

Division 4: Administration and Permits

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Chapter 9.36 Planning Authorities

Sections:

- 9.36.010 Planning and Community Development Director
- 9.36.020 Zoning Responsibilities of Director or Designee (Zoning Administrator)

9.36.010 Planning and Community Development Director

The Planning and Community Development Director (the “Director”) is the manager of the Planning and Community Development Department. The Director, or designee, directs the work of the Department and leads in fulfilling its missions and goals. Specifically, the powers and duties of the Director include, but are not limited to the following:

- A. Approve, conditionally approve, modify, or deny requests for waivers to dimensional requirements, pursuant to Chapter 9.43, Modifications and Waivers.
- B. Negotiate the components and provisions of Development Agreements for recommendation to the City Council.
- C. Monitor and enforce provisions of this Ordinance and serve as Hearing Officer pursuant to Chapter 8.96 of the Municipal Code.
- D. Process and make recommendations to the City Council on all applications, amendments, appeals, and other matters upon which the Council has the authority and the duty to act under this Ordinance.
- E. Process and make recommendations to the Planning Commission on all applications, appeals, and other matters upon which the Planning Commission has the authority and the duty to act under this Ordinance.
- F. Serve as Staff of the Planning Commission, Landmarks Commission, and Architectural Review Board.
- G. Delegate administrative functions to members of the Department of Planning & Community Development.
- H. Other duties and powers as may be assigned by the City Council or established by legislation.

9.36.020 Zoning Responsibilities of Director or Designee (Zoning Administrator)

The role of the Director is to issue land use permits that are minor in nature and which customarily result in an activity of generally little public controversy and adverse impact. The Director, or designee, provides Santa Monica with an opportunity to exercise administrative discretion, adopt specific findings of fact to support the resulting decision, and to require specific conditions where warranted, and to ensure that the requested activity or project is conducted or constructed in a manner consistent with the goals, objectives, and policies of the General Plan. Specifically, these powers and duties include, but are not limited to the following:

- A. Administer this Ordinance, including processing of applications, abatements, and other enforcement actions.
- B. Interpret this Ordinance to members of the public and to other City Departments and issue formal interpretations in accordance with Section 9.37.140.
- C. Prepare and effect rules and procedures necessary or convenient for the conduct of the Director's business.
- D. Review applications for permits and licenses for conformance with this Ordinance and issue a Zoning Conformance Permit when the proposed use, activity, or building is allowed by right and conforms to all applicable development and use standards.
- E. Review applications for discretionary permits and approvals under this Ordinance for conformance with applicable submission requirements and time limits.
- F. Review applications and ensure compliance with the California Environmental Quality Act and the City's environmental review requirements, and notify the applicant if any additional information is necessary to conduct the review.
- G. Hear and decide applications for Minor Use Permits, modifications to conditions of approved Minor Use Permits, and time extensions of Minor Use Permits, pursuant to Chapter 9.41, Minor Use Permits & Conditional Use Permits.
- H. Hear and decide requests for minor modifications to approved permits, pursuant to Section 9.43, Modifications and Waivers.
- I. Approve, conditionally approve, modify or deny applications for Temporary Use Permits, pursuant to Chapter 9.44, Temporary Use Permits.
- J. Hear and decide proposals to revoke permits, pursuant to Section 9.37.120 Revocation of Permits, following a public hearing.
- K. Approve, modify, or deny applications for Administrative Approvals, pursuant to Chapter 9.39, Administrative Approval.
- L. Prepare zoning compliance letters explaining the City's land use regulations and permit information typically prepared in the context of a pending property sale or transaction

Chapter 9.37 Common Procedures

Sections:

9.37.010	Purpose
9.37.020	Application Forms and Fees
9.37.030	Review of Applications
9.37.040	Environmental Review
9.37.050	Public Notice
9.37.060	Request for Delay or Continuance of an Application
9.37.070	Timing, Notice of Action, and Findings Required
9.37.080	Effective Dates
9.37.090	Expiration and Extension
9.37.100	Reapplication
9.37.110	Construction Rate Program
9.37.120	Revocation/Modification of Permits
9.37.130	Appeals
9.37.140	Interpretations
9.37.150	Failure to Comply with Conditions
9.37.160	Applications and Procedures Table
9.37.170	Planning Commission Consideration of Director Permits
9.37.180	Amendments to Approved Projects and Conditions of Approval

9.37.010 Purpose

This Chapter establishes procedures that are common to the application and processing of permits and approvals provided for in this Ordinance, unless superseded by specific requirement of this Ordinance or State law.

9.37.020 Application Forms and Fees

- A. **Initiation of Application.** An application shall be filed by a qualified applicant.
- B. **Application Forms and Materials.**
 1. **Application Forms.** The Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Ordinance.
 2. **Supporting Materials.** The Director shall require the submission of supporting materials as part of the application, including but not limited to statements, photographs, plans, drawings, renderings, models, material samples, contextual drawings, massing diagrams and/or models, site development history information, and other items necessary or relevant (e.g. easements, prior site zoning) to describe existing conditions and the proposed project and to determine the level of environmental review pursuant to the California Environmental Quality Act.

3. **Availability of Materials.** All material submitted becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the Planning Division offices. Unless prohibited by law, copies of such materials shall be made available at a reasonable cost.
- C. **Application Fees.** The City Council shall approve by resolution a Municipal Fee Schedule that establishes fees for permits, appeals, amendments, informational materials, penalties, copying, and other such items. These fees may be amended by the City Council by legislation.

9.37.030 Review of Applications

- A. **Purpose.** These provisions are intended to prescribe the procedure for filing applications for permits, appeals, amendments, and approvals when required or permitted by this Chapter. These provisions are intended to provide the framework by which applications will be determined to be complete and permitted to be filed.
- B. **Application forms.** To request a permit, appeal, amendment, approval, or other discretionary action required or permitted by this Chapter, the applicant must submit a complete appropriate application on the form provided by the Director in addition to any other material, reports, dimensioned plans, or other information required to take an action on the application. Each application form shall contain:
 1. A list or description of the information, reports, dimensioned plans, and other material needed in order to deem an application complete;
 2. The criteria by which the Director will determine the completeness of the application;
 3. Instructions necessary to complete or supply the required information; and
 4. Such other information as may be required by this Chapter or State law.
- C. **Determination of Completeness.**
 1. No application shall be processed pursuant to this Chapter prior to the determination by the Director that the application is complete in accordance with this Section and the Permit Streamlining Act, Government Code Section 65920 et seq. or any successor legislation thereto, to the extent applicable.
 2. The determination shall be made not later than 30 calendar days after the Planning Department has received an application for a development project and shall state whether the application is complete, or is incomplete and shall specify additional information to be resubmitted.
 3. A completed application shall consist of:
 - a. The application form with all applicable information included on the form;
 - b. The additional information, reports, dimensioned drawings, and other material required with application form;

- c. A description of how the proposed project or requested action is consistent with the goals, objectives, policies, programs, and other provisions of the adopted General Plan; and
 - d. Payment in full of the required fee for processing the application.
- 4. If an application is determined incomplete, the Director shall transmit to the applicant in writing the reason for the determination and shall list the information that must accompany a resubmitted application. An incomplete application shall be determined to be withdrawn if the information requested is not received by the Director within 30 days of the date the written determination of incompleteness is mailed.
 - 5. The Director shall determine in writing the completeness of the resubmitted application and transmit the determination to the applicant. This determination shall be made no later than 30 calendar days after the Planning Department has received the resubmitted application. If determined complete, the resubmitted application shall be processed pursuant to this Chapter. If the application is determined to be incomplete, the applicant shall be noticed pursuant to this Subsection and the application may be deemed withdrawn. If deemed withdrawn, the applicant may file a new application or appeal the determination of incompleteness to the Planning Commission pursuant to Section 9.37.130, Appeals. A resubmitted application that includes an increase in floor area or number of units greater than 10 percent shall be considered a new application.
 - 6. If the Director fails to make a timely determination as to completeness of an application, or resubmitted application, the application shall be automatically deemed complete. The applicant and Director may mutually agree in writing to extend these time periods.
 - 7. The time periods for processing any applications under this Chapter shall commence upon the date the application has been determined to be complete.
- D. **Additional Information.** After an application is deemed complete, the Director shall not subsequently request of an applicant any new information requested on the application form. The Director may request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application in the course of processing the application. This request shall not invalidate the original determination that an application is complete and shall not result in a delay in processing the application. The Director may request additional information needed to prepare adequate environmental documentation.
- E. **Posting of Property.** Within 15 days after an application for a Discretionary Permit has been filed, the applicant shall provide proof of posting a notice on the property in a manner set forth by the Director. The application shall not be considered complete unless the site has been posted pursuant to this Section.

9.37.040 Environmental Review

The City as Lead Agency shall comply with the California Environmental Quality Act. CEQA appeals shall be processed according to the provisions of Chapter 9.62.

9.37.050 Public Notice

- A. **Notice of Hearings.** Notice of public hearings shall be given in the following manner:
1. By publication in a newspaper of general circulation within the City not less than 14 consecutive calendar days prior to the public hearing; and
 2. By mailing, postage prepaid, not less than 14 consecutive calendar days prior to the public hearing, to all owners and residential and commercial tenants of the subject property and properties within a radius of 750 feet for all Discretionary Permits, and applications for Zoning Ordinance or General Plan Amendments, from the exterior boundaries of the property involved in the application. For this purpose, the last known name and address of each property owner as contained in the records of the Los Angeles County Assessor shall be used. Notices mailed under this subsection (A)(2) shall also be mailed to all City-recognized neighborhood organizations.
 3. All notices of public hearings shall state the nature of the request, the location of the property, the time and place of the scheduled hearing, and the manner in which additional information may be received.
- B. **Large Mailings.** If the number of owners to whom notice would be mailed or delivered is greater than 1,000, instead of mailed notice, the Director may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the City commencing at least 14 days prior to the hearing for a duration of at least three consecutive days. Notices displayed pursuant to this subsection (A)(3) shall also be mailed to all City-recognized neighborhood organizations and shall be posted on the City's website.
- C. **Failure to Notify Individual Properties.** The validity of the proceedings shall not be affected by the failure of any property owner, resident, or neighborhood or community organization to receive a mailed notice.

9.37.060 Request for Delay or Continuance of an Application

- A. An application may be withdrawn from a scheduled Planning Commission agenda at the written request of the applicant provided that the public notice of the meeting and the public hearing on the application has not been mailed or published. The application shall be rescheduled for a Planning Commission meeting agreed to by the applicant and the Director.
- B. An application shall not be withdrawn from a Planning Commission agenda at the request of the applicant if public notification has been given. Consideration of the application may be continued only upon approval of a motion by the Planning Commission at the meeting for which the application has been noticed for. The Planning Commission shall grant such request if good cause is established, and the delay will not be detrimental or prejudicial to the City or any interested person. Good cause may include, but is not limited to, the following:
1. The unavailability of a party because of death, illness, or other excusable circumstances;
 2. The unavailability of counsel or an expert because of death, illness, or other excusable circumstances;
 3. The recent addition or substitution of counsel or an expert witness; or

4. The need to gather additional evidence which could not have reasonably been gathered prior to the scheduled date for the hearing.
- C. Any application continued under the conditions listed above shall be re-noticed in the original manner, and the applicant shall be subject to payment of a re-notification fee prior to the re-scheduled hearing.
- D. The time limitations for action on any application withdrawn, rescheduled, or continued by the Planning Commission at the request of the applicant, shall be extended by the period of time that consideration of the application was suspended.
- E. This Section shall not apply to continued hearings which are necessary due to factors controlled by the Planning Commission or staff and not specifically requested by the applicant

9.37.070 Timing, Notice of Action, and Findings Required

- A. **Timing of Decision.**
 1. A decision of the Planning Commission shall be final from and after the date of the public hearing in which the Planning Commission renders its decision, and the time to appeal such decision, if authorized pursuant to Section 9.37.130, shall commence on that hearing date.
 2. A decision of the Director shall be final from and after the date that the decision is made and posted on the City's website, and the time to appeal such decision, if authorized pursuant to Section 9.37.130, shall commence on the date of the posting.
- B. **Statement of Official Action.** The hearing body shall approve a statement of official action which shall include:
 1. A statement of the applicable criteria and standards against which the proposal was tested and the determination of what is required to achieve compliance with the criteria and standards.
 2. A statement of the facts found that establish compliance or non-compliance with each applicable criteria and standards.
 3. The reasons for a determination to approve or deny the application.
 4. The decision to deny or to approve with or without conditions and subject to compliance with applicable standards
- C. **Timing of Approval of Statement of Official Action.**
 1. The Planning Commission, and City Council on appeal, shall approve a statement of official action within forty-five days after the date the decision is made.
 2. The Director shall approve a statement of official action at the time the Director renders the decision on the application.
- D. **Notice of Statement of Official Action.**
 1. With respect to Director decisions, within two business days from the date when the determination has been made concerning the application and posted on the City's website, the Director shall transmit the statement of official action to the applicant at the address shown on the application, to all individuals who testified at the public hearing on the

application, and to other individuals who provided written notice that they wished to receive the statement of official action for this item.

2. With respect to Planning Commission and City Council decisions, the Director shall transmit the statement of official action to the applicant at the address shown on the application within five business days after the statement of official action has been adopted.

9.37.080 Effective Dates

A final decision on an application for any discretionary approval subject to appeal shall become effective after the expiration of 14 calendar days, or 7 calendar days in the case of Temporary Use Permits, unless an appeal is filed. No building permit or business license shall be issued until the 15th day, or 8th day in the case of Temporary Use Permits, following the date of the action.

9.37.090 Expiration and Extension

- A. **Expiration.** The decision-maker, in the granting of any permit, may specify a time, consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare, within which the proposed use must be undertaken and actively and continuously pursued. If no time period is specified, any permit granted under this Ordinance shall automatically expire if it is not exercised or extended within the time limits listed below:

1. **Permits for 100% Affordable Housing and Mixed-Use Projects.** Within 3 years of the effective date, or if located in the Coastal Zone, 3 ½ years from the effective date for affordable housing or mixed use projects where housing units comprise at least 75 percent of the floor area of the project, and the housing project has received City, State or Federal funding or is comprised of units at least 50 percent of which are deed-restricted to be affordable to low income households and the remainder of which are deed-restricted to be affordable to low or moderate income households.
2. **All Other Permits.** Two years of the effective date for projects that do not qualify as affordable housing or mixed-use in Section (1) above, or if located in the Coastal Zone, 2 ½ years of the effective date.

- B. **Exercise of Rights.** A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the site unless the permit is granted in conjunction with approval of new construction.

1. **New Construction.** If a permit is granted in conjunction with approval of new construction, issuance of a building permit shall constitute exercise of rights; provided, however, that, unless otherwise specified as a condition of project approval, the permit shall expire if:
 - a. The building permit expires;
 - b. Final inspection is not completed or Certificate of Occupancy issued within the time specified as a condition of project approval; or
 - c. The rights granted under the permit for the use of the building are not exercised within one year following the earliest to occur of the following: issuance of a Certificate of Occupancy; or if no Certificate of Occupancy is required, the last required final inspection for the new construction.

C. **Extensions.**

1. **First Time Extension.** The Director shall approve an extension of any permit or approval granted under this Ordinance upon receipt of a written application with the required fee prior to expiration of the permit for the time periods listed below.

- a. Projects with Residential Uses: one-year extension.
- b. Nonresidential Projects: 6 month extension.

No extension may be requested earlier than six months prior to the expiration of the permit.

The Director may grant a second time extension for projects involving a City-Designated Historic Resource if such extension is necessary due to the complexity of planning for and developing the project.

2. **Other Extensions.** The Planning Commission may approve a further extension of any permit or approval granted under this Ordinance upon receipt of a written application with the required fee at least one month prior to and no more than six months prior to expiration of the permit. Such extension request shall be processed in the same manner and for the same fee as a new permit. The Planning Commission may grant an extension request for good cause, and may consider in this review, subject to any vested rights, the extent to which the project is consistent with current development standards and policies, whether the project is consistent in principal with the goals, objectives, policies, land uses, and programs specified in the adopted General Plan, conditions surrounding the project site and whether the project will adversely affect the public health, safety and general welfare.

9.37.100 Reapplication

No reapplication for the same or substantially same project that has been denied may be filed within 12 months, except if a project is determined denied without prejudice or as otherwise allowed at the time of denial.

9.37.110 Construction Rate Program

- A. For projects involving the new construction or alteration of 2 or more dwelling units in all Multi-Unit Residential Districts in the City for which a development application was deemed complete, only one such construction project shall be allowed, within a 500 foot radius. Except as provided in Subsection (C), this restriction shall apply for 15 months after issuance of a building permit, after which time another project may begin construction in the defined area.
- B. Building permits shall be provided on a first-come first-served basis in accordance with the terms of this Section. No building permit shall be issued by the Building and Safety Division unless the requirements of Subsections (C) and (D) have been satisfied.
- C. During the plan-check process, the Building and Safety Division shall determine the status of other building permits for projects in the area. A building permit shall not be issued when the Building Officer determines that a building permit has been issued in the previous 15 months for any other project within a 500 foot radius of the subject property unless the owner of the previously permitted

project has formally relinquished the building permit for that project or obtained a Certificate of Occupancy for the project.

- D. If the Building Officer determines that another building permit has been issued less than 15 months prior to the date on which the building permit has received all plan-check approvals and the exceptions specified in Subsections (C) and (E) do not apply, the Building Officer shall place the project on a waiting list in order of the date and time of day that the permit application received all plan-check approvals. The life of other City approvals or permits necessary to commence the project shall be automatically extended by the amount of time that a project remains on the waiting list. The Building Officer shall approve the project in accordance with the Uniform Technical Code in effect at the time of the plan-check.
- E. **Exemptions.** The projects listed below shall be exempt from the Program. The City shall prepare an exemption application form which delineates all submission requirements. An owner shall not be required to file a project application with the exemption application. City staff shall make a final determination whether a project meets the requirements of this Subsection within 90 days after the owner's exemption application for the project is deemed complete. The following projects are exempted from the requirements of this Program:
1. Affordable housing projects in which 100 percent of the units will be deed-restricted for Extremely Low, Very Low, Low, Middle, and/or Moderate Income housing.
 2. Structures identified by the Building and Safety Division as unreinforced masonry construction and subject to City-mandated seismic upgrading.
 3. Projects to be developed on a site that is vacant.
 4. Projects to be developed on a site in which:
 - a. The structures on the site are uninhabitable, not as a result of the owner's failure to maintain the structure, or the property of which the structure is a part, in good repair, and the structures cannot be rendered habitable in an economically feasible manner; or
 - b. The current use of the property is not otherwise economically viable.
 5. Projects that include the retention and preservation of a designated landmark building or contributing structure to an adopted Historic District.
- F. The Planning and Community Development Department may develop administrative guidelines implementing this Chapter.

9.37.120 Revocation/Modification of Permits

Any permit granted under this Ordinance may be revoked or modified for cause in accordance with the provisions of this Section.

- A. **Initiation of Proceeding.** Revocation proceedings may be initiated by the body issuing the permit: the City Council, Planning Commission, or the Director.
- B. **Public Notice, Hearing, and Action.** After conducting a duly-noticed public hearing, the applicable Review Authority shall act on the proposed revocation.

- C. **Required Findings.** The Review Authority may revoke or modify the permit if it makes any of the following findings:
1. The permittee obtained the approval by means of fraud or misrepresentation of a material fact;
 2. The permittee substantially expanded or altered the use, building, or structure beyond what is set forth in the permit or substantially changed in character;
 3. The use in question has ceased to exist or has been suspended for 6 months or more; or
 4. The permittee has violated or failed to observe the terms or conditions of the permit, or the permittee has conducted the use in violation of the provisions of this Ordinance, or any applicable law or regulation.
- D. **Notice of Action.** A written determination of revocation shall be mailed to the property owner and the permit holder within 10 days of such determination.
- E. **Appeals.** Revocation/modification decisions are subject to the appeal provisions of Section 9.37.130, Appeals.

9.37.130 Appeals

- A. **Appeal of Action.**
1. Any person may appeal a discretionary decision of the Director to the Planning Commission. A decision of the Planning Commission on such appeal shall be final and not subject to further appeal to the City Council.
 2. Any person may appeal an original decision of the Planning Commission to the City Council. A decision of the City Council on such appeal shall be final and not subject to further administrative appeal.
 3. Once an appeal is filed, the review is de novo, and the appellate body may review and take action on all determinations, interpretations, decisions, judgments, or similar actions taken which were in the purview of the original hearing body on the application or project and is not limited to only the original reason stated for the appeal.
- B. **Procedures.**
1. ***Filing of Appeals.***
 - a. Appeals shall be addressed to the appellate body on a form prescribed by the Director pursuant to this Section. The appellant shall state the specific reasons for the appeal.
 - b. An appeal of a discretionary Director action shall be filed with the Department of Planning and Community Development within 14 consecutive calendar days following the date the decision is made, unless it is a Temporary Use Permit, in which case the appeal shall be filed within 7 days consecutive calendar days following the date the decision is made.
 - c. An appeal of a Planning Commission decision shall be filed with the Director within 14 consecutive calendar days following the date the decision is made.

2. Appeals shall be accompanied by the required filing fee.
 3. ***Submittal Requirements and Criteria.*** The appeal shall set forth, in concise language, the following:
 - a. Date of appeal;
 - b. Name of appellant and the individual representing appellant;
 - c. Address to which notices shall be sent;
 - d. Telephone number of representative;
 - e. Name of applicant, if different from appellant;
 - f. Action or decision being appealed and the date of such action or decision;
 - g. Address and description of real property involved; and
 - h. The specific grounds for appeal.
 4. ***Proceedings Stayed by Appeal.*** The timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses.
 5. ***Appeal hearings.*** Public notice of an appeal hearing shall conform to the manner in which the original notice was given.
 6. ***Effective Date of Appealed Actions.***
 - a. Except as otherwise provided for in this Chapter, an action of the Director appealed to the Planning Commission shall not become effective unless and until approved by a majority of the Planning Commission or by operation of law.
 - b. An action of the Planning Commission appealed to the City Council shall not become effective unless and until approved by a majority of the City Council or by operation of law.
 7. ***Appeal fees.*** Members of the City Council and Planning Commission shall not be required to pay a fee when filing an appeal.
- C. **Public Notice and Hearing.** Public notice shall be provided and the hearing conducted by the applicable appeal body pursuant to this Chapter. Notice of the hearing shall also be given to the applicant and party filing the appeal and any other interested person who has filed with the Director a written request for such notice. In the case of an appeal of a Planning Commission decision, notice of such appeal shall also be given to the Planning Commission. The Planning Commission may be represented at the hearing.
- D. **Action.** An action to grant an appeal shall require a majority vote of the hearing body members. A tie vote shall have the effect of rejecting the appeal.

9.37.140 Interpretations

Whenever, in the opinion of the Director, or at the discretion of the Planning Commission, there is any question regarding the interpretation of the General Plan, Specific Plan, or the provisions of the Zoning Ordinance or its application to any specific case or situation, that warrants formal interpretation, the Director

shall interpret the relevant provision of the General Plan, Specific Plan, or Zoning Ordinance by written decision which interpretation shall be placed on the Planning Commission agenda as a discussion item.

- A. **Effect.** The interpretation shall become the standard interpretation for future applications effective fourteen consecutive calendar days from the date of the Planning Commission meeting when the interpretation appears on the agenda unless the Planning Commission decides at that meeting to review the interpretation. Such review can occur either at the same meeting that the interpretation first appears on the agenda or at a subsequent meeting. The interpretation, as it may be altered or revised by the Planning Commission, shall become effective fourteen consecutive calendar days from the date of the Planning Commission meeting when the review occurs unless during that fourteen day time period a member of the City Council submits a written request to the Director that the interpretation be placed on the City Council agenda for its review. If such a Council member request is made and review undertaken, the interpretation, as it may be altered or revised by the City Council, shall become effective fourteen consecutive calendar days from the date of the City Council’s review.
- B. **Publication.** The interpretation shall be published on the Planning Division website after the interpretation becomes effective.

9.37.150 Failure to Comply with Conditions

The decision-making body may withhold a requested approval if it determines that the current applicant has not fulfilled a previous condition or requirement from a previous approval granted to the applicant on the subject property, and withholding the permit would encourage compliance or is necessary to protect the public from future noncompliance.

9.37.160 Applications and Procedures Table

TABLE 9.37.160: APPLICATIONS AND PROCEDURES		
<i>Permit Type</i>	<i>Reviewing Authority</i>	<i>Appealable/Appeal Authority</i>
Zoning Conformance Review	Director	No
Administrative Approval	Director	No
Conditional Use Permit	Planning Commission	Yes/City Council
Development Review Permit	Planning Commission	Yes/City Council
Minor Use Permit	Director Hearing (Zoning Administrator)	Yes/Planning Commission
Temporary Use Permit	Director	No
Minor Modification	Director	Yes/Director Hearing (Zoning Administrator)
Major Modification	Director Hearing (Zoning Administrator)	Yes/Planning Commission
Fence, Wall, Hedge Height Modification, Administrative	Director	No
Fence, Wall, Hedge Height Modification, Discretionary	Director Hearing (Zoning Administrator)	Yes/Planning Commission
Waiver	Director Hearing (Zoning Administrator)	Yes/Planning Commission
Variance	Planning Commission	Yes/City Council

9.37.170 Planning Commission Consideration of Director Permits

For any specific project, the Planning Commission, rather than the Director or designee, shall approve, conditionally approve, or deny any application ordinarily subject to approval by the Director or designee if the application is filed concurrently with an application that is subject to Planning Commission review. The Planning Commission's determination on the application may be appealed to the City Council pursuant to Section 9.37.130.

9.37.180 Amendments to Approved Projects and Conditions of Approval

Any conditions of approval or approved project may be modified upon application by the original applicant or any successor thereto. The matter shall be considered following the same procedure that was utilized when the original application was considered.

Chapter 9.38 Zoning Conformance Review and Permit

Sections:

9.38.010	Purpose
9.38.020	Applicability
9.38.030	Review and Decision
9.38.040	Revocation

9.38.010 Purpose

The purpose of this Chapter is to establish procedures for conducting Zoning Conformance Review to verify that applicable activities comply with all of the applicable requirements of this Ordinance.

9.38.020 Applicability

Zoning Conformance Review is required for the following permits, licenses, or uses to ensure compliance with all provisions of this Chapter:

- A. Business license for any initiation of a use pursuant to Chapter 6.04.
- B. Home occupations subject to the provisions of Section 9.31.160.
- C. Outdoor dining and seating subject to the provisions of 9.31.200.
- D. Alcoholic Beverage Sales subject to the provisions of 9.31.040(D) and (E).
- E. Zoning compliance letters explaining the City's land use regulations and permit information typically prepared in the context of a pending property sale or transaction.
- F. Other circumstances deemed appropriate by the Director.

9.38.030 Review and Decision

- A. **Application.** Applications and fees for Zoning Conformance Review shall be submitted in accordance with the provisions set forth in Section 9.37.020, Application Forms and Fees.
- B. **Determination.** The Director shall determine whether this Ordinance allows the proposed uses or structures as-of-right. Zoning Conformance may be determined by review of written or graphic information, including but not limited to, statements, numeric data, site plans, floor plans, and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Ordinance.
- C. **Exceptions.** No Zoning Conformance Review shall be required for the continuation of previously approved or permitted uses and structures.

9.38.040 Revocation

Revocation of Zoning Conformance Permits shall be in accordance with the applicable provisions of Chapter 9.37, Common Procedures.

Chapter 9.39 Administrative Approval

Sections:

9.39.010	Purpose
9.39.020	Applicability
9.39.030	Review and Decision
9.39.040	Term, Extension, and Revocation

9.39.010 Purpose

Administrative Approval is intended to allow for the approval of projects which conform to the standards established for the Zoning District and do not require discretionary review or approval by the Director, Planning Commission, or City Council. Administrative Approval provides for an administrative review and assessment of the proposed development project in light of explicit standards contained in the Chapter which have been designed to ensure that the completed project will be in harmony with existing or potential development in the surrounding area, consistent with the goals, objectives and policies of the General Plan.

9.39.020 Applicability

Administrative Approval shall be required prior to issuance of any Building Permit for the development of more than 1,000 square feet of floor area for all new construction and new additions to existing buildings located in Residential and Nonresidential Districts not otherwise subject to Zoning Conformance Review or discretionary review. However, no Administrative Approval shall be required for new construction and new additions to existing buildings located in the Multi-Unit Residential Districts or for any new single-unit dwellings or additions thereto in any zoning district.

9.39.030 Review and Decision

- A. The Director shall issue an Administrative Approval if the proposed development conforms precisely to applicable development standards, and does not require discretionary review or approval as outlined in this Chapter.
- B. The Director shall deny the Administrative Approval only if the development is not in compliance with applicable development standards as outlined in this Chapter.
- C. The Director shall prepare a written decision which shall contain the findings of fact upon which such decision is based. A copy of the decision shall be mailed to the applicant at the address shown on the application within 14 calendar days after the decision is made.

9.39.040 Term, Extension, and Revocation

The term of permit, exercise of rights, extension, and revocation for Administrative Approvals shall be in accordance with the applicable provisions of Chapter 9.37, Common Procedures.

Chapter 9.40 Development Review Permit

Sections:

9.40.010	Purpose
9.40.020	Applicability
9.40.030	Application
9.40.040	Procedures
9.40.050	Required Findings
9.40.060	Term, Extension, Revocation, and Appeal

9.40.010 Purpose

A Development Review Permit is intended to allow the construction of certain projects for which the design and siting could result in an adverse impact on the surrounding area. The permit allows for:

- A. Review of the location, size, massing, and placement of the proposed structure on the site;
- B. The location of proposed uses within the project;
- C. An evaluation of the project with regard to fixed and established standards; and
- D. A determination of whether the proposed siting and design should be permitted by weighing the public need for the benefit to be derived from the proposed site plan use against the impact which it may cause.

9.40.020 Applicability

- A. Except as provided in Subsection (B), a Development Review Permit approved by the Planning Commission shall be required prior to issuance of any building permit for the development if any of the following occurs:
 1. Any project that exceeds Tier 1 maximum limits;
 2. All new construction and new additions to existing buildings of more than 10,000 square feet of floor area located in Residential Districts or more than 7,500 square feet of floor area in Neighborhood Commercial and Oceanfront Districts;
 3. All new construction and new additions to existing buildings of more than 15,000 square feet of floor area located in Nonresidential Districts not specified in Subsection (A)(2);
 4. Notwithstanding (A)(3) above, all new construction of more than 30,000 square feet of floor area of a development project containing no more than 15% commercial floor area located in Nonresidential Districts not specified in Subsection (A)(2);
 5. Notwithstanding (A)(2-4) above and until the adoption of a Pico Neighborhood Plan, all new construction and new additions to existing buildings of more than 7,500 square feet of floor area located in the Pico Neighborhood Area.

FIGURE 9.40.020.A: PICO NEIGHBORHOOD AREA (AS OUTLINED)



B. The following types of projects are exempt from Development Permit Review requirements:

1. Single unit dwellings; and
2. 100% Affordable Housing Projects of 50 units or less.

9.40.030 Application

Application for a Development Review Permit shall be filed in a manner consistent with the requirements contained in 9.37.020, Application Forms and Fees.

9.40.040 Procedures

- A. Upon receipt in proper form of a Development Review Permit application, a meeting with the Architectural Review Board shall be set to receive a recommendation on the design of the proposal.
- B. Following receipt of a recommendation of the Architectural Review Board, a public hearing before the Planning Commission shall be set and notice of such hearing given in a manner consistent with 9.37.050, Public Notice.

9.40.050 Required Findings

Following a public hearing, the Director shall prepare a written decision which shall contain the Planning Commission's findings of fact upon which such decision is based. The Planning Commission, or City Council on appeal, shall approve or conditionally approve a Development Review Permit application in whole or in part if all of the following findings of fact can be made in an affirmative manner:

- A. The physical location, size, massing, setbacks, pedestrian orientation, and placement of proposed structures on the site and the location of proposed uses within the project are consistent with applicable standards and are both compatible and relate harmoniously to surrounding sites and neighborhoods;
- B. The rights-of-way can accommodate autos, bicycles, pedestrians, and multi-modal transportation methods, including adequate parking and access;
- C. The health and safety services (police, fire etc.) and public infrastructure (e.g., utilities) are sufficient to accommodate the new development;
- D. The project is generally consistent with the Municipal Code and General Plan;
- E. Based on environmental review, the proposed project has no potentially significant environmental impacts or any potentially significant environmental impacts have been reduced to less than significant levels because of mitigation measures incorporated in the project or a Statement of Overriding Considerations has been adopted;
- F. The project promotes the general welfare of the community;
- G. The project has no unacceptable adverse effects on public health or safety; and
- H. The project provides Community Benefits consistent with Chapter 9.23.

9.40.060 Conditions

In granting a Development Review Permit, the Review Authority or the Review Authority on appeal shall require that the use and development of the property conform with a site plan, architectural drawings, or statements submitted in support of the application, or in such modifications thereof, as may be deemed necessary to protect the public health, safety, and general welfare and secure the objectives of the General Plan and this Ordinance, and may also impose such other conditions as may be deemed necessary to achieve these purposes and to support the findings of approval.

9.40.070 Term, Extension, Revocation, and Appeal

The term of permit, exercise of rights, extension, revocation, and appeal for Development Review Permits shall be in accordance with the applicable provisions of Chapter 9.37, Common Procedures.

Chapter 9.41 Minor Use Permits & Conditional Use Permits

Sections:

9.41.010	Purpose
9.41.020	Applicability
9.41.030	Review Authority
9.41.040	Application Requirements
9.41.050	Public Notice and Hearing
9.41.060	Required Findings
9.41.070	Conditions
9.41.080	Term, Extension, Compliance Review, Revocation, and Appeal

9.41.010 Purpose

The purpose of this Chapter is to describe the process and general requirements applicable to those uses for which a Minor Use Permit or Conditional Use Permit is required. These permits require consideration to ensure that the uses are generally consistent with the purposes of the Zoning District where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties.

9.41.020 Applicability

Approval of a Minor Use Permit or Conditional Use Permit is required for uses or developments specifically identified in Division 2, Base and Overlay Districts, and/or any other Section of this Ordinance that requires a Minor Use Permit or Conditional Use Permit.

- A. **Minor Use Permits.** A Minor Use Permit is required for buildings or structures constructed, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which have been found not to be inherently detrimental to the use and enjoyment of land but require an additional level of review and have a higher threshold of approval in certain circumstances. Minor Use Permits for off-site shared parking shall be processed pursuant to Section 9.28.180(D).
- B. **Conditional Use Permits.** A Conditional Use Permit is required for buildings or structures constructed, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which may have an impact upon the general welfare or safety of the public. These uses require an additional level of review and have a higher threshold of approval to ensure that they are compatible with the adjacent land uses and comply with the goals and intent of the General Plan.

9.41.030 Review Authority

- A. **Minor Use Permits.** The Director or their designee, shall approve, conditionally approve, or deny applications for Minor Use Permits based on consideration of the requirements of this Chapter.

- B. **Conditional Use Permits.** The Planning Commission shall approve, conditionally approve, or deny applications for Conditional Use Permits based on consideration of the requirements of this Chapter.

9.41.040 Application Requirements

Applications and fees for a Minor Use Permit or Conditional Use Permit shall be submitted in accordance with the provisions set forth in Section 9.37.020, Application Forms and Fees. In addition to any other application requirements, the application shall include data or other evidence in support of the applicable findings required by Section 9.41.060, Required Findings, below.

9.41.050 Public Notice and Hearing

- A. **Conditional Use Permits.** All applications for Conditional Use Permits shall require public notice and hearing before the Planning Commission pursuant to Chapter 9.37, Common Procedures.
- B. **Minor Use Permits.** All applications for Minor Use Permits shall require public notice and hearing before the Director pursuant to Chapter 9.37, Common Procedures.

9.41.060 Required Findings

All Minor Use Permits and Conditional Use Permits shall only be granted if the decision-making body determines that the project, as submitted or modified, conforms to all of the following criteria. The inability to make one or more of the findings is grounds for denial of an application.

- A. The proposed use is conditionally allowed within the applicable Zoning District and complies with all other applicable provisions of this Ordinance and all other titles of the Municipal Code.
- B. The proposed use is consistent with the General Plan and any applicable specific plan.
- C. The subject parcel is physically suitable for the type of land use being proposed.
- D. The proposed use is compatible with any of the land uses presently on the subject parcel if the land uses are to remain.
- E. The proposed use is compatible with existing and permissible land uses within the District and the general area in which the proposed use is to be located which may include but not be limited to size, intensity, hours of operation, number of employees, or the nature of the operation.
- F. The physical location or placement of the use on the site is compatible with and relates harmoniously to the surrounding neighborhood.
- G. Based on environmental review, the proposed project has no potentially significant environmental impacts or any potentially significant environmental impacts have been reduced to less than significant levels because of mitigation measures incorporated in the project or a Statement of Overriding Considerations has been adopted.
- H. The proposed use and related project features would not be detrimental to the public interest, health, safety, convenience, or general welfare.

9.41.070 Conditions

In granting a Minor Use Permit or Conditional Use Permit, the Review Authority or the Review Authority on appeal shall require that the use and development of the property conform with a site plan, architectural drawings, or statements submitted in support of the application, or in such modifications thereof, as may be

deemed necessary to protect the public health, safety, and general welfare and secure the objectives of the General Plan and this Ordinance, and may also impose such other conditions as may be deemed necessary to achieve these purposes and to support the findings of approval.

9.41.080 Term, Extension, Compliance Review, Revocation, and Appeal

- A. The term of permit, exercise of rights, extension, revocation, and appeal for Minor Use Permits and Conditional Use Permits shall be in accordance with the applicable provisions of Chapter 9.37, Common Procedures.
- B. The Planning Commission may require as a condition of approval that the applicant file a compliance report(s) within a specified period after the issuance of a Conditional Use Permit to review the effectiveness of and level of compliance with the terms and conditions of this Conditional Use Permit approval. After submittal of the compliance report(s), staff shall either set the matter for a public hearing which is noticed in the same manner as the original permit application or submit the compliance report to the Planning Commission as an information item to enable the Planning Commission to determine whether a public hearing is necessary. Upon review of the compliance report at this public hearing, if any, the Planning Commission may add or revise terms and conditions to the extent necessary to ensure effective conditions of approval.

Chapter 9.42 Variances

Sections:

9.42.010	Purpose
9.42.020	Applicability
9.42.030	Procedures
9.42.040	Required Findings
9.42.050	Conditions of Approval
9.42.060	Failure to Comply with Conditions
9.42.070	Term, Extension, Revocation, and Appeal

9.42.010 Purpose

The purpose of this Chapter is intended to provide a mechanism for relief from the strict application of this Ordinance where this will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions.

9.42.020 Applicability

Variances may be granted with respect to development standards, but variances from the use regulations of this Code are not allowed. The Planning Commission shall have power to grant such variances only to the extent necessary to overcome such practical difficulty or unnecessary hardship as may be established in accordance with the provisions of this Chapter. No Variance shall be granted, in whole or in part, that would have an effect substantially equivalent to a reclassification of property, alter any use, density limit, maximum floor area ratio, or bulk of a building or structure not expressly permitted by the provisions of this Ordinance for the District or Districts in which the property in question is located, grant a privilege for which a conditional use procedure is provided by this Ordinance, or would change a definition in this Ordinance. A Variance is not a vested right and is granted upon the discretion of the Planning Commission. The burden of proof for satisfying the requirements for granting of a Variance, as stated in this Ordinance, rests with the applicant.

9.42.030 Procedures

- A. **Review Authority.** The Planning Commission shall approve, conditionally approve, or deny applications for Variances based on consideration of the requirements of this Chapter.
- B. **Application Requirements.** Applications and fees for a Variance shall be submitted in accordance with the provisions set forth in Section 9.37.020, Application Forms and Fees. In addition to any other application requirements, the application for a Variance shall include data or other evidence showing that the requested Variance conforms to the required findings set forth in Section 9.42.040, Required Findings, below.
- C. **Public Notice and Hearing.** An application for a Variance shall require public notice and hearing before the Planning Commission pursuant to Chapter 9.37, Common Procedures.

9.42.040 Required Findings

After conducting a public hearing, the Planning Commission may approve or conditionally approve a Variance application if can make all of the following findings. The Planning Commission shall deny an application for a Variance if it is unable to make any of the required findings, in which case it shall state the reasons for that determination.

- A. There are special circumstances or exceptional characteristics applicable to the property involved, including size, shape, topography, mature trees, location, surroundings, identification as a Historic Resource, or to the intended use or development of the property that do not apply to other properties in the vicinity under an identical zoning classification.
- B. The granting of such variance will not be detrimental nor injurious to the property or improvements in the general vicinity and District in which the property is located.
- C. The strict application of the provisions of this Ordinance would result in practical difficulties or unnecessary hardships, not including economic difficulties or economic hardships.
- D. The granting of a variance will not be contrary to or in conflict with the general purposes and intent of this Ordinance, nor to the goals, objectives, and policies of the General Plan.
- E. The variance would not impair the integrity and character of the District in which it is to be located.
- F. The subject site is physically suitable for the proposed variance.
- G. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed variance would not be detrimental to public health and safety.
- H. There will be adequate provisions for public access to serve the subject variance proposal.
- I. For the reduction of the automobile parking space requirements, the reduction is based and conditioned upon an approved parking reduction plan that incorporates transportation control measures that have been demonstrated to be effective in reducing parking needs and that are monitored, periodically reviewed for continued effectiveness, and enforced by the City as contained in Chapter 9.28, Parking, Loading, and Circulation.
- J. The strict application of the provisions of this Ordinance would result in unreasonable deprivation of the use or enjoyment of the property

9.42.050 Conditions of Approval

In approving a Variance, the Planning Commission may impose reasonable conditions deemed necessary to ensure compliance with the findings required in Section 9.42.040, Required Findings, above, and may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

9.42.060 Failure to Comply with Conditions

Failure to comply with any Variance condition is a violation of this Ordinance subject to enforcement, penalties, and legal procedure as prescribed by Chapter 9.48, Enforcement and Abatement Procedures.

9.42.070 Term, Extension, Revocation, and Appeal

The term of permit, exercise of rights, extension, appeals, and revocation for Variances shall be in accordance with the applicable provisions of Chapter 9.37, Common Procedures.

Chapter 9.43 Modifications and Waivers

Sections:

9.43.010	Purpose
9.43.020	Applicability: Minor Modifications
9.43.030	Applicability: Major Modifications
9.43.040	Applicability: Waivers
9.43.050	Applicability: Fence, Wall, and Hedge Height Modifications
9.43.060	Procedures for Minor Modifications
9.43.070	Procedures for Major Modifications and Waivers
9.43.080	Procedures and Required Findings for Fence, Wall, and Hedge Height Modifications
9.43.090	Required Findings for Minor Modifications
9.43.100	Required Findings for Major Modifications and Waivers
9.43.110	Appeals, Expiration, Extensions, and Modifications

9.43.010 Purpose

The purpose of this Chapter is to establish procedures to allow minor adjustments to the dimensional requirements, design standards and other requirements of this Ordinance when so doing is consistent with the purposes of the General Plan and the District and would, because of practical difficulties, integrity of design, topography, and similar site conditions, result in better design, environmental protection, and land use planning. This Chapter is further intended to allow modifications to preserve historic resources.

9.43.020 Applicability: Minor Modifications

- A. The provisions of this Section shall apply to specific development proposals that are for uses permitted by right or by discretionary review in the District. In no case shall a minor modification be granted pursuant to this Chapter to permit a use or activity that is not otherwise permitted in the District where the property is located, nor shall a minor modification be granted that alters the procedural or timing requirements of this Ordinance.
- B. Subject to the requirements of this Chapter and except as provided in Subsection (C) of this Section, the Director may grant relief from no more than 2 of the following dimensional requirements:
1. **Setbacks.** Up to 10 percent of the required front, side, and rear setback standards.
 2. **Build-to Line.** Up to 5 percent of the standards for building façade location.
 3. **Parcel Coverage.** Up to 5 percent of the maximum amount of parcel coverage.
 4. **Height.** Maximum height of buildings and structures, up to 5 percent or 2 feet, whichever is less.
 5. **Transparency.** Required ground-floor building transparency, up to 10 percent of minimum.
 6. **Parking, Loading, and Circulation.** Modifications to dimensional standards that do not result in a reduction of required parking and loading spaces.

7. **Outdoor Living Area.** Allow common outdoor living area to be substituted in lieu of minimum required private outdoor living area in an equivalent amount. For the conversion of existing commercial or industrial buildings to live-work units, allow a reduction in the minimum required open space as necessary.
8. **Bicycle Parking.** Modification to the bicycle parking location requirements set forth in Section 9.28.140.
9. **Exclusions.** Minor Modifications pursuant to this Chapter shall not be granted for any of the following standards:
 - a. Parcel area, width, or depth;
 - b. Maximum number of stories;
 - c. Minimum or maximum number of required parking spaces;
 - d. Residential density; or
 - e. Maximum floor area ratio (FAR).
- C. Subject to the requirements of this Chapter, the Director may grant relief from any of the dimensional requirements specified in Subsection (B) of this Section for properties containing a Historic Resource.
- D. For any Minor Modification application filed concurrently with an application that is subject to Planning Commission review, the Planning Commission may grant relief from any of the dimensional requirements specified in Subsection (B) of this Section.

9.43.030 Applicability: Major Modifications

- A. The provisions of this Section shall apply to specific development proposals that are for uses permitted by right or by discretionary review in the District. In no case shall a major modification be granted pursuant to this Section to permit a new use or activity that is not otherwise permitted in the District where the property is located, nor shall a major modification be granted that alters the procedural or timing requirements of this Ordinance.
- B. Subject to the requirements of this Chapter and except as provided in Subsection (C) of this Section, the Director may grant relief from no more than 2 of the following requirements:
 1. **Setbacks.** Up to 20 percent or 5 feet, whichever is less of the required front, side, and rear setback standards
 2. **Build-to Line.** Up to 20 percent of the standards for building façade location.
 3. **Parcel Coverage.** Up to 10 percent of the maximum amount of parcel coverage.
 4. **Height.** Maximum height of buildings and structures, up to 20 percent or 5 feet, whichever is less.
 5. **Ground Floor (Floor-to-Floor) Height and Minimum First Story Street Wall Height.** Up to 3 feet of the required minimum ground floor (floor-to-floor) height and/or minimum first story street wall height.
 6. **Landscaping.** Up to 10 percent of the required landscaping.

7. **Parcel Lines.** For corner parcels, consider the parcel line separating the narrowest street frontage of the parcel from the street as the side parcel line.
 8. **Exclusions.** Major Modifications pursuant to this Chapter shall not be granted for any of the following standards:
 - a. Parcel area, width, or depth;
 - b. Maximum number of stories;
 - c. Minimum or maximum number of required parking spaces;
 - d. Residential density; or
 - e. Maximum floor area ratio (FAR).
- C. If the application for a Major Modification involves a project that includes the retention and preservation of a structure that is a City-Designated Historic Resource, the Director may grant relief from maximum building height, maximum number of stories, required setbacks, maximum parcel coverage and building envelope requirements; permitted building height projections; permitted projections in required yard areas; access to private open space; landscaping; and provision of unexcavated yard areas.
- D. For any Major Modification application filed concurrently with an application that is subject to Planning Commission review, the Planning Commission may grant relief from any of the dimensional requirements specified in Subsection (B) of this Section.

9.43.040 Applicability: Waivers

- A. The provisions of this Section shall apply to specific development proposals that are for uses permitted by right or conditionally permitted in the District. In no case shall a waiver be granted pursuant to this Section to permit a use or activity that is not otherwise permitted in the District where the property is located, nor shall a waiver be granted that alters the procedural or timing requirements of this Ordinance.
- B. Subject to the requirements of this Chapter, the Director may grant waivers from the following requirements specified in this Ordinance:
 1. Upper-story setbacks.
 2. Build-to Lines.
 3. Active Commercial Design Standards, including Transparency.

9.43.050 Applicability: Fence, Wall, and Hedge Height Modifications

- A. **Side and Rear Setbacks, Administrative Procedure.** An increased maximum height of fences, walls and hedges up to 4 feet above the height limit may be granted, subject to the procedures and application requirements specified in Section 9.43.080, Procedures and Required Findings for Fence, Wall, and Hedge Height Modifications.
- B. **Front, Side, and Rear Setbacks, Discretionary Procedure.** An increased maximum height of fences, walls and hedges more than 4 feet above the height limit may be considered, subject to the procedures and application requirements specified in Section 9.43.080, Procedures and Required Findings for Fence, Wall, and Hedge Height Modifications.

- C. **Registered Existing Nonconforming Fences, Walls, and Hedges, Discretionary Procedure.** An increased maximum height of registered existing nonconforming fences, walls, and hedges pursuant to Section 9.21.050(B) up to 50% above the height of the registered fence, wall, or hedge may be granted, subject to the procedures and application requirements specified in Section 9.43.080, Procedures and Required Findings for Fence, Wall, and Hedge Height Modifications.

9.43.060 Procedures for Minor Modifications

- A. **Authority and Duties.** The Director shall approve, conditionally approve, or deny applications for Minor Modification based on consideration of the requirements of this Chapter.
- B. **Application Requirements.** An application for a Minor Modification shall be submitted to the Director in accordance with Section 9.37.020, Application Forms and Fees. The application shall state in writing the nature of the modification requested and explain why the findings necessary to grant the modification can be satisfied. The applicant shall also submit plans delineating the requested minor modification.
- C. **Concurrent Processing.** If a request for a Minor Modification is being submitted in conjunction with an application for another approval, permit, or entitlement under this Ordinance, it shall be heard and acted upon at the same time and in the same manner as that application.
 - 1. *Historic Properties.* An application for a Minor Modification that involves a project that includes the retention and preservation of a Historic Resource shall also be submitted to the Landmarks Commission for review and approval pursuant to Chapter 9.56, Landmarks and Historic Districts.
- D. The decision on the application for a Minor Modification shall be mailed to the applicant, to property owners and residents of parcels sharing common parcel lines with the subject parcel, and to other individuals who provided written notice that they wished to receive the statement of official action for this item. In addition, a notice regarding the decision on the application for a Minor Modification identifying the nature of the decision and the City website address where the determination has been posted shall be posted in an area most visible to the public and not more than 10 feet inside the front parcel line.

9.43.070 Procedures for Major Modifications and Waivers

- A. **Authority and Duties.** Applications for Major Modifications and Waivers shall be approved, conditionally approved, or denied in a Director's Hearing based on consideration of the requirements of this Chapter.
- B. **Application Requirements.** An application for a Major Modification or Waiver shall be submitted to the Director in accordance with Section 9.37.020, Application Forms and Fees. The application shall state in writing the nature of the request and explain why the findings necessary to grant the modification or waiver can be satisfied. The applicant shall also submit plans delineating the requested modification or waiver.
- C. **Notice and Hearing Requirements.** An application for a Major Modification or Waiver shall be heard and notice shall be provided in the manner required by Chapter 9.37, Common Procedures.
- D. **Concurrent Processing.** If a request for a Major Modification or Waiver is being submitted in conjunction with an application for another approval, permit, or entitlement under this Ordinance, it shall be heard and acted upon at the same time and in the same manner as that application.

1. *Historic Properties.* An application for a Major Modification that involves a project that includes the retention and preservation of a Historic Resource shall also be submitted to the Landmarks Commission for review and approval pursuant to Chapter 9.56, Landmarks and Historic Districts.

9.43.080 Procedures and Required Findings for Fence, Wall, and Hedge Height Modifications

- A. **Height Modifications—Administrative Procedure.** A parcel owner may request that the Director grant a modification to the height limit of a proposed side or rear fence, wall, or hedge, provided that the height modification does not extend more than 4 feet above the height limit established in Chapter 9.21.050, Fences, Walls, and Hedges. The Director may grant this adjustment request subject only to the following findings:

1. The adjacent parcel owner(s) that share a common parcel line nearest to the fence, wall or hedge have agreed to the proposed increase in height; and
2. The adjacent parcel owner(s) have provided verification of ownership, have executed a notarized letter agreeing to the proposed height modification, and have agreed that notice of the modification determination can be recorded on their parcel with the Los Angeles County Recorder's Office.

The Director's determination is not appealable and shall be recorded with the Los Angeles County Recorder's Office for each parcel.

- B. **Height Modification—Discretionary Procedure.** If an adjacent owner does not agree to a proposed fence, wall, or hedge height modification in accordance with Subsection (A), or if a parcel owner requests a height modification in excess of 4 feet in the side or rear setbacks or any modification to the height limits in the front setback, the owner may request a Director hearing to consider a modification to allow greater fence, wall, or hedge height in the front, side, or rear setback of the subject parcel, subject only to the following findings:

1. The subject fence, wall, or hedge will be compatible with other similar structures in the neighborhood and is required to mitigate impacts from adjacent land uses, the subject property's proximity to public rights-of-way, or safety concerns;
2. The granting of such modification will not be detrimental or injurious to the property or improvements in the general vicinity and district in which the property is located; and
3. The modification will not impair the integrity and character of the neighborhood in which the fence, wall, or hedge is located.

- C. **Height Modification of Registered Existing Nonconforming Fences, Walls, and Hedges—Discretionary Procedure.** A parcel owner may request a height modification up to 50% above the height of a registered existing nonconforming fence, wall, or hedge through a Director hearing subject only to the following findings:

1. The adjacent parcel owner(s) that share a common parcel line nearest to the registered fence, wall or hedge have agreed to the proposed increase in height;
2. The granting of such modification is necessary to mitigate impacts due to physical changes on the adjacent parcel made subsequent to the registration of the nonconforming fence,

- wall, or hedge including, but not limited to, the construction of an additional story or stories to an existing structure;
3. The subject fence, wall, or hedge will be compatible with other similar structures in the neighborhood and is required to mitigate impacts from adjacent land uses, the subject property's proximity to public rights-of-way, or safety concerns;
 4. The granting of such modification will not be detrimental or injurious to the property or improvements in the general vicinity and district in which the property is located; and
 5. The modification will not impair the integrity and character of the neighborhood in which the fence, wall, or hedge is located.

9.43.090 Required Findings for Minor Modifications

A decision to grant a Minor Modification shall be based on the following findings:

- A. The approval of the minor modification is justified by site conditions, location of existing improvements, architecture or sustainability considerations, or retention of historic features or mature trees;
- B. The requested modification is consistent with the General Plan and any applicable area or specific plan;
- C. The project as modified meets the intent and purpose of the applicable zone district and is in substantial compliance with the district regulations;
- D. The parcels sharing common parcel lines with the subject parcel will not be adversely affected as a result of approval or conditional approval of the minor modification, including but not limited to, impacts on privacy, sunlight, or air; and
- E. The approval or conditional approval of the minor modification will not be detrimental to the health, safety, or general welfare of persons residing or working on the site.

9.43.100 Required Findings for Major Modifications and Waivers

A decision to grant a Major Modification or Waiver shall be based on the following findings:

- A. The requested modification is consistent with the General Plan and any applicable area or specific plan;
- B. The project as modified meets the intent and purpose of the applicable zone districts;
- C. The approval or conditional approval of the requested modification will not be detrimental to the health, safety, or general welfare of persons residing or working on the site or result in a change in land use or density that would be inconsistent with the requirements of this Ordinance;
- D. The approval of the requested modification is justified by environmental features, site conditions, location of existing improvements, architecture or sustainability considerations, or retention of historic features or mature trees;
- E. The proposed design meets the Design Objectives of the Santa Monica Design Guidelines;

- F. The proposed project will not significantly affect the properties in the immediate neighborhood as a result of approval or conditional approval of the major modification or be incompatible with the neighborhood character; and
- G. If the modification of maximum building height; maximum number of stories; required setbacks; maximum parcel coverage and building envelope requirements; permitted building height projections; permitted projections in required yard areas; access to private open space; landscaping; or provision of unexcavated yard areas is requested as part of a project that preserves a City-Designated Historic Resource, the review authority must make the following findings in addition to any other findings that this Section requires:
1. The proposed project conforms to the Secretary of the Interior's *Standards for the Treatment of Historic Properties*, as amended from time to time;
 2. The proposed project conforms to the allowable land uses permitted in the applicable Zoning District or is a legal non-conforming use authorized in accordance with Section 9.27.050;
 3. The proposed project does not exceed the maximum unit density permitted in the applicable Land Use District of the LUCE or the existing unit density of the City-Designated Historic Resource, whichever is greater;
 4. The proposed project's requested height modification, if any, is only sought for a project that preserves a City-Designated Landmark or Structure of Merit, and the proposed height does not exceed the following:
 - a. Six feet above the height otherwise authorized in the LUCE in the portions of the R2 District generally bound by 4th Court to the west, 14th Court to the east, Montana Avenue to the north, and Wilshire Boulevard to the south, if developed in that area; or
 - b. The height permitted in the LUCE for the highest tier for the applicable land use classification so long as the FAR does not exceed the limitations established for Tier 2 projects in the same land use classification.
 5. The proposed project does not exceed the maximum number of stories permitted in the LUCE for the applicable land use classification if any;
 6. Covered front porches and stairs, if any, of a City-Designated Historic Resource may project a maximum of 12 feet into the required front setback area or maintain their current projection if greater than 12 feet provided that the building façade complies with the front setback requirement in the applicable Zoning District;
 7. The provision of private open space has not been modified other than the requirement that private open space be adjacent to and accessible from, and at the same approximate elevation, as the primary space of the dwelling unit;
 8. Modification of the requirements for the provision of unexcavated area in setback areas, if any, is required because the strict application of such requirements would not allow for the preservation of the City-Designated Historic Resource;

9. The applicant agrees to record a deed-restriction prior to issuance of building permit for the project establishing that the City-Designated Historic Resource will be maintained for the life of the project; and
10. The proposed design has been reviewed and approved by the Landmarks Commission pursuant to Chapter 9.56, Landmarks and Historic Districts.

9.43.110 Appeals, Expiration, Extensions, and Modifications

- A. **Appeals.** Any person may appeal a decision on a minor modification; major modification; waiver; or discretionary fence, wall, and height modification pursuant to Section 9.37.130, Appeals.
- B. **Expiration, Extensions, and Modifications.** Modifications granted under this Chapter are effective and may only be extended or modified as provided for in Chapter 9.37, Common Procedures.

Chapter 9.44 Temporary Use Permits

Sections:

9.44.010	Purpose
9.44.020	Application
9.44.030	Required Findings
9.44.040	Conditions of Approval
9.44.050	Determination and Decision
9.44.060	Temporary Uses Requiring a Minor Use Permit

9.44.010 Purpose

The purposes of this Chapter is to establish a process for review and approval of certain uses that are intended to be of limited duration of time and will not permanently alter the character or physical facilities of the site where they occur.

9.44.020 Application

An application for a Temporary Use Permit shall be submitted at least 21 days before the use is intended to begin. The application shall be on the required form and shall include the written consent of the owner of the property or the agent of the owner.

9.44.030 Required Findings

The Director may approve an application for a Temporary Use only upon making the following findings:

- A. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare;
- B. The proposed site is adequate in size and shape to accommodate the temporary use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the site;
- C. The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use will or could reasonably generate; and
- D. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the Director.

9.44.040 Conditions of Approval

The Director may impose reasonable conditions deemed necessary to ensure compliance with the findings for a Temporary Use Permit listed in Section 9.44.030, Required Findings, above, including, but not limited to:

- A. Provision of temporary parking facilities, including vehicular ingress and egress;

- B. Regulation of nuisance factors such as prevention of glare or direct illumination of adjacent properties, noise vibration, smoke, dust, dirt, odors, gases, and heat;
- C. Regulation of temporary buildings, structures, and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other setbacks;
- D. Provision of sanitary and medical facilities;
- E. Provision of solid waste collection and disposal;
- F. Provision of security and safety measures;
- G. Regulation of signs;
- H. Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested;
- I. Submission of a performance bond or other security to assure that any temporary facilities or structures used for the proposed temporary use will be removed from the site following the event and that the property will be restored to its former condition;
- J. Submission of a site plan indicating any information required by this Chapter;
- K. A requirement that approval of the requested Temporary Use Permit is contingent upon compliance with applicable provisions of other laws; and
- L. Other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accordance with the intent and purpose of this Chapter.

The Director may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

9.44.050 Determination and Decision

- A. **Decision.** The Director shall prepare a written decision on the Temporary Use Permit application within 14 days after a complete application has been filed which shall contain the findings of fact upon which the decision is made.
- B. **Posted Notice.** Notice of any approved Temporary Use Permit shall be posted on the subject property for a period of 7 days from the date the decision is issued.
- C. **Effective Date.** A Temporary Use Permit shall become effective on the date the permit is approved by the Director.

9.44.060 Temporary Uses Requiring a Minor Use Permit

Other special events, temporary uses, outdoor sales, and displays that exceed 45 consecutive calendar days shall require the approval of a Minor Use Permit pursuant to Chapter 9.41, Minor Use Permits & Conditional Use Permits.

Chapter 9.45 General and Specific Plans

Sections:

9.45.010	Purpose
9.45.020	Contents of the General Plan
9.45.030	Preparation and Adoption of the General Plan
9.45.040	Amendments to the General Plan
9.45.050	Restriction on Number of Amendments
9.45.060	Initiation of Amendments to the General Plan
9.45.070	Planning Commission Action on Amendments
9.45.080	City Council Action on Amendments
9.45.090	Administration of the General Plan
9.45.100	Fees for General Plan Amendments
9.45.110	Initiation of Specific Plans and Specific Plan Amendments
9.45.120	Contents of Specific Plans
9.45.130	Specific Plan Adoption and Amendment
9.45.140	Fees for Specific Plan Amendments

9.45.010 Purpose

The purpose of this Chapter is to establish procedures for the Planning Commission to prepare and the City Council to adopt a comprehensive, long-term General Plan for the physical development of the City of Santa Monica. This Chapter also establishes procedures for adoption of Specific Plans for the systematic implementation of the General Plan for all or part of the City area covered by the General Plan. The planning principles, goals, objectives, policies, standards, and proposals contained in the adopted General Plan and any adopted Specific Plans must be considered by the City Council in allocating community resources including, but not limited to, the expenditure of City funds pursuant to the City Charter and Municipal Code.

9.45.020 Contents of the General Plan

The General Plan must consist of a statement of development policies and shall include a diagram or diagrams and text setting forth planning principles, goals, objectives, policies, standards, and plan proposals. The General Plan must be a statement internally consistent, and compatible with City policies that accommodate local conditions and circumstances, while meeting the minimum requirements of the state law. The General Plan shall contain each of the Elements required by state law and such other elements that the City Council deems appropriate. The General Plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area (Area Plans).

9.45.030 Preparation and Adoption of the General Plan

It shall be the function and duty of the Planning Commission, with the assistance of the Director of Planning, to prepare and recommend that the City Council adopt the General Plan, including any, all, or any combination of the Elements. In preparing the General Plan, or any element of the General Plan, the Planning Commission shall take such steps as they deem necessary or as the Director of Planning

recommends. The General Plan guidelines prepared by the Governor's Office of Planning and Research must be considered in preparing or amending the General Plan. During the preparation or amendment of the General Plan, or any element thereof, the Planning Commission must provide opportunities for involvement of residents, workers, public agencies, public utility companies, and business, civic, educational, neighborhood organizations, and other community groups, through public hearings and any other means the Planning Commission or City Council deems appropriate. The General Plan and its Elements shall be prepared with the general purpose of guiding and accomplishing coordinated and harmonious development of the City which, in accordance with existing and future needs, best promotes the public health, safety, and general welfare, as well as efficiency and economy in the process of development.

9.45.040 Amendments to the General Plan

The City Council may amend all or part of the General Plan, or any Element thereof. Any Specific Plan or other plan of the City that is applicable to the same areas or matters affected by a General Plan amendment must be reviewed and amended as necessary to make the Specific Plan or other plans consistent with the General Plan.

9.45.050 Restriction on Number of Amendments

Except as otherwise provided herein, no mandatory Element of the General Plan shall be amended more frequently than 4 times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the City Council. Each amendment may include more than one change to the General Plan. The limitation on the annual number of amendments does not apply in the following circumstances:

- A. A General Plan amendment requested and necessary for a single development of residential units, at least 25% of which will be occupied by or available to persons and families of low or moderate income, as defined by Section 50093 of the California Health and Safety Code. The specified percentage of low- or moderate-income housing may be developed on the same site as the other residential units proposed for development, or on another site or sites encompassed by the General Plan, in which case the combined total number of residential units shall be considered a single development proposal for purposes of this Section.
- B. A General Plan amendment required by a court decision made pursuant to Article 14 (commencing with Section 65750) of the Government Code.
- C. A General Plan amendment required by Government Code Section 65302.3(b).
- D. A General Plan amendment required by Public Resources Code Section 30500(b).

9.45.060 Initiation of Amendments to the General Plan

An amendment to the General Plan or any Element thereof shall be initiated in one of the following manners:

- A. A resolution of intention initiated by the Planning Commission.
- B. A resolution of intention initiated by the City Council directing the Planning Commission to initiate an amendment.
- C. An application from a property owner or his/her authorized agent pursuant to Chapter 9.37 Common Procedures, provided that such application involves the development or modification of property located within the area affected by such amendment.

9.45.070 Planning Commission Action on Amendments

- A. Prior to recommending adoption or amendment of the General Plan or any Element thereof initiated pursuant to Subsections 9.45.060 (A) or (B), the Planning Commission must hold at least one public hearing. Notice of the hearing shall be given consistent with Chapter 9.37, Common Procedures. The Planning Commission must make a written recommendation whether to approve or disapprove the adoption or amendment of the General Plan or any Element thereof. A recommendation for approval must be made by a resolution carried by an affirmative vote of not less than a majority of the total membership of the Planning Commission. The Director shall promptly transmit to the City Council the Planning Commission's written recommendation, together with any maps, charts, studies, or other materials, including any required environmental analysis.
- B. Prior to recommending amendment of the General Plan or any Element thereof initiated upon an application from a property owner pursuant to Subsection 9.45.060 (C) and following any necessary investigation, a public hearing before the Planning Commission must be held and notice of such hearing given consistent with Chapter 9.37, Common Procedures. The Planning Commission must make a written recommendation on the proposed amendment whether to approve, approve in modified form, or disapprove. A recommendation for approval must be made by a resolution carried by an affirmative vote of not less than a majority of the total membership of the Planning Commission.
- C. Planning Commission action disapproving a proposed General Plan amendment, initiated upon an application from a property owner pursuant to Subsection 9.45.060(C), may be appealed by any interested person, including a Commissioner or Councilmember, to the City Council provided such appeal is filed in writing within 14 consecutive calendar days of the Commission's action, pursuant to Section 9.37.130 Appeals.

9.45.080 City Council Action on Amendments

Prior to adopting or amending the General Plan or Element thereof, the City Council must hold at least one public hearing. Notice of the hearing shall be given pursuant to Chapter 9.37, Common Procedures. The City Council must adopt or amend the General Plan, or any Element thereof, by resolution carried by the affirmative vote of not less than a majority of the total membership of the Council. The City Council may approve, modify, or disapprove the recommendation of the Planning Commission, if any. The City Council may, but is not required to, refer any modifications to the Planning Commission for its recommendations.

9.45.090 Administration of the General Plan

After the City Council has adopted all or part of the General Plan, the Planning Commission shall do the following:

- A. Investigate and make recommendations to the City Council as appropriate regarding reasonable and practical means for implementing the General Plan or any Element of the General Plan, so that it will serve as an effective guide for orderly growth and development, preservation, and conservation of open space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the General Plan.
- B. Provide a report to the City Council when requested by the Planning Commission or City Council on the status of the Plan and progress in its implementation.

9.45.100 Fees for General Plan Amendments

The City Council by resolution shall establish and from time to time amend a schedule of fees imposed for any amendment to the General Plan.

9.45.110 Initiation of Specific Plans and Specific Plan Amendments

Upon receiving an application for a Specific Plan or Specific Plan Amendment by any person living or owning property within the Specific Plan Area, or upon approval of the majority of the Planning Commission, the Planning Commission may, or if so directed by the City Council, must cause to be prepared Specific Plans or amendments thereto for the systematic implementation of the General Plan for all or a part of the area covered by the General Plan.

9.45.120 Contents of Specific Plans

A Specific Plan shall include text and a diagram or diagrams specifying all of the following in detail, and shall include a statement of the relationship between the Specific Plan and the General Plan:

- A. The distribution, location, and extent of the uses of land, including open space, within the area covered by the Specific Plan;
- B. The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the Specific Plan;
- C. Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable; and
- D. A program of implementation measures including regulations, programs, public works projects and financing measures necessary to carry out the above paragraphs.

The Specific Plan may address any other subjects which in the judgment of the Planning Commission or City Council are necessary or desirable for implementation of the General Plan.

9.45.130 Specific Plan Adoption and Amendment

Specific Plans shall be prepared, adopted, and amended in the same manner as the General Plan, except that a Specific Plan may be amended as often as deemed necessary by the City Council. No Specific Plan may be adopted or amended unless the proposed plan or amendment is consistent with the General Plan.

9.45.140 Fees for Specific Plan Amendments

- A. The City Council shall by resolution establish and from time to time amend a schedule of fees imposed for the adoption and amendment of any Specific Plan. The City Council, after adopting a Specific Plan, may impose a Specific Plan fee upon persons seeking governmental approvals which are required to be consistent with the Specific Plan. The fees shall be established by resolution pursuant to Chapter 9.37, Common Procedures, so that, in the aggregate, they defray, but as estimated do not exceed, the cost of preparation, adoption, and administration of the Specific Plan, including costs incurred pursuant to Division 13 (commencing with Section 21000) of the California Public Resources Code.

- B. Copies of Specific Plans shall be made available to local agencies and the general public. The City may charge a fee for a copy of a Specific Plan or amendments to a Specific Plan in an amount that is reasonably related to the cost of providing that document.

Chapter 9.46 Amendments to the Zoning Ordinance and Map

Sections:

9.46.010	Purpose
9.46.020	Applicability
9.46.030	Initiation
9.46.040	Application Requirements
9.46.050	Review Procedures and Public Notice
9.46.060	Planning Commission Hearing and Recommendation
9.46.070	City Council Hearing and Action
9.46.080	Criteria for Zoning Amendments
9.46.090	Interim Zoning

9.46.010 Purpose

The purpose of this Chapter is to provide procedures by which changes may be made to the text of this Ordinance and to the Zoning Map whenever the public necessity and convenience and the general welfare require such amendment to maintain consistency with the General Plan.

9.46.020 Applicability

The procedures in this Chapter shall apply to all proposals to change the text of this Ordinance or to revise a Zoning District classification or Zoning District boundary line shown on the Zoning Map.

9.46.030 Initiation

An amendment to the text of the Zoning Ordinance or to the Zoning Map may be initiated by:

- A. **City Council.** A resolution of intention directing the Planning Commission to initiate an amendment;
- B. **Planning Commission.** A resolution of intention initiated by the Planning Commission;
- C. **Text Amendment.** An amendment to the text of the Zoning Ordinance may be initiated by any qualified applicant identified in Section 9.37.020, Application Forms and Fees; or
- D. **Map Amendment.** An amendment to the Zoning Map may be initiated by a petition signed by no fewer than 50 persons who are property owners or tenants within the City.

9.46.040 Application Requirements

- A. **Application.** A qualified applicant shall submit an application for a zoning amendment on a form prescribed by the Director accompanied by the required fee. The Director may require an applicant to submit such additional information and supporting data as considered necessary to process the application.

- B. **Coordination with Other Applications.** The Planning Division may allow any necessary applications for amendments to zoning regulations or for approval under the requirements of this Ordinance to be processed simultaneously with the proposed zoning amendment.

9.46.050 Review Procedures and Public Notice

- A. **Staff Report.** The Director shall prepare a report and recommendation to the Planning Commission on any application for a zoning amendment. The report shall include, but is not limited to, a discussion of how the proposed amendment meets the criteria in Section 9.46.080, Criteria for Zoning Amendments, for approving a zoning amendment and an environmental document prepared in compliance with the California Environmental Quality Act.
- B. **Public Hearing Required.** All zoning amendments shall be referred to the Planning Commission, which shall hold at least one public hearing on any proposed amendment.
- C. **Public Notice.** At least 10 days before the date of the public hearing, the Planning Division shall provide notice consistent with Chapter 9.37, Common Procedures.

9.46.060 Planning Commission Hearing and Recommendation

- A. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing in conformance with Chapter 9.37, Common Procedures.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a recommendation on the proposed zoning amendment to the City Council. Such recommendation shall include the reasons for the recommendation, and the findings related to the criteria for zoning amendments in Section 9.46.080, and shall be transmitted to the City Council.

9.46.070 City Council Hearing and Action

- A. After receiving the report from the Planning Commission, the City Council shall hold a duly-noticed public hearing. The notice shall include a summary of the Planning Commission recommendation. If the matter under consideration is a proposal to reclassify a property from one zone to another and the Planning Commission has recommended against the adoption of such amendment, the City Council is not required to take any further action unless an interested party files a written request for a hearing with the City Clerk within 14 days after the Planning Commission action.
- B. After the conclusion of the hearing, the City Council may approve, modify, or deny the proposed amendment.

9.46.080 Criteria for Zoning Amendments

The Planning Commission shall not recommend and the City Council shall not approve a Zoning Amendment unless the proposed amendment meets the following criteria:

- A. **Zoning Ordinance Text Amendment Findings.**
 1. The Ordinance amendment is consistent in principle with the General Plan; and
 2. The Ordinance amendment is consistent with the purpose of this Ordinance to promote the growth of the City in an orderly manner and to promote and protect the public health, safety, and general welfare.

B. Zoning District Boundary Amendment Findings (Zoning Map Amendments).

1. The change in district boundaries is consistent in principle with the General Plan;
2. The change in district boundaries is consistent with the purpose of this Ordinance to promote the growth of the City in an orderly manner and to promote and protect the public health, safety, and general welfare; and
3. The change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given Zoning District.

9.46.090 Interim Zoning

The City Council, to protect the public safety, health and welfare, may adopt an interim ordinance prohibiting or allowing any uses or establishing development standards when this Zoning Ordinance may otherwise be in conflict with a contemplated General Plan, Specific Plan or zoning proposal which the City Council, Planning Commission or the Director is considering or studying or intends to study within a reasonable time. Nothing in this Section shall limit the power of the City Council, by virtue of the City Charter, to take necessary action to protect the public health, safety, and welfare.

A. Procedures.

1. In adopting an interim ordinance, the City Council need not follow the procedures otherwise required prior to the adoption of an Ordinance amendment as provided for in this Chapter.
2. An interim ordinance may be adopted as an emergency ordinance pursuant to the provisions of Section 615 of the City Charter.
3. The City Council as part of any interim ordinance, may adopt procedures to modify the standards contained in the interim ordinance, and may establish procedures which differ from those contained in Chapter 9.37, Common Procedures.

B. Required Finding. The City Council shall not adopt or extend any interim ordinance pursuant to this Section unless the ordinance contains a finding that there is a current and immediate threat to the public health, safety, and welfare, and that the approval of additional subdivisions, use permits, variances, building permits or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in a threat to public health, safety, and welfare.

C. Duration. An interim ordinance shall be of no further force and effect sixty days from its effective date. After notice and public hearing pursuant to Chapter 9.37, the City Council may extend the interim ordinance up to sixty months.

D. Notwithstanding Subsections (A) through (C) of this Section, if the interim zoning ordinance would operate to prohibit a use otherwise authorized by this Ordinance, the City Council shall follow the procedure specified in Government Code Section 65858, or any successor legislation thereto.

Chapter 9.47 Neighborhood Conservation Overlay Districts

Sections:

9.47.010	Purpose
9.47.020	Zoning Authority
9.47.030	Initiation Procedures
9.47.040	Designation Criteria
9.47.050	Determination of Eligibility
9.47.060	Neighborhood Conservation Overlay District Planning Process
9.47.070	Standards
9.47.080	Adoption Procedures
9.47.090	Discretionary Review
9.47.100	Disclosure

9.47.010 Purpose

- A. The purpose of this Chapter is to establish procedures to develop and adopt individual overlay district regulations that apply to specifically delineated areas of the City for the purpose of identifying, conserving, maintaining, strengthening, and enhancing a neighborhood's cohesive and distinctive architectural or physical characteristics.
- B. The focus of a Neighborhood Conservation Overlay District (NCOD) is maintaining certain standards in the District, such as the broader characteristics that provide neighborhood character, including, building heights, setbacks, massing, open space, repetition of building and streetscape elements, and trees and landscaping.

9.47.020 Zoning Authority

- A. Separate ordinances are required to designate each NCOD. As provided in Section 9.47.050, each overlay district shall identify the designated boundaries, and applicable standards for that overlay district, and be consistent with the LUCE.
- B. The NCOD is an overlay to the standard underlying zoning districts. If there is a conflict between the regulations of the NCOD and the underlying Zoning District, the NCOD regulations shall take precedence and modify those of the underlying Zoning District. However, NCOD provisions shall not permit higher density, increased building height, or increased total floor area to an extent greater than permitted by the underlying Zoning District.

9.47.030 Initiation Procedures

- A. The establishment of an NCOD may be initiated by:
 - 1. **Planning Commission.** A resolution of intention approved by the Planning Commission; or
 - 2. **Landmarks Commission.** A resolution of intention initiated by the Landmarks Commission; or

3. ***Property Owners and Tenants.*** An application signed by tenants and/or property owners representing at least 50 percent of the parcels within the proposed district that is submitted to the Planning Division accompanied by an application that meets the requirements of this Chapter. Only one property owner signature per parcel is required. For tenant-occupied parcels, one tenant signature for each of at least 50 percent of the units is required.
- B. An application shall be accompanied by the required filing fee and shall include the following information:
1. Applicants' names, contact information, and signatures;
 2. Precise boundaries indicated on a map provided by Planning staff, and show all streets and alleys. These continuous boundaries shall meet NCOD criteria;
 3. Name and addresses of all property owners in the proposed district;
 4. List of neighborhood associations and HOAs within the proposed district and available contact information;
 5. Statement of justification including:
 - a. Description of the neighborhood and/or property characteristics and features worthy of conservation, including any significant trees and other landscape features.
 - b. Description of how the application meets NCOD criteria and why such a designation would be in the best interest of the neighborhood and the City; and
 6. Documentation, including but not limited to photographs, histories, and supporting material documenting such neighborhood characteristics.

9.47.040 Designation Criteria

To be designated as an NCOD, the area must meet the following criteria:

- A. **Minimum Size.** The area within the proposed NCOD shall include a minimum of one block face. A block face shall represent the longer side of one city block.
- B. **Boundaries.** The boundary of the proposed NCOD shall be continuous and may include parcels that are contiguous and/or across a right-of-way.
- C. **Distinctive Features.** The area shall possess one or more of the following distinctive features that create a cohesive identifiable neighborhood character and can be clearly emphasized through the application of overlay district development standards and/or design guidelines:
 1. Scale, size, type of construction, or distinctive building materials reflecting a concentration of structures of similar scale, period of construction and/or use of materials characteristic of the style of construction.
 2. Parcel layouts, setbacks, or street layouts providing a similarity of siting characteristics of a single period or style of construction.
 3. Architectural features, such as a concentration of structures reflecting a repetition of treatment of stylistic elements, including but not limited to roofs, porches, windows, wall articulation, and building ornamentation.

4. Site planning and natural features, such as historic development patterns and topography.
 5. In addition, streetscape features, such as trees, landscape, sidewalks, lighting, or overall street character may help delineate or distinguish an NCOD, however public rights-of-ways shall not be governed by this Chapter.
- D. An NCOD shall not include properties in a designated historic district or overlay another NCOD.

9.47.050 Determination of Eligibility

- A. The Planning Commission shall determine the eligibility of an NCOD application pursuant to this Section 9.47.050. The Planning Commission shall review the application, the Planning staff's initial analysis, and will determine the eligibility based on the following criteria:
1. Clear documentation of distinctive characteristics shared by properties within the proposed boundaries and why they are worthy of conservation; and
 2. Consistency with LUCE goals and policies.
- B. In order to determine that an application is eligible to be processed, the Planning Commission must make all of the following findings of fact in an affirmative manner:
1. The proposed NCOD application meets the designation criteria of Subsection 9.47.040;
 2. The properties within the proposed boundaries are recognizable as a distinct area with shared characteristics; and
 3. The proposed NCOD possesses physical features that contribute towards a recognizable identity and therefore warrants further study.
- C. The Planning Commission may modify the boundaries of the proposed NCOD if it finds that the modification meets the purpose of the proposed NCOD.
- D. If the Planning Commission determines that an application meets the eligibility criteria, the Commission's determination to process the application shall include the notice of initiation of amendment to the Zoning Ordinance and an Official Districting Map pursuant to Chapter 9.46.
- E. If there are multiple applications, the Director shall recommend the order in which they will be processed.
- F. Should the Planning Commission determine that an application does not meet the criteria of Subsection 9.47.050 (A) and (B), the Planning Commission shall send its written determination to those who signed the application. The decision of the Planning Commission may be appealed to the City Council pursuant to Section 9.37.130, Appeals.

9.47.060 Neighborhood Conservation Overlay District Planning Process

- A. **Neighborhood Information Meeting.** Upon determination of eligibility by the Planning Commission, the Director shall send notice to all residents and property owners within the proposed NCOD boundaries informing them of the application and the review and approval process. The Director shall arrange for a neighborhood-wide meeting to inform the community about the NCOD and the program requirements.

- B. **Neighborhood/Community Meeting Notice Requirement.**
 - 1. Written notices shall be sent by mail or email to all residential units and property owners of record within the proposed NCOD boundaries, as well as anyone else requesting notice.
 - 2. The notice of meetings shall also be available on the City website.
- C. **Planning Process and City Staff.** The Director shall appoint a Planning staff coordinator to process the application.
 - 1. Staff shall work with the neighborhood to further define the neighborhood’s unique character and identify conservation solutions, including appropriate regulations and incentives.
 - 2. Staff shall prepare needed studies, reports and draft appropriate conservation criteria and draft ordinance.

9.47.070 Standards

- A. Each NCOD shall identify what is critical to its conservation and may require additional and/or modified standards. In addition to regulations, each NCOD may adopt design guidelines, incentives, as well as a “Pattern Book” approach.
- B. Standards may include, but shall not be limited to, the following elements:
 - 1. Building height, number of stories;
 - 2. Parcel coverage;
 - 3. Setbacks;
 - 4. Off-street parking requirements;
 - 5. Ground level open space requirements;
 - 6. Garage entrance location;
 - 7. Design standards;
 - 8. Building materials;
 - 9. Fences and walls;
 - 10. Landscaping;
 - 11. Street trees;
 - 12. Paving patterns, hardscape covering; and
 - 13. Porch designs.
- C. The NCOD ordinance may provide a procedure to modify development standards when an alternative design would better achieve the objective of a standard or design guideline.
- D. The NCOD ordinance may include incentives that are appropriate and encourage conservation within the NCOD.

9.47.080 Adoption Procedures

- A. **Procedure.** After Planning staff has prepared the draft NCOD ordinance, the Director shall transmit the draft standards and/or guidelines to the Landmarks Commission and Architectural Review Board and schedule public hearings before the Planning Commission and City Council pursuant to Chapter 9.37, Common Procedures. The Landmarks Commission and Architectural Review Board are encouraged to submit comments on the draft NCOD ordinance to the Planning Commission for consideration during the public hearing.
- B. **Noticing.** Adoption of the NCOD will be in compliance with Chapter 9.46, except that notice of hearing shall be mailed to all property owners of record and residents of property within 500 feet of the boundaries of the NCOD.
- C. **Findings.** An NCOD may be adopted by ordinance of the City Council only if the findings of Chapter 9.46 and the following findings of fact are made in an affirmative manner:
 - 1. The proposed NCOD meets the designation criteria of Subsection 9.47.040;
 - 2. The properties within the proposed NCOD's boundaries are recognizable as a distinct area with shared characteristics; and
 - 3. The proposed NCOD possesses distinctive features, including, but not limited to physical attributes that create a cohesive identifiable neighborhood character which conveys a unique architectural or physical setting that provides a sense of place to the neighborhood today that warrants the adoption of these conservation regulations.

9.47.090 Discretionary Review

Applications for projects located within an NCOD that are received after the effective date of the pertinent NCOD shall require the approval of a Development Review Permit pursuant to Section 9.40. In addition to the requirements of the NCOD, the Planning Commission, or City Council on appeal, shall evaluate the proposed project in context with nearby properties and the buildings, structures, and other features, including, but not limited to ground level open space, landscaping, and trees that will be altered or demolished as a result of the proposed project. The ordinance for each NCOD shall specify the threshold and criteria to exempt certain projects from a Development Review Permit.

9.47.100 Disclosure

Real estate sales offers for properties located within a NCOD shall disclose that the property is located in a NCOD pursuant to Chapter 9.57.

Chapter 9.48 Enforcement Procedures

Sections:

9.48.010	Compliance with Article IX
9.48.020	Each Day Separate Violation
9.48.030	Enforcement
9.48.040	Criminal Sanctions
9.48.050	Unauthorized Demolition of Historic Resources

9.48.010 Compliance with Article IX

- A. No person shall establish, operate, erect, move, alter, enlarge or maintain any use, activity, or improvement in contravention of any provision of Article IX of the Municipal Code.
- B. No person shall fail to comply with the terms and conditions of any permit or approval issued pursuant to this Ordinance or with any other law or regulation relating to land use or development. This shall apply to any person, whether or not the person was the original applicant for the permit or approval, and whether or not the person is the owner, lessee, licensee, agent, or employee.
- C. No person shall take any action to aid or facilitate the violation of any provision of this Ordinance or the terms and conditions of any permit or approval issued pursuant to this Ordinance by another.
- D. Any property being maintained or operated in violation of this Ordinance or any permit or approval issued pursuant to this Ordinance shall be a public nuisance, and may be abated by the City or by any interested person, as authorized by law.

9.48.020 Each Day Separate Violation

Each day that a person violates the provisions of this Ordinance or the terms and conditions of any permit or approval issued pursuant to this Ordinance shall constitute a separate violation.

9.48.030 Enforcement

In addition to any other remedy provided for by law, the City may take the following actions to address any violation of this Ordinance or of the terms and conditions of any permit or approval issued pursuant to this Ordinance:

- A. Institute proceedings to revoke, modify, or suspend any permit or approval;
- B. Revoke or suspend the business license held by any violator;
- C. Undertake administrative enforcement actions, including but not limited to, issuance of Compliance Orders pursuant to Chapter 1.10 of the Municipal Code, or Administrative Citations pursuant to Chapter 1.09 of the Municipal Code;

9.48.040 Criminal Sanctions

- A. Any person violating any provision of this Ordinance or the terms and conditions of any permit or approval issued pursuant to this Ordinance shall be guilty of an infraction which shall be punishable

by a fine not exceeding \$250.00, or a misdemeanor, which shall be punishable by a fine not exceeding \$500.00 per violation, or by imprisonment in the County Jail for a period not exceeding 6 months, or by both such fine and imprisonment.

- B. Any person convicted of violating this Ordinance or the terms and conditions of any permit or approval issued pursuant to this Ordinance shall be required to reimburse the City its full investigative costs.
- C. Violation of any provision of this Article shall be considered strict liability; accordingly, the prosecution shall not be required to prove criminal intent or that the violator meant to violate any provision of this Article.

9.48.050 Unauthorized Demolition of Historic Resources

The Building Official shall have the authority to withhold a building permit for a site if the Building Official determines that a structure has been demolished or partially demolished on the site without benefit of any required demolition permit and the demolished or partially demolished structure is a Historic Resource or a property on the Historic Resources Inventory. If the Building Official makes this determination, the Building Official shall also have the authority to record an affidavit with the Los Angeles County Recorder stating that no permits for any new development shall be issued on the property for up to five years.

Chapter 9.49 Reasonable Accommodations

Sections:

9.49.010	Purpose
9.49.020	Applicability
9.49.030	Application Requirements
9.49.040	Review Authority
9.49.050	Review Procedures
9.49.060	Findings and Decision
9.49.070	Appeals
9.49.080	Duration of Reasonable Accommodation

9.49.010 Purpose

It is the policy of the City to provide individuals with disabilities reasonable accommodation in rules, policies, practices, and procedure to ensure the equal access to housing and facilitate the development of housing for individuals with disabilities in compliance with the California Fair Employment and Housing Act, the Federal Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (referred to in this Chapter as the “Acts”). This Chapter provides a procedure for making requests for reasonable accommodations in the City’s land use and zoning regulations, policies, practices, and procedures to comply fully with the intent and purpose of the fair housing laws.

9.49.020 Applicability

A. Eligible Applicants.

1. A request for reasonable accommodation may be made by any person with a disability, their representative, or any entity, when the application of a zoning law or other land use regulation, policy, or practice acts as a barrier to fair housing opportunities.
2. This Chapter is intended to apply to those persons who are defined as disabled or handicapped under the Acts.

B. Eligible Requests.

1. A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
2. A request for reasonable accommodation shall comply with Section 9.49.030.

9.49.030 Application Requirements

A. Application. A request for reasonable accommodation shall be submitted on an application form provided by the City and shall contain all of the following information:

1. The applicant’s name, address, and telephone number.

2. Name, address, and telephone number of the property owner and the current address for which the request is being made.
 3. The current actual use of the property.
 4. The basis for the claim that the individual is considered disabled under the Acts.
 5. The Zoning Code provision, regulation or policy from which the reasonable accommodation is being requested.
- B. **Concurrent Processing.** If a request for a reasonable accommodation is being submitted in conjunction with an application for another approval, permit, or entitlement under this Ordinance, it shall be heard and acted upon at the same time and in the same manner as that application.

9.49.040 Review Authority

- A. **Director's review.** A request for a reasonable accommodation shall be reviewed and a determination shall be made by the Director if no discretionary approval is sought other than the request for reasonable accommodation.
- B. **Other review authority.** A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed and determined by the authority reviewing the discretionary land use application.

9.49.050 Review Procedures

A decision to grant an accommodation shall be based on the following findings:

- A. **Director's review.** The Director shall make a written determination within 45 days following the submittal of a complete application and either approve, approve with modification, or disapprove a request for reasonable accommodation in compliance with Section 9.49.060 below.
- B. **Other review authority.** The written determination on whether to approve or disapprove the request for reasonable accommodation shall be made by the authority responsible for reviewing the discretionary land use application in compliance with the applicable review procedure for the discretionary review. The written determination to approve or disapprove the request for reasonable accommodation shall be made in compliance with Section 9.49.060 below.
- C. **Stays.** If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the 45 day period to issue a decision is stayed until the applicant responds to the request.
- D. **Impact on other laws.** While a request for reasonable accommodations 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.

9.49.060 Findings and Decision

- A. **Findings.** A decision to grant a reasonable accommodation shall be based on the following findings:
1. That the housing or other property which is the subject of the request for reasonable accommodation will be used by an individual or organization entitled to protection;

2. The request for accommodation is necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling or common areas of the premises;
 3. The request for accommodation would not impose an undue financial or administrative burden on the City; and
 4. The request for accommodation would not require a fundamental alteration in the nature of the City's land use and zoning or building program.
- B. **Conditions of Approval.** In approving a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation will comply with the findings required by subsection (A) of this Section. Additionally, the approved request for reasonable accommodation shall only be granted to an individual and shall not run with the land unless authorized pursuant to Section 9.49.080.
- C. **Written decision.** The written decision on the request for a reasonable accommodation shall include the reviewing authority's findings and any other relevant information upon which the decision is based. All written decisions shall give notice of the applicant's right of appeal and to request reasonable accommodation in the appeals process as set forth below.

9.49.070 Appeals

Appeals. The applicant or any other aggrieved party may appeal a decision on a reasonable accommodation may be made as follows:

- A. A determination by the Director to grant or deny a request for reasonable accommodation may be appealed to a hearing examiner pursuant to Santa Monica Municipal Code Chapter 6.16.
- B. A determination by the Planning Commission to grant or deny a request for reasonable accommodation may be appealed pursuant to Section 9.37.130, Appeals.

If an appellant needs assistance in filing an appeal, the Planning Division shall provide the assistance that is necessary to ensure that the appeal process is accessible to the applicant.

9.49.080 Duration of Reasonable Accommodation

- A. A reasonable accommodation shall lapse if the exercise of rights granted by it is deemed ceased or discontinued for at least 180 consecutive days. For purposes of this subsection, the terms ceased or discontinued shall be defined as an abandonment of the rights, irrespective of the owner's or occupant's intent.
- B. If the person(s) initially occupying a residence vacate, the reasonable accommodation shall be removed within 60 days unless the reviewing authority first determines that:
 1. The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with this Zoning Ordinance; or
 2. The accommodation is to be used by another qualifying individual with a disability.
- C. The reviewing authority may request the applicant or the successor(s)-in-interest to the property to provide documentation that the subsequent occupants are qualifying persons with disabilities. Failure to provide the documentation within 10 days following the date of a request by the

reviewing authority shall constitute grounds for discontinuance by the City of a previously-approved reasonable accommodation.

- D. The time limits in Subsections (A) and (B) of this Section are tolled during any time the applicant is receiving medical care at a medical facility.

Chapter 9.50 Reserved
