director's and Department staff's determinations; and
  3. The recommendation to the Council on legislative matters, on development agreements and amendments, Development Code amendments, General Plan amendments, specific plans and amendments, Zoning Map amendments, related CEQA environmental documents, and other applicable policy or regulatory matters related to the City's planning process.
- C. Imposition of Conditions.** In making decisions on applications, the Commission may impose conditions it deems reasonable and necessary to implement the General Plan, any applicable specific plans, the Municipal Code, and to further the public health, safety and general welfare of the community.
- D. Meeting Rules.** The Commission shall conduct public hearings and meetings in compliance with standard procedures and the requirements of state law.

**18.104.050 – City Council**

The City Council shall perform the duties and functions prescribed in the Development Code, which include all of the following:

- A. Review Authority on Specified Legislative Planning Matters.** Final legislative decisions on development agreements and amendments, Development Code amendments, General Plan amendments, specific plans and amendments, Zoning Map amendments, related CEQA environmental documents, and other applicable policy or Development Code matters related to the City's planning process.
- B. Appeals.** The review of appeals filed from Commission decisions.
- C. Imposition of Conditions.** In making decisions on applications, the Council may impose conditions it deems reasonable and necessary to implement the General Plan, any applicable specific plans, the Municipal Code, and to further the public health, safety, and general welfare of the community.
- D. Meeting Rules.** The Commission shall conduct public hearings and meetings in compliance with standard procedures and the requirements of state law.

**18.104.060 – Subject Matter Experts**

**Subject Matter Experts.** If, during the processing of a development application it becomes necessary to hire a subject matter expert, the report shall be prepared under the authority of the City. If an applicant submits a technical report, it shall be third party reviewed, at the applicant's expense, by a firm of the City's choosing.

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## Chapter 18.106 – Public Notices and Hearings

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### Sections:

- 18.106.010 – Purpose and Intent
- 18.106.020 – Notice of Hearing
- 18.106.030 – Hearing Procedures
- 18.106.040 – Recommendation by Commission
- 18.106.050 – Decision and Notice
- 18.106.060 – Effective Date of Decision

### 18.106.010 – Purpose and Intent

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

### 18.106.020 – Notice of Hearing

When the Development Code requires a noticed public hearing, the public shall be provided notice of the hearing in compliance with applicable state law, including but not limited to Government Code Section 65090 et seq., and Section 66451.3, Public Resources Code 21000 et seq., and as required by this chapter.

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

1. **Project Information.** The date of filing of the application and the name of the applicant; the City's file number assigned to the application; a general explanation of the matter to be considered; and a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing.
2. **Hearing Information.** The date, time, and place of the hearing and the name of the Review Authority; a brief description of the City's general procedure concerning the conduct of hearings and decisions; and the phone number and street address of the Department where an interested person may call or visit to obtain additional information
3. **Statement on Environmental Document.** If a proposed Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, the hearing notice shall include a statement that the Review Authority will also consider approval of the environmental document.

#### B. **Method of Notice Distribution.**

1. **Mailing.** Notice shall be mailed or delivered at least 10 days before the scheduled hearing to all of the following:
  - a. One publication in a newspaper of general circulation in the City, within 10 days preceding the date of the hearing;

- b. Mailing a postal card notice not less than 10 days prior to the date of the hearing to the owners of property within 300 feet of the exterior limits of the property or properties which is the subject of the application, as shown on the last equalized assessment roll.
  - c. Any person who has filed a written request for notice with the Director and has paid the required fee for the notice.
2. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternative notice allowed by Government Code Section 65091.
  3. **Additional Notice.** In addition to the types of notice required above, the Director may provide any additional notice with content or using a distribution method the Director determines is necessary or desirable.

### 18.106.030 – Hearing Procedures

- A. **Time and Place of Hearing.** A hearing shall be held at the date, time, and place for which notice was given.
- B. **Continued Hearing.** Any hearing may be continued from time to time without further written notice provided the chair of the Review Authority announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.

### 18.106.040 – Recommendation by Commission

After a public hearing the recommendation and findings of the Commission shall be forwarded to the Council if the matter is not final with the Commission.

### 18.106.050 – Decision and Notice

- A. **Decision.**
  1. The Review Authority may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing, or defer action and continue the matter to a subsequent meeting. At the conclusion of a hearing conducted by the Director, instead of rendering a decision the Director may refer the matter to the Commission for review and final decision. Within 10 working days of the conclusion of a hearing, a decision shall be rendered.
  2. Unless otherwise required by law, an affirmative vote by a majority of those voting shall be required for any formal action by the applicable Review Authority.
  3. Tie votes of the Review Authority for matters that legally require findings shall result in no action by the Review Authority.
  4. All decisions shall be in writing and, if required by law, shall contain written findings.
- B. **Notice of decision.** Following the final decision on an application for a permit or other approval required by the Development Code, the City shall provide written notice of its final action to the applicant and to any person who specifically requested notice of the City's final action.

- C. Notifying County Assessor.** Whenever a Zoning Map amendment, Administrative Use Permit, Conditional Use Permit, Minor Variance, or Variance is granted with respect to any property, the City shall, within 30 days, notify the County Assessor of the action in compliance with Government Code Section 65863.5.

### **18.106.060 – Effective Date of Decision**

- A. Director or Commission decision.** The decision of the Director or Commission is final and effective after 5:00 p.m. on the 15th day following the actual date the final decision is rendered if no appeal of that decision has been filed.
- B. Council decision.**
1. **Adopted by ordinance.** A decision of the Council adopted by ordinance is final and becomes effective on the 31st day following the date the ordinance is adopted by the Council, unless otherwise provided in the adopting ordinance, unless the provisions in state law for a referendum are followed.
  2. **Adopted by resolution.** Except for actions related to General Plans, a decision of the Council adopted by resolution is final and is effective on the date the decision is rendered, unless the provisions in state law for a referendum are followed.

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## Chapter 18.108 – Development Agreements

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### Sections:

- 18.108.010 – Purpose and Intent
- 18.108.020 – Application Requirements
- 18.108.030 – Filing, Processing, and Review
- 18.108.040 – Contents of Development Agreement
- 18.108.050 – Execution and Recordation
- 18.108.060 – Amendment and Cancellation of Development Agreements
- 18.108.070 – Periodic Review
- 18.108.080 – Effect of Development Agreements
- 18.108.090 – Approved Development Agreements

### 18.108.010 – Purpose and Intent

#### A. Purpose and Intent.

1. A development agreement is a contract between the City and a person with a legal or equitable interest in land subject to development.
2. A development agreement is intended to provide assurance to the applicant/contracting party that an approved project may proceed subject to the policies, rules, regulations, and conditions of approval applicable to the project at the time of execution of the agreement, regardless of any subsequent changes to City policies, rules, and regulations after project approval, unless deemed necessary for public health and safety by the City Council or a regulatory agency, or as otherwise provided in Government Code Section 65866 or Section 65869.5.
3. In return, the City is provided assurance that the project would further important citywide goals and policies which have been officially recognized by the Council, and that the project will provide the City with significant, tangible benefits beyond those that may be commonly required by the City through project conditions of approval.

#### B. Construing the Provisions.

In construing the provisions of any development agreement, those provisions shall be read to fully effectuate, and to be consistent with, the language of this chapter, the Government Code, and the agreement itself, consistent with standard rules of contract interpretation. Should any apparent discrepancies among the meaning of these documents arise, reference shall be made to the following documents, and in the following order:

1. The provisions of Government Code Section 65864 et seq;
2. The provisions of this chapter; and
3. The plain terms of the development agreement itself.

### 18.108.020 – Application Requirements

#### A. Equitable Interest.

Person(s) having a legal or equitable interest in real property may apply to enter into a development agreement provided all of the following criteria are met:

1. The status of those having a legal or equitable interest in the subject real property is established to the satisfaction of the Director. An applicant may also include an authorized agent; and
  2. The application is made on approved forms, contains all lawfully required documents, materials, and information, and is filed with the Department as required by the Development Code.
- B. Director Review and Recommendations.** The Director is empowered to receive, review, process, and prepare, together with recommendations for Commission and Council consideration, all applications for development agreements. The Director may call upon all other City departments for timely assistance.
- C. Fees.** Processing fees, as established by the Master Fee Schedule, shall be collected for an application for a development agreement. Additionally, appropriate fees shall be established and collected for amendments to a development agreement and the required periodic review.

### 18.108.030 – Filing, Processing, and Review

- A. Filing.** An application for a development agreement shall be filed with the Department and shall be accompanied by detailed data and materials identified in the most current Department handout for development agreement applications. If a development agreement is applied for in conjunction with other development approvals, the entire application shall be processed comprehensively as a package.
- B. Project Review Procedures.** Following receipt of a completed application, the Director shall investigate the facts necessary for action consistent with the purpose of this chapter.
- C. Notice and Hearings.**
1. The Director, upon finding the application for a development agreement complete and in compliance with the provisions of the California Environmental Quality Act (CEQA), shall set the application together with recommendations for public hearing before the Commission. Following conclusion of the public hearing, the Commission shall make a written recommendation, in the form of a resolution, to the Council that it approve, conditionally approve, or deny the application based on the required findings.
  2. Upon receipt of the Commission's recommendations, the City Clerk shall set the application and written report of the Commission for a public hearing before the Council. Following conclusion of the public hearing, the Council shall approve, conditionally approve, or deny the application based on the required findings.
  3. Notice of the hearings shall be given in the form of a notice of intention to consider approval of a development agreement in compliance with Government Code Section 65867.
- D. Findings and Decision.** The City Council may approve a development agreement only if it first makes all of the following findings:
1. The development agreement is in the best interests of the City;
  2. The development agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable specific plan, and the Development Code;

3. The development agreement will promote the public convenience, health, interest, safety, and general welfare of the City;
4. The project will be compatible with the uses authorized in, and the regulations prescribed for, the zone in which the real property is located;
5. The project will not adversely affect the orderly development of property or the preservation of property values;
6. The project will further important Citywide goals and policies that have been officially recognized by the Council; and
7. The project will provide the City with important, tangible benefits beyond those that may be required by the City through project conditions of approval.

### **18.108.040 – Contents of Development Agreement**

**A. Mandatory Contents.** As set forth in Government Code Section 65865.2, a development agreement shall

1. Specify the:
  - a. Duration of the agreement;
  - b. Allowed uses for the subject property; and
  - c. Density/intensity of the allowed uses.
2. Describe the:
  - a. Maximum height and size of proposed structures by clearly identifying and referring to the documents and exhibits approved;
  - b. Provisions, if any, for reservation or dedication of land for public purposes; and
  - c. Provisions, if any, for the protection from either a future growth control ordinance or a future increase in development and/or effect fees;
3. Provide for an amendment review procedure which may incorporate the following:
  - a. Director approval for minor modifications, as defined in the development agreement, which are then submitted to the Planning Commission on the consent calendar; and
  - b. Council approval for major amendments pursuant to Government Code Section 65868.
4. Upon a finding by the City Council, adopted following a noticed public hearing, and based upon substantial evidence, the City Council may suspend or modify one or more provisions of an approved development agreement in order to address the subsequent discovery of health and safety issues posing an imminent threat or danger to public health and safety, such as a new and previously unstudied and unmitigated environmental health hazard. Any such suspension or modification shall be processed in accordance with Government Code Section 65868.

**B. Permissive Contents.** A development agreement may contain:

1. Conditions, terms, restrictions, and requirements for subsequent discretionary actions; provided, the conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density/intensity of development specified in the agreement;
2. Provisions requiring construction be commenced within a specified time and that the project, or any single phase, be completed within a specified time;
3. Terms and conditions relating to applicant financing, including reimbursement, of necessary public improvements and facilities including applicant participation in benefit assessment proceedings; and
4. Other terms, conditions and requirements as the Council may deem necessary and proper, including requirement(s) for ensuring performance of all provisions of the agreement in a timely manner by the applicant/contracting party.

**18.108.050 – Execution and Recordation****A. Adoption of Ordinance Becomes Effective.**

1. If the Council approves the development agreement, it shall do so by the adoption of an ordinance.
2. The City shall not execute a development agreement until on or after the date upon which the ordinance approving the agreement becomes effective.

**B. Recordation of Agreement.** A development agreement shall be recorded by the applicant/developer in the County Recorder's Office no later than 10 days after it is executed. A copy of the recorded document shall be provided to the Director.**18.108.060 – Amendment and Cancellation of Development Agreements****A. Proposed Amendment or Cancellation.** Either party to the agreement may propose an amendment to or cancellation of the development agreement.**B. Procedures.** Amendment to or cancellation of the development agreement must be publicly noticed but only requires a hearing before the City Council.**C. City Initiated Amendment or Cancellation.** Where the City initiates the amendment or cancellation of the development agreement, it shall first give notice to the property owner of its intention to initiate the proceedings at least 10 days before giving public notice to consider the amendment or cancellation. If the City initiates an amendment or cancellation, it may only do so based upon the provisions of the Government Code.**18.108.070 – Periodic Review****A. Subject to Periodic Review.**

1. Every development agreement approved and executed shall be subject to periodic City review during the full term of the agreement.



2. The City shall review the development agreement upon initiation by the applicant/contracting party or its successor(s)-in-interest, but at least every 12 months from the date the agreement is entered into, as required by Government Code Section 65965.1.
  3. The time for review may be shortened either by agreement between the parties or by initiation in one or more of the following ways:
    - a. Affirmative vote of a majority of the members of the Commission; or
    - b. Affirmative vote of at least three members of the Council.
  4. The review schedule shall be specified in the development agreement.
- B. Purpose of Periodic Review.** The purpose of the periodic review is to determine whether the applicant/contracting party or its successor(s)-in-interest has complied in good faith with the terms and conditions of the development agreement. The burden of proof is on the applicant/contracting party or its successor(s) to demonstrate compliance, to the full satisfaction of, and in a manner prescribed by, the City.
- C. Notice of Periodic Review.**
1. The applicant/contracting party or its successor(s)-in-interest shall initiate the review proceeding by filing an application.
  2. Upon receipt of a complete application, the Director shall begin the review proceeding by giving notice the City intends to undertake a periodic review of the development agreement to the applicant/contracting party or its successor(s)-in-interest, to any person who has filed a written request for notice with the Director and has paid the required fee for the notice.
  3. The Director shall give the notice at least 10 days in advance of the time when the matter will be considered by the Commission.
- D. Review by Commission.** Review shall be conducted by the Commission, unless otherwise provided for in the development agreement.
1. The Commission shall conduct a hearing at which the applicant/contracting party or its successor(s)-in-interest shall demonstrate good faith compliance with the terms of the development agreement.
  2. The burden of proof is on the applicant/contracting party or its successor(s)-in-interest.
- E. Findings.** The Commission shall determine, upon the basis of substantial evidence, whether or not the applicant/contracting party or its successor(s)-in-interest has, for the period under review, complied in good faith with the terms and conditions of the development agreement.
- F. Procedure Upon Findings.**
1. **Has complied.**
    - a. If the Commission finds and determines the applicant/contracting party or its successor(s)-in-interest has complied in good faith with the terms and conditions of the development agreement during the period under review, the review for that period is concluded, and a notice of the determination shall be sent to the Council and the applicant/contracting party or its successor(s)-in-interest.

- b. The Council shall review the Commission's action.
  - c. If the Council so desires, it can schedule a public hearing for further review.
2. **Has not complied.** If the Commission finds and determines the applicant/contracting party or its successor(s)-in-interest has not complied in good faith with the terms and conditions of the development agreement, the Commission shall forward its recommendation to the Council and the Council may hold a public hearing to modify or terminate the agreement, as provided by Government Code section 65865.1.

**G. Modification or Termination of Development Agreement.**

1. **Proceedings upon modification or termination.** If the City determines to proceed with modification or termination of the development agreement, the City shall give notice to applicant/ contracting party or its successor(s)-in-interest of its intention to do so. The notice shall contain all of the following:
- a. The time and place of the hearing, which shall be conducted by the Council;
  - b. A statement as to whether or not the City proposes to terminate or to modify the development agreement; and
  - c. Other information that the City considers necessary to inform applicant/contracting party or its successor(s)-in-interest of the nature of the proceedings.
2. **Hearing on modification or termination of development agreement.**
- a. At the time and place set for the hearing on modification or termination, the applicant/contracting party or its successor(s)-in-interest shall be given an opportunity to be heard.
  - b. At the hearing, the Council may affirm, modify, or reject the determination of the Commission.
  - c. The Council may refer the matter back to the Commission for further proceedings or for report and recommendation.
  - d. The Council may impose those conditions to the action it takes as it considers reasonable and necessary to protect the interests of the City.
  - e. The decision of the Council on the modification or termination shall be final.

**18.108.080 – Effect of Development Agreements**

- A. Rules in Force at the Time of Execution.** Unless otherwise provided by the development agreement, the policies, regulations, and rules governing allowed uses of the land, density, design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, are the policies, regulations, and rules in force at the time of execution of the agreement.
- B. Application of New Rules.** In compliance with Government Code Section 65866, a development agreement shall not prevent the City in subsequent actions applicable to the property from applying new policies, regulations, and rules which do not conflict with those policies, regulations, and rules applicable to the property; nor shall a development agreement

prevent the City from conditionally approving or denying any subsequent development project application on the basis of existing or new policies, regulations, and rules.

**18.108.090 – Approved Development Agreements**

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

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## Chapter 18.110 – Covenants of Easement

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### Sections:

- 18.110.010 – Purpose and Intent
- 18.110.020 – Requirements
- 18.110.030 – Contents of Covenant
- 18.110.040 – Acceptance and Recordation
- 18.110.050 – When Effective
- 18.110.060 – Enforceability
- 18.110.070 – Release of Covenant

### 18.110.010 – Purpose and Intent

The purpose of this chapter is to provide for the creation of an easement by a recorded Covenant of Easement by an owner of real property, as authorized by Government Code section 65871, for parking, ingress, egress, emergency access, light and air access, landscaping, open space purposes, or access to and/or operation and maintenance of a water or storm water treatment measure.

### 18.110.020 – Requirements

At the time of recording of the Covenant of Easement, all the real property benefited or burdened thereunder shall be in common ownership.

### 18.110.030 – Contents of Covenant

A covenant of easement recorded pursuant to this chapter shall be executed by the owner of the burdened property and shall include:

1. A legal description of the real property to be subject to the easement; and
2. A legal description of the real property to be benefited by the easement; and
3. Identification of the approval, permit or designation which was granted in reliance upon recordation of the covenant, or for which recordation of the covenant is or was a requirement; and
4. A description of the purpose(s) of the easement.

### 18.110.040 – Acceptance and Recordation

- A. Acceptance.** The Director may accept a Covenant of Easement on behalf of the City when such an easement is required as a condition of land use approval, permit or designation.
- B. Recordation.** The Covenant of Easement shall be recorded in the County Recorder's Office no later than 30 days after it is executed. A copy of the recorded document shall be provided to the Director.

**18.110.050 – When Effective**

- A. The covenant of easement shall be effective when recorded and shall act as an easement pursuant to Civil Code Section 801 et seq., except that it shall not merge into any other interest in the real property.
- B. From and after the time of its recordation, the covenant shall impart notice to all persons to the extent afforded by the recording laws of California.

**18.110.060 – Enforceability**

Upon recordation, the burdens of the covenant shall be binding upon, and the benefits shall inure to, all successors in interest to the affected real property. Nothing in this chapter shall create in any person other than the City and the owner of real property benefited or burdened by the covenant standing to enforce or to challenge the covenant or any amendment to the covenant or release from it.

**18.110.070 – Release of Covenant**

The Planning Commission, or City Council on appeal of the decision of the Planning Commission, may approve and authorize recordation of a release of a Covenant of Easement.

**A. Petition for Release.**

A petition for release of a Covenant of Easement may be made by any person whether or not that person has title to the real property, and shall be filed in writing with the Director. The form of the petition and the information required to be set forth in them shall be prescribed by the Director. The Director shall not accept any petition for filing unless:

1. All information and data is set forth and shown as required by the form;
2. The petition is verified by the party making the petition; and
3. The applicable filing fee has been paid. The fee shall be as set forth in the Master Fee Schedule established by resolution of the Council.

**B. Hearing by Planning Commission.**

1. The Director shall set a date for the public hearing by the Planning Commission. The date of hearing shall be not less than 20 nor more than 60 days after the date the application was accepted as complete. Notice shall be provided in accordance with Chapter 106.
2. The Director shall provide a report and recommendation to the Commission, and shall file with the Commission all papers, documents, and exhibits which are part of the file. The Commission may decide to grant the petition, conditionally grant the petition or deny the petition.
3. The decision of the Commission shall be mailed to all persons entitled to notice.
4. The decision of the Commission shall become final as set forth in Chapter 106; provided, however, that if a written notice of appeal is timely filed, the decision of the Commission shall not be final, and it shall be of no force or effect.

**C. Findings.**

The Planning Commission, or the City Council on appeal, may grant the petition for release of the Covenant of Easement only upon a finding that the restriction of the property is no longer necessary to achieve the land use goals of the City.

**D. Release to be Recorded.**

Within 15 days after the action granting a petition for release has become final, the Director shall cause the release to be recorded in the County Recorder's Office.

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## **Chapter 18.112 – Permit Modifications and Revocations**

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### **Sections:**

- 18.112.010 – Purpose and Intent
- 18.112.020 – Modifications
- 18.112.030 – Revocations
- 18.112.040 – Findings to Modify or Revoke
- 18.112.050 – Notice and Hearing Required
- 18.112.060 – Appeals

### **18.112.010 – Purpose and Intent**

This chapter provides procedures for City-initiated modification or revocation of previously approved permits or approvals.

### **18.112.020 – Modifications**

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

### **18.112.030 – Revocations**

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

### **18.112.040 – Findings to Modify or Revoke**

- A. Permits.** An Administrative Use Permit, Conditional Use Permit, or other City planning permit or approval, except a Variance or Minor Variance, may be modified or revoked by the Review Authority that originally approved the permit, if the Review Authority makes any one of the following findings:
1. Circumstances under which the permit or approval was granted have been changed by the applicant to an extent that one or more of the findings that justified the original approval can no longer be made, and the public health, safety, and general welfare require the modification or revocation;
  2. The permit or other approval was granted, in whole or in part, on the basis of a fraud, misrepresentation, or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or approval;

3. One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated and/or the permit is in violation of any code, law, ordinance, regulation, or statute;
4. The approved use or structure has not been exercised within 12 months of the date of approval;
5. The approved use or structure has ceased to exist or has been suspended for a period in excess of 180 days.
6. An improvement authorized in compliance with the permit or approval is in violation of any applicable code, law, ordinance, regulation, or statute; or
7. The improvement/use allowed by the permit or approval has become detrimental to the public health, safety, or general welfare or the manner of operation constitutes or is creating a nuisance.

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

1. Circumstances under which the original approval was granted have been changed by the applicant to a degree that one or more of the findings contained in the original approval can no longer be made in a positive manner, and the grantee has not substantially exercised the rights granted by the Variance or Minor Variance; or
2. One or more of the conditions of the Variance or Minor Variance have not been met, or have been violated, and the grantee has not substantially exercised the rights granted by the Variance or Minor Variance.

### 18.112.050 – Notice and Hearing Required

**A. Hearing.**

1. The appropriate Review Authority shall hold a noticed public hearing to modify or revoke a permit or approval granted.
2. At least 10 days before the public hearing, notice shall be mailed or delivered to the owner as shown on the County's latest equalized assessment roll and to the project applicant, if not the owner of the subject property, for which the permit or approval was granted. The only exception to the 10-day notice provision shall be for Temporary Use Permits which, because of their short term nature, shall only require a 24-hour notice.

**B. Mailing of Notice.** Notice shall be deemed delivered two days after being mailed through the United States Postal Service, postage paid, or by some other method providing for proof of delivery.

### 18.112.060 – Appeals

**A.** The decision of the Director may be appealed to the Commission and the decision of the Commission may be appealed to the Council. The decision of the Council shall be final.

- B.** A noticed public hearing shall be required for the appeal of a decision to modify or revoke a permit or approval.
  
- C.** At the conclusion of the hearing, the Review Authority may sustain the prior Review Authority's decision to modify or revoke the permit or approval, or overturn the decision and order reinstatement of the permit or approval.

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## Chapter 18.114 – Amendments

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### Sections:

- 18.114.010 – Purpose and Intent
- 18.114.020 – Initiation of Amendment
- 18.114.030 – Processing, Notice, and Hearings
- 18.114.040 – Commission Action on Amendment
- 18.114.050 – Council Action on Amendment
- 18.114.060 – Findings and Decision
- 18.114.070 – Effective Dates

### 18.114.010 – Purpose and Intent

This chapter provides procedures for the amendment of the Development Code, the General Plan, and the Official Zoning Map.

### 18.114.020 – Initiation of Amendment

- A. **Who May initiate.** An amendment may be proposed by the Director or initiated by the Commission or Council.
- B. **General Plan or Zoning Map Amendments Only.** For the General Plan or the Zoning Map, an amendment may be initiated by the filing of an amendment application with the Department by any or all of the owners or authorized agent(s)/representative(s) of property owners for which the amendment is sought.

### 18.114.030 – Processing, Notice, and Hearings

- A. **Application Filing and Processing.**
  - 1. If initiated by the filing of an amendment application, the application shall be processed in compliance with standard application processing procedures.
  - 2. It is the responsibility of the applicant to provide evidence in support of the required findings.
- B. **Timing of General Plan Amendments.** The mandatory elements of the General Plan may be amended up to four times in a single calendar year, as authorized by and subject to the provisions of Government Code Section 65358.
- C. **Public Hearings Required.** The Commission and Council shall each conduct one or more public hearings regarding the amendment.
- D. **Notice and Hearing.** Notice of the public hearings shall be provided and the hearings shall be conducted in compliance with the provisions of the Development Code and as specified in Government Code Sections 65353, 65355, 65854, and 65856.

**E. Abandonment of Amendment Proceedings.**

1. **Withdrawn by Applicant.** Upon the consent of the Commission, any application for an amendment may be withdrawn upon the written request of a majority of all the persons who signed the application.

**18.114.040 – Commission Action on Amendment**

- A. All Amendments.** After the public hearing, the Commission shall forward a written recommendation, in the form of a resolution, together with the reasons for the recommendation, to the Council whether to approve, approve in modified form, or deny the proposed amendment, based on the required findings.
- B. Recommendation for Approval of Development Code or Zoning Map Amendments.** A recommendation for approval or approval in modified form of a Development Code or Zoning Map amendment shall require only a majority vote.
- C. Recommendation for Approval of General Plan Amendments.** A recommendation for approval or disapproval in modified form of a General Plan amendment shall require the affirmative vote of not less than a majority of the total membership of the Commission as required by Government Code Section 65354.
- D. Denial by Commission.** A recommendation against the proposed amendment requires only a majority vote.

**18.114.050 – Council Action on Amendment**

- A. All Amendments.** Upon receipt of the Commission's recommendation to approve, or approve in modified form, the proposed amendment, the Council shall conduct a public hearing and either approve, approve in modified form, or deny the proposed amendment based on the required findings.
- B. Approval of Development Code or Zoning Map Amendments.** The action by the Council to approve the Commission's recommendation regarding a Development Code or Zoning Map amendment shall be by a majority vote of the members present, adopted by ordinance, and shall be final and conclusive.
- C. Approval of General Plan Amendments.** The action by the Council to approve the Commission's recommendation regarding a General Plan amendment shall require the affirmative vote of not less than a majority of the total voting members in compliance with Government Code Section 65356, adopted by resolution, and shall be final and conclusive.
- D. Referral to Commission.** If the Council proposes substantial modification(s) not previously considered by the Commission, the proposed modification(s) shall be first referred to the Commission for its recommendation, in compliance with Government Code Sections 65356 and 65857. Failure of the Commission to report back to the Council within the time limits identified in Government Code Sections 65356 and 65857 following the referral shall be deemed approval by the Commission of the proposed modification(s).

**18.114.060 – Findings and Decision**

An amendment to the Development Code, the General Plan, or the Official Zoning Map may be approved only if all of the following findings are first made, as applicable to the type of amendment.

**A. Findings for General Plan Amendments.**

1. The amendment is internally consistent with all other provisions of the General Plan;
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
3. The affected site is physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle access, and public services and utilities and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate, to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

**B. Findings for Development Code and Zoning Map Amendments.****1. Findings Required for all Development Code and Zoning Map Amendments**

- a. The proposed amendment is consistent with the General Plan and any applicable specific plan; and
  - b. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
2. **Additional Finding for Development Code Amendments.** The proposed amendment is internally consistent with other applicable provisions of the Development Code.
  3. **Additional Finding for Zoning Map Amendments.** The affected site is physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle access, and public services and utilities and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate, to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

**18.114.070 – Effective Dates**

- A. General Plan.** A General Plan amendment takes effect 30 days after adoption by a resolution of the Council.
- B. Development Code and Zoning Map.** A Development Code or Zoning Map amendment becomes effective on the 31st day following the adoption of an ordinance by the Council.

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## Chapter 18.116 – Appeals

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### Sections:

- 18.116.010 – Purpose and Intent
- 18.116.020 – Appeal Subjects and Jurisdiction
- 18.116.030 – Calls for Review
- 18.116.040 – Filing and Processing of Appeals
- 18.116.050 – Judicial Review

### 18.116.010 – Purpose and Intent

This chapter establishes procedures for the appeal of determinations and decisions rendered by the Planning and Housing Division staff, the Director and the Commission.

### 18.116.020 – Appeal Subjects and Jurisdiction

- A. Development Code Administration and Interpretation.** Decisions and actions of the staff and Director may be appealed to the Commission:
1. **Interpretations.** Any determination on the meaning or applicability of regulations believed to be in error, and not resolved with the Director;
  2. **Determinations.** Any non-permit determination (e.g., a decision of application status or process requirements) or permit determination; and
  3. **Enforcement Actions.** Any enforcement action.
  4. **Commission Decisions.** Any decision of the Commission may be appealed to the Council.

### 18.116.030 – Calls for Review

- A. Council Review.**
1. **Council.** The Council may call for a review of any determination or decision rendered by the staff, the Director or the Commission.
  2. **Majority Vote Required.** A review may only be commenced by the affirmative vote of the majority of the members present.
- B. Process for Calling for a Review.**
1. **Initiation by Council Members.**
    - a. One or more Council members may initiate a call for review of a determination or decision by filing a written request with the City Clerk before the effective date of the action, generally 15 days following the date of the determination or decision.

- b. The Council may call directly for the review of a Director determination or decision or refer the matter to the Commission to review and take action or provide a written recommendation to the Council.
  2. **Consideration.** The Commission or Council, as applicable, shall consider the matter at its next available regularly scheduled meeting.
  3. **Request for Transcript.** If the Commission or Council requests a transcript for use at the review hearing, a transcript shall be prepared and a copy shall be made available for inspection by any interested party. Fees shall be collected from applicants to create transcripts. Creation of a transcript may delay the scheduling of a hearing.
  4. **Notice to Applicant.** If the decision of a discretionary application is being reviewed, the applicant shall be informed of the aspects of the application and the determination or decision to be considered.
  5. **Effect of Call for Review.**
    - a. A call for review shall stay the effective date of a determination or decision until the Review Authority can make a decision.
    - b. The timely filing of a call for review does not extend the time in which an appeal of a determination or decision shall be filed.
  6. **Filing of an Appeal Pending a Call for Review.**
    - a. **Right to File an Appeal.** Any person may file a timely appeal even though a call for review has been filed.
    - b. **Effect of Filing an Appeal.** The filing of the appeal serves to protect the rights of the appellant(s).
  7. **Notice and Public Hearing.**
    - a. A review hearing shall be a public hearing if the original determination or decision required a public hearing.
    - b. Notice of the public hearing shall be the same as for the original determination or decision.
  8. **Fees Not Required.** Fees shall not be required in conjunction with the filing of a call for review by a member of Council.
- C. **Concurrent Commission Recommendations.** When the Commission makes a recommendation to the Council on a legislative matter, any concurrent companion decision(s) by the Commission on an application concerning in whole or in part the same parcel(s) shall also be deemed to be timely called up for review by the Council.

### 18.116.040 – Filing and Processing of Appeals

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

1. The facts and the basis shall include, at a minimum, the specific grounds for the appeal, where there was an error or abuse of discretion by the previous Review Authority in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record.
2. The appeal shall be filed with the Planning Department, as applicable, within 15 days following the actual date the decision was rendered.
3. The appeal shall be accompanied by the filing fee set forth in the Fee Schedule.
  - a. Additional fees may be collected on a time and materials to cover the full cost of the appeal including but not limited to: field investigation; preparation of necessary reports; preparation of site maps; mailing notices; printing and posting notices and legal publications, transcriptions of meetings or other items deemed necessary for preparation of the administrative record.
  - b. These fees shall be paid to the Director at the time the appeal is filed or when the City subsequently invoices.
4. The appeal shall be accompanied by a written verification by at least one of the petitioners attesting to the truth and correctness of all facts and materials presented with the appeal petition. The verification shall be signed before a notary public or other officer authorized to administer oaths.
5. Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered by the applicable Review Authority.

**B. Scope of Planning Permit Appeals**

An appeal of a decision on a planning permit shall be limited to issues raised at the public hearing, or in writing before the hearing, which are part of the record. The record consists of all correspondence, minutes, reports, transcripts, written and oral testimony at the public hearing, and any other documents or evidence considered or relied upon by the Review Authority in the decision-making process.

**C. Report and Scheduling of Hearing.**

1. When an appeal has been filed, the Director shall prepare a report, including all of the application materials, and schedule the matter for a public hearing by the appropriate Review Authority within 90 days of the filing of the appeal.
2. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with standard hearing procedures.
  - a. Notice shall be mailed to the applicant and to all persons who spoke at the public hearing on the matter being appealed, to all persons who submitted written evidence before or during the public hearing on the matter being appealed, and to all persons whose names appear on the latest adopted County assessment roll as owning property located within 300 feet of the exterior boundaries of the parcel subject to the appeal.
  - b. Notice shall also be published once in a newspaper having general circulation in the City not later than 10 calendar days before the hearing date.
3. Any interested party may appear and be heard regarding the appeal.

**D. Decision.**

1. During the appeal hearing, the issues that may be raised and considered by the Review Authority are not limited to those raised by the appellant, and may include any aspect of the proposed project, whether or not originally considered as part of the decision being appealed. The Review Authority may:
  - a. Affirm, affirm in part, modify, or reverse the action, determination, or decision that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the Development Code; or
  - b. Impose additional conditions of approval, which may address issues or concerns other than the subject of the appeal.
2. If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the Director or Commission, as applicable, for further consideration.
3. In the event of a tie vote by the Review Authority on an appeal, the decision being appealed shall stand.
4. **Provision of Notice of Decision.**
  - a. Following the final decision on an application for a permit or other approval required by the Development Code, the City shall provide notice of its final decision to the appellant, applicant, property owner/owner's representative, and to any person who specifically requested notice of the City's final action.
  - b. The notice of the final decision shall contain relevant findings, conditions of approval, and the reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City.

- E. Effective Date of Appeal Decisions.** Final action by the applicable Review Authority shall be effective immediately if no additional appeals are available.

**18.116.050 – Judicial Review**

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

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## Chapter 18.118 – Enforcement

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### Sections:

- 18.118.010 – Purpose and Intent
- 18.118.020 – Permits and Licenses
- 18.118.030 – Enforcement Responsibility
- 18.118.040 – Violations
- 18.118.050 – Inspections
- 18.118.060 – Initial Enforcement Action
- 18.118.070 – Legal Remedies
- 18.118.080 – Recovery of Costs
- 18.118.090 – Additional Permit Processing Fees
- 18.118.100 – Re-inspection Fees
- 18.118.110 – Remedies Cumulative

### 18.118.010 – Purpose and Intent

This chapter establishes provisions intended to ensure compliance with the requirements of the Municipal Code, the Development Code, and any conditions of planning permit approval, to promote the City's planning efforts, and for the protection of the public health, safety, and welfare of the City.

### 18.118.020 – Permits and Licenses

All departments, officials, and public employees of the City who are assigned the authority or duty to issue certificates, licenses, permits, and other approvals shall comply with the provisions of the Development Code.

- A. Permits in Conflict with Development Code.** Certificates, licenses, permits, and other approvals for uses or structures in conflict with the provisions of the Development Code shall not be issued.
- B. Permits Deemed Void.** Any certificate, license, permits, and other approvals issued in conflict with the provisions of the Development Code is void and of no effect.

### 18.118.030 – Enforcement Responsibility

- A. Responsibility of Director.** The Director shall exercise the authority provided in California Penal Code Section 836.5 and issue notices of violation, stop work orders, and citations for any violations pertaining to the use of any land, and the addition, alteration, construction, conversion, installation, moving, reconstruction, or use of any structure.
- B. Additional Responsibility to Enforce.** All officers of the City shall render any and all necessary assistance to the Director for enforcement.

### 18.118.040 – Violations

#### A. Violations.

1. Any use of land or structures operated or maintained and any structure constructed or maintained contrary to the provisions of the Development Code is hereby declared to be a violation of the Development Code and any person responsible for the violation may be held accountable as set forth in Municipal Code Chapter 1.12, Chapter 1.14 and Chapter 8.08.
2. The violation of any required condition imposed on a permit or approval shall constitute a violation of the Development Code and may constitute grounds for revocation or modification of the permit, or any other remedy available to the City under the Municipal Code or the Development Code.
3. Any violations of the Development Code or any required condition(s) imposed on a permit or approval granted shall be treated as a strict liability offense regardless of intent.

**B. Public Nuisance.** Any use or structure altered, constructed, converted, demolished, enlarged, established, erected, maintained, moved, or operated contrary to the provisions of the Development Code or any applicable condition(s) of approval imposed on a permit or approval, or any property found to be maintained in violation of Municipal Code Chapter 8.08 is hereby declared to be unlawful and a public nuisance, and shall be subject to the remedies and penalties established by in the Municipal Code.

**C. Criminal Violations.** Any person, whether an agent, principal, or otherwise, violating, permitting, or causing the violation of any provision of the Development Code or any permit issued in compliance with the Development Code shall be guilty of a misdemeanor or an infraction at the election of the City and/or its prosecuting official, and upon conviction thereof, shall be punishable as established by Municipal Code Chapter 1.12.

**D. Continuing Violation.** Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of the Development Code or any applicable condition of approval imposed on a permit is committed, continued, or allowed to continue and the violator shall be punished accordingly.

#### E. Stop Work Order.

1. Any construction in violation of the Development Code or any conditions imposed on a permit shall be subject to the issuance of a "Stop Work Order" or other similar notice issued by the City.
2. Any violation of a Stop Work Order or other similar notice shall constitute a misdemeanor and a public nuisance, and shall be subject to the remedies and penalties established by the Municipal Code and this chapter.

### 18.118.050 – Inspections

**A. Pre-approval inspections.** Every applicant seeking a permit or any other approval in shall allow the City officials handling the application access to any premises or property that is the subject of the application.

**B. Post approval inspections.** If the permit or other request is approved, the owner or applicant shall allow appropriate City officials access to the premises in order to determine continued compliance with the approved permit and/or any conditions of approval imposed on the permit.

**18.118.060 – Initial Enforcement Action**

- A. Procedures for Initiating Enforcement.** This section describes the procedures for initiating enforcement action in cases where the Director has determined real property within the City is being used, maintained, or allowed to exist in violation of the provisions of the Development Code.
- B. Encourage Voluntary Cooperation.** It is the objective of these provisions to encourage the voluntary cooperation of property owners or other responsible parties in the prompt correction of violations, so that the other enforcement measures provided by this chapter may be avoided. These provisions shall not limit or prevent the City from taking any other steps necessary to obtain compliance with this Development Code.
- C. Notice to Responsible Parties.** The Director shall provide the record owner of the subject site and any person in possession or control of the site with a written Notice of Violation, which shall include all of the following information:
1. A description of each violation and citations of applicable Development Code provisions being violated;
  2. A time limit for correcting the violation(s);
  3. A statement that the City intends to charge the property owner and/or the person in possession or control for all administrative costs associated with the abatement of the violation(s) and/or initiate legal action; and
  4. A statement that the property owner or person in possession or control may request and be provided a meeting with the Director to discuss possible methods and time limits for the correction of the violation(s).
- D. Time Limit for Correction.**
1. The Notice of Violation shall state that the violation(s) shall be corrected within 30 days from the date of the notice to avoid further enforcement action by the City, unless the responsible party contacts the Director within that time to arrange for a longer period for correction.
  2. The Director may also require through the Notice of Violation that the correction occur within less than 30 days if the Director determines that the violation(s) constitutes a more serious hazard to public health or safety.
- E. Use of Other Enforcement Procedures.** Enforcement procedures may be employed by the City after or instead of the provisions of this section where the Director determines the process in this section would be ineffective in securing the correction of the violation(s) within a reasonable time.

**18.118.070 – Legal Remedies**

- A. Civil Actions.** Any structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained or any use of any land, structure, or premises established, conducted, operated, or maintained contrary to the provisions of the Development Code is hereby declared to be unlawful and a public nuisance and the City Attorney may upon request of the Director, and shall upon request of the Commission or Council, commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law and shall take other steps and shall apply to any courts as may have jurisdiction to grant relief as will abate and remove the

structure and restrain and enjoin any person from setting up, erecting, building, maintaining or using any structure or using any property contrary to the provisions of the Development Code.

- B. Costs and Damages.** Any person violating any provisions of the Development Code or any permit issued shall be liable to the City for all of the costs incurred and the damages suffered by the City, its agents, and agencies as a direct result of the violation(s), including reasonable attorney fees and costs. In determining the amount of the civil penalty to impose, the Court should consider all relevant circumstances, including the extent of the harm caused by the conduct constituting a violation(s), the nature and persistence of the conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the defendant, whether corporate or individual, and any corrective action taken by the defendant.

### **18.118.080 – Recovery of Costs**

This section establishes procedures for the recovery of administrative costs, including staff and City Attorney time expended on the enforcement of the provisions of the Development Code in cases where no permit is required in order to correct a violation. The intent of this section is to recover City administrative costs reasonably related to enforcement.

**A. Record of Costs.**

1. The Department shall maintain records of all administrative costs incurred by responding City departments, including City Attorney costs, associated with the processing of violations and enforcement, and shall recover the costs from the property owner and/or the person in possession or control.
2. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Council, or the actual rate charged to the City.

- B. Notice.** Upon investigation and a determination that a violation of any of the provisions of the Development Code or any condition(s) imposed on a permit or approval is found to exist, the Director shall notify the record owner and/or any person having possession or control of the property by mail, of the existence of the violation(s), the Department's intent to charge the property owner and/or the person in possession or control for all administrative costs associated with enforcement, and of the owner's right to a hearing on any objections they may have. The notice shall be in a form approved by the City Attorney.

**C. Summary of Costs and Notice.**

1. At the conclusion of the case, the Director shall send a summary of costs associated with enforcement to the property owner and/or person having possession or control of the property by certified and first class mail.
2. The summary shall include a notice in a form approved by the City Attorney, advising the responsible party of their right to request a hearing on the charges for City cost recovery within 10 days following the date of the notice, and that if no request for hearing is filed, the responsible party will be liable for the charges.
3. In the event that no request for hearing is timely filed or, after a hearing the Director affirms the validity of the costs, the property owner and/or person in possession or control shall be liable to the City in the amount stated in the summary or any lesser amount as determined by the Director.



4. The costs shall be recoverable in a civil action in the name of the City, in any court of competent jurisdiction, or by tax assessment or a lien on the property in compliance with Government Code Section 54988, at the City's election.
5. The obligation to pay any unpaid costs shall be made a personal obligation of the property owner and/or person in possession or control. The obligation may be recovered against the property owner and/or the person in possession or control through a civil action initiated by the City or its authorized collection agent, or in any other manner provided for by law. The City shall be entitled to recover costs of the civil action, including attorney's fees.

**D. Request for Hearing on Costs.** Any property owner and/or other person having possession and control of the subject property who receives a summary of costs shall have the right to a hearing before the Director.

1. A request for hearing shall be filed with the Department within 10 days following the service by mail of the Department's summary of costs, on a form provided by the Department.
2. Within 30 days following the filing of the request, and on 10 days' written notice to the property owner and/or the person in possession or control, the Director shall hold a hearing on objections, and determine their validity.
3. In determining the validity of the costs, the Director shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include:
  - a. Whether there is a present ability to correct the violation(s);
  - b. Whether the property owner and/or the person in possession or control moved promptly to correct the violation(s);
  - c. The degree of cooperation provided by the property owner and/or the person in possession or control; and
  - d. Whether reasonable minds can differ as to whether a violation(s) exists.
4. The Director's decision shall be appealable directly to the Council.

### **18.118.090 – Additional Permit Processing Fees**

Any person who establishes a land use, or alters, constructs, demolishes, enlarges, erects, maintains, or moves any structure without first obtaining any permit required by the Development Code, shall pay double the permit processing fees established by the Fee Schedule for the correction of the violations, before being granted a permit for a use or structure on the site.

### **18.118.100 – Re-inspection Fees**

**A. Amount and Applicability of Re-inspection Fee.**

1. A re-inspection fee shall be imposed on each person who receives a Notice of Violation, notice and order, or letter of correction of any provision of the Development Code or the Municipal Code, adopted Building Code, or state law.
  - a. The fee amount shall be established by the Master Fee Schedule.

- b. The fee may be assessed for each inspection or re-inspection conducted when the particular violation for which an inspection or re-inspection is scheduled is not fully abated or corrected as directed by, and within the time and manner specified in, the notice or letter.
2. The fee shall not apply to the original inspection to document the violations and shall not apply to the first scheduled compliance inspection made after the issuance of a notice or letter, if the correction has been made to the satisfaction of the Director.

**B. Continuation of the Original Case.**

1. If a notice or letter has been previously issued for the same violation and the property has been in compliance with the provisions of the Development Code or the Municipal Code for less than 90 days, the violation shall be deemed a continuation of the original case, and all inspections or re-inspections, including the first inspection for the repeated offense, shall be charged a re-inspection fee.
2. This fee is intended to compensate for administrative costs for unnecessary City inspections, and is not a penalty for violating the Development Code or the Municipal Code.
3. Any re-inspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of the Development Code or the Municipal Code, or costs incurred by the City for the abatement of a public nuisance.

### **18.118.110 – Remedies Cumulative**

- A. Cumulative, not exclusive.** All remedies contained in the Development Code for the handling of violations or enforcement shall be cumulative and not exclusive of any other applicable provisions of any law.
- B. Other remedies.** Should a person be found guilty and convicted of a misdemeanor or infraction for the violation of any provision of the Development Code, the conviction shall not prevent the City from pursuing any other available remedy to correct the violation(s).