

Article 2. – The Comprehensive Zoning Code

Subarticle 6. – Administration and Permits

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Subarticle 6: Administration and Permits (NEW)

Sec. 7-9-125 ~~7-9-150~~ Discretionary permits and procedures

The purpose of sections 7-9-TBD through 7-9-TBD is to define a set of procedures that are common to the application for and processing of all permits and approvals provided for in the Zoning Code, except as superseded by a specific requirement of the Zoning Code or State law.

Sec. 7-9-125.1 ~~7-9-150.2~~ Applications

~~(a) Filing instructions:~~ Each application for a discretionary permit shall be filed with the Director on a form prescribed by, and with all documents and information required by the Director. The Director shall provide written filing instructions, specifying information and materials required, and all required forms at no charge to any person requesting such instructions.

~~(b) Submittal of Applications:~~ Any property owner, his authorized agent, or a local agency may submit an application for a discretionary permit in compliance with the filing instructions. The Director shall determine whether such application is complete and shall transmit such determination to the applicant. In the event the application is determined not to be complete, the Director's determination shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which they can be made complete.

~~(c) Acceptance of Applications:~~ No application shall be deemed accepted until a determination has been made by the Director that the application is complete and in compliance with the filing instructions.

(a) Authority to File Applications. The following persons and/or entities are considered qualified applicants and have authority to file an application for review or approval under the Zoning Code:

- (1) The owner of the subject property ("owner"), including any person, corporation, partnership or other legal entity that has a legal or equitable title to land that is the subject of a development proposal.
- (2) The owner's agent, with written consent of the owner.
- (3) The purchaser of the subject property, with written consent of the owner.
- (4) A lessee, with written consent of the owner.

(b) ~~(d) Withdrawal.~~ At the request of the applicant at any time, the applicant's discretionary permit application shall be withdrawn. Thereafter, such application shall be null and void.

(c) Application Contents.

- (1) Submissions. Unless otherwise specified, all applications shall be consistent with the County's filing instructions, which may be revised from time to time.
- (2) Electronic submission. The electronic submission of application materials may be required.

- (3) Additional information and materials. The applicant may be requested to submit additional information and materials from the applicant when necessary to complete the review of the project. The information and materials may include, but are not limited to, written descriptions, photographs, plans, drawings, maps, renderings, models, material samples and other items necessary to describe existing conditions and the proposed project.
- (4) Submittal Waivers. Certain submittal requirements may be waived to tailor the requirements to the information necessary to review the particular application.

Sec. 7-9-125.2 ~~7-9-150.5~~ Fees

A filing fee to defray the cost of processing and notification for each discretionary permit application and appeal shall be paid by the property owner or his authorized agent or by the appellant at the time the application or appeal is accepted. Such fees shall be in accordance with the fee schedule currently in effect as adopted by resolution of the Board of Supervisors. When different types of permits are combined per section 7-9-150.3(a) TBD, the type of permit application requiring the highest fee shall be the applicable fee for the combined application.

- (a) *Waiver of fees:* The filing fee shall be waived for an application filed by any city, county, district, state or federal government, or agency thereof. The Board of Supervisors may establish by resolution procedures for consideration of requests by applicants for waiver of permit fees.
- (b) *Refund of fee:* The Director may refund a filing fee in whole upon a determination that the application was erroneously required or filed. He or she may refund a fee pro rata, based on the cost of processing the application, if the application is withdrawn prior to a decision thereon.

Sec. 7-9-125.3 ~~7-9-150.3~~ Processing procedures—Review of applications

All discretionary permit applications shall be processed in compliance with the following procedures, and with the additional procedures of section 7-9-118 TBD for any application within the Coastal Development District. If the Director determines, on a case-by-case basis, that the public interest would be better served, a permit application may be forwarded to the Planning Commission or Zoning Administrator for action that would otherwise be acted on administratively. Likewise, if the Director determines, on a case-by-case basis, that the public interest would be better served, a permit application may be forwarded to the Planning Commission that would otherwise be acted on by the Zoning Administrator. Any permit acted on by the Planning Commission shall not require action by the Director or Zoning Administrator and any permit acted on by the Zoning Administrator shall not require action by the Director.

- (a) ~~7-9-150.2 (c) Acceptance of Applications~~ Review for Completeness.
 - (1) No application shall be deemed accepted until a determination has been made by the Director that the application is complete and in compliance with the filing instructions.
 - (2) No application shall be deemed complete until the applicant has submitted a signed Indemnification Agreement pursuant to the County's filing instructions.

- (3) The Director shall determine whether an application is complete within thirty (30) days of the date that the application is filed with the required fee. If the Director does not make such determination, the application is deemed complete pursuant to Government Code Section 65943 and shall be processed accordingly.
 - (4) The Director and the applicant may mutually agree in writing to extend this time period.
- (b) *Incomplete Application.*
- (1) *Notification Required.* If an application is determined to be incomplete within thirty (30) days of the date that the application is filed with the required fee, the Director shall provide written notification to the applicant listing the application for permit(s), forms, information and any additional fees that are necessary to complete the application.
 - (2) *Zoning Violations.* An application is incomplete if conditions exist on the site in violation of the Zoning Code or any permit or other approval granted in compliance with the Zoning Code, unless the proposed project includes a correction of the violation(s).
 - (3) *Notification of Deficiencies.* If an application is incomplete, the Director shall provide written notification to the applicant specifying that OC Development Services shall not process an incomplete application. The application shall then be classified as “incomplete.”
 - (4) *Correcting Deficiencies.* The applicant shall provide the materials and/or information required to correct the deficiencies in the application within the time limit specified, which shall not be sooner than thirty (30) days. The Director may grant one extension of up to ninety (90) days.
 - (5) *Inactive Application.* If an applicant fails to correct any specified deficiency within the specified time limit, the application shall be deemed inactive. After the expiration of an application, the submittal of a new, complete application is required.
- (c) *Complete Application.*
- (1) *Complete Application Required.* An application shall be complete before processing of the application begins.
 - (2) *Determination of Complete Application.* An application is complete when the Director determines that it is submitted on the required form, includes all the necessary information to decide whether the application complies with the requirements of the Zoning Code, and is accompanied by the applicable fee(s). The Director’s decision is final and not subject to review by a approving authority.

- (3) Recording Date and Scheduling Hearing. When an application is determined to be complete, the Director shall make a record of that date.
- (d) ~~7-9-150.3(a)~~ Combined Application. At the discretion of the Director, different types of permits may be combined in one application and processed with one application number and one fee so long as all the applicable permit processing requirements, including all required findings, are satisfied.
- (1) When a permit requiring a public hearing is combined with one not requiring a public hearing, the combined application shall require a public hearing.
 - (2) Action by the Planning Commission on a permit application shall take precedence over action by the Director and Zoning Administrator.
- (e) ~~7-9-150.3(b)~~ Review by citizens' advisory body. If the zoning ordinance for a planned community or specific plan require the Director to forward discretionary permit applications to a designated citizens' body for review and comment, the applications shall be forwarded pursuant to the by-laws of the advisory body. ~~the Director shall do so at least twenty-one (21) calendar days prior to final action by the approving authority. However, if the citizens' body responds in less than twenty-one (21) days, the approving authority may take final action if all other public notification requirements have been satisfied. Failure of such citizens' body to respond shall not necessarily delay action on the permit.~~
- (f) Administrative action. Discretionary permits processed per this subsection shall be acted upon administratively. Where the approving authority is not otherwise specified, the Director shall be the approving authority. A public hearing or public notification shall not be required, ~~except per section 7-9-150.3(b).~~

TABLE 7-9-TBD: DECISION-MAKING BODIES FOR DECISIONS AND APPEALS			
<u>Discretionary Permit/Action Type</u>	<u>Code Section</u>	<u>Review/Decision-Making Body</u>	<u>Appeal Body</u>
<u>Site Development Permit</u>	TBD	<u>Director</u>	<u>Planning Commission</u>
<u>Conditional Use Permit</u>	TBD	<u>Zoning Administrator</u> <u>Planning Commission</u>	<u>Planning Commission</u> <u>Board of Supervisors</u>
<u>Variance</u>	TBD	<u>Zoning Administrator</u>	<u>Planning Commission</u>
<u>Coastal Development Permit</u>	TBD	<u>Zoning Administrator</u> <u>Planning Commission</u>	<u>Planning Commission</u> <u>Board of Supervisors</u>
<u>Changed Plan or Minor or Modification</u>	TBD	<u>Director</u>	<u>Planning Commission</u>
<u>Permit Revocation</u>	TBD	<u>Planning Commission</u>	<u>Board of Supervisors</u>
<u>Legislative Action</u>	<u>Code Section</u>	<u>Review/Recommending Authority</u>	<u>Review/Adoption</u>
<u>General Plan Amendment</u>	TBD	<u>Planning Commission</u>	<u>Board of Supervisors</u>
<u>Zoning Code and Zone Changes</u>	TBD	<u>Planning Commission</u>	<u>Board of Supervisors</u>
<u>Specific Plan Adoption and Amendments</u>	TBD	<u>Planning Commission</u>	<u>Board of Supervisors</u>

- (g) ~~7-9-150.3 (f)~~ *Action by the decision-making body on discretionary permit applications.*
- (1) The decision-making body ~~approving authority~~ shall take one of the following actions for each application:
- a. *Approve.* There are no conditions or requirements other than those specified by the application. After the date of final determination and after compliance with section 7-9-150-~~104.3(g)~~, TBD (Revised plans), if applicable, the proposed project may be established in compliance with

all applicable regulations and with the provisions of the application approved.

- b. *Disapprove.*
 - c. *Conditionally approve.* Any application may be approved subject to the performance of, or compliance with, conditions. Conditions may require dedication of land, installation of improvements, the posting of financial security to guarantee performance of conditions, and other conditions necessary to achieve the objectives of the General Plan and the Zoning Code. No conditions shall be included that would require dedication or improvements or for other purposes not reasonably related to the use of the property which is the subject of the application. After the date of final determination and after compliance with section 7-9-150 TBD the proposed project may be established in compliance with all applicable regulations, with the provisions of the application as approved, and with the provisions and requirements of the conditions of approval.
- (2) *Action in writing.* The determination on each application, including any required findings and any other reasons that serve to explain the determination, and all conditions of approval, shall be in writing. A copy of the written determination shall be forwarded to the applicant following the date of final determination and shall be made available, at cost, to any person desiring a copy of such determination.
 - (3) *Final determination.* The determination of the decision-making body approving authority shall be effective fifteen (15) days after the date the decision is made, and after all appeals, if any, have been acted on. However, when an application accompanies or relies on the approval of a coastal development permit, the determination of such application shall not be effective until the coastal development permit is effective in compliance with the provisions of section 7-9-118 TBD.
 - (4) *Effective Date.* General Plan amendments are effective on the date of adoption by the Board of Supervisors. Zoning Code amendments and Zone Changes are effective thirty (30) days after adoption by the Board of Supervisors.
- (h) Action by the Planning Commission on legislative actions. The Planning Commission shall either recommend or not recommend adoption by the Board of Supervisors of proposed General Plan amendments, Zoning Code amendments and Zone Changes.
 - (i) Required Submission of Revised plans. When the approving authority approves an application for any discretionary permit in a manner that is different from that which was presented to them, they may require revised plans to be submitted as a condition of approval. No building or grading permits or certificates of use and occupancy authorized by a discretionary permit shall be issued until such revised plans are submitted to the Director and found by the Director or his designee to be consistent with the action of the approving authority. If such revision is not submitted within thirty

(30) days, or as otherwise specified by the approving authority, after the date of final determination, the permit shall thereafter be null and void. However, prior to the expiration of this period, the Director may grant one extension of time of any additional period if it is requested and justified by the applicant.

- (j) ~~*Changed plans.* Plans that are changed from that approved by the approving authority may be submitted to the Director. If the Director determines that the proposed changed plan is a minor amendment of no significant effect, and complies with the spirit and intent of the original approving action, he may approve the changed plan without further compliance with section 7-9-150.~~

Changed plan. A plan that is changed from those plans considered and approved by the approving authority and may be submitted to the Director. An applicant may initiate a request for a changed plan upon the submittal of the applicable form, materials and fees. The Director may make the following determinations with respect to the change(s) to an approved plan:

- (1) If the Director determines that the proposed change to the plan is a minor amendment of no significant effect regarding land use or CEQA, and complies with the spirit and intent of the original approving action, the Director may approve the changed plan, in writing, without further compliance with section 7-9-150-TBD prior to the issuance of any applicable permit(s).
- (2) If the Director determines that the proposed change to the plan does not comply with the spirit and intent of the original approving action or is a change of potential significant effect, the changed plan shall be subject to compliance with section 7-9-150-TBD.

- (i) *Minor Modification.* A plan that is modified from those plans considered and approved by the decision-making body and may be submitted to the Director. An applicant may initiate a request for a minor modification upon the submittal of the applicable form, materials and fees. The Director may make the following determinations with respect to the modification(s) to an approved plan:

- (1) If the Director determines that the proposed modification to the plan is a minor modification of no effect regarding land use or CEQA, and is in substantial compliance with the spirit and intent of the original approving action, the Director may approve the modified plan, in writing, without further compliance with section 7-9-150 TBD prior to the issuance of any applicable permit(s).
- (2) If the Director determines that the proposed modification to the plan is not in substantial compliance with the spirit and intent of the original approving action or is a change of potential significant effect, the modification shall be subject to compliance with section 7-9-150 TBD.

Sec. 7-9-125.4 ~~7-9-150.3 (c)~~ Public hearings: Scheduling and notice

- (a) *Public Hearings.* Zoning Code amendments, General Plan amendments, zone changes and discretionary permits requiring a public hearing ~~processed per this subsection~~ shall

also require ~~a public hearing with~~ public notification of that public hearing. However, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the action of the ~~approving authority~~ decision-making body.

- (1) ~~7-9-150.3(c)(1)~~ *Scheduled hearings*. A public hearing shall be scheduled at the earliest available appropriate date of a regularly scheduled meeting of the decision-making body ~~approving authority~~, in compliance with the provisions of this section. At the scheduled public hearing, the decision-making body ~~approving authority~~ may take action on the application, may continue the application to a specified date, or may take the application under submission. When an application is taken under submission, no further testimony shall be heard and no further evidence shall be presented until the application is rescheduled for a new public hearing in compliance with these provisions. An application that has been taken under submission may later be taken out of submission for the purpose of taking action on the application, without scheduling a new public hearing, provided no additional testimony is heard and no further evidence is presented.
- (2) ~~7-9-150.3(c)(2)~~ *Public notice requirements*. In addition to section 7-9-150.3(b), ~~TBD~~ not less than ten (10) calendar days prior to the hearing, the Director shall:
 - a. Prepare a public notice which includes the date, time and place of the hearing, the application number, the applicant's name, the location of the property affected, and a description of the use proposed.
 - b. Mail or deliver the notice of the hearing to:
 1. The owner of the subject real property or to his authorized agent.
 2. The project applicant.
 3. Each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide these facilities and services may be significantly affected.
 4. All owners of real property as shown on the latest equalized assessment roll within 300 feet of the subject real property.
 5. If the number of owners to whom notice would be mailed is greater than 1,000, the Director may instead place a display advertisement of at least one-eighth page in a newspaper of general circulation at least ten (10) days prior to the hearing.
 - c. Publish a legal notice in a newspaper of general circulation or post a notice in two public places in the County and in one place at the subject site for discretionary permits requiring a public hearing.

- d. Publish a legal notice in a newspaper of general circulation for Zoning Code amendments, General Plan amendments and Zone Changes including those associated with a discretionary permit.
- e. Provide any other notice required by law.

Sec. 7-9-125.5 ~~7-9-157~~ Tie votes

If action on a discretionary permit ~~section 7-9-150~~ General Plan amendment, Zoning Code amendment or a Zone Change ~~per sections 7-9-103, 155, or 156~~ results in a tie vote by the decision-making body, that shall constitute disapproval of the (1) proposed permit, (2) permit appeal (i.e., original action stands), (3) proposed permit revocation (i.e., permits remains valid), (4) proposed Zone Change (including amendments to specific plans and planned communities), (5) proposed General Plan amendment, or (6) proposed Zoning Code amendment, as applicable, unless the decision is appealed to the Board of Supervisors, in which such case a tie vote on a California Environmental Quality Act determination will result in a denial of the project and any attendant approvals and discretionary permits, regardless of whether the proposed CEQA determination was approved or denied by the Planning Commission.

Sec. 7-9-125.6 ~~Section 7-9-150.3 (e)~~ Findings Required

- (a) *For all discretionary permits.* The following findings, based on information in the record, shall be made by the approving authority prior to the approval of any discretionary permit:
 - (1) *General Plan.* The use or project proposed is consistent with the General Plan.
 - (2) *Zoning Code.* The use, activity or improvement(s) proposed is consistent with the provisions of the Zoning Code.
 - (3) *CEQA.* The approval of the permit application is in compliance with the requirements of the California Environmental Quality Act.
 - (4) *Compatibility.* The location, size, design and operating characteristics of the proposed use will not create conditions or situations that may be incompatible with other permitted uses in the vicinity.
 - (5) *General welfare.* The approval of the permit application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.
 - (6) *Public Facilities.* The approval of the permit application is in compliance with Codified Ordinances Section 7-9-711 TBD.
- (b) *For variance applications.* In addition to the findings required by paragraph (1) of this subsection, the following findings shall be made by the approving authority prior to the approval of any variance application:
 - (1) *Special circumstances.* There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the

vicinity and subject to the same zoning regulations. (The special circumstances shall be specified in the adopted finding.)

- (2) *No special privileges.* Approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations, when the specified conditions are complied with.
- (c) *Modified development standards.* If the land use regulations of a planned community or specific plan allow a discretionary permit, other than a variance permit, to modify the site development standards to be less restrictive than otherwise stated in the enabling ordinance, the following finding shall be made in addition to "(1)" above:

"The alternative development standard(s) will result in an equivalent or better project in terms of adverse impacts and public benefits to the immediate and surrounding community."
- (d) *New use allowed.* Where the enabling ordinance authorizes a discretionary permit to allow a principle use not specifically identified as permitted or prohibited, the following additional finding shall be made in addition to "(1)" above:

"The proposed use is consistent with the purpose and intent of the (name) district/planning area."

Sec. 7-9-125.9 7-9-150.6 Period of Validity for Establishment of Permit; and Expiration and Extension

- (a) *Period of Validity.* The period of validity shall begin on the date of ~~final determination action~~ as set forth in section 7-9-150.3(f)(3) above and shall expire if not established as set forth below.
 - (1) For ~~feature plans~~, area plans, and reclamation plans: Indefinite unless otherwise stated in the permit or other applicable regulations.
 - (2) For all other discretionary permits: Three years or as stated in the permit.
 - (3) If a ministerial permit which was needed to implement the discretionary permit has been issued during the period of validity described above, then the period of validity shall be extended to coincide with the period of validity of that ministerial permit, but only to the extent necessary to implement that ministerial permit.
 - (4) Notwithstanding subsections (1), (2), and (3), a discretionary permit for a project which was approved in conjunction with a vesting tentative map approved pursuant to Subdivision Code section 7-9-236 shall be valid for at least one year after the date such subdivision map or any increment to which the permit applies is recorded. Such discretionary permits may be identified on the application as associated with a vesting tentative map.
 - (5) Notwithstanding subsections (1), (2), (3), and (4), the period of validity of a discretionary permit is extended for a period equal to the time during which a

lawsuit seeking to set aside approval of the permit (or other permits, subdivision maps, and zone changes that are directly related to the same development project as the subject permit) is pending in a court of competent jurisdiction. The applicant shall provide documentation to the satisfaction of the Director of the beginning and ending of the litigation.

- (6) Prior to the expiration of the period provided by the subsections (1), (2), and (3) above, a single one-year extension may be granted by the Director provided that both the following conditions have been satisfied:
 - a. The extension of time has been requested and adequately justified by the applicant, and
 - b. There has been no applicable change in the underlying zoning regulations for the subject site and proposed use.
- (b) *Establishment:* A discretionary permit shall be deemed established if, during the period of validity:
 - (1) In the case of a discretionary permit where ministerial permits are required, such ministerial permits are finalized, but only to the extent authorized by such ministerial permits.
 - (2) In the case of a discretionary permit where no ministerial permits are required, the use authorized by the permit is actually commenced.
 - (3) In circumstances where a certificate of use and occupancy is required, such certificate shall be issued.
- (c) *Expiration:* A discretionary permit shall expire and be of no further force or effect if:
 - (1) The permit is not established during the period of validity; or
 - (2) After establishment, the use or activity for which the permit was approved is discontinued or abandoned for a period of one (1) year.

Sec. 7-9-125.10 ~~7-9-150.8~~. Amendments.

Any discretionary permit may be modified or amended any number of times by the approval of a subsequent application. Amendments may include, revised conditions of approval, revisions and refinements of an approved permit, and new or additional uses.

All amendments shall be for the same parcel of property for which a discretionary permit was previously approved. Amendments shall be filed prior to the expiration of the previously approved permit, and they shall be filed in compliance with the filing procedures and payment of the filing fee required for an original application and shall be processed in the same manner as an original application.

Sec. 7-9-125.11 ~~7-9-150.7~~ Revocation of Permit

- (a) *Grounds for Revocation:* Any discretionary permit may be revoked by the Planning Commission pursuant to the provisions of this section on any of the following grounds:

- (1) Such approval was based on inaccurate or misleading information.
- (2) The permittee has failed to abide by and faithfully comply with one (1) or more of the conditions upon which the permit was granted or extended.
- (3) A change in conditions occurring after the original grant of the approval or the continuation of the use as approved is contrary to public health, safety or general welfare, or is detrimental or incompatible with other permitted uses in the vicinity.
- (4) The findings which were the basis for the original permit approval can no longer be made.
- (5) Regulations applicable when the permit was approved have been amended.

Procedure: Prior to any revocation, the Planning Commission shall hold a public hearing. The hearing shall be preceded by notice given in the same manner as was required to be given for consideration of issuance of the permit except that the permittee shall be given not less than fifteen (15) days' notice. The notice shall state the causes for which revocation is to be considered.

- (b) *Revocation Action: Planning Commission:* Following the hearing, the Planning Commission may revoke the permit, impose additional conditions on the permit, or revoke the permit subject to reinstatement upon compliance with specified conditions.
- (c) *Amortization:* If a revocation of any approval is ordered, the Planning Commission may at the same time provide for a reasonable period of time to amortize any lawful existing uses on the site. Extensions of this time period may be granted for good cause shown on later application to the approving authority by any affected person.
- (d) *Appeal:* Any action by the Planning Commission pursuant to this section may be appealed as set forth in section 7-9-150.4TBD.

Sec. 7-9-125.12 ~~7-9-150.4~~ Appeals

Any decision of the Director, Zoning Administrator, or the Planning Commission regarding the action taken on a discretionary permit application may be appealed to a Board of Appeals in compliance with the provisions of this section.

- (a) *Board of Appeals.*
 - (1) The Planning Commission shall constitute the Board of Appeals for decisions by the Director, OC Development Services and Zoning Administrator. The Planning Commission's decisions on such appeals shall be final, unless the California Environmental Quality Act determination is being appealed, in which case both the CEQA determination and the discretionary permit determination are appealable to the Board of Supervisors from the Planning Commission as set forth in section 7-9-150.4(a)(3). TBD.
 - (2) The Board of Supervisors shall constitute the Board of Appeals for decisions by the Planning Commission. Matters originally heard by the Planning Commission

shall be appealable to the Board of Supervisors. Matters heard by the Planning Commission on appeal are not appealable to the Board of Supervisors unless the California Environmental Quality Act determination is being appealed in which case both the CEQA determination and the discretionary permit determination are appealable to the Board of Supervisors from the Planning Commission, as set forth in section 7-9-150.4(a)(3)TBD.

- (3) The Board of Supervisors shall constitute the final Board of Appeals for any and all decisions related to appeals of California Environmental Quality Act determinations. For any CEQA determination appeals the Board of Supervisors shall also constitute the final Board of Appeals as well for all attendant approvals and discretionary permits.
- (b) *Who may appeal.* Any interested person or party may appeal a decision of the Director, Zoning Administrator or Planning Commission regarding the action taken on a discretionary permit application, upon submittal of the required documents and information and payment of the required fee.
- (c) *Procedure:*
- (1) *Timeliness.* Except as otherwise provided by section 7-9-118TBD for appeals to the Coastal Commission, an appeal shall be filed within fifteen (15) calendar days of the date on which the decision being appealed was rendered. If the fifteenth day is a nonworking day for the County, the appeal period shall be extended to include the next County working day. No appeal shall be accepted after the appeal period has expired.
 - (2) *Required documents.* Each appeal shall be accompanied by such other documents and information the Director deems to be necessary to adequately explain and to provide proper notification for the appeal. Each appeal shall set forth specifically and in detail the grounds for the appeal. The Board of Appeals may refuse to consider issues not raised in the written appeal.
 - (3) *Time for action.* Not later than ninety (90) ~~sixty (60)~~ days from the end of the appeal period, the Board of Appeals shall consider the appeal. The Board of Appeals may: 1) take action on the appeal, or 2) may continue the appeal, or 3) may refer the application back to the approving authority with directions.
 - (4) *Public hearing requirements.* The appeal of an approving authority's determination that required a public hearing shall also require a public hearing. Notice and schedule requirements for an appeal hearing shall be identical as those for an original hearing.
 - (5) *Forwarding of records.* When an appeal has been accepted, the Director shall forward to the Board of Appeals all documents and information on file pertinent to the appeal, together with the minutes or official action of the approving authority, and a report on the basis of the decision and the appropriateness of the appeal.

- (d) *Nature of decisions:* The Board of Appeals shall consider the appeal at an appropriate public meeting or public hearing, including all information and evidence submitted with the original application, and any additional information and evidence the appellant may submit which the Board finds to be pertinent.

The action of the Board of Appeals shall be one (1) or more of the following in compliance with the same procedures and requirements as were applicable to the approving authority:

- (1) Approve or disapprove the appeal;
- (2) Approve or disapprove the original application;
- (3) Add, modify or delete conditions of the original application;
- (4) Approve a modified application submitted by original applicant; or
- (5) Refer the application back to the decision-making body approving authority with directions for action by the approving authority or for recommendations or reports to the Board of Appeals.

Sec. 7-9-125.13 Interpretations and Verifications (NEW)

Requests for interpretations of the Zoning Code and verifications of prior approvals or permits shall be made to the Director. Requests shall be in writing and the Director shall respond in writing with a "Zoning Interpretation Letter." An interpretation or verification cannot be appealed.

Sec. 7-9-125.13.1. - ~~7-9-152~~ Certificates of use and occupancy Zoning Use Certificate

- (a) *Zoning Use Certificate Required:* No vacant land in any zone established under the provisions of this Code shall hereafter be occupied or used, except for agricultural uses other than livestock farming, poultry or small animal raising or dairying; and no building hereafter erected, structurally altered or moved in any such zone shall be occupied or used until a Zoning Use Certificate ~~all have~~has been issued by the Director, ~~EMA~~.

~~*Application for Building:* Application for a certificate of use and occupancy for a new building or for an existing building which has been altered or moved shall be made in compliance with the provisions of the Uniform Building Code as adopted by the Board of Supervisors.~~

- (b) *Application for Zoning Use Certificate:* Written application for a Zoning Use Certificate for the use of vacant land or for a change in the character of the use of land, as herein provided, shall be made before any such land shall be so occupied or used, except for agricultural purposes other than livestock farming, poultry or small animal raising or dairying.
- (c) *Administration:* No Zoning Use Certificate shall be issued until ~~a finding has been made~~ the Director finds that the building or proposed use of building or land complies with all applicable zoning regulations and with the conditions and requirements of any applicable discretionary permit. A record of all Zoning Use Certificates shall be kept on

file permanently in the office of the Director, ~~EMA~~, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

- (d) *Filing Fee:* A filing fee to defray the cost of processing applications for Zoning Use Certificates shall be paid in accordance with the fee schedule currently in effect as adopted by resolution of the Board of Supervisors.

FIRST DRAFT PUBLIC REVIEW

Sec. 7-9-126 Site Development Permits, Use Permits, Special Use Permits and Variances

The purpose of sections 7-9-150 TBD through 7-9-TBD is to establish specific requirements for site development permits, use permits, special permits, and Site Development Permits. Site plans are included within the term "site development variances and to list what projects or activities are exempt from these permit." requirements in certain circumstances.

Sec. 7-9-126.1 7-9-150.1(d) Site Development Permits:

- (a) The purpose of a site development permit is to provide for the administrative review and action by Director of detailed development plans for a proposed use. Uses ~~which~~that require a site development permit are regarded as having a relatively low potential for adverse impacts on the subject site or surrounding community due to the nature or magnitude of the use vis-a-vis the sensitivity of the subject site or surrounding community.
- (1) A site development permit is a ~~precise~~detailed plan of development and shall include the same elements described ~~in subsection (c) above~~ for use permits. An application for a site development permit shall comply with the County's filing instructions which may be changed from time to time.
- (2) A site development permit is a discretionary permit that shall be processed per section 7-9- TBD"Administrative action." If the land use regulations of a planned community ~~or a specific plan~~ allow a site development permit ~~or site plan~~ to modify the site development standards to be less restrictive than otherwise stated in the enabling ordinance, such a site development permit shall always require a public hearing before the Zoning Administrator per section 7-9-150.3(e) TBD.
- (3) If the land use regulations of a planned community or specific plan allow a site development permit ~~or site plan~~ to authorize a use not specifically identified as permitted by the enabling ordinance, such site development permit shall always require a public hearing before the Planning Commission per section 7-9-150.3(e) TBD.
- (4) Establishment, maintenance and operation of the use or uses proposed by the application shall be in compliance with the information and specifications shown on the approved site development permit.

Sec. 7-9-126.2 7-9-150.1(e) Use Permits

Use Permits. The purpose of a use permit is to provide for the public review during a public hearing of detailed final plans for a proposed use. Uses that require a use permit are regarded as having a relatively moderate to high potential for adverse impacts on the subject site or surrounding community due to the nature of magnitude of the use vis-a-vis the sensitivity of the subject site or surrounding community.

- (a) A use permit is a plan of development and shall include the following:
- a. A description of the use(s) and operating characteristics.

- b. A plot plan showing the location of all uses.
 - c. Supplementary exhibits, as necessary, to show other information which may be required such as building elevations, landscaping, and grading.
 - d. Conditions of approval.
- (b) Use permits shall be processed per section 7-9-150.3(c) ~~TBD~~, “Public Hearings.”
 - (c) Establishment, maintenance and operation of the use or uses proposed by the application shall be in compliance with the information and specifications shown on the approved use permit.
 - (d) The following are types of use permits:
 - (1) *Off-street parking alternative use permit:* This is processed as a use permit to the Zoning Administrator per section 7-9-150 ~~TBD~~ and is subject to the additional findings of section 7-9-145 ~~TBD~~.
 - (2) *Condominium conversion use permit:* This is processed as a use permit to the Planning Commission per section 7-9-150 ~~TBD~~ and is subject to the special requirements of section 7-9-147 ~~TBD~~.
 - (3) *Fence/wall height modification:* Requests for modifications up to a total height of eight (8) feet shall be acted upon administratively by the Director. Requests for modifications for a total height of greater than eight (8) feet shall be This is processed as a use permit to the Zoning Administrator ~~per section 7-9-150~~ and is subject to the additional findings of section 7-9-137.5 ~~TBD~~.

Sec. 7-9-126.3 ~~7-9-150.10~~ Exemptions to Site Development/Use Permits.

- (a) Administrative/professional offices and retail/service businesses that are permitted subject to a site development permit are exempt from the requirement for that permit if all of the below listed criteria are satisfied. However, permitted uses that are more specifically identified in the district regulations (e.g., automobile repair shops) are not subject to this exemption.

Location:	In the C1, C2, CC, CH, CN, or PA District and similar areas in planned community and specific plan districts.
Floor area:	<u>Not exceeding a 10,000 sq. ft. maximum.</u>
Employees:	<u>Not exceeding 10</u> on-site employees at any one time maximum.
Trip Generation:	<u>Not exceeding 200</u> average daily vehicle trips maximum, as determined by the Director.

- (e) Commercial uses ~~which that~~ are permitted subject to a use permit approved by the Planning Commission or Zoning Administrator may be permitted subject to a site development permit approved by the Director if all the criteria listed in (a) above are satisfied and the commercial use will not be within three hundred (300) feet of a residential use. However, this exemption shall not apply to modifications of site development standards or uses not specifically listed as permitted.
- (c) When the Board of Supervisors has declared a natural disaster, for a period of six (6) months thereafter, unless another period of time is designated by the Board of Supervisors, the requirement for any discretionary permit otherwise required to rebuild structures damaged by the disaster that had been lawfully established and that are proposed to be substantially the same and in compliance with all site development standards, may be waived by the Director.

Sec. 7-9-126.4 ~~7-9-150.1 (f)~~ Special Use Permits

~~Special Use Permits:~~ The following discretionary permits are ~~basically~~ use permits with additional or modified processing requirements:

- 1. ~~Affordable housing incentive use permit: This is processed as a use permit to the Planning Commission per section 7-9-150 and is subject to the additional findings per section 7-9-140.~~

Other Special Permits:

- (a) *Coastal development permit.* This is processed as a use permit to the Zoning Administrator per section 7-9-150 TBD and the special requirements of section 7-9-118. TBD.
- (b) *Sand and gravel site permit:* This is subject to the special requirements of section 7-9-104 TBD.
- (c) *Reclamation plan:* This is a limited version of an SG site permit. It is subject to the special requirements of section 7-9-104 TBD.
- (d) *General Plan implementation consistency finding:* This is subject to the special requirements of section 7-9-116 ~~and may be subject to section 7-9-150~~ TBD.

Sec. 7-9-126.5 ~~7-9-150.1~~ (e) Variance permits

- (a) *Variance.* Variances from applicable site development standards may be approved for a building site. All variance applications shall comply with the County's filing instructions, which can change from time to time, and shall be processed in compliance with the provisions of section 7-9-150.3(c), "Public hearings."~~TBD.~~ The Zoning Administrator is the decision-making body approving authority for all variance applications. When a variance application is approved, the approved plot plan shall be a ~~precise~~ detailed plan of development, and establishment, maintenance and operation of the use or uses permitted by the approval of the application shall be in compliance with the information shown on the plot plan, as approved.
- (b) *Findings required for variance applications.* In addition to the findings required by ~~7-9-TBD, paragraph (1) of this subsection,~~ the following findings shall be made by the decision-making body approving authority prior to the approval of any variance application:
- (1) *Special circumstances.* There are special circumstances applicable to the subject building site ~~which that,~~ when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations. (The special circumstances shall be specified in the adopted finding.)
 - (2) *No special privileges.* Approval of the application will not constitute a grant of special privileges ~~which that~~ are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations, when the specified conditions are complied with.

Sec. 7-9-127 ~~7-9-118.6~~ CD Coastal Development District Regulations Permits

Section 7-9-TBD establishes procedures for reviewing and approving Coastal Development Permits that are required in the CD Coastal Development Combining District. Appeal procedures are in Section 7-9-TBD.

Sec. 7-9-127.1 Coastal Development Permit Procedures

- (a) *Approving Authority and Appellate Body.* Each coastal development permit application shall be processed in compliance with the requirements for use permits per section ~~7-9-150~~TBD unless otherwise stated herein. Normally, the approving authority for coastal development permits shall be the Zoning Administrator and the Planning Commission the appellate body. However, as provided for by section ~~7-9-150~~TBD, when the Director, determines that the public interest would be better served, the Director may forward the application the Planning Commission for action. In such cases, the Board of Supervisions shall serve as the appellate body.
- (b) *Application Requirements.* Each application for a coastal development permit shall be filed in the form and number prescribed by the Director and shall be accompanied by:
- (1) Payment of fee set by resolution of the Board of Supervisors.

- (2) A location map showing the area to be developed in relation to nearby lots, streets, highways and major natural features such as the ocean, beaches, wetlands and other major landforms.
 - (3) A plan, drawn to scale, in sufficient detail to indicate compliance with the certified Local Coastal Program.
 - (4) Any additional information determined by the Director to be necessary for evaluation of the proposed development.
- (c) *Referral of Application.* It shall be the duty of the Director to:
- (1) Forward applications for comment to other reviewing officials and/or agencies as may be required by Local Coastal Program policies; and
 - (2) Forward each application for a coastal development permit, together with his recommendation thereon, to the approving authority for action.

Any person may submit written comments on an application for a coastal development permit, at any time prior to the close of the applicable public hearing. Written comments shall be submitted to the Director who shall forward them to the approving authority.

- (d) *Public Notice.*
- (1) A notice shall be mailed or delivered by the Director at least ten (10) calendar days before the public hearing on coastal development permit applications to the following people and agencies:
 - a. Applicant.
 - b. All persons owning property within three hundred (300) feet from the exterior boundaries of the premises to which the application pertains.
 - c. All persons residing on a building site within one hundred (100) feet from the exterior boundaries of the premises to which the application pertains.
 - d. The Coastal Commission.
 - e. Any board or committee as provided in the certified LCP.
 - f. Public agencies which, in the judgment of the Director may have an interest in the project.
 - g. All persons who have submitted a written request for public notice of all coastal development permit applications or who have submitted a written request for public notice for any development of the subject property, and who have submitted self-addressed, stamped envelopes.
 - (2) *Contents of Notice.*
 - a. A statement that the development is within the Coastal Zone.

- b. The date of filing of the application and the name of the applicant.
 - c. The number assigned to the application.
 - d. A brief description of the development and its proposed location.
 - e. The date, time and place at which the application will be heard by the local approving authority.
 - f. A brief description of the general procedure for the conduct of the hearing and possible actions.
 - g. The system for County and Coastal Commission appeals.
 - h. The fee for filing appeals.
- (3) *Notice of Continued Public Hearing.* If a hearing on a coastal development permit is continued to a time which has not been stated in the initial notice or stated at the public hearing, notice of the continued hearing shall be provided in the same manner and within the same time limits as required in subsections (1) and (2) above.
- (e) *Findings.* A coastal development permit application may be approved only after the approving authority has made the findings required in section 7-9-106 and below:
- (1) Specific factual findings that the proposed development project conforms with the certified Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter Three of the Coastal Act.
 - (2) In addition to the findings required for a variance by section 7-9-105.4, the following finding shall also be made: "Approval of the application will result in a project that is in full compliance with the requirements of the certified land use plan."

Sec. 7-9-127.2 Appeal Procedures for Coastal Development Permits

- (a) *Appeals to the Appellate Body.* The approving authority's decision regarding any coastal development permit application may be appealed in compliance with the provisions of section 7-9-150TBD. Any person may submit written comments on a coastal development permit at any time prior to the close of the applicable public hearing. Written comments shall be submitted to the Director, who shall forward them to the appellate body.
- (b) *Notice of Final County Decision.* Within seven (7) calendar days of (A) the appellate body decision or (B) the expiration of the fifteen-calendar-day appeal period to the appellate body, a notice of it shall be sent by first class mail to the following:
- (1) The applicant.
 - (2) All persons who have submitted a written request for notification of action on this specific permit and who have submitted self-addressed, stamped envelopes.

- (3) The Coastal Commission district office.
- (4) Any board or committee as provided by the certified LCP.

The notice shall include conditions of approval and written findings. For decisions on developments that are appealable to the Coastal Commission, the notice shall include procedures for appeal of the County decision on the coastal development permit to the Coastal Commission. (Coastal Act/30333, 30620; 14. Cal Code of Regulations/13571(a)).

- (c) *Final County Decision.* The County's decision on the coastal development permit application shall be considered final when both the following occur:

- (1) All findings required by section 7-9-150-TBD have been adopted; and
- (2) All rights to appeals before the appellate body have been exhausted.

However, the County's final decision shall not become effective if either of the following occur:

- a. The notice of final County action does not meet the requirements of subsection (b) above; or
- b. An appeal is filed with the Coastal Commission prior to expiration of the Coastal Commission appeal period.

When either of the circumstances above occur, the Executive Director of the Coastal Commission shall, within five (5) calendar days of receiving the notice of final local government action, notify the County that the effective date of the County action has been suspended.

- (d) *Appeals to the Coastal Commission.*

- (1) *Appealable Developments.* A decision regarding a coastal development permit application for any of the following projects may be appealed to the Coastal Commission. Any such development may be appealed directly to the Coastal Commission without exhausting the appeal procedures to the appellate body provided such appeal complies with the adopted regulations of the Coastal Commission.

- a. Development projects approved by the County located within any appealable area, as follows:
 - 1. All area between the sea and the first public road paralleling the sea, or within three hundred (300) feet of the inland extent of any beach or the mean high tide line of the sea where there is no beach, whichever is the greater distance;
 - 2. All areas not included in paragraph 1, above that are located on tidelands, submerged lands, public trust lands, within one hundred (100) feet of any wetland, estuary, or stream and all areas within three hundred (300) feet, both seaward and landward, of the top of the seaward face of any coastal bluff;

3. All areas not included within paragraph 1, or 2, above that are located in a sensitive coastal resource area.
 - b. Any development project approved by the County that is not designated as the "principal permitted use" as defined in sec. 7-9-1118.3 TBD;
 - c. Any development project that constitutes a major public works projects or a major energy facility.
- (2) *Appeal Procedures.*
- a. An appeal of a decision may be filed by the applicant, by an aggrieved person, or by any two (2) members of the Coastal Commission.
 - b. An appeal of a decision shall be filed before the expiration of the ten-working-day appeal period. The ten-working-day appeal period begins the day following receipt by the Coastal Commission of the county's notice of Final Action that meets the requirements of section (g) above.
- (e) *Failure to Act Notice.*
- (1) *Notification by Applicant.* If the County has failed to act on an application within the time limit set forth in Government Code Sections 65950—69957.1, thereby approving the development by operation of law, the person, claiming a right to proceed pursuant to Government Code Sections 65950—65957.1 shall notify, in writing, the County and the Coastal Commission of his or her claim that the development has been approved by operation of law. Such notice shall specify the application that is claimed to be deemed approved.
 - (2) *Notification by County.* If it is determined by the Director, that the time limits established pursuant to Government Code Sections 65950 through 65957.1 have expired, and the notice required by law has occurred, the Director shall, within seven (7) calendar days of such determination, notify the Coastal Commission and any persons or group entitled to receive notice pursuant to section 7-9-118.6(d) TBD above that the application has been approved by operation of law pursuant to Government Code Sections 65950—65957.1 and, if applicable, that the application may be appealed to the Coastal Commission pursuant to section 7-9-118.6(i) TBD above. This section shall apply equally to a determination by the County that the development has been approved by operation of law and to a judicial determination that the development has been approved by operation of law.

Sec. 7-9-128 Area Plans

- (f) *Area Plans:* ~~An area plan is similar to a feature plan except that an area plan contains relatively more detailed information and addresses a relatively smaller area of portion of the real property inside the boundaries of a previously adopted planned community or specific plan. A feature plan may or may not be required prior to the approval of an area plan.~~ An area plan shall be approved prior to or concurrent with, the approval of a tentative subdivision map or site development permit for any portion of a planned

community or specific plan. The area plan may have less restrictive site development standards if allowed by the enabling ordinance.

Area plans shall be processed per section 7-9-150.3(c), ~~TBD~~ "Public hearings." The Planning Commission is the approving authority for all area plan applications and amendments.

After the date of final determination and after compliance with section 7-9-150.3(g), ~~TBD~~ "Revised plans," an approved area plan shall be applicable to the development of all real property included within the boundaries of such area plan until such time as it is amended or rendered invalid by amendment of the zoning regulations or feature plan applicable to the property. All grading, development and improvements shall be in substantial conformance with the provisions of the currently approved area plan.

Sec. 7-9-129 Reasonable Accommodation (NEW)

California and Federal laws (42 USC §3600, et seq. and Government Code §12900, et seq.) provide individuals with disabilities the civil right to access publicly funded buildings, facilities and programs, or privately funded housing, including single-family and multi-unit dwellings, and public accommodations on an equal basis with others who are not disabled. This section establishes the County procedures for reviewing and approving requests for reasonable accommodation in housing for persons with disabilities, which require a modification or waiver of the requirements of the Zoning Code in conformance with Title 7, Division 1, Sec. 7-1-2 of the Codified Ordinances of the County of Orange, applicable fair housing laws and related statutes.

- (a) **County's Reasonable Accommodation Policy.** Any disabled person, or their representative, may request an accommodation from any of the County's land use, zoning or building laws, rules, policies, practices and/or procedures when accommodation is reasonable and necessary to afford the person(s) equal opportunity to access publicly-funded buildings, facilities or programs, or privately-funded housing, including single-family and multi-unit dwellings and public accommodations on an equal opportunity basis with others who are not disabled.
- (b) **Notice to the Public of Availability of Accommodation Process.** Notice of the availability of reasonable accommodation shall be displayed at OC Public Works/OC Planning (department) and on the department's web site. A fact sheet regarding the County's reasonable accommodation policy and process shall also be available.
- (c) **Requesting Reasonable Accommodation.**
 - (1) Any eligible person may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures.
 - (2) Requests for reasonable accommodation shall be in writing, may be submitted concurrently with any application for discretionary or ministerial permit, and shall include the following information:

- a. Name and address of the individual(s) requesting reasonable accommodation;
 - b. Name and address of the property owner(s);
 - c. Address of the property for which accommodation is requested;
 - d. Description of the requested accommodation and the regulation(s), policy or procedure from which accommodation is being requested; and
 - e. Reason the requested accommodation is necessary for the individual(s) with the disability to use and enjoy the dwelling.
- (3) Any information identified by an applicant as confidential, including documentation relating to the disability involved, shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
 - (4) A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not remove an individual's obligations to comply with other applicable regulations.
 - (5) If an individual needs assistance in making the request for reasonable accommodation, the County shall provide assistance.
- (d) **Decision-Making Body.**
- (1) For purposes of this Section, the approving authority is the Director.
 - (2) Requests for reasonable accommodation shall be reviewed by the Director, using the criteria set forth in section 7-9-TBD.
 - (3) The Director shall notify the applicant within thirty (30) calendar days of the application submittal date whether the application is deemed complete or incomplete.
 - (4) The Director shall issue a written decision on a request for reasonable accommodation within sixty (60) days of the date the application has been determined to be complete, and may either grant, grant with specified reasonable conditions, or deny a request for reasonable accommodation in accordance with the required findings set forth in subsection (d).
 - (5) If necessary to reach a determination on the request for reasonable accommodation, the Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event a request for additional

information is made, the sixty (60) day period to issue a decision shall not begin until after the application has been deemed complete.

(e) **Required Findings.** The written decision to grant, grant with specified reasonable conditions, or deny a request for reasonable accommodation shall be based on the following factors:

- (1) Whether the housing, which is the subject of the request for reasonable accommodation, shall be used by an individual with disabilities protected under the law;
- (2) Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the law;
- (3) Whether the requested accommodation would impose an undue financial or administrative burden on the County and;
- (4) Whether the requested accommodation would require a fundamental alteration in the nature of the County's land use and zoning or building program.

(f) **Written Decision on the Request for Reasonable Accommodation.**

- (1) The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Director's findings on the criteria set forth in section 7-9-TBD. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below in subsection TBD. The notice of decision shall be sent to the applicant by certified mail.
- (2) The written decision of the Director shall be final unless an applicant appeals it to the Planning Commission pursuant to section 7-9-TBD as applicable.
- (3) If the Director fails to render a written decision on the request for reasonable accommodation within the sixty (60) day time period from the date the application is deemed complete pursuant to section 7-9-TBD, the request shall be deemed granted.
- (4) 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.

(g) **Appeals.**

- (1) Within thirty (30) days of the date of the Director written decision, an applicant may appeal an adverse decision. Appeals shall be made in writing.

- (2) If an individual needs assistance in filing an appeal on an adverse decision, the County provide assistance to ensure the appeals process is accessible.
- (3) All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- (4) Nothing in this procedure shall preclude an aggrieved individual from seeking any other remedy available.
- (5) Appeals of any decision by the Director shall be to the Planning Commission. The order of the Planning Commission shall be final.

Sec. 7-9-130. - ~~7-9-154 through 7-9-154.3~~ Enforcement procedures

~~The purpose of the enforcement procedures sections 7-9-154 through 7-9-154.3 inclusive shall be known as the Enforcement Provisions. All references to this section also include sections 7-9-154 through 7-9-154.3. The purpose of these provisions is to ensure compliance with the Zoning Code. They shall apply to the enforcement of the Zoning Code, but shall not be deemed to exclude other remedial measures.~~

~~7-9-109.1 Definitions:~~

~~7-9-109.2 As used in these provisions, the term "Director" shall mean the Director of the Environmental Management Agency, County of Orange, himself, or his designated agent(s).~~

~~7-9-109.3 As used in these provisions, the term "EMA" shall mean the Environmental Management Agency of the County of Orange.~~

~~7-9-109.4 As used in these provisions, the term "person" shall include a natural person, association, copartnership, corporation, or firm, and any agent, employee, officer, or principal thereof.~~

Sec. 7-9-130.1 ~~7-9-154.1~~ Duty to enforce. Enforcement.

- (a) *Director:* ~~It shall be the duty of the~~ The Director, or his designated agent(s), may ~~to~~ enforce the provisions of the Zoning Code pertaining to the use of land, the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building or structure.
- (b) *Health Officer:* It shall be the duty of the Health Officer of Orange County, or his designated agent(s), to enforce the provisions of the Zoning Code pertaining to the use and maintenance of property, structures, and buildings so far as matters of health are concerned.
- (c) *Sheriff:* It shall be the duty of the Sheriff of Orange County, or his deputies, and of all officers of the County otherwise charged with the enforcement of the law, to enforce the Zoning Code.

- (d) *Other:* All other officials, employees, agencies, and departments of Orange County vested with the authority to issue permits, certificates, or licenses shall comply with the Zoning Code and shall issue no permits, certificates, or licenses in conflict with the Zoning Code. The issuing of a permit which is in conflict with the applicable Zoning Code shall not constitute a waiver of the provisions of that applicable Zoning Code.

Sec. 7-8-130.2 ~~7-9-154.2~~ Inspection to ensure compliance

Whenever they shall have cause to suspect a violation of any provision of the Zoning Code; or whenever necessary to investigate either an application for granting, extension or modification, or an action to suspend or revoke a discretionary permit; or whenever necessary to investigate a proposed zone change, the officials responsible for enforcement or administration of the Zoning Code, or their designated agent(s), may, after permission from the owner or occupant, enter any building site, or building or structure thereon, for the purpose of investigation provided they shall do so in a lawful manner. If the owner and/or occupant refuses to grant the officials permission to enter the premises, the officials may obtain a search warrant for entrance onto the premises.

Sec. 7-9-130.3 ~~7-9-154.3~~ Violations of the Zoning Code

(a) *Misdemeanor:*

- (1) All violations of the Zoning Code committed by any person, whether as agent, employee, officer, principal or otherwise, shall be a misdemeanor.
Every person who knowingly provides false information on any type of Zoning Code-related application or map filed with ~~the EMAOC Development Services~~ shall be guilty of a misdemeanor.
- (2) Every person who fails to stop work when so ordered by the Director because of an apparent violation of the Zoning Code shall be guilty of a misdemeanor.
- (3) Every person who, having received notice to appear in court to answer a related charge, willfully fails to appear shall be guilty of a misdemeanor.
- (4) A misdemeanor may be prosecuted by the County in the name of the people of the State of California or may be redressed by civil action. Each violation is punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment in the County jail for a term of not more than six (6) months, or both such fine and imprisonment.
- (5) Every person found guilty of a violation shall be deemed guilty of a separate offense for every day during any portion of which the violation is committed, continued, or permitted by such person.

(b) *Public Nuisance:*

- (1) Any building or structure erected, constructed, moved, altered or maintained and/or any use of property contrary to the provisions of the Zoning Code shall be and the same is hereby declared to be unlawful and a public nuisance; and any failure, refusal, or neglect to obtain a permit as required by the terms of the

Zoning Code shall be prima facie evidence of the fact that a public nuisance has been committed.

- (2) The County may commence an appropriate civil action to abate a public nuisance and/or to collect a civil penalty. Any civil action shall be preceded by a finding by the Board of Supervisors, the Director or his designee that a violation of the Zoning Code has occurred.
 - (3) The civil penalty shall not exceed two hundred fifty dollars (\$250.00) for each day on which such violation occurs. In addition, the civil penalty for violation of an abatement order shall be five hundred dollars (\$500.00).
 - (4) The abatement of a public nuisance may be made at the expense of the owner of the property on which the nuisance is located. If the County abates the public nuisance, the costs of such abatement shall be charged to the owner of the premises involved. The Director may apply to the Board of Supervisors to cause costs for such work to be paid and levied as a special assessment against the property and collected in the manner provided for special assessments.
- (c) *Injunction:* The Zoning Code may also be enforced by injunction issued by the Superior Court upon suit by the County of Orange.
- (d) *Revocation:* [Repealed by Ord. No. 3880.]
- (e) *Fees To Correct Violation:* Failure to pay fees and obtain applicable permit(s) shall be deemed a violation of this Code. Violation shall result in the assessment of double permit fees prior to permit issuance. Payment of a double fee shall not relieve any person from fully complying with the requirements of this Code nor from any other of the penalties prescribed herein.
- (f) *Remedies:* All of the foregoing remedies shall be cumulative and not exclusive, except when otherwise provided.

Sec. 7-9-131. - General Plan Amendments (NEW)

This Section establishes procedures for amending the General Plan as provided for in State law when there are compelling reasons to do so. These circumstances include, but are not limited to, changes in State or federal law and opportunities that were unanticipated at the time of General Plan adoption or the last amendment.

Sec. 7-9-131.1. - Applicability

The procedures of this section apply to all proposals to revise any Element of the General Plan including exhibits that illustrate the application of its provisions.

Sec. 7-9-131.2. - Initiation

An amendment to the General Plan may be initiated by:

- (a) An applicant/property owner; or
- (b) Planning Commission; or

- (c) Board of Supervisors.

Sec. 7-9-131.3. - Procedures

An application for an amendment to the General Plan shall be filed and processed in accordance with the provisions of Section 7-9-TBD considered by the Board of Supervisors with a recommendation from the Planning Commission. It shall be processed in conformance with Government Code Section 65350 et seq. Its approval shall be by resolution, and it is subject to referendum.

- (a) *Required Information.* In addition to any other application requirements, an application for a General Plan amendment shall include a statement, supported by documentation, that describes how the proposed amendment conforms to the General Plan's goals and the benefit to the public that will result from approving the proposed change or changes to the General Plan.
- (b) *Director's Report.* The Director shall prepare a report and recommendation to the Planning Commission, which shall include, but is not limited to, a discussion of how the proposed amendment complies with the purposes of this Article and the General Plan's goals, and a determination as to whether the proposed amendment shall require amendment to other adopted plans.
- (c) *Planning Commission Recommendation.* The Commission's recommendation shall be forwarded to the Board of Supervisors for action on the proposed amendment.

Sec. 7-9-131.4. - Planning Commission Action on General Plan Amendments

The Planning Commission shall hold a public hearing noticed and conducted as required by Section 7-9-TBD and shall then vote on its recommendation on the proposed amendment.

- (a) *Recommendation Against Private Application.* If the amendment under consideration was initiated by an applicant and the Planning Commission recommends against the adoption of such amendment, the application is denied, and the Board of Supervisors is not required to take any further action on the amendment unless the Planning Commission's decision is appealed.
- (b) *All Other Situations.* Following the public hearing, the Planning Commission shall submit a recommendation on the proposed amendment and environmental determination to the Board of Supervisors. The recommendation shall include the reasons for the recommendation; the extent to which the proposed amendment meets the purposes of this Code; the consistency of the proposed amendment with the General Plan and any other adopted plan; and any changes to the amendment that the Commission deems necessary to ensure internal consistency of the General Plan and consistency with other adopted plans, or to reduce environmental impacts.

Sec. 7-9-132. - ~~7-9-155~~ Zoning Code amendments and zone changes

A Zoning Code amendment may be initiated by the Board of Supervisors or the Planning Commission. A zone change application, including those for planned communities, may be initiated by the Board of Supervisors, the Planning Commission or the owner(s) of the subject real property. All Zoning Code amendments and zone changes shall be adopted in compliance with the provisions and procedures of this section, and applicable sections of the Government Code.

Sec. 7-9-132.1. - ~~7-9-155.1~~ Zoning e-Code amendment

All ordinances, which change any of the language or provisions of this Code are Zoning Code amendments. Whenever the Board of Supervisors or the Planning Commission initiates a Zoning Code amendment, the Director, ~~EMA~~ or the County Counsel shall prepare an exhibit, including proposed language and terminology and any additional information and documents deemed necessary for the Planning Commission and the Board of Supervisors to take action. Such exhibit shall be available for public inspection in the appropriate ~~EMA~~ County offices and shall be supplied, at cost, to all persons desiring a copy, at least ten (10) days prior to the scheduled Planning Commission public hearing date. The exhibit shall also be available for public inspection in the Clerk of the Board office at least five (5) days prior to the scheduled Board of Supervisors public hearing.

Sec. 7-9-132.2. - ~~7-9-155.2~~ Zone changes

Any ordinance that reclassifies property from one zoning district to another zoning district (i.e., change the zoning/sectional district map), and any adoption of or revision to a ~~P.C.~~ PC Planned Community text, zoning map, or statistical summary is a zone change.

(a) *Zone change applications*

- (1) ~~Filing instructions:~~ Whenever the owner(s) of any real property desires a reclassification of his (their) property, he may submit an application for a change of zone to the Director, ~~EMA~~. Each application shall be filed with the Director, ~~EMA~~, on a form prescribed, by and with all documents and information required, by the Director, ~~EMA~~. The Director, ~~EMA~~ shall provide written filing instruction and required forms at no charge to any person requesting such instruction.

All applications shall be signed by the owner of record of the real property proposed to be rezoned, except as otherwise provided, as follows:

- a. An application may be signed by an agent for the property owner when a statement, signed by the property owner, specifically authorizing the agent to represent him, is submitted with the application.
- b. When the property proposed to be reclassified is owned by a company or organization, the application may be signed by an

officer of such company or organization authorized to sign the application.

- c. When some or all of the property proposed to be reclassified is owned in common by two (2) or more persons, the application may be signed by a person duly authorized by the common owners to represent them in such application.
 - d. When a portion of a ~~planned community~~ Planned Community has been developed and sold to ultimate property owners, and such property is included within the application, the owner/developer of the remaining undeveloped land may sign the application. In such instance, the applicant shall include, in addition to the required mailing list, the names, addresses and envelopes for all owners whose property would be rezoned if the application is approved.
 - e. When a zone change is initiated by the Planning Commission or the Board of Supervisors the property owner's signature is not required.
- (2) *Submittal of application:* When an application for a change of zone has been submitted, the Director, ~~EMA~~, shall determine whether such application is complete and shall transmit such determination to the applicant. In the event the application is determined to be incomplete, the Director, ~~EMA~~, shall specify those parts of the application which are incomplete and shall inform the applicant, in writing the manner in which they can be made complete.
- (3) *Acceptance of application:* No application for a change of zone shall be accepted for processing by the Director, ~~EMA~~, until a determination has been made that the application and all accompanying information is complete and in compliance with the filing instructions.
- (b) *Zoning conditions:* A zoning ordinance may include conditions requiring a dedication of real property, installation of facilities and improvements, special development standards, additional review requirements, and other requirements deemed necessary to protect the public health and welfare and to provide assurance that the subject property will be used in compliance with the intent of the General Plan and the Zoning Code.

Whenever a zoning ordinance includes conditions, such conditional zoning shall be designated on the official zoning district map by a parenthetically enclosed (C) and number(s) following the zoning designation, thus (C 001, 002). Each number following the "C" shall represent a condition applicable to the property. A verbatim record of zoning conditions adopted by zoning ordinance shall be maintained by the Director, ~~EMA~~, in a Zoning Conditions Log. This provision does not apply to conditional zoning adopted prior to November 1, 1981.

~~(c) This provision does not apply to conditional zoning adopted prior to November 1, 1981.~~

- (c) *Filing fee:* The cost of processing, notification, publication and distribution for each zone change application and resultant zoning ordinance shall be paid by the property owner or his agent in accordance with policy established by resolution of the Board of Supervisors.

The Director, ~~EMA~~, may establish incremental deposit requirements commencing with the application submittal. Upon termination or completion of the application, a final accounting of total costs expended by the County to process and finalize the application shall be made and forwarded to applicant(s) who shall pay any deficiency or who may request a refund in the case of a previous overpayment.

Sec. 7-9-132.3. - ~~7-9-155.3~~ Zoning Ordinance adoption and amendment procedure

- (a) *Planning Commission Hearing:* The Planning Commission shall hold a public hearing for all proposed zoning ordinances except those ~~which~~ that do not affect the permitted uses of real property within the unincorporated area of Orange County. The Planning Commission may take action or may continue the public hearing to a specified date. The Planning Commission action shall be to recommend to the Board of Supervisors that the proposed zoning ordinance be approved, disapproved, or conditionally approved. The Planning Commission may also act to withdraw a proposed zoning ordinance without a public hearing with the concurrence of the applicant.
- (d) *Transmittal to Board of Supervisors:* The recommendations of the Planning Commission together with the findings and additional documents and information shall be transmitted to the Board of Supervisors. In the case of a recommendation by the Planning Commission for the disapproval of a change of zone, the application shall be transmitted to the Board only upon written request of the applicant. Such written request shall be submitted to the Director, ~~EMA~~, within fifteen (15) calendar days after the Planning Commission action. Failure of the applicant to submit such a request within fifteen (15) calendar days shall result in termination of the case, and the action of the Planning Commission shall thereafter be final.
- (e) *Board of Supervisors Hearing:* The Board of Supervisors shall hold at least one (1) public hearing for each proposed zoning ordinance. The Board of Supervisors may take action, may continue the public hearing to a specified date, or may refer the proposed zoning ordinance back to the Planning Commission or Director, ~~EMA~~. The action of the Board of Supervisors shall be to approve, disapprove or conditionally approve the request or proposal of the applicant or initiator and to adopt such ordinance as it finds appropriate and consistent with its findings. The Board of Supervisors may also act to withdraw a proposed zoning ordinance without a public hearing, with the concurrence of the applicant.
- (f) *Publication After Adoption and Effective Date of Nonurgency Ordinances:* Within fifteen (15) days after adoption of a zoning ordinance by the Board of Supervisors, the

ordinance shall be published in a newspaper of general circulation in the County. The ordinance will then become effective thirty (30) days after adoption by the Board.

- (1) *Code amendments:* When the zoning ordinance is a code amendment, the amendment, as adopted, shall be published. However, if the amendment is lengthy or complex, a summary of the amendment may be published, at the option of the County.
- (2) *Zone changes:* When the zoning ordinance is a zone change, the ordinance and the zoning district map shall be published. If the ordinance adopts a complex zone change, such as a planned community or amendment, or a specific plan or amendment, the publication shall include either the textual portion of the zone change or a summary of the zone change, at the option of the County.

Sec. 7-9-133. - ~~7-9-156~~ Specific Plans

~~The provisions of sections 7-9-156 through 7-9-156.3 shall be known as the Specific Plan Procedures. All references to this section shall include sections 7-9-156.1 through 7-9-156.3.~~

When deemed to be necessary for the orderly implementation of the General Plan and when deemed to be in the public interest the Board of Supervisors may adopt a specific plan by ordinance or by resolution. Specific plans may be initiated by the Board of Supervisors, Planning Commission or an applicant/property owner. Preparation and processing of specific plans shall be in compliance with the provisions of the California Government Code and this section. A specific plan may be prepared with a text, statistical summary, statistical table, zoning map, and development map as described and regulated in section 7-9-103 ~~TBD.~~

Sec. 7-9-133.1 Preparation and Review Procedures for Specific Plans

- (a) *Preparation.* ~~The Board of Supervisors or Planning Commission shall initiate the preparation of all specific plans.~~ Specific plans may be prepared by the Director, ~~EMA~~, by contract with a private planning or engineering firm, or by arrangement with the property owner(s).
- (b) *Cost of preparation and processing:* When the Board of Supervisors finds that a specific plan would provide a property owner with a planning or design service, the Board may specify that an appropriate charge for preparation of the specific plan be borne by such property owner.

The method for determining costs of preparation and making payment shall be as specified in the resolution adopted at the time of initiation of the specific plan or area plan and the final amounts shall be fixed upon adoption of the specific plan or area plan.

- (c) *Procedure:*
 - (1) *Planning Commission hearing:* The Planning Commission shall hold a public hearing pursuant to the ~~provision's~~ provisions of the ~~California~~ Government Code for all proposed specific plans, ~~and the provisions of the Zoning Code for area plans.~~ The Planning Commission may take action or may continue the proposed plan to a specified date. Action by the Planning Commission shall be

to recommend to the Board of Supervisors that the proposed specific plan be approved, disapproved or conditionally approved.

- (2) *Transmittal to Board of Supervisors:* The recommendation of the Planning Commission together with additional related documents and information shall be transmitted to the Board of Supervisors. The transmittal may also include any pertinent information with regard to the reasons for the Planning Commission decision.
- (3) *Board of Supervisors hearing:* The Board of Supervisors shall hold at least one (1) public hearing for each proposed specific plan pursuant to the provisions of the California Government Code. The action of the Board of Supervisors shall be to approve, disapprove or conditionally approve the proposed specific plan and to adopt the necessary resolution or ordinance, as appropriate.

Sec. 7-9-133.1 ~~7-9-156.1~~ Adoption of specific plan resolution

When a specific plan is intended to provide clarification and specific information with regard to the policies and concepts expressed within the General Plan, but not to provide the regulations necessary for implementation, such specific plan may be adopted by resolution of the Board of Supervisors.

- (a) *Contents of plan:* A specific plan resolution may include all of the details, concepts and programs deemed necessary to ensure common understanding and implementation of the General Plan as applicable to the area and the issues covered by the specific plan. It shall include such direction and provisions deemed necessary to provide for the implementation of the General Plan.
- (b) *Regulations excluded:* A specific plan resolution shall not include regulations and requirements for implementation of the General Plan, and any specific plan which contains such implementation regulations shall not be adopted by resolution.

Sec. 7-9-133.2 ~~7-9-156.2~~ Adoption of specific plan by ordinance

Regulations within a specific plan shall be adopted by the Board of Supervisors by ordinance. Such plan may either supplement or supersede all land use regulations applicable to the subject property, including all previously adopted ordinances, standards and guidelines deemed to be necessary for the orderly and systematic implementation of the General Plan.

- (a) *Scope of plan:* Each specific plan ordinance shall include such regulatory texts and maps necessary to provide the regulations for the development, maintenance and use of the subject real property in compliance with the policies and programs of the General Plan. Each plan shall specify clearly how and to what extent such plan is to supplement or supersede any adopted ordinances, regulations and standards. Where not otherwise addressed by a specific plan all currently adopted ordinances, regulations and standards of the County of Orange are applicable.

- (b) *Coordination with others:* When a specific plan ordinance is intended to include items and issues that are not within the normal purview of the Planning Agency, (e.g. OC Development Services or OC Public Works) the preparer of the plan shall consult with such persons and organizations deemed appropriate to ensure orderly implementation of the specific plan.
- (c) *Designation on zoning map:* Adoption of a specific plan ordinance shall also include adoption of an appropriate zoning district map. The zoning district map shall not indicate zoning for the area within the specific plan but shall show the letter S within a circle. Thereafter, all land use, development and improvements shall conform to the provisions of the adopted specific plan.

Sec. 7-9-133.3 ~~7-9-156.3~~ Specific Plan Amendments

Any specific plan may be amended by the same procedure as the plan was adopted. Any adopted specific plan may also be repealed by the same procedure as the plan was originally adopted. Prior to the adoption of a resolution or ordinance to repeal and discontinue a specific plan, the Board of Supervisors shall find that the plan is no longer necessary for the orderly and systematic implementation of the General Plan.

- (a) Where a specific plan has been adopted by ordinance, the repealing ordinance shall include provisions for the application of appropriate zoning to the area covered by the repealed plan.
- (g) A specific plan amendment may be initiated by the owner(s) of subject property per the procedures for zone changes in section 7-9-155, "TBD".