

## Chapter 21.50 – Permit Application Filing and Processing

Revisions		
Section	Change	Description
21.50.070.B	ADDED	<b>Investigation</b> – Requires an analysis of the individual and cumulative impacts of the development, define the least environmentally damaging alternative, and recommend modifications or mitigation measures to avoid or minimize impacts.
21.50.070.C.3	ADDED	<b>Recommendations</b> – Requires findings of fact, analysis and conclusions in any recommendation to approve, conditionally approve, or disapprove proposed development within or adjacent to ESHA, wetlands or other sensitive resources.

CLUP Polices Implemented	
Coastal Land Use Plan Policy	Section
4.6-1. Review all new development subject to California Environmental Quality Act (CEQA) and coastal development permit requirements in accordance with the principles, objectives, and criteria contained in CEQA, the State CEQA Guidelines, the Local Coastal Program, and any environmental review guidelines adopted by the City.	21.50.070
4.6-2. Integrate CEQA procedures into the review procedures for new development within the coastal zone.	21.50.070
4.6-3. Require a qualified City staff member, advisory committee designated by the City, or consultant approved by and under the supervision of the City, to review all environmental review documents submitted as part of an application for new development and provide recommendations to the appropriate decision-making official or body.	21.50.070
4.6-4. Require the City staff member(s) and/or contracted employee(s) responsible for reviewing site specific surveys and analyses to have technical expertise in biological resources, as appropriate for the resource issues of concern (e.g. marine/coastal, wetland/riparian protection and restoration, upland habitats and connectivity) and be knowledgeable about the City of Newport Beach.	21.50.070
4.6-5. Where development is proposed within or adjacent to ESHA, wetlands or other sensitive resources, require the City staff member(s) and/or contracted employee(s) to consider the individual and cumulative impacts of the development, define the least environmentally damaging alternative, and recommend modifications or mitigation measures to avoid or minimize impacts. The City may impose a fee on applicants to recover the cost of review of a proposed project when required by this policy.	21.50.070
4.6-6. Where development is proposed within or adjacent to ESHA, wetlands or other sensitive resources, require the City staff member(s) and/or contracted employee(s) to include the following in any recommendations of approval: an identification of the preferred project alternative, required modifications, or mitigation measures necessary to ensure conformance with the Coastal Land Use Plan. The decision making body (Planning Director, Planning Commission, or City Council) shall make findings relative to the project's conformance to the recommendations of the City staff member(s) and/or contracted employee(s).	21.50.070
4.6-7. Require City staff member(s) and/or contracted employee(s) to make a recommendation to the decision making body as to whether an area constitutes an ESHA, and if recommended as an ESHA, then establish the boundaries thereof and appropriate buffers.	21.50.070

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## Chapter 21.50 – Permit Application Filing and Processing

Sections:

21.50.010	Purpose
21.50.020	Authority for Decisions
21.50.030	Application Preparation and Filing
21.50.040	Application Fees
21.50.050	Initial Application Review
21.50.060	Project Evaluation and Staff Reports
21.50.070	Environmental Review

### 21.50.010 – Purpose

This chapter provides procedures and requirements for the preparation, filing, and processing of permit applications required by this Implementation Plan.

### 21.50.020 – Authority for Decisions

- A. **Review Authority.** Table 21.50-1 (Review Authority) identifies the review authority responsible for reviewing and making decisions on each type of application required by this Implementation Plan.

**Table 21.50-1  
Review Authority**

Type of Action	Applicable Code Chapter/Section	Role of Review Authority (1)					
		Director	Zoning Administrator	Harbor Resources Manager	Commission	Council (2)	Coastal Commission
Administrative and Legislative							
Interpretations	Section 21.12.020	Determination (3)			Appeal	Appeal	
LCP Amendments	Chapter 21.66				Recommend	Decision (4)	Decision (4)
Approvals in Concept	Section 21.52.045		Determination (3)	Determination (5)	Appeal	Appeal	
Waiver for De Minimis Development	Section 21.52.065		Determination (3)		Appeal	Appeal	
Permits and Approvals							
Coastal Development Permits	Section 21.52.045		Decision (6)		Appeal	Appeal	Decision (7) Appeal (2)

Type of Action	Applicable Code Chapter/Section	Role of Review Authority (1)					
		Director	Zoning Administrator	Harbor Resources Manager	Commission	Council (2)	Coastal Commission
Emergency Coastal Development Permits	Section 21.52.075	Decision (3)			Appeal	Appeal	
<p>Notes:</p> <p>(1) "Recommend" means that the Commission makes a recommendation to the Council; "Determination" and "Decision" mean that the review authority makes the final determination or decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of a previous decision-making body, in compliance with Chapter 21.64 (Appeals).</p> <p>(2) The Council is the final review authority for all applications in the City. A decision by the City on a Coastal Development Permit application within the appeal areas depicted on the Permit and Appeal Jurisdiction Map or a project that constitutes a major public works project or energy facility may be appealed to the Coastal Commission in compliance with Chapter 21.64 (Appeals).</p> <p>(3) The Director or Zoning Administrator may defer action and refer the request to the Commission for consideration and final action.</p> <p>(4) The Californian Coastal Commission is the final decision making authority on amendments to the Local Coastal Program. See Chapter 21.80 (Amendments).</p> <p>(5) For development located on tidelands or submerged lands that did not involve a discretionary action authorized by this Implementation Plan where the authority is specifically assigned to the Council, Commission, Director, or Zoning Administrator</p> <p>(6) If the project also requires another discretionary approval (e.g., conditional use permit, variance, etc.), then the applicable review authority shall be the authority for the other discretionary approval.</p> <p>(7) All development on tidelands, submerged lands, and public trust lands as described in California Public Resources Code Section 30519(b) and in deferred certification areas designated by the Local Coastal Program shall require a permit issued by the Coastal Commission in accordance with procedures specified by the Coastal Commission, in addition to other permits or approvals required by the City. Pursuant to Coastal Act Section 30613, permit authority on tidelands, submerged lands, and public trust lands that are determined by the Coastal Commission to be filled and developed and located within an area committed to urban uses shall be delegated to the City.</p>							

**B. Projects Bisected By Appeal Jurisdiction.** If a portion of the approved development is of the type or in a location that makes the action by the City subject to appeal, the approval of the coastal development permit is subject to appeal to the Coastal Commission.

**C. Projects Bisected By City and Coastal Commission Jurisdiction.** Where a proposed development is located within both the Coastal Commission's and City's coastal development permit jurisdictions, coastal development permits are required by both the City and the Coastal Commission. The following procedures apply:

1. For divisions of land, a coastal development permit issued by the Coastal Commission shall be required only for lots or parcels created that contain new lot lines or portions of new lot lines within the area subject to the Coastal Commission's retained jurisdiction.
2. For any development involving a structure or similar integrated physical construction, a coastal development permit issued by the Coastal Commission shall be required for any structure partially in the retained jurisdiction area.

- D. **Projects Bisected By Different Local Government Jurisdictions.** If a project straddles the boundaries of the City and another local government, the applicant must obtain separate coastal permits from each jurisdiction. An exception is possible for public agencies that, pursuant to California Public Resources Code Section 30605, may obtain one "Public Works Plan" approval from the Coastal Commission, in lieu of locally-issued coastal permits.

#### **21.50.030 – Application Preparation and Filing**

- A. **Application Contents.** Each permit application required by this Implementation Plan shall be filed with the Department on the appropriate City application form, together with all required fees and/or deposits and all other information and materials specified by the Director for the specific type of application.
- B. **Eligibility for Filing.** An application may only be filed by the owner of the subject property or authorized agent of the owner with the written consent of the property owner. The application shall be signed by the owner of record or by an authorized agent, if written authorization from the owner of record is filed concurrently with the application.
- C. **Rejection of Application.** If the Director determines that an application cannot lawfully be approved by the City, the Director shall not accept the application for processing.

#### **21.50.040 – Application Fees**

- A. **Fee Schedule.** The Council shall establish a schedule of fees for the processing of the applications required by this Implementation Plan, hereafter referred to as the City's fee schedule adopted by resolution.
- B. **Timing of Payment.** Applications shall not 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 suspension of processing or issuance of any permit.
- C. **Refunds and Withdrawals.** Application fees cover City costs for public hearings, mailings, staff time and the other activities involved in processing applications. No refund for an application that is denied shall be allowed. In the case of a withdrawal by the applicant, 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.

#### **21.50.050 – Initial Application Review.**

- A. **Review for Completeness.** The Director shall review each application for completeness and accuracy before it is accepted as being complete. The determination of completeness shall be based on the City's applicable list of required application contents and any additional written instructions provided to the applicant in any preapplication conference, and/or during the initial application review period.
1. **Notification of Applicant or Authorized Agent.** Within thirty (30) calendar days of application filing, the applicant or authorized agent 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 specified information shall be provided before the application is deemed complete.

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 any additional information requested by the Director is not required, the applicant may appeal the determination to the appropriate review authority in compliance with Chapter 21.64 (Appeals).
3. **Additional Information.**
  - a. When the Director determines that 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.
  - b. The time available to an applicant for submittal of additional information is limited by subsection (A)(4) of this section.
  - c. The additional specified information shall be submitted in writing.
  - d. The Director's review of any information resubmitted by the applicant shall be accomplished in compliance with subsection (A)(1) of this section along with another thirty (30) day period of review for completeness.
4. **Expiration of Application.**
  - a. If an applicant fails to provide any additional information requested by the Director within sixty (60) days following the date the application was deemed incomplete, the application shall be deemed withdrawn without any further action by the City.
  - b. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated filing fees.
5. **Submittal of Additional Information.**
  - a. During the course of the review process, the review authority may require the applicant to submit additional information or revised plans.
  - b. The Director shall notify the applicant in writing of any revisions or additional information required and the applicant shall submit the requested information to the Department within thirty (30) days after the date of the notice or within the period of time designated by the review authority.
  - c. Failure to submit the required information within the thirty (30) day period or within the period of time designated by the review authority may be cause for denial.

6. **Additional Environmental Information.** After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA), the City's CEQA guidelines, and Section 21.50.080 (Environmental review).
- B. **Referral of Application.** At the discretion of the Director, or where otherwise required by this Implementation Plan 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 for their review and comment.

#### **21.50.060 – Project Evaluation and Staff Reports**

- A. **Director Evaluation.** The Director shall review all applications to determine whether they comply and are consistent with the provisions of this Implementation Plan, the General Plan, and other applicable provisions identified in Section 21.10.040 (Applicability of Implementation Plan).
- B. **Staff Report.** The Department shall provide a written recommendation for discretionary applications to the applicable review authority recommending that the application be approved, conditionally approved, or denied.
- C. **Staff Report to Include Findings.** Whenever this Implementation Plan requires a set of findings to be made before granting approval of an application by the applicable review authority, it shall be the responsibility of the Department to present all relevant facts to support the findings.
- D. **Report Distribution.** Each staff report shall be furnished to the applicant at the same time as it is provided to the review authority before the review authority's action on the application.

#### **21.50.070 – Environmental Review**

- A. **CEQA Review.** After acceptance of a complete application, the project shall be reviewed in compliance with the California Environmental Quality Act (CEQA) to determine whether:
  1. The project is not a project as defined by CEQA;
  2. The project is exempt from the requirements of CEQA;
  3. A negative declaration may be issued;
  4. A mitigated negative declaration may be issued; or
  5. An Environmental Impact Report (EIR) shall be required.
- B. **Investigation.** Analysis of proposed development within or adjacent to ESHA, wetlands or other sensitive resources shall include an analysis of the individual and cumulative impacts of the development, define the least environmentally damaging alternative, and recommend modifications or mitigation measures to avoid or minimize impacts.
- C. **Environmental Documents.**

1. **Preparation by Qualified Specialist.** All environmental documents shall be prepared by a qualified resource specialist with technical expertise as appropriate for the environmental issues of concern.
  2. **Review of Documents.** All environmental documents submitted as part of a development application shall be reviewed by a qualified City staff member, City-designated advisory committee, or consultant approved by, and under the supervision of, the City.
  3. **Report.** A qualified City staff member, advisory committee, or contracted employee shall prepare a written report with recommendations to the appropriate decision-making official or body.
  3. **Recommendations.** Written findings of fact, analysis and conclusions shall be included in any recommendation to approve, conditionally approve, or disapprove proposed development within or adjacent to ESHA, wetlands or other sensitive resources. Any recommendations of approval shall include an identification of the preferred project alternative and required modifications or mitigation measures necessary to ensure conformance with the Local Coastal Program.
- D. **Compliance with CEQA.** These determinations and, where required, the preparation of appropriate environmental documents shall be in compliance with CEQA and applicable Council policies.