
Chapter 20.66 – Permit Review Procedures

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20.66.010 – Purpose

- A. Permit review procedures.** This Chapter provides procedures for the review and approval or denial of permit(s) and other applications established by this Zoning Code.
- B. Subdivision review procedures.** Procedures and standards for the review and approval of subdivision maps are found in Title 19 (Subdivisions).
- C. Application filing and initial processing.** Where applicable, the procedures of this Chapter are carried out after those described in Chapter 20.64 (Permit Application Filing and Processing) for each application.

20.66.020 – Coastal Development Permits [New]

A. Purpose.

1. This Section provides procedures for Coastal Development Permits to ensure that all public and private coastal development projects in the City's Coastal Zone, as depicted on the Zoning Map, are consistent with the certified Coastal Land Use Plan.
2. For purposes of this Section, the term development shall be as defined in Part 7 (Definitions) under development, coastal, as in coastal development project.

B. Coastal Development Permit required.

1. Except as otherwise provided in this Section, persons wishing to perform or undertake a coastal development project in the City's Coastal Zone, other than a facility subject to Public Resources Code Section 25500, shall obtain a Coastal Development Permit in compliance with this Section.

2. All coastal development projects shall conform to the conditions, plans, specifications, and terms of the permit. The requirements for obtaining a Coastal Development Permit shall be in addition to the requirements needed to obtain any other permits required by this Zoning Code, other applicable provisions identified in Section 20.10.040 (Applicability of Zoning Code), or from any Federal, State, regional, or local agency.

C. Projects located within more than one jurisdiction.

1. **Projects located both within and outside the Coastal Zone.** Where a proposed project site is located both within and outside the Coastal Zone, the following procedures shall apply:
 - a. For divisions of land, a Coastal Development Permit shall be required only for new lots or portions of new lots located within the Coastal Zone and the review shall be confined to those lots or portions of lots within the Coastal Zone.
 - b. For a coastal development project involving a structure or similar integrated physical construction partially located within the Coastal Zone, a Coastal Development Permit shall be required for the entire project.
 - c. The City may request, with the consent of the property owner, that the Coastal Commission make an adjustment to the boundary of the City's Coastal Zone in order to avoid bisecting a lot or to make the Coastal Zone boundary conform to readily identifiable natural or manmade features in compliance with Public Resources Code Section 30103 (b).
2. **Projects of type or location subject to Coastal Commission appeal jurisdiction.** If a portion of the approved coastal development project is of the type or in a location that makes the action by the City subject to appeal to the Coastal Commission, the City's action on the Coastal Development Permit for the entire project shall be subject to appeal to the Coastal Commission.
3. **Projects located within both City and Coastal Commission permit jurisdictions.** Where a proposed coastal development project is located within both the City's and Coastal Commission's Coastal Development Permit jurisdictions, Coastal Development Permits are required by both the City and the Coastal Commission. The following procedures shall apply:
 - a. For divisions of land, a Coastal Development Permit issued by the Coastal Commission shall be required only for new lots or portions of new lots located within the area subject to the Coastal Commission's jurisdiction.
 - b. For any coastal development project involving a structure or similar integrated physical construction, a Coastal Development Permit issued by the Coastal Commission shall be required for any structure located partially in the retained jurisdiction area.

- 4. Projects located within more than one local governmental jurisdiction.**
 - a. If a coastal development project extends over the jurisdictional boundary between the City and another local government, the applicant shall obtain separate Coastal Development Permits from each jurisdiction.
 - b. An exception is possible for public agencies that may obtain one "Public Works Plan" approval from the Coastal Commission, instead of locally-issued Coastal Development Permits in compliance with Public Resources Code Section 30605.
- D. Projects located in deferred certification areas.** For coastal development projects located in deferred certification areas, the Coastal Commission retains permit jurisdiction.
- E. Projects exempt from Coastal Development Permit requirements.** The following coastal development projects are exempt from the requirement to obtain a Coastal Development Permit:
 - 1. Pre-certification.**
 - a. Development authorized by a Coastal Development Permit approved by the Coastal Commission before the effective date of certification of the Coastal Land Use Plan.
 - b. Development authorized in compliance with Coastal Commission Categorical Exclusion Order E-77-5 before the effective date of certification of the Coastal Land Use Plan.
 - 2. Categorical exclusions.** Coastal development projects determined to be categorically excluded (see Subsection G. (Exclusion), as depicted on the Permit and Appeal Jurisdiction Map.
 - 3. Coastal Act exemptions.** Coastal development projects determined to be exempt from the Coastal Development Permit requirements in compliance with Public Resources Code Section 30610.
 - a. Existing single-family dwellings.** Improvements to existing single-family dwellings, including all fixtures and other exterior structures directly attached to the dwelling; ancillary structures normally associated with single-family dwellings (e.g., fences, garages, landscaping, storage sheds, and swimming pools) with the exception of the following classes of coastal development projects that involve a risk of adverse environmental effects:
 - (1) Improvements to any structure where either the structure or the improvement is located on a beach, in a wetland, or stream, seaward of the mean high tide line, within an environmentally sensitive habitat area, or in an area designated as highly scenic in the Coastal Land Use Plan, or within 50 feet of the edge of a coastal bluff.

- (2) A significant alteration of land forms including removal or placement of vegetation on a beach, sand dune, or wetland, or within 50 feet of the edge of a coastal bluff or stream, or in an environmentally sensitive habitat area.
 - (3) Expansion or construction of a water well or septic system.
 - (4) Improvements on property that is located between the sea and first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resource areas as designated by the Coastal Commission, when the improvements would constitute or result in any of the following:
 - (a) An increase in floor area of 10 percent or more within any 12-month period or an increase in floor area of 10 percent or less within any 12-month period where an improvement has previously been approved in compliance with Public Resources Code Section 30610(b) and/or this Subsection.
 - (b) The construction of an additional story or loft or increase in structure height of more than 10 percent within any 12-month period.
 - (c) The construction, placement, or establishment of any significant detached structure (e.g., a fence, garage, shoreline protective works, or docks).
 - (5) In areas that the Coastal Commission has declared by resolution after a public hearing to have a critically short water supply that shall be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water-using development not essential to residential use (e.g., a swimming pool or the construction or extension of any landscaping irrigation system).
 - (6) An improvement where the Coastal Development Permit issued for the original structure indicates that future additions would require a Coastal Development Permit.
- b. Other existing structures and landscaping.** Improvements to existing structures, other than single-family dwellings and public works facilities, including all fixtures and other structures directly attached to the structure, and landscaping, with the exception of the following classes of projects that might result in an adverse environmental impact, adversely affect public access, or involve a change in use contrary to the Coastal Act:
- (1) Improvements to any structure where either the structure or the improvement is located on a beach, in a stream or wetland, or seaward of the mean high tide line, in an area designated as

- highly scenic in the certified Coastal Land Use Plan, or within 50 feet of the edge of a coastal bluff.
- (2) A significant alteration of land forms including removal or placement of vegetation on a beach, sand dune, or wetland, or within 100 feet of the edge of a coastal bluff or stream, in an area designated as highly scenic in the certified Coastal Land Use Plan, or in an environmentally sensitive habitat area.
 - (3) Expansion or construction of a water well or septic system.
 - (4) Improvements on property that is located between the sea and first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the Coastal Commission, when the improvements would constitute or result in any of the following:
 - (a) An increase in floor area of 10 percent or more within any 12-month period or an increase in floor area of 10 percent or less within any 12-month period where an improvement has previously been approved in compliance with Public Resources Code Section 30610(b) and/or this Subsection.
 - (b) The construction of an additional story or loft or increase in structure height of more than 10 percent within any 12-month period.
 - (c) The construction, placement, or establishment of any significant detached structure (e.g., a fence, garage, shoreline protective works, or docks).
 - (5) In areas that the Coastal Commission has declared by resolution after a public hearing to have a critically short water supply that shall be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water-using improvement not essential to residential use (e.g., a swimming pool or the construction or extension of any landscaping irrigation system).
 - (6) An improvement where the Coastal Development Permit issued for the original structure indicates that future additions would require a Coastal Development Permit.
 - (7) An improvement to a structure that increases the intensity of use of the structure.
 - (8) An improvement made in compliance with a conversion of an existing structure from a multi-family dwelling unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including, but not limited to, a condominium

conversion, stock cooperative conversion, or motel/hotel timesharing conversion.

- c. **Maintenance dredging.** Maintenance dredging of existing navigation channels or moving dredged materials from those channels to a disposal area outside of the Coastal Zone, in compliance with a permit from the United States Army Corps of Engineers.
- d. **Repair and/or maintenance.** Repair and/or maintenance activities, with the exception of the following activities that involve a risk of adverse environmental effects:
 - (1) A method of repair or maintenance of a bluff retaining wall, breakwater, culvert, groin, outfall, seawall revetment, or similar shoreline work that involves:
 - (a) Repair and/or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
 - (b) The placement, whether temporary or permanent, of rip-rap, or artificial berms of sand, or any other form of solid material, on a beach or in coastal waters, estuaries, streams, wetlands, or on shoreline protective works;
 - (c) The replacement of 20 percent or more within any 12-month period of the materials of an existing structure with materials of a different kind; or
 - (d) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any bluff or sand area or within 20 feet of coastal waters or streams.
 - (2) A method of routine maintenance dredging that involves:
 - (a) The dredging of 100,000 cubic yards or more within a 12-month period;
 - (b) The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, or any sand area, or within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams; or
 - (c) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that shall be maintained for protection of structures, coastal access, or public recreational use.

- (3) Repair and/or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of any coastal waters and streams that include:
 - (a) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand, or other beach materials or any other forms of solid materials; or
 - (b) The presence, whether temporary or permanent, of mechanized equipment or construction materials, except that the use of the equipment solely for routine beach cleaning and park maintenance shall not require a Coastal Development Permit.
- (4) Non-exempt repair and/or maintenance activities governed by Subparagraph d. (Repair and/or maintenance), above, shall require a Coastal Development Permit, including regulations governing Emergency Permits in compliance with Section 20.66.030.
- (5) The provisions of Subparagraph d., above, shall not be applicable to those activities specified in the document entitled Repair, Maintenance, and Utility Hookups, adopted by the Coastal Commission on September 5, 1978, unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat areas, wetlands, or public views to the ocean.
- (6) Unless destroyed by a disaster, the replacement of 50 percent or more of a bluff retaining wall, breakwater, groin, revetment, seawall, or single-family residence, or any other structure constitutes a replacement structure requiring a Coastal Development Permit.
- (7) The replacement of any structure, other than a public works facility, destroyed by a disaster, provided all of the following requirements are met:
 - (a) The use of the replacement structure is the same as the destroyed structure;
 - (b) The replacement structure does not exceed either bulk, floor area, or height, of the destroyed structure by more than 10 percent; and
 - (c) The replacement structure is sited in the same location on the affected property as the destroyed structure.

4. **Ongoing routine repair and/or maintenance.** In compliance with Code of Regulations Section 13252 (c), the following on-going routine repair and/or maintenance activities conducted by the City:
 - a. **Beaches.** Periodic maintenance of public beaches landward of the mean high tide line and outside of dune habitat areas, including the cleaning and redistributing of sand using mechanized equipment.
 - b. **Piers.** The repair and/or maintenance of existing public recreational piers including, but not limited to, resurfacing of pedestrian decks and the removal and replacement of existing pilings.
 - c. **Storm berms.** The use of temporary sand dunes in shoreline areas to protect structures and infrastructure from wave uprush during storm events in a manner that minimizes significant impacts to coastal access and resources.
 - d. **Storm drains.** Periodic inspection, cleaning, maintenance, and replacement of existing storm drain lines.
 5. **Temporary events.**
 - a. Temporary events (e.g., limited term activities [Section 20.66.080] or special events [Chapter 11.03 of the Municipal Code]) held in the Coastal Zone, unless the event meets all of the following criteria:
 - (1) Occurs during the period between the day before the Memorial Day weekend (Friday) and the day after the Labor Day weekend (Tuesday);
 - (2) Occupies any portion of a public sandy beach area; and
 - (3) Involves a charge for general public admission where no fee is currently charged for use of the same area.
 - b. A Coastal Development Permit may also be required for temporary events that do not meet all of the above criteria, but which, in the opinion of the Director, have the potential to result in significant adverse impacts to public access, recreation, and/or coastal resources.
 6. **Utilities.** The installation, testing, and placement in service or the replacement of any necessary utility connection in compliance with Public Resources Code Section 30610(f).
 7. **Emergency Permits.** Emergency work allowed by Public Resources Code Section 30600(e) when granted and preformed in compliance with Section 20.66.030 (Emergency Permits).
- F. Conversion of an existing structure.** The conversion of an existing structure from a multi-unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold, (e.g., condominium conversion, motel/hotel timesharing conversion, or stock cooperative conversion) shall be considered to constitute a risk of

adverse environmental effect, adversely affect public access, and/or involve a change in use contrary to Division 20 of the Public Resources Code and shall require approval of a Coastal Development Permit in compliance with Code of Regulations Section 13253(b)(8) and Public Resources Code Section 30610(b).

G. Exclusions.

1. Applicability.

- a. Coastal development projects that will not result in a potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast are excluded from the requirements of Coastal Development Permit processing as authorized by and in compliance with the procedures certified by the Coastal Commission.
- b. Coastal development projects listed in this Subsection have been approved as categorical exclusions by the Coastal Commission. Excluded zoning districts as described below shall not require a Coastal Development Permit; provided, that a notice of exclusion is issued in compliance with this Subsection. Requirements for any other City permit are unaffected by this Subsection. Challenges to determination of exclusion may be made in compliance with Subsection Q. (Post decision procedures), below.

2. All residential zoning districts.

- a. **Residential zoning districts.** This categorical exclusion is for the demolition and/or construction of residential structures and their appurtenant facilities and fixtures (including home occupations) located within all residential zoning districts and designated residential areas located within PC Districts located within the City's Coastal Zone.
- b. **Terms and conditions.** The terms and conditions applied by the Coastal Commission to the categorical exclusion for residential zones are as follows:
 - (1) **Exceptions.** This categorical exclusion for residential zoning districts does not include the first row of lots located adjacent to the following:
 - (a) Bay;
 - (b) Beach;
 - (c) Wetlands; and
 - (d) The canyon edges of Buck Gully and Morning Canyon.

- (2) **Infill or replacement projects.** Allowed coastal development projects shall be limited to infill or replacement and shall be in conformity with the character, scale, and size of the surrounding community.
- (3) **Parking.** A minimum of 2 parking spaces shall be provided for each residential unit, regardless of size.
- (4) **Applicable zoning.** Coastal development projects authorized in compliance with this exclusion shall conform to the zoning in effect on the date of issuance of the required Building Permit.
- (5) **Public trust.** In the event that any competent agency or court determines that any lands excluded are subject to the public trust, this exclusion shall immediately become void as to those lands and any coastal development project undertaken on those lands shall be subject to the full permit requirements of the Coastal Act of 1976.
- (6) **Implementation.** The City shall send a notice of the approval of a coastal development project in compliance with this exclusion to the Coastal Commission. The notice shall include a certification by the applicant that the approved project conforms to the terms and conditions of this exclusion and the issuance of the Building Permit shall not occur until 5 working days have elapsed following receipt of the completed form by the Coastal Commission.

3. All nonresidential and mixed-use zoning districts.

a. Nonresidential and mixed-use zoning districts.

- (1) **Demolition or construction of commercial and mixed use structures.** This categorical exclusion is for the demolition and/or construction of commercial and mixed use structures and their appurtenant facilities and fixtures, including changes of use, located within all of the nonresidential zoning districts and designed commercial and mixed use areas located within PC Districts (e.g., CC, CG, CM, CN, CV, MU-V, MU-H1-MM, MU-H4, MU-W1, and MU-W2) within the City's Coastal Zone.
- (2) **Other allowed exclusions.** The following commercial and mixed-use structures and uses are also excluded from the requirement for a Coastal Development Permit.
 - (a) Change of use from one allowed commercial use to another allowed commercial use in an existing structure.
 - (b) Outdoor sales, commercial sidewalk/parking lot sales, and outdoors display of merchandize in compliance with Section 20.60.150 (Outdoor Storage, Display, and Activities).

(c) Temporary (12 months or less; non-renewable) structures and uses installed or initiated in compliance with this Zoning Code and do not conflict with public access and public view policies.

(3) **Exceptions.** This categorical exclusion for nonresidential and mixed-use zoning districts does not include an improvement made that results in a conversion of an existing structure occupied by visitor-serving hotels, motels, or other similar lodging accommodations to any other use.

b. **Terms and conditions.** The terms and conditions applied by the Coastal Commission to the categorical exclusion for nonresidential and mixed-use zones are as follows:

(1) **Infill or replacement projects.** Allowed coastal development projects shall be limited to infill or replacement and shall conform to the character, scale, and size of the surrounding community.

(2) **Applicable zoning.** Coastal development projects authorized in compliance with this exclusion shall conform to the zoning in effect on the date of issuance of the required Building Permit.

(3) **Implementation.** The City shall send a notice of the approval of a coastal development project in compliance with this exclusion to the Coastal Commission. The notice shall include a certification by the applicant that the approved project conforms to the terms and conditions of this exclusion and the issuance of the Building Permit shall not occur until 5 working days have elapsed following receipt of the completed form by the Coastal Commission.

H. **Determination of jurisdiction over development carried out before Coastal Land Use Plan certification.**

1. **Development approved by Coastal Commission.** Coastal development projects authorized by a Coastal Commission-issued permit remain under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, and revocation.

2. **Proposals pending at time of Coastal Land Use Plan certification.**

a. A coastal development project, including one with an approval in concept that the City has approved before certification of the Coastal Land Use Plan and for which an application has been filed with the Coastal Commission may, at the option of the applicant, remain with the Coastal Commission for completion of the review. Coastal Commission review of any application shall be based upon the certified Coastal Land Use Plan; or

b. The applicant may resubmit the coastal development project to the City through an application for a Coastal Development Permit. A decision on the application shall be based upon the certified Coastal Land Use Plan.

- I. **Application filing, processing, and fees.** An application for a Coastal Development Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director (e.g., initial site inventory, public view report, public access report, geologic report, etc.), together with the required fee in compliance with the City's Master Fee Schedule. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection L. (Findings and decision), below.
- J. **Review of Coastal Development Permits.**
1. **Authority.** The authority to approve, conditionally approve, or deny applications for Coastal Development Permits shall be in compliance with the following:
 - a. **Council.** The Council shall be the review authority on all applications for Coastal Development Permits filed concurrently with amendments to the General Plan, Coastal Land Use Plan, Zoning Code, or Zoning Map, or with new or amendments to development agreements, PC District development plans, or specific plans. The Council's action shall follow receipt and consideration of the Planning Commission's recommendation.
 - b. **Planning Commission.** The Planning Commission shall be the review authority on all applications for Coastal Development Permits filed concurrently with or subsequent to any other discretionary action required by this Zoning Code, unless authority for the discretionary action is specifically assigned to the Director or Zoning Administrator.
 - c. **Hearing Officer.** The Hearing Officer shall be the review authority for all applications for Coastal Development Permits filed concurrently with or subsequent to another discretionary action required by this Zoning Code where the authority is specifically assigned to the Hearing Officer or is delegated to the Hearing Officer by the Planning Commission or Council.
 - d. **Director.** The Director shall be the review authority for all applications requiring only a Coastal Development Permit or a Coastal Development Permit filed concurrently with or subsequent to another discretionary action required by this Zoning Code where the authority is specifically assigned to the Director or is delegated to the Director by the Planning Commission or Council.
 - e. **Zoning Administrator.** The Zoning Administrator shall be the review authority for all applications for Coastal Development Permits filed concurrently with or subsequent to another discretionary action required by this Zoning Code where the authority is specifically assigned to the Zoning Administrator or is delegated to the Zoning Administrator by the Planning Commission or Council.
 - f. **Harbor Resources Manager.** The Harbor Resources Manager shall have the authority to issue approvals in concept, as described in Subparagraph 4., below, for coastal development projects located totally or partially on tidelands or submerged lands (i.e., lands that are located

seaward of the City's Bulkhead Line and, therefore, adjacent to and outside of the City's various zoning districts).

2. **Emergency Permits.** The provisions of Section 20.66.030 (Emergency Permits) shall apply where the Director determines that an Emergency Coastal Development Permit (referred to in this Chapter as an "Emergency Permit") is necessary as an urgency measure to protect life and property from imminent danger or to restore, repair, or maintain public works, utilities, or services during and immediately following a disaster or serious accident within the Coastal Zone. The decision to issue an Emergency Permit may be made solely at the discretion of the Director.
3. **Coastal Commission permit authority.**
 - a. **Coastal Commission.** Development on tidelands, submerged lands, and public trust lands as described in Public Resources Code Section 30519(b) and in deferred certification areas designated by the certified Coastal Land Use Plan shall require a Coastal Development Permit issued by the Coastal Commission in compliance with procedures specified by the Coastal Commission, in addition to other permits or approvals required by the City.
 - b. **Exception.** Permit authority on public trust lands, submerged lands, and tidelands 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 in compliance with Coastal Act Section 30613.
4. **Approval in concept.** Development in areas where the Coastal Commission retains Coastal Development Permit authority shall require conceptual approval from the Department before application to the Coastal Commission. An approval in concept indicates that the proposed coastal development project conforms in concept to all City use and development regulations, including any applicable discretionary actions, and, therefore, entitles the applicant to apply to the Coastal Commission for a Coastal Development Permit.

K. Notice and hearing requirements.

1. **Compliance with Chapter 20.76.** Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).
2. **Waiver of public hearing requirement.** The Director may waive the requirement for a public hearing on a Coastal Development Permit application for a minor coastal development project.
 - a. **Applicability.** For purposes of this Subparagraph, "minor project" shall mean a coastal development project that the Director determines to meet all of the following requirements:
 - (1) The coastal development project is consistent with the certified Coastal Land Use Plan;

- (2) The coastal development project requires no discretionary actions other than a Coastal Development Permit; and
 - (3) The coastal development project will have no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
- b. Criteria for waiver.** A public hearing may be waived for minor development if both of the following occur:
- (1) Notice that a public hearing shall be held upon request by any person is provided by the City to all persons who would otherwise be required to be notified of a public hearing by Subsection 20.76.020 B. (Method of Notice Distribution) as well as any other persons known to be interested in receiving notice; and
 - (2) A request for a public hearing is not received by the City within 15 days from the date of the City sending the notice identified in Subparagraph (1), above.
- c. Content of notice.** The notice shall contain all information required by Subsection 20.76.020 A. (Content of Notice) and a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the City on a Coastal Development Permit application.

L. Findings and decision.

- 1. General findings.** The review authority may approve or conditionally approve an application for a Coastal Development Permit if, on the basis of the application, plans, materials, and testimony submitted, all of the following findings are first made:
 - a. The coastal development project is in compliance with the objectives of this Zoning Code;
 - b. The coastal development project conforms to all applicable sections of the certified Coastal Land Use Plan;
 - c. The coastal development project will not negatively impact public access to coastal resources;
 - d. The coastal development project will not negatively impact coastal views;
 - e. The coastal development project will not negatively impact sensitive coastal resources and environmentally sensitive areas; and
 - f. The coastal development project will not negatively impact the site's stability or structural integrity due to project design, location on the site, or other reasons.

2. **Additional findings for projects in protected resource areas.** Approval of coastal development projects within or adjacent to a Protected Resource Area identified in Chapter 20.44 (Resource Protection in the Coastal Zone) shall require that the review authority make all of the following findings, in addition to the findings identified in Subsection 1., above:
 - a. The resource will not be significantly degraded by the proposed coastal development project;
 - b. There is no feasible less environmentally damaging alternative; and
 - c. All feasible mitigation measures capable of reducing or eliminating project related impacts have been imposed on the coastal development project.

M. Effective date - notice of final action.

1. Effective date.

- a. Coastal Development Permits shall not become effective for 14 days after being granted, and in the event an appeal is filed in compliance with Chapter 20.78 (Appeals), the permit shall not become effective unless and until a decision granting the Coastal Development Permit is made by the Planning Commission or Council.
- b. The effective date of a Coastal Development Permit for a coastal development project that is subject to appeal to the Coastal Commission (see Chapter 20.78 [Appeals]) shall not become effective until at least the 11th working day following the receipt by the Coastal Commission of adequate notice of final City action in compliance with Subparagraph 2., below.
- c. If the notice of final City action is received by the Coastal Commission before the 14th day following the granting of the Coastal Development Permit, the Coastal Development Permit shall not become effective until after the 14th day in compliance with Subparagraph a., above.

2. Notice of final City action.

- a. Within 7 days following the date of the final City action on a Coastal Development Permit, a notice shall be sent to the applicant, to the Coastal Commission, and to any person who has specifically requested the notice by submitting a self-addressed, stamped envelope to the Department.
- b. The notice shall be accompanied by a copy of any written findings adopted, the conditions of approval, and the procedures for appeal of the action to the Coastal Commission.

N. Waiver for *de minimis* development.

1. **Authority.** The Director may issue a written waiver from the Coastal Development Permit requirements of this Section for any coastal development project that is *de minimis*.
2. **Determination of applicability.** A proposed coastal development project is considered *de minimis* if the Director determines, based on a review of an application for a Coastal Development Permit, that the project satisfies all of the following requirements:
 - a. The coastal development project is not located within an appeal area or within an area where the Coastal Commission retains permit jurisdiction;
 - b. The coastal development project is consistent with the certified Coastal Land Use Plan;
 - c. The coastal development project requires no discretionary actions other than a Coastal Development Permit; and
 - d. The coastal development project will have no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
3. **Required notice.** Notice of the *de minimis* waiver shall be given in the following manner:
 - a. **Mailed or delivered notice.** At least 10 days before the decision, notice shall be mailed to:
 - (1) The applicant;
 - (2) The property owner;
 - (3) All owners of property and residents located within a 300-foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject site, as shown on the last equalized assessment roll or, alternatively, from the other records that contain more recent addresses;
 - (4) An interested person requesting notice;
 - (5) The Council; and
 - (6) The Coastal Commission.
 - b. **Posted notice.** Notice shall be posted in not less than 1, or as determined by the Director, place on or close to the property at least 10 days before the decision.

4. **Contents of notice.** The notice of the *de minimis* waiver shall contain all of the following information:
 - a. A statement that the coastal development project is located within the Coastal Zone;
 - b. A description of the location of the project site and the purpose of the application;
 - c. The general procedure concerning the submission of public comments either in writing or orally before the decision;
 - d. A reference to application materials on file for detailed information;
 - e. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held before the decision; and
 - f. The date that the waiver may become effective.
5. **Effective date.** A waiver shall not take effect until after decision of the waiver is reported to the Planning Commission and Council in compliance with Section O. If the Planning Commission or the Council, on a majority vote, object to the decision of the waiver, the *de minimis* waiver shall not be effective and, instead, an application for a Coastal Development Permit shall be required.
- O. **Report to the Planning Commission and Council.** The Director shall report a decision on a *de minimis* waiver or Coastal Development Permit to the Planning Commission and Council at the next regular meeting of each body or within 5 days of the decision, whichever occurs first.
- P. **Environmental review.** Public notice and posting of environmental documents and the initial study and completion of all required documents shall be conducted in compliance with the State CEQA Guidelines and any environmental review guidelines adopted by the City in compliance with Section 20.64.080 (Environmental Review).
- Q. **Post decision procedures.** The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Coastal Development Permit application.

20.66.030 – Emergency Permits [New]

- A. **Purpose.** This Section provides procedures for the issuance of an Emergency Coastal Development Permit (hereafter referred to in this Zoning Code as an "Emergency Permit") deemed necessary to perform work to resolve problems resulting from a situation falling within the term "emergency" as defined in Part 7 (Definitions).

B. Applicability.

1. 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 the work to be performed, all in compliance with this Section.
2. The Director shall not grant an Emergency Permit for any development that lies within the Coastal Commission's continuing permit jurisdiction in compliance with the Public Resources Code Section 30519. In these areas and for these developments, a request for an Emergency Permit shall be made directly to the Coastal Commission.

C. Review authority. The Director shall have the sole discretion to grant Emergency Permits in compliance with this Section.

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

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 preventative 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 action(s) necessary to resolve the emergency.

E. Verification.

1. The Director shall verify that an emergency does exist that necessitates the requested remedial, protective, or preventative work.
2. The Director shall verify the facts related to the emergency by the person or agency that made the notification, as time allows.

F. Public notice. The Director shall provide public notice of the proposed emergency actions by any means determined to be appropriate by the Director based on the nature of the emergency.

G. Required findings and conditions.

1. **Findings.** Before granting the Emergency Permit, the Director shall first find all of the following:
 - a. An emergency exists that requires action more quickly than allowed by City procedures customarily required for the processing of appropriate Coastal Development Permits;
 - b. Public comment has been considered regarding the emergency and the proposed action(s), if time allows;
 - c. The work is consistent with the nature of the emergency and the requirements of the certified Coastal Land Use Plan; and
 - d. The work authorized by the Emergency Permit qualifies for an emergency exemption under CEQA.

2. **Conditions of approval.**
 - a. If granted, an Emergency Permit shall be subject to necessary terms and conditions, including but not limited to the following:
 - (1) Language clearly indicating that the work accomplished under an Emergency Permit is considered temporary until the appropriate City required permit(s) is issued for the work;
 - (2) Completion of the approved work shall be accomplished within 30 days in compliance with Code of Regulations Section 13329.3; and
 - (3) A condition specifying the need to apply for the appropriate City required permit(s) once the emergency is resolved, or within 90 days following the date of issuance of the Emergency Permit, whichever occurs first.
 - b. The violation of any condition of approval shall constitute a violation of this Section and may constitute grounds for revocation of the Emergency Permit.

H. Contents of written permit. The Emergency Permit shall be a written document that contains all of the following information:

1. The date of issuance;
2. An expiration date;
3. The scope of the work to be performed;
4. Terms and conditions of the permit;

5. A provision stating that within 90 days following the issuance of the Emergency Permit, a follow-up, Coastal Development Permit application shall be submitted to the City in compliance with Section 20.66.020;
6. A provision stating that any development or structures constructed in compliance with the Emergency Permit shall be considered temporary until authorized by a follow-up Coastal Development Permit, and that the issuance of an Emergency Permit shall not constitute an entitlement to the construction of a permanent structure(s); and
7. A provision stating that the development authorized by the Emergency Permit shall be removed unless a complete application for a Coastal Development Permit for the development is filed within 90 days of approval of the Emergency Permit and is approved. If a Coastal Development Permit authorizing permanent retention of the development, or a portion of the development, is denied, then the development that was authorized by the Emergency Permit, or the denied portion of the development, shall be removed within 90 days following the date of denial.

I. Reporting.

1. The Director shall report, in writing or orally, to the Council and the Planning Commission at their next meeting that 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 and Planning Commission meetings and shall be mailed to all persons who have requested notification and associated reports in writing.
3. The Director shall report the issuance of an Emergency Permit to the Coastal Commission within three days following the date of issuance.

J. Time limits. Unless another expiration date is stated in the written permit, an approved Emergency Permit shall be valid for a maximum of 30 days following the date of issuance; provided, 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.

K. Permits required.

1. The responsible person or public agency shall apply for the appropriate City required permit(s) (e.g., Coastal Development Permit, etc.) otherwise required by this Zoning Code within 90 days following the date of issuance of the Emergency Permit or once the emergency is resolved, whichever occurs first.
2. Failure to file the necessary applications and obtain the City required permit(s) normally required by this Zoning Code shall result in enforcement action in compliance with Chapter 20.82 (Enforcement).
3. During the processing of the appropriate City required permit application(s), all work required to remedy the emergency may continue until the emergency is satisfactorily resolved.

20.66.040 – Reasonable Accommodations

A. Purpose. In compliance with Federal and State fair housing laws, it is the purpose of this Section to provide reasonable accommodations in the City's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling.

B. Review authority.

1. The Hearing Officer, as defined in Article 8 (Glossary), is hereby designated to approve, conditionally approve, or deny all applications for a reasonable accommodation.
2. If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval (e.g., Coastal Development Permit, Conditional Use Permit, etc.), then an applicant may request that the Hearing Officer hear the request for a reasonable accommodation at the same time as the other discretionary permit or approval.
3. If the applicant does not request a simultaneous hearing, then the request for a reasonable accommodation shall not be heard until after a final administrative decision has been made regarding the other discretionary permit or approval.

C. Application for Reasonable Accommodation.

1. **Applicant.** A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a disability. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability.
2. **Application.**
 - a. An application for a reasonable accommodation from a zoning regulation, policy, or practice shall be made on forms provided by the Department.
 - b. A fee shall not be required for a request for reasonable accommodation, but if the project requires another discretionary permit, then the prescribed fee shall be paid for the other discretionary permit(s) in compliance with the City's Master Fee Schedule.
3. **Other discretionary permits.** If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval (e.g., Coastal Development Permit, Conditional Use Permit, etc.), then the applicant may file the request for reasonable accommodation together with the application for the other discretionary permit or approval. The processing procedures of the discretionary permit shall govern the joint processing of both the reasonable accommodation and the discretionary permit.
4. **Required submittals.** In addition to materials required under other applicable provisions of this Zoning Code, an application for reasonable accommodation shall include all of the following:

- a. Documentation that the applicant is:
 - (1) An individual with a disability;
 - (2) Applying on behalf of one or more individuals with a disability; or
 - (3) A developer or provider of housing for one or more individuals with a disability.
- b. The specific exception or modification to the Zoning Code provision, policy, or practices requested by the applicant.
- c. Documentation that the specific exception or modification requested by the applicant is the minimum necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy the residence.
- d. Any other information that the Director reasonably concludes is necessary to determine whether the findings required by Subparagraph D. 2. (Findings), below can be made, so long as any request for information regarding the disability of the individuals benefited complies with Fair Housing Law protections and the privacy rights of the individuals affected.

D. Decision.

1. Hearing Officer action.

- a. The Hearing Officer shall issue a written determination to approve, conditionally approve, or deny a request for reasonable accommodation, and the associated modification or revocation in compliance with Subparagraph D. 2. (Findings and decision), below.
- b. The reasonable accommodation request shall be heard with, and subject to, the notice, review, approval, and appeal procedures identified for any other discretionary permit provided that, notwithstanding Chapter 20.78 (Appeals), the standard of review on appeal shall not be de novo and the Council shall determine whether the findings made by the Hearing Officer are supported by substantial evidence presented during the evidentiary hearing.
- c. The Council, acting as the appellate body, may sustain, reverse, or modify the decision of the Hearing Officer or remand the matter for further consideration, which remand shall include specific issues to be considered or a direction for a de novo hearing.

2. Findings and decision.

- a. The written decision to approve or deny a request for Reasonable Accommodation will be consistent with the all applicable Federal and State Acts and shall be based on consideration of all of the following findings:

- (1) The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws;
 - (2) The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling;
 - (3) The requested accommodation will not impose an undue financial or administrative burden on the City as “undue financial or administrative burden” is defined in Fair Housing Laws and interpretive case law;
 - (4) The requested accommodation will not result in a fundamental alteration in the nature of the City’s zoning program, as “fundamental alteration” is defined in Fair Housing Laws and interpretive case law; and
 - (5) The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.
- b. In making these findings, the review authority may approve alternative reasonable accommodations which provide an equivalent level of benefit to the applicant.
- 3. Relevant factors for need.** The City may consider, but is not limited to, all of the following factors in determining whether the requested accommodation is the minimum necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling:
- a. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability;
 - b. Whether the individual(s) with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation;
 - c. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants; and
 - d. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide an individual(s) with a disability an equal opportunity to live in a residential setting.

4. **Relevant factors for alteration.** The City may consider, but is not limited to, all of the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:
 - a. Whether the requested accommodation would fundamentally alter the character of the neighborhood;
 - b. Whether the accommodation would result in a substantial increase in traffic or insufficient parking;
 - c. Whether granting the requested accommodation would substantially undermine any express purpose of either the City's General Plan or an applicable specific plan; and
 - d. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.
5. **Coastal Zone properties.** For housing located in the Coastal Zone, a request for reasonable accommodation in compliance with this Section may be approved by the City if it is consistent with the Coastal Land Use Plan and the required findings identified in Subparagraph D. 2. (Findings and decision), above, are made.
6. **Rules while decision is pending.** While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
7. **Effective date.**
 - a. A reasonable accommodation shall not become effective until the decision to grant the accommodation shall have become final by reason of the expiration of time to make an appeal.
 - b. In the event an appeal is filed, the reasonable accommodation shall not become effective unless and until a decision is made by the Council on the appeal in compliance with Chapter 20.78 (Appeals).

E. Expiration, time extension, violation, discontinuance, and revocation.

1. **Expiration.**
 - a. Any reasonable accommodation approved in compliance with the terms of this Section shall expire within 24 months from the effective date of approval or at an alternative time specified as a condition of approval unless:
 - (1) A Building Permit has been issued and construction has commenced;
 - (2) A Certificate of Occupancy has been issued;

- (3) The use is established; or
 - (4) A time extension has been granted.
 - b. In cases where a Coastal Development Permit is required, the time period shall not begin until the effective date of approval of the Coastal Development Permit.
2. **Time extension.** The Hearing Officer may approve a time extension for a reasonable accommodation for good cause for a period(s) not to exceed three years. An application for a time extension shall be made in writing to the Director no less than 30 days or more than 90 days before the expiration date.
3. **Notice.** Notice of the Hearing Officer's decision on a time extension shall be provided in compliance with Chapter 20.76 (Public Hearings). All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process as identified in Subparagraph 4. (Appeal of determination), below.
4. **Appeal of determination.** A time extension for a reasonable accommodation shall be final unless appealed to the Council within 14 calendar days of the date of mailing of the determination. An appeal shall be made in writing and shall be noticed and heard in compliance with Chapter 20.78 (Appeals), as modified by Subparagraph D. 1. (Hearing Officer action), above.
5. **Violation of terms.** Any reasonable accommodation approved in compliance with the terms of this Section may be revoked if any of the conditions or terms of the reasonable accommodation are violated, or if any law or ordinance is violated in connection with the reasonable accommodation.
6. **Discontinuance.**
 - a. A reasonable accommodation shall lapse if the exercise of rights granted by it are discontinued for at least 180 consecutive days.
 - b. If the person(s) initially occupying a residence vacates, the reasonable accommodation shall remain in effect only if the Director determines that:
 - (1) The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with this Zoning Code; and/or
 - (2) The accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling.
 - c. The Director may request the applicant or the successor(s)-in-interest to the property to provide documentation that subsequent occupants are persons with disabilities.

- d. Failure to provide the documentation within 10 days of the date of a request by the City shall constitute grounds for discontinuance by the City of a previously approved reasonable accommodation.

- 7. **Revocation.** Procedures for revocation shall be as identified in Chapter 20.82 (Enforcement).

- F. **Post decision procedures.** The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Reasonable Accommodation application.

20.66.050 – Modification Permits [REVISED]

- A. **Purpose.** The purpose of this Section is to provide relief from specified development standards of this Zoning Code when so doing is consistent with the purposes of this Code and does not negatively impact the community.

- B. **Review authority and allowable modifications.** The Zoning Administrator shall approve, conditionally approve, or deny applications for Modification Permits for not more than a 10 percent deviation from the standard being modified, and applicable only to the following, subject to the findings identified in Subsection E. (Required findings), below:

- 1. **Height modifications from exceptions identified in Part 3 (Site Planning and Development Standards).**

- a. Chimneys, rooftop architectural features, solar equipment, and vents in excess of the exception to the allowed height limits identified in Part 3 (Site Planning and Development Standards);
- b. Flag poles in excess of the exception to the allowed height limits; and
- c. Heights of fences, hedges, or walls.

- 2. **Setback modifications.**

- a. Encroachments in front, side, or rear setback areas while still maintaining the minimum clearances required by Section 20.30.090 (Setback Regulations and Exceptions). Exceptions include the following:
 - (1) Modifications shall not be allowed for encroachments into alley setbacks; and
 - (2) Modifications shall not be allowed for encroachments into bluff and canyon setback areas.
- c. Structural appurtenances or projections which encroach into front, side, or rear setback areas.

- 3. Other modifications.**
 - a. Distances between structures located on the same lot;
 - b. Landscaping standards in compliance with Chapter 20.44 (Landscaping Standards);
 - c. Maximum allowed roof area for roof mounted equipment that exceeds the allowed height limits identified in Part 3 (Site Planning and Development Standards); and
 - d. Size or location of parking spaces, access to parking spaces, and landscaping within parking areas.
- C. Application filing and fees.** An application for a Modification Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection E. (Required findings), below.
- D. Notice and hearing requirements.** Notice of the public hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).
- E. Required findings.** The Zoning Administrator may approve or conditionally approve a Modification Permit if, on the basis of the application, materials, plans, and testimony (orally and/or in writing) submitted, the Zoning Administrator first finds all of the following:
 1. The requested modification will be compatible with existing development in the neighborhood;
 2. The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use;
 3. There are no alternatives to the Modification Permit, which could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants or to the general public; and
 4. The granting of the modification would not be detrimental to public health, safety, or welfare to the occupants of the property, nearby properties, or the City or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.
- F. Duties of the Zoning Administrator.**
 - 1. Review.**
 - a. The Zoning Administrator shall review each application to ensure that the proposal is consistent with the purpose and intent of this Zoning Code, this Section, all applicable regulations and policies, and sound planning practices.

- b. The Zoning Administrator shall refer each application to the Building Department and Public Works Department, and to other City departments as determined to be appropriate by the Zoning Administrator.
 - c. Each department shall submit written recommendations to the Zoning Administrator in a timely manner.
- 2. Rendering of decision.** After the conclusion of the hearing on an application for a Modification Permit, the Zoning Administrator shall render a decision within 15 days, unless both the applicant and the Zoning Administrator consent to a later date.
- 3. Referral to Commission.**
- a. The Zoning Administrator may refer a Modification Permit application to the Commission for consideration and final action.
 - b. The procedure for notice and hearings held by the Commission on referred applications shall be in compliance with the same provisions as identified in this Section and as specified in Chapter 20.76 (Public Hearings).
- G. Post decision procedures.** The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Modification Permit application.

20.66.060 – Planned Development Permits [New]

- A. Purpose.** The purpose of this Section is to provide a process for approving a Planned Development Permit which is intended to:
- 1. Ensure efficient use of land and a better living environment.** Provide a method whereby land may be designed and developed as a unified site by taking advantage of efficient site planning techniques thereby resulting in a more efficient use of land, a better living environment, excellence of design, and related enhanced amenities than is otherwise possible through strict application of the development standards identified in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards);
 - 2. Ensure high standards of environmental quality.** Ensure development which meets high standards of environmental quality, public health and safety, the efficient use of the City's resources, and the purpose, intent, goals, policies, actions, and land use designations of the General Plan, any applicable specific plan, and the certified Coastal Land Use Plan for sites located within the City's Coastal Zone; and

3. **Provide for enhanced amenities.** Incorporate a program of enhanced amenities (e.g., enhanced landscaping, additional and enhanced open space, improvements to an existing public facility [e.g., park or trail, etc.]) than typically required by this Zoning Code.

B. Applicability.

1. **Allowed in all zoning districts.** A Planned Development Permit may be requested for any zoning district.
2. **Minimum site area.** A Planned Development Permit may only be requested for a site(s) with a minimum of 1 acre.
3. **Uses only allowed in base zoning district.** A Planned Development Permit may not authorize a use that is not allowed in the base zoning district.
4. **Adjustment of standards.**
 - a. The permit may adjust, where necessary and justifiable, all applicable development standards identified in this Zoning Code, with the exception of an increase in the applicable density or intensity. Height adjustments shall be limited to those identified in Section 20.30.050 (Height Limits and Exceptions).
 - b. Residential projects with increased density or intensity standards may only be approved in compliance with Chapter 20.32 (Density Bonus).

C. Application filing, processing, and fees. An application for a Planned Development Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

D. Review authority. The Commission may approve, conditionally approve, or deny the Planned Development Permit application, based upon the findings contained in Subsection F. (Findings and decision), below.

E. Project review, notice, and hearing.

1. **Application consistent with the purpose of Section.** Each Planned Development Permit application shall be reviewed by the Director to ensure that the application is consistent with the purpose and intent of this Section.
2. **Public notice and hearing provisions.**
 - a. Notice of hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).
 - b. A public hearing shall be required for the Commission's action on a Planned Development Permit application.

F. Findings and decision. The Commission may approve or conditionally approve a Planned Development Permit application only after first finding all of the following:

1. The proposed development would:
 - a. Include only uses allowed within the base zoning district;
 - b. Be substantially consistent with the purpose, intent, goals, policies, actions, and land use designations of the General Plan, any applicable specific plan, and the certified Coastal Land Use Plan for sites located within the City's Coastal Zone;
 - c. Be substantially consistent with the purpose and intent of the base zoning district;
 - d. Include sustainable improvement standards and protection of environmental resources; and
 - e. Be compatible with other development within the zoning district and general neighborhood of the proposed project.
2. The project would produce a development of higher quality and greater excellence of design than which might otherwise result from using the standard development regulations;
3. The subject site is adequate in terms of size, shape, topography, and circumstances to accommodate the proposed development;
4. The project, as conditioned, will not have a substantial adverse effect on surrounding properties or allowed uses;
5. The project includes improved quality of life provisions and enhanced amenities, including an additional and appropriate variety of structure placement and orientation opportunities, appropriate mix of structure sizes, high quality architectural design, common open space, landscaping, parking areas, private open space, public art, recreational amenities for adults and/or children, private or separated entrances, sustainable improvement standards (e.g., energy efficient building design, construction, and operation; convenient pedestrian and bicycle circulation; water and resource conservation), etc; and
6. The design, location, operating characteristics, and size of the project would be compatible with the existing and future uses in the vicinity, in terms of aesthetic values, character, scale, and view protection.

G. Minor changes by Director.

1. Minor changes in the Planned Development Permit that do not involve an increase in the number of dwelling units or intensity of other use or a change of use may be approved by the Director in compliance with Section 20.68.080 (Changes to an Approved Project).

2. Proposed changes that are not deemed minor shall be subject to review and approval by the original review authority.

H. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Planned Development Permit application.

20.66.070 – Site Development Reviews [New]

A. Purpose. The purpose of Site Development Review is to provide a process for the review of specific development projects in order to:

1. Ensure consistency with General Plan policies related to the preservation of established community character, and expectations for high quality development;
2. Respect the physical and environmental characteristics of the site;
3. Ensure safe and convenient access and circulation for pedestrians and vehicles;
4. Allow for and encourages individual identity for specific uses and structures;
5. Encourage the maintenance of a distinct neighborhood and/or community identity;
6. Minimize or eliminates negative or undesirable visual impacts;
7. Ensure protection of significant views from public right(s)-of-way in compliance with Section 20.30.080 (Public View Protection); and
8. Allow for different levels of review depending on the significance of the development project.

B. Applicability.

1. Site Development Review approval shall be required before the issuance of a Building or Grading Permit for any new structure identified in Table 5-2, below, except for those projects listed in Subparagraph 2., below.
2. The following types of projects and structures shall require the issuance of a Zoning Clearance in compliance with Section 20.66.110, rather than a Site Development Review:
 - a. Accessory structures;
 - b. Fences and/or walls;
 - c. The reconstruction or remodeling of existing structures (including facade improvements) that increase the gross floor area by at least 25 percent or 2,500 square feet, whichever is less, or to increase structure height;

- d. Residential construction: 1 to 4 dwelling units, without a tentative or parcel map; and
 - e. Nonresidential construction: Up to a maximum of 9,999 square feet of gross floor area.
3. The applicable review authority shall be as specified in Table 5-2 (Review Authority for Site Development Review), below.

**TABLE 5-2
REVIEW AUTHORITY FOR SITE DEVELOPMENT REVIEW**

Type of Construction Activity	Role of Review Authority (1) (2)	
	Zoning Administrator (Minor Review)	Planning Commission (Major Review)
Residential construction: 5 to 20 dwelling units, without a tentative or parcel map.	Decision	Appeal
Residential construction: 5 or more dwelling units, with a tentative or parcel map and 21 or more dwelling units, without a tentative or parcel map.		Decision
Mixed-Use projects: 1 to 4 dwelling units and nonresidential construction of up to a maximum of 9,999 square feet of gross floor area.	Decision	Appeal
Mixed-Use projects: 5 or more dwelling units and nonresidential construction of 10,000 square feet or more of gross floor area.		Decision
Nonresidential construction: 10,000 to 19,999 square feet of gross floor area.	Decision	Appeal
Nonresidential construction: 20,000 square feet or more of gross floor area.		Decision

Note:

- (1) "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 20.78 (Appeals).
- (2) The review authority may defer action and refer the request to the next higher review authority for the final decision.

C. Application filing, processing, and review.

1. Application filing.

- a. Filing.** An application for a Site Development Review shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing).
- b. Contents.** The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule.
- c. Evidence.** It is the responsibility of the applicant to establish evidence in support of the findings required by Subsection F. (Findings and decision), below.

2. Application review. Each application for a Site Development Review shall be reviewed to ensure that the application is consistent with: the purpose of this Section; applicable development standards of this Zoning Code; and adopted criteria and policies applicable to the use or structure.

- a.** A Site Development Review is initiated when the Department receives a complete application package including the required information and materials specified by the Director and any additional information required

by the applicable review authority in order to conduct a thorough review of the project.

- b. Upon receipt of a complete application the applicable review authority shall conduct a review of the location, design, site plan configuration, and effect of the proposed project on adjacent properties by comparing the project plans to established development standards, and adopted criteria and policies applicable to the use or structure.
- c. The following criteria shall be considered during the review of a Site Development Review application:
 - (1) Compliance with this Section, the General Plan, this Zoning Code, the certified Coastal Land Use Plan, any applicable specific plan, and other applicable criteria and policies related to the use or structure;
 - (2) The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design;
 - (3) The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;
 - (4) The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;
 - (5) The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and
 - (6) The protection of significant views from public right(s)-of-way and compliance with Section 20.30.080(Public View Protection).

D. Review authority.

1. **Other discretionary approval required.** If the project also requires another discretionary approval (e.g., Coastal Development Permit, Conditional Use Permit, Variance, etc.), then the applicable review authority shall be the authority identified in Table 5-1 (Review Authority) for the other discretionary approval.
2. **Site Development Review only.** If the project only requires a Site Development Review, then the applicable review authority shall be the authority identified in Table 5-2 (Review Authority for Site Development Review) for the Site Development Review.

3. **Referral to the Commission.** If the Site Development Review application submitted is of significant consequence or magnitude or involves potential public controversy, the Zoning Administrator may defer action and refer the application to the Commission for review and decision.

E. Public notice and hearing provisions.

1. **Zoning Administrator.** A public hearing shall not be required for the Zoning Administrator's decision on a Site Development Review application.
2. **Commission.**
 - a. A public hearing shall be required for the Commission's decision on a Site Development Review application.
 - b. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

F. Findings and decision. The review authority may approve or conditionally approve a Site Development Review application, only after first finding that the proposed development is:

1. Allowed within the subject zoning district;
2. In compliance with all of the applicable criteria identified in Subparagraph C. 2. c., above; and
3. Not detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.

G. Minor changes by Director.

1. Minor changes in a Site Development Review that do not involve an increase in structure area or height, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Section 20.68.080 (Changes to an Approved Project).
2. Proposed changes that are not deemed minor shall be subject to review and approval by the original review authority.

H. Post decision procedures. The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Site Development Review application.

20.66.080 – Limited Term Permits [New]

- A. Purpose.** The purpose of this Section is to consider applicant requests for uses of limited duration (e.g., interim, non-permanent, and/or seasonal in nature) that would be compatible with adjacent and surrounding uses when conducted in compliance with this Section.
- B. Applicability.**
- 1. Limited duration uses.** A Limited Term Permit allows limited duration uses that might not meet the development or use standards of the applicable zoning district, but may otherwise be acceptable because of their temporary or limited nature.
 - 2. Limited Term Permit required.** Limited duration uses shall not be conducted, established, or operated in any manner without the approval and maintenance of a valid Limited Term Permit in compliance with this Section.
- C. Exempt limited duration uses.** The following limited duration uses are exempt from the requirement for a Limited Term Permit. Uses that do not fall within the categories defined below shall comply with Subsection D. (Allowed limited duration uses), below.
- 1. Construction yards - on-site.**
 - a. On-site contractors' construction yard(s), including temporary storage and office trailers, in conjunction with an approved construction project on the same lot.
 - b. One adult caretaker may be present during non-construction hours for security purposes.
 - c. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit.
 - 2. Emergency facilities.** Emergency public health and safety needs/land use activities, as determined by the Council or authorized by Municipal Code Title 5.
 - 3. Personal property (e.g., garage and/or yard) sales on private property.** Personal property sales conducted on private property when conducted in compliance with Section 20.60.160 (Personal Property Sales in Residential Districts).
 - 4. Special events.** Special events, as that term may be defined in Municipal Code Section 11.03.020 (General Provisions), but only upon the issuance of a Special Event Permit.
- D. Allowed limited duration uses.** The following limited duration uses are allowed, subject to the issuance of a Limited Term Permit, and only when conducted in compliance with Subsection H. (Conditions of approval), below.

1. **Contractors' construction yards - off-site.** Off-site contractors' construction yard(s), in conjunction with an approved construction project. The permit may be effective for up to 12 months, or the expiration of the Building Permit.
2. **Off-site parking for marine activities.** Off-site parking for uses requiring a Marine Activities Permit in compliance with Municipal Code Chapter 17.10 for the duration of the permit or for not more than 12 months, whichever is less.
3. **Seasonal sales.** Seasonal sales including holiday boutiques, Halloween pumpkin sales and Christmas tree sale lots only by businesses holding a valid Business License; provided, the activity may only be held from October 1st through October 31st, of the same year for the Halloween pumpkin sales, and from the day after Thanksgiving through December 26th for Christmas tree sales.
4. **Limited duration sales and/or work trailers.** A trailer or mobile home may be used for limited duration sales activities (e.g., model home sales, etc.) or as a limited duration work site for employees of a business.
 - a. A trailer or mobile home may be used:
 - (1) During construction or remodeling of a permanent commercial, industrial, and mixed-use structure, when a valid Building Permit is in force; or
 - (2) Upon demonstration by the applicant that the limited duration work site is a necessity, while a permanent work site is being obtained.
 - b. A permit for limited duration trailer(s) may be granted for up to 12 months and may be extended for a longer period in conjunction with a valid Building Permit.
5. **Limited duration structures.** A limited duration classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved, for a maximum time period of 12 months in the commercial, industrial, and mixed-use zoning districts.
6. **Limited duration use of a vacant lot.** The limited duration use of a vacant lot with non-permanent structural improvements, for a use typically allowed subject to the approval of a Conditional Use Permit or Minor Use Permit, may be approved for a maximum time period of 12 months in the commercial, industrial, and mixed-use zoning districts.
7. **Other similar limited duration uses.** Similar limited duration uses which, in the opinion of the Director, are compatible with the subject zoning district and surrounding uses.

E. Application filing, processing, and review.

1. **Filing.** An application for a Limited Term Permit shall be filed with the Department in the following manner:

- a. **Application required.** Applications for a Limited Term Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing).
 - b. **Application before operation.** A complete application shall be filed with the Department at least 30 days before the date that the proposed limited duration use is scheduled to take place.
 - c. **No similar activities for 30 days.** The same or very similar limited duration use shall not be allowed to operate on the same lot for at least 30 days following termination of the previous use.
 - d. **Not within 180 days.** Applications shall not be filed or accepted if final action has been taken within the previous 180 days by the Zoning Administrator to deny an application for the same or substantially the same permit.
2. **Contents.** The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule.
 3. **Evidence.** It is the responsibility of the applicant to establish evidence in support of the findings required by Subsection G. (Findings and decision), below.
 4. **Project review procedures.** Following receipt of a completed application, the Director shall review the facts bearing on the case to provide the information necessary for action consistent with the purpose of this Section.
 5. **Public hearing requirements.**
 - a. **Up to 90 days.** A public hearing shall not be required for a Limited Term Permit application for a limited duration use that is proposed to operate for up to 90 days.
 - b. **90 days or more.**
 - (1) A public hearing shall be required for a Limited Term Permit application for a limited duration use that is proposed to operate for 90 days or more.
 - (2) Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

F. Review authority.

1. Limited Term Permits may be approved, conditionally approved, or denied by the Zoning Administrator, in compliance with this Section.
2. The Zoning Administrator may instead refer the application for a Limited Term Permit to the Commission for consideration and final action when, in the Zoning Administrator's judgment, there may be public interest, controversy, or issues requiring a public forum due to the nature of the request.

3. If referred to the Commission, the Commission shall conduct a public hearing on the application. Notice of the hearing shall be given and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).

G. Findings and decision. The Zoning Administrator (or the Commission on a referral) may approve or conditionally approve a Limited Term Permit application, only after first finding all of the following:

1. The operation of the requested limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the requested limited duration use;
2. The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot;
3. The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate;
4. Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator; and
5. The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the certified Coastal Land Use Plan for sites located within the City's Coastal Zone, Municipal Code, and other City regulations.

H. Conditions of approval. In approving a Limited Term Permit application, the review authority may impose conditions which are deemed necessary to ensure that the permit would be in full compliance with the findings required by Subsection G. (Findings and decision), above. These conditions may address any pertinent factors affecting the operation of the limited duration use, and may include the following:

1. **Fixed period of time.** Unless otherwise stated in the permit, a provision for a fixed period of time not to exceed 30 days for a limited duration use not occupying a structure, including promotional activities, or 12 months for all other limited duration uses or structures, or for a shorter period of time as requested by the applicant and determined appropriate by the Zoning Administrator;
2. **Operating hours and days.** Regulation of operating hours and days;
3. **Temporary pedestrian and vehicular circulation.** Provision for adequate temporary pedestrian and vehicular circulation, parking facilities (including vehicular ingress and egress), and public transportation, if applicable;

4. **Regulation of nuisance factors.** Regulation of nuisance factors including prevention of glare or direct illumination on adjacent lots, dirt, dust, erosion, gases, heat, noise, odors, smoke, soil contamination, trash, and vibration;
 5. **Regulation of temporary structures.** Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
 6. **Sanitary and medical facilities.** Provision for sanitary and medical facilities, as appropriate;
 7. **Waste collection, recycling, and/or disposal.** Provision for solid, hazardous, and toxic waste collection, recycling, and/or disposal;
 8. **Police/security and safety measures.** Provision for police/security and safety measures, as appropriate;
 9. **Signs.** Regulation of signs in compliance with Chapter 20.54 (Sign Standards);
 10. **Performance bond or other security.** Submission of a performance bond or other security measures, satisfactory to the Director, to ensure that any temporary facilities or structures used would be removed from the site within a reasonable time following the cessation of the use and that the property would be restored to its former condition, or better, as determined by the Director, to ensure that any changes to the site would not limit the range of possible future uses otherwise allowed by this Zoning Code;
 11. **Compliance with applicable provisions.** A requirement that the approval of the requested Limited Term Permit is contingent upon compliance with applicable provisions of the Municipal Code and the successful granting of all required permits from any other department or governing agency; and
 12. **Other conditions.** Other conditions which would ensure the operation of the limited duration use in an orderly and efficient manner, and in full compliance with the purpose of this Section.
- I. **Condition of site following limited duration use.** Each site occupied by a limited duration use shall be cleaned of debris, litter, or any other evidence of the limited duration use upon completion or removal of the use, and shall continue to be used in compliance with this Zoning Code.
 - J. **Extension of Limited Term Permit.** The Zoning Administrator may extend the time limit for the Limited Term Permit, upon request of the applicant and for good cause shown, up to a maximum time equal to the original approval, but not to exceed 12 additional months, with a maximum of 24 months total, in compliance with Section 20.68.070 (Time Limits and Extensions).
 - K. **Post decision procedures.** The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Limited Term Permit application.

20.66.090 – Conditional Use Permits and Minor Use Permits [New]

- A. Purpose.** A Conditional Use Permit or Minor Use Permit provides a process for reviewing uses and associated operational characteristics 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 Conditional Use Permit or Minor Use Permit is required to authorize proposed nonresidential uses located in nonresidential zoning districts identified by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) as being allowable in the applicable zoning district subject to the approval of a Conditional Use Permit or Minor Use Permit. For Conditional Use Permits for uses located in residential zoning districts see Section 20.66.095, below.
- C. Review authority and related procedures.**
- 1. Conditional Use Permits.** Conditional Use Permits for nonresidential uses shall be approved, conditionally approved, or denied by the Commission.
 - 2. Minor Use Permits.**
 - a. Minor Use Permits for both residential and nonresidential uses shall be approved, conditionally approved, or denied by the Zoning Administrator.
 - b. The Zoning Administrator may instead choose to refer any Minor Use Permit application to the Commission for consideration and final action.
- D. Application filing, processing, and review.** An application for a Conditional Use Permit, or Minor Use Permit shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule. 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 and notice and hearing requirements.** Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Zoning Code.
- 1. Conditional Use Permits.** The Commission shall conduct a public hearing on an application for a Conditional Use Permit before a decision on the application.
 - 2. Minor Use Permits.** The Zoning Administrator shall conduct a public hearing on an application for a Minor Use Permit before a decision on the application.
 - 3. Notice and hearing requirements.** Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 20.76 (Public Hearings).

- F. Findings and decision.** The review authority may approve or conditionally approve a Conditional Use Permit or Minor Use Permit only after first finding all of the following:
1. The use is consistent with the General Plan, any applicable specific plan, and the certified Coastal Land Use Plan for sites located within the City's Coastal Zone;
 2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;
 3. The design, location, size, and operating characteristics of the use are compatible with the allowed 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; and
 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.
- G. Post decision procedures.** The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Conditional Use Permit or Minor Use Permit application.

20.66.095 – Conditional Use Permits in Residential Zoning Districts

- A. Purpose.** The purpose of this Section is as follows:
1. To promote the public health, safety, and welfare and to implement the goals and policies of the General Plan by ensuring that conditional uses in residential neighborhoods do not change the character of the neighborhoods as primarily residential communities.
 2. To protect and implement the recovery and residential integration of the disabled, including those receiving treatment and counseling in connection with dependency recovery. In doing so, the City seeks to avoid the overconcentration of residential care facilities so that these facilities are reasonably dispersed throughout the community and are not congregated or overconcentrated in any particular area so as to institutionalize that area.
- B. Applicability.** A Conditional Use Permit is required to authorize proposed uses identified by Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) as being allowable in the applicable residential zoning district subject to the approval of a Conditional Use Permit.
- C. Review authority.** Conditional Use Permits for uses located in residential zoning districts shall be approved, conditionally approved, or denied by the Hearing Officer.

D. Conditional Use Permits to continue a nonconforming use.

1. Any person whose use of property in a residential zoning district has been rendered nonconforming may seek the issuance of a Conditional Use Permit, in compliance with this Section, to continue the use so long as the application for that permit is completed and filed within 90 days following _____, 2008.
2. If any person fails to file an application for a Conditional Use Permit within the 90-day period, the permit to continue the use may not be sought or issued.

E. Application contents. In addition to the application requirements contained in Subsection 20.66.090.D. (Application filing, processing, and review), above, an application for a Conditional Use Permit for a site located in a residential zone, or in an area where residential uses are provided for in Planned Community Districts or specific plan districts, shall contain all of the following information:

1. **Applicant information.** The name and address of the applicant, including the name and address of the lessee, if the property is to be leased and is someone other than the applicant; and the name and address of the owner of the property for which a Conditional Use Permit is requested. If the applicant and/or lessee or owner is an association, corporation, firm, or partnership, then the applicant/lessee shall provide the additional names and addresses as follows and the persons shall also sign the application:
 - a. Every general partner of the partnership;
 - b. Every owner with a controlling interest in the corporation; or
 - c. The person designated by the officers of a corporation as identified in a resolution of the corporation that is to be designated as the permit holder for the Conditional Use Permit.
2. **Characteristics of proposed use.** Hours of operation, types of activities, and typical attendance at activities.
3. **Facility users.** Number and types of users of the facility (including clients, staff, students, visitors, etc., as appropriate).
4. **List of similar facilities.** A list of addresses of all facilities similar to that for which a Conditional Use Permit is requested in the State of California owned or operated by the applicant(s) within the past five years and whether the facilities have been found by State or local authorities to be operating in violation of State or local law.
5. **List of similar uses.** A list of other uses of the same type located in the City and the authorized capacity of the use, if any, as determined by a third party entity. The applicant shall provide evidence of the need for the use by the residents of the City based on published sources. The City may complete an independent review of this data, at the applicant's expense, to determine whether there is a need for the use by its residents.

6. **License and permit history.** The license and permit history of the applicant(s), including whether the applicant(s), in previously operating a similar use in this or another City, county, or state under license and/or permit has had the license and/or permit revoked or suspended, and the reason(s) for the revocation or suspension.
 7. **Location map.** A location map showing all conditional uses located within three blocks of the subject site, including property addresses and a site plan showing uses and structures on adjacent parcels.
 8. **Operations and management plan.** An operations and management plan to ensure compliance with State and local law. If the Conditional Use Permit is for a residential facility or a commercial facility that accommodates overnight stays, the operations and management plan shall also indicate the number of persons in each bedroom, maximum number of occupants, typical length of stay, any guest or client rules of conduct, and procedures for the disposal, if any, of medical waste.
 9. **Transportation and parking.** Expected parking demand and vehicular use; availability of public transportation or other means to transport facility users; if applicable, routes utilized to transport facility users off-site.
- F. **Project review and notice and hearing requirements.** Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Zoning Code.
1. **Public hearing required.** The Hearing Officer shall conduct a public hearing on an application for a Conditional Use Permit before a decision on the application.
 2. **Notice and hearing requirements.** Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 20.76 (Public Hearings).
- G. **Approval, modification, or revocation of Conditional Use Permit.**
1. A Hearing Officer is hereby designated to approve, conditionally approve, or deny applications for Conditional Use Permits, and the modification or revocation of the Conditional Use Permits, in compliance with the procedures identified in this Section.
 2. Decisions of the Hearing Officer may be appealed to the Council in compliance with Chapter 20.78 (Appeals). Notwithstanding Chapter 20.78, the standard of review shall not be de novo and the Council shall determine whether the findings made by the Hearing Officer are supported by substantial evidence presented during the evidentiary hearing. The Council acting as the appellate body may sustain, reverse, or modify the decision of the Hearing Officer or remand the matter for further consideration, which remand shall include either specific issues to be considered or a direction for a de novo hearing.
- H. **Development and operational standards.** The following standards are applicable to uses granted a Conditional Use Permit in compliance with this Section.

1. **Management and operation plan.** The property shall be operated in compliance with applicable State and local law and in compliance with the management and operating plan and rules of conduct submitted as part of the application for a Conditional Use Permit or as identified in the conditions of approval for a Conditional Use Permit. Each plan shall provide a phone number by which the operator may be contacted at all times. If applicable, the permittee shall comply with the Business License provisions of Municipal Code Title 5.
2. **Operational standards.** In order to ensure that unlicensed residential care facilities (small or general) are operating in a manner that is consistent with Federal and State law and established industry standards and to ensure that operators do not have a pattern or practice of operating similar facilities in violation of State or local law, all of the standards listed below shall apply:
 - a. If the facility is not be required to be licensed by the State, managers, operators, owners, and residents shall not provide any services on-site, which would require licensure of the facility in compliance with State law.
 - b. There shall be no more than two residents in each bedroom plus one additional resident. Notwithstanding, upon request by the applicant for additional occupancy, the Hearing Officer has the discretion to set occupancy limits based upon the evidence provided by the applicant that additional occupancy is appropriate at the site. In determining whether to set a different occupancy limit, the Hearing Officer shall consider the characteristics of the structure, whether there will be an impact on traffic and parking, and whether the public health, safety, peace, comfort, or welfare of persons residing in the facility or adjacent to the facility will be impacted.
 - c. If certification specific to the type of facility is available from a governmental agency or qualified nonprofit organization, the facility shall receive the certification including, without limitation, certification by Orange County under its Adult Alcohol and Drug Sober Living Facilities Certification Program.
 - d. The names of all persons and entities with an ownership or leasehold interest in the facility, or who will participate in operation of the facility, shall be disclosed in writing to the City, and these persons and entities shall not have a demonstrated pattern or practice of operating similar facilities in or out of the City of Newport Beach in violation of State or local law.
 - e. The operator of the residential facility shall provide a list of the addresses of all similar facilities located in the State of California owned or operated by the operator within the past five years and shall certify under penalty of perjury that none of these facilities have been found by State or local authorities to be operating in violation of State or local law. The Director shall verify this information.

3. **Smoking not allowed.** Clients, guests, staff, or any other users of the facility shall not smoke in an area from which the second hand smoke may be detected on any parcel other than the parcel upon which the facility is located.
- I. **Findings and decision.** In addition to the findings required by Subsection 20.66.090 F. (Findings and decision), above, the Hearing Officer shall make all of the following findings before approving or conditionally approving an application for a Conditional Use Permit in a residential zone or in an area where residential uses are provided for in Planned Community Districts or specific plan districts:
1. The use conforms to all applicable provisions of Subsection H. (Development and operational standards), above;
 2. The project includes sufficient on-site parking for the use, and traffic and transportation impacts have been mitigated to a level of insignificance;
 3. The property and existing structures are physically suited to accommodate the use;
 4. The use will be compatible with the character of the surrounding neighborhood, and the addition or continued maintenance of the use will not contribute to changing the residential character of the neighborhood (e.g., creating an overconcentration of residential care uses in the vicinity of the proposed use). In making this finding or sustaining the finding, the Hearing Officer and/or Council shall consider, as appropriate, all of the following factors:
 - a. The proximity of the use location to parks, schools, other residential care facilities, outlets for alcoholic beverages and any other uses which could be affected by or affect the operation of the subject use;
 - b. The existence of substandard physical characteristics of the area in which the use is located (e.g., limited available parking, lot widths, narrow streets, setbacks, short blocks), and other substandard characteristics which are pervasive in certain areas of the City of Newport Beach, including portions of Balboa Island, Balboa Peninsula, Corona Del Mar, Lido Isle, Newport Heights, and West Newport, which portions were depicted on a map referred to as the Nonstandard Subdivision Area presented to the Commission on September 20, 2007 and on file with the Director; and
 - c. Whether, in light of the factors applied in Subparagraphs I. 4. a. and I. 4. b., above, it would be appropriate to apply the American Planning Association standard of allowing only one or two of these uses in each block.
 - (1) Median block lengths in different areas of Newport Beach widely range from 300 feet in the Nonstandard Subdivision Areas to as much as 1,422 feet in standard subdivision areas.
 - (2) The average calculable block length in much of the standard subdivision areas is 711 feet and the calculable median block length is 617 feet.

- (3) The Hearing Officer shall apply the American Planning Association standard in all areas of Newport Beach in a manner which eliminates the differences in block lengths
 - (4) In making this determination, the Hearing Officer shall be guided by average or median block lengths in standard subdivisions of the City.
 - (5) The Hearing Officer shall retain the discretion to apply any degree of separation of uses which the Hearing Officer deems appropriate in any given case.
 - (6) A copy of the American Planning Association standard is on file with the Director.
5. The operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area;
 6. Arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties; and
 7. Arrangements for commercial trash collection in excess of usual residential collection are made within hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.
- J. Conditions of approval.** In approving or conditionally approving an application for a Conditional Use Permit, the Hearing Officer may impose conditions which are deemed necessary and suitable to ensure compatibility of the proposed use with all other uses in the vicinity.
- K. Post decision procedures.** The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Conditional Use Permit application.

20.66.100 – Variances [REVISED]

- A. Purpose.** A Variance provides a process for City consideration of requests to waive or modify certain standards of this Zoning 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 may be granted to waive or modify any requirement of this Zoning Code except: allowed uses; residential density; specific prohibitions (for example, prohibited signs), or procedural requirements.

- C. Review authority.** A Variance application shall be reviewed and approved, conditionally approved, or denied by the Commission.
- D. Application filing and processing.** An application for a Variance shall be filed and processed in compliance with Chapter 20.64 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule. It is the responsibility of the applicant to establish evidence in support of the findings required by Subsection F. (Findings and decision), below.
- E. Project review, notice, and hearing requirements.**
1. Each application shall be reviewed by the Director to ensure that the proposal complies with this Section and all other applicable requirements of this Zoning Code.
 2. The review authority shall conduct a public hearing on an application for a Variance before a decision. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 20.76 (Public Hearings).
- F. Findings and decision.** The review authority may approve or conditionally approve a Variance only after first making all of the following findings:
1. There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) which do not apply generally to other properties in the vicinity under an identical zoning classification;
 2. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity and under an identical zoning classification;
 3. Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;
 4. Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;
 5. Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and
 6. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, any applicable specific plan, or the certified Coastal Land Use Plan for sites located within the City's Coastal Zone.
- G. Precedents.** Each application shall be reviewed on an individual case-by-case basis and the granting of a prior Variance is not admissible evidence for the granting of a new Variance.

- H. Post decision procedures.** The procedures and requirements in Chapter 20.68 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 (Zoning Code Administration) shall apply following the decision on a Variance application.

20.66.110 – Zoning Clearances [New]

- A. Purpose.** Zoning Clearance is the procedure used by the City to verify that a proposed use or structure complies with the list of activities allowed in the applicable zoning district of this Zoning Code and the development standards and other provisions identified in Section 20.10.030 applicable to the proposed use or structure.
- B. Applicability.** Where Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) or another provision of this Zoning Code requires a Zoning Clearance as a prerequisite to establishing a use or structure, a Zoning Clearance shall be required at the time of the Director's review of any of the following:
- 1. Initiation of a use.** A Zoning Clearance shall be obtained before the initiation or commencement of any use of land not requiring the construction of a structure.
 - 2. Change of use.** Whenever a use is proposed to be changed, whether or not the new use involves a new lessee, operator, or owner, a Zoning Clearance shall be obtained.
 - 3. Building Permit, Grading Permit, or other construction permit.** A Zoning Clearance shall be obtained before the City issues a new or modified Building Permit, Grading Permit, or other construction-related permit required for the alteration, construction, modification, moving, or reconstruction of any structure.
- C. Review and approval.**
1. The Department shall issue the Zoning Clearance after first determining that the request complies with all Zoning Code provisions and other adopted criteria and policies applicable to the proposed use or structure.
 2. 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.
- D. Referral to Commission.** The Department may defer action and refer the Zoning Clearance request to the Commission for consideration and final action.
- E. Appeal to Commission.** The Department's action on a Zoning Clearance request may be appealed to the Commission in compliance with Chapter 20.78 (Appeals).

