

SUPREME COURT
FILED

DEC 05 2017

Jorge Navarrete Clerk

Case No. S238563

IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA

Deputy

UNION OF MEDICAL MARIJUANA PATIENTS, INC.,

Plaintiff and Appellant,

v.

CITY OF SAN DIEGO,

Defendant Respondent,

CALIFORNIA COASTAL COMMISSION,

Real Party in Interest.

After A Decision by the Court of Appeal of the State of California
Fourth District, Division One, D068185

San Diego County Superior Court
The Honorable Joel Wohlfeil (Case No. 37-2014-00013481-CU-TT-CTL)

**AMICI CURIAE LEAGUE OF CALIFORNIA CITIES
AND CALIFORNIA STATE ASSOCIATION OF COUNTIES'
REQUEST FOR JUDICIAL NOTICE
(DOCUMENTS ATTACHED EXHIBIT A THROUGH EXHIBIT D)**

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Attorneys for Amici Curiae LEAGUE OF CALIFORNIA CITIES and CALIFORNIA
STATE ASSOCIATION OF COUNTIES

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TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES
OF THE SUPREME COURT OF CALIFORNIA:

Amici Curiae League of California Cities and California State Association of Counties (Amici) herein moves this court, pursuant to California Rules of Court, rule 8.252 and Evidence Code section 459, for an order granting the Amici's request for judicial notice of the following documents attached hereto as Exhibits "A" through "D."

Exhibit A: City of Ontario Chapter 2.0 "Administration and Procedures" of the Ontario Development Code. Exhibit A consists of 46 pages, Bates labeled 0001 through 0046 in the upper right corner of the pages.

Exhibit B: Oakland Planning Code Chapter 17.05, "Landmarks Preservation Advisory Board," Chapter 17.132, "Administrative Appeal Procedure;" and Chapter 17.150, "Fee Schedule." Exhibit B consists of 5 pages, Bates labeled 0047 through 0051 in the upper right corner of the pages.

Exhibit C: County of Riverside section 1.2, "Planning Agency," Section 1.2 "County Board of Supervisors," Section 1.3 "County Planning Commission," Section 1.4 "Planning Department," and Sections 1.6 through 1.11 regarding notices of public hearings in the Riverside County Zoning Ordinance. Exhibit C consists of 4 pages, Bates labeled 0052 through 0055 in the upper right corner of the pages.

Exhibit D: County of Los Angeles Registrar/Recorder/County Clerk's Fee Schedule re Notice of Exemption posting fee. Exhibit D consists of 1 page, Bates labeled 0056 in the upper right corner of the page.

Dated: November 17 2017 BEST BEST & KRIEGER LLP

By: Michelle Ouellette

MICHELLE OUELLETTE

CHARITY SCHILLER

SARAH E. OWSOWITZ

Attorneys for *Amici Curiae* League of
Cities and California State Association
of Counties

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATUTORY AUTHORITY GOVERNING JUDICIAL NOTICE FOR A REVIEWING COURT

Evidence Code section 459, subd. (a) states that the reviewing court may take judicial notice of any matter specified in Section 452. California Rules of Court, rule 8.252, subd. (a) sets forth the following procedure for the motion:

(a) Judicial notice

(1) To obtain judicial notice by a reviewing court under Evidence Code section 459, a party must serve and file a separate motion with a proposed order.

(2) The motion must state:

(A) Why the matter to be noticed is relevant to the appeal;

(B) Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court;

(C) If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453; and

(D) Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.

(3) If the matter to be noticed is not in the record, the party must serve and file a copy with the motion or explain why it is not practicable to do so.

(Cal. Rules of Court, rule.. 8.252, subd. (a).)

A. **Rule 8.252(a)(2) Showing for Exhibits A-C – City and County Codes**

1. **Why the matter to be noticed is relevant to the appeal.**

At issue is the application of Public Resources Code section 21065 to zoning amendments. Section 21065 defines “projects” under the California Environmental Quality Act (CEQA). Only “projects” are subject to CEQA. Petitioner argues that, under Public Resources Code Section 21080, subd. (a), certain listed activities including zoning amendments qualify as “projects” and are therefore subject to CEQA regardless of whether they meet the “project” definition set forth in Section 21065. The City and County codes in Exhibits “A” through “C” are instructive because none of these ordinances — concerning topics such as the establishment and administration of commissions and planning agencies, the administration of various types of permits, the payment of application and appeal fees, and the processing and noticing of appeals — would meet the test for “projects” in Public Resources Code section 21065, as they could not result in any direct or reasonably foreseeable indirect impact on the environment. The ordinances simply do not concern the environment. For instance, ordinances establishing planning commissions and historic preservation boards, or setting appeal or public hearing noticing procedures do not authorize any physical activity, and certainly none that could impact the environment — not now and not ever in the future.

2. **Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court.**

No, this material was not presented to the trial court as the Amici were not parties to the state court proceeding.

3. **If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453.**

Evidence Code section 452, subd. (c) permits a court to take judicial notice of the official acts of the legislative and executive departments of California.

4. **Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.**

This matter does not relate to proceedings occurring after judgment.

B. Rule 8.252(a)(2) Showing for Exhibits D – County of Los Angeles Fee Schedule

1. **Why the matter to be noticed is relevant to the appeal.**

If, as Petitioner argues, under Public Resources Code Section 21080, subd. (a), certain listed activities including zoning amendments qualify as “projects” and are therefore subject to CEQA regardless of whether they meet the “project” definition set forth in Section 21065, as detailed in the County of Los Angeles Fee Schedule with regard to the \$75.00 cost to file and post Notice of Exemption, cities and counties would be required to spend significant amounts of staff time and resources on environmental review for any ordinance that is a “project” under CEQA.

2. **Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court.**

No, this material was not presented to the trial court as the *Amici* were not parties to the state court proceeding.

3. **If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453.**

Evidence Code section 452, subd. (c) permits a court to take judicial

notice of the official acts of the legislative and executive departments of California.

4. **Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.**

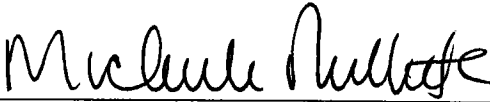
This matter does not relate to proceedings occurring after judgment.

II.

CONCLUSION

For the reasons set forth above, the Amici respectfully request the court grant the Amici's Request for Judicial Notice of Exhibits A through D attached hereto.

Dated: November 17 2017 BEST BEST & KRIEGER LLP

By: 
MICHELLE OUELLETTE
CHARITY SCHILLER
SARAH E. OWSOWITZ
Attorneys for Amici Curiae League of
Cities and California State Association
of Counties

[PROPOSED]

ORDER TAKING JUDICIAL NOTICE OF DOCUMENTS

Good cause appearing,

IT IS HEREBY ORDERED that Amici Curiae League of California Cities and California State Association of Counties' Motion for Judicial Notice in support of its Amicus Curiae Brief is granted.

IT IS SO ORDERED that this Court shall take judicial notice of the following:

1. City of Ontario Chapter 2.0 "Administration and Procedures" of the Ontario Development Code.
2. Oakland Planning Code Chapter 17.05, "Landmarks Preservation Advisory Board," Chapter 17.132, "Administrative Appeal Procedure;" and Chapter 17.150, "Fee Schedule."
3. County of Riverside section 1.2, "Planning Agency," Section 1.2 "County Board of Supervisors," Section 1.3 "County Planning Commission," Section 1.4 "Planning Department," and Sections 1.6 through 1.11 regarding notices of public hearings in the Riverside County Zoning Ordinance.
4. County of Los Angeles Registrar/Recorder/County Clerk's Fee Schedule re Notice of Exemption posting fee.

DATED: _____

By: _____

Chief Justice of the
Supreme Court of California

CERTIFICATE OF COMPLIANCE

I certify that the text of this brief consists of 848 words as counted by the Microsoft Word word-processing program used to generate this brief.

Dated: November 17 2017 BEST BEST & KRIEGER LLP

By: Michelle Ouellette
MICHELLE OUELLETTE
CHARITY SCHILLER
SARAH E. OWSOWITZ
Attorneys for Amici Curiae League of
Cities and California State Association
of Counties

EXHIBIT A

Chapter 2.0:
Administration and Procedures

Division 2.01—Planning Agency

Division 2.02—Application Filing and Processing

Division 2.03—Public Hearings

Division 2.04—Appeals

Division 2.05—City Initiated Modification or Revocation

Division 2.06—Performance Guarantees

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Division 2.01—Planning Agency

Sections:

- 2.01.000: Purpose
- 2.01.005: Applicability
- 2.01.010: City Council
- 2.01.015: Planning Commission
- 2.01.020: Historic Preservation Commission
- 2.01.025: Historic Preservation Subcommittee
- 2.01.030: Development Advisory Board
- 2.01.035: Zoning Administrator

2.01.000: Purpose

GC Section 65100 provides that each city and county establish a planning agency with the powers necessary to carry out the planning and zoning functions of the jurisdiction. The purpose of this Division is to identify and establish bodies, commissions, committees, positions, boards, and departments responsible for carrying out the powers and duties of the planning agency.

2.01.005: Applicability

The functions of the planning agency are hereby assigned to the following bodies, commissions, committees, positions, boards, and departments:

- A. City Council;
- B. Planning Commission;
- C. Historic Preservation Commission;
- D. Historic Preservation Subcommittee;
- E. Development Advisory Board;
- F. Zoning Administrator;
- G. Planning Department.

2.01.010: City Council

A. Established. The City Council's establishment, membership, and operation are recognized by OMC Title 2 (Administration), Chapter 1 (City Council), commencing with Article 1, Section 2-1.101.

B. Powers and Duties. The City Council shall have the authority to hear and decide on those application types established by Table 2.02-1 (Review Matrix) of this Development Code and shall

have review and final authority on all appeals of Planning Commission or Historic Preservation Commission actions.

2.01.015: Planning Commission

A. Established. The Planning Commission's establishment, membership and operation are recognized by OMC Title 2 (Administration), Chapter 2 (Commissions and Boards), Article 3 (Planning Commission), commencing with OMC Section 2-2.301.

B. Powers and Duties. The Planning Commission shall have the authority to hear, recommend, and decide on those application types identified in Table 2.02-1 (Review Matrix) of this Development Code. In addition, the Planning Commission shall have the authority to act upon an appeal of any order, requirement, permit, decision or determination concerning zoning, land use or development, made by an administrative or appointed official or body, such as the Planning Director, Zoning Administrator, or Development Advisory Board, pursuant to the provisions of this Development Code.

C. Meetings. The Planning Commission shall adopt rules as necessary to the conduct of its affairs and in keeping with the provisions of this Development Code. Meetings shall be held on a regular basis and open to the public. The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, and shall keep records of its own examinations and other official actions, which shall be filed with the Planning Department.

2.01.020: Historic Preservation Commission

A. Established. In accordance with the authority granted to municipalities by State Planning and Zoning Law, pursuant to GC Division 1, Chapter 3 (commencing with GC Section 65100), there is hereby created and established in the City of Ontario, an Historic Preservation Commission.

B. Membership. The Historic Preservation Commission shall consist of the 7 standing members of the Planning Commission.

C. Powers and Duties. The Historic Preservation Commission shall have the following powers and duties:

1. Establish criteria for and conduct or cause to be conducted a comprehensive survey in conformance with state survey standards and guidelines of Historical Resources within the boundaries of the City, and publicize and periodically update the survey results;

2. The authority to hear make recommendations and/or decide on those application types established by Table 2.02-1 (Review Matrix) of this Development Code;

3. Authority to act upon an appeal of any order, requirement, permit, decisions, or determination concerning Historic Resources under this Development Code, made by the Historic Preservation Subcommittee;

4. Maintain a local register of Designated Historic Landmarks and Districts consistent with the National Register of Historic Places criteria, including all information required for each designation; and

5. Undertake any other action or activity necessary or appropriate to implement its powers or duties to fulfill the objectives of the Historic Preservation program.

D. Meetings. The Historic Preservation Commission shall adopt rules and procedures governing meeting business, conduct, and actions within the Historic Preservation Commission's jurisdiction and setting timeframes for such meetings.

2.01.025: Historic Preservation Subcommittee

A. Established. In accordance with the authority granted to municipalities by State Planning and Zoning Law, pursuant to GC Division 1, Chapter 3 (commencing with GC Section 65100), there is hereby created and established in the City of Ontario, an Historic Preservation Subcommittee.

B. Membership. The Historic Preservation Subcommittee shall consist of 3 members of the Historic Preservation Commission, to be appointed pursuant to the Historic Preservation Commission rules and procedures.

C. Powers and Duties. The Historic Preservation Subcommittee shall have the following powers and duties:

1. The authority to hear make recommendations and/or decide on those application types established by Table 2.02-1 (Review Matrix) of this Development Code;

2. The authority to review historic preservation work program, assist staff in any survey or historic research being conducted, and review of the City's list of Historical Resources; and

3. The authority to act upon appeals of administrative permits, decisions and actions concerning Historical Resources under this Development Code, made by any City Department.

D. Meetings. The Historic Preservation Commission shall adopt rules and procedures governing meeting business, conduct, and actions within the Historic Preservation Subcommittee's jurisdiction and setting timeframes for such meetings.

2.01.030: Development Advisory Board

A. Established. In accordance with the authority granted to municipalities by State Planning and Zoning Law, pursuant to GC Division 1, Chapter 3 (commencing with GC Section 65100), there is hereby created and established in the City of Ontario, a Development Advisory Board.

B. Membership. The Development Advisory Board shall include those representatives of certain City departments and/or agencies as established by resolution of the City Council.

C. Powers and Duties. The Development Advisory Board shall have the authority to hear, recommend and decide on those application types identified in Table 2.02-1 (Review Matrix) of this Development Code.

D. Meetings. The Development Advisory Board shall adopt rules and regulations to govern the procedures at meetings within the Board's jurisdiction and to set a time for such meetings.

2.01.035: Zoning Administrator

- A. Established.** In accordance with the authority granted to municipalities by State Planning and Zoning Law, pursuant to GC Division 1, Chapter 3 (commencing with GC Section 65100), there is hereby created and established in the City, the position of Zoning Administrator.
- B. Membership.** The Zoning Administrator position shall be filled by the Planning Director or the Zoning Administrator's designee, who shall fill the position of Deputy Zoning Administrator.
- C. Powers and Duties.** The Zoning Administrator shall have the power and duty to review and make decisions on those application types identified in Table 2.02-1 (Review Matrix) of this Development Code.
- D. Meetings.** The Zoning Administrator shall adopt rules and procedures governing meeting business, conduct, and actions within the Zoning Administrator's jurisdiction and setting timeframes for such meetings.

Division 2.02—Application Filing and Processing

Sections:

- 2.02.000: Purpose
- 2.02.005: Applicability
- 2.02.010: Applications and Fees
- 2.02.015: Application Processing Procedures
- 2.02.020: Environmental Review
- 2.02.025: Time Limits and Extensions
- 2.02.030: Failure by Applicant to Complete Application Processing
- 2.02.035: Limitations on Application Refiling
- 2.02.040: Indemnification

2.02.000: Purpose

The purpose of this Division is to establish procedures and requirements for the preparation, filing and processing of applications for permits, amendments, and approvals stipulated by this Development Code.

2.02.005: Applicability

Table 2.02-1 (Review Matrix), below, establishes the recommending, approving, and appeal authorities for all permits, amendments, and approvals stipulated by this Development Code. The symbols used within the Table have the following meanings:

- R = Advisory (Recommending) Authority
- X = Approving Authority
- A = Appeal Authority

Table 2.02-1: Review Matrix

Applications, Actions, Decisions and Processes	Reviewing Authorities [4]								
	Planning Director	City Engineer	Building Official	Zoning Administrator [2]	Development Advisory Board	Historic Preservation Subcommittee [2]	Historic Preservation Commission	Planning Commission	City Council
A. LEGISLATIVE ACTIONS									
1. Airport Land Use Compatibility Plan and Amendments [1] (Ref: ODC Section 4.01.010)								R	X
2. Development Agreements [1] (Ref: ODC Section 4.01.015)								R	X
3. Development Code Amendments [1] (Ref: ODC Section 4.01.020)								R	X

Table 2.02-1: Review Matrix

Applications, Actions, Decisions and Processes	Reviewing Authorities [4]								
	Planning Director	City Engineer	Building Official	Zoning Administrator [2]	Development Advisory Board	Historic Preservation Subcommittee [2]	Historic Preservation Commission	Planning Commission	City Council
4. Amendment to the Policy Plan (General Plan) Component of The Ontario Plan [1] (Ref: ODC Section 4.01.025)								R	X
5. Planned Unit Developments and Amendments [1] (Ref: ODC Section 4.01.030)								R	X
6. Specific Plans and Amendments [1] (Ref: ODC Section 4.01.035)								R	X
7. Williamson Act Contract Cancellations [1] (Ref: GC Section 51200 et seq.)								R	X
8. Zone Changes [1] (Ref: ODC Section 4.01.040)								R	X
B. DISCRETIONARY PERMITS AND ACTIONS									
1. Administrative Exceptions (Ref: ODC Section 4.02.020.C)				X				A	A
2. Billboard Relocation Agreements [1] (Ref: ODC Section 4.02.010)								R	X
3. Conditional Use Permits (Ref: ODC Section 4.02.015)									
a. Hotels, Motels and Residence Inns [1]								R	X
b. Use established in conjunction with a Development Plan [1]					R			X	A
c. Use established within an existing structure [1]				X				A	A
d. Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1]								X	A
e. Revocation due to abandonment of use per ODC Division 2.05 (City Initiated Modification or Revocation) [1]				X				A	A
4. Density Bonus and Other Incentives per ODC Section 6.01.010.G (Density Bonus and Other Incentives) [1]								R	X
5. Development Plans (Ref: ODC Section 4.02.025)									
a. Residential developments totaling 5 or more dwelling units or the development of 3 or more dwelling units on a single lot or parcel					R			X	A

Table 2.02-1: Review Matrix

Applications, Actions, Decisions and Processes	Reviewing Authorities [4]								
	Planning Director	City Engineer	Building Official	Zoning Administrator [2]	Development Advisory Board	Historic Preservation Subcommittee [2]	Historic Preservation Commission	Planning Commission	City Council
b. Commercial developments, and developments in the CIV, OS-R, OS-C and UC zoning districts, greater than 500 SF in area					X			A	A
c. Industrial developments equal to or less than 0.45 FAR					X			A	A
d. Industrial developments exceeding 0.45 FAR					R			X	A
e. Wireless telecommunications facilities pursuant to Section 5.03.415 (Wireless Telecommunications Facilities) of this Development Code									
(1) Tier 2 facilities					X			A	A
(2) Tier 3 facilities [1]					R			X	A
f. All others					X			A	A
6. Extensions of Legal Nonconforming Status [1] (Ref: ODC Section 4.02.030)				X				A	A
7. Fair Housing and Reasonable Accommodation [1] (Ref: ODC Section 4.02.035)				X				A	A
8. Historic Preservation									
a. Certificates of Appropriateness (Ref: ODC Section 4.02.050)									
(1) Designated Historic Landmarks and Contributors, and Architectural Conservation Areas; and Demolition of an Historic Resource [1]						R	X		A
(2) Deferral of Replacement Structure [1]						R	X		A
(3) Eligible Historic Resources [1]						X	A		A
(4) Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1]						R	X		A
(5) Waivers for Minor Improvements	X					A[6]	A[6]		
b. Certificates of Economic Hardship [1] (Ref: ODC Section 4.02.055) [1]						R	X		A
c. Certificates of Economic Hardship—Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1]						R	X		A
d. Conservation Plans (Ref: ODC Section 4.02.060)						X	A		A

Table 2.02-1: Review Matrix

Applications, Actions, Decisions and Processes	Reviewing Authorities [4]								
	Planning Director	City Engineer	Building Official	Zoning Administrator [2]	Development Advisory Board	Historic Preservation Subcommittee [2]	Historic Preservation Commission	Planning Commission	City Council
e. Historic Resource Tiering (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045)						X	A		A
f. Local Historic Landmark and Local District Designations, and Architectural Conservation Areas (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045)						R	R		X
g. Mills Act Contracts (Ref: ODC Section 4.02.065)						R	R		X
h. Mills Act Cancellations [1] (Ref: ODC Section 4.02.065)						R	R		X
i. Addition/Removal of Resources to/from the Ontario Register (Ref: ODC Section 4.02.045)									
(1) At the request of the property owner, or upon City initiation if the most recently prepared Historic Resource Survey evaluating the resource is more than 5 years old.						X	A		A
(2) Loss of all historic and/or cultural significance due to a catastrophe causing a loss of integrity, or due to extensive legally performed alterations performed after the property was initially surveyed.	X						A		A
9. Interpretations and Land Use Determinations (Ref: ODC Section 1.02.010)				X				A	A
10. Master Plans and Amendments [1] (Ref: ODC Section 4.02.070)								R	X
11. Minor Variances (Ref: ODC Section 4.02.020.D)				X				A	A
12. Nonconforming Structure Reconstruction [1] (Ref: ODC Section 3.01.020)								X	A
13. Parking Reduction (Ref: ODC Section 6.03.025)								X	A
14. Sign Programs (Ref: ODC Section 4.02.075)	X							A	A
15. Specific Plan Minor Amendments (Ref: ODC Section 4.02.080)	X							A	A
16. Stays of Permit Approval Time Limit (Ref: ODC Section 2.02.025.A.8)				X[5]	X[5]	X[5]	X[5]	X[5]	X[5]

Table 2.02-1: Review Matrix

Applications, Actions, Decisions and Processes	Reviewing Authorities [4]								
	Planning Director	City Engineer	Building Official	Zoning Administrator [2]	Development Advisory Board	Historic Preservation Subcommittee [2]	Historic Preservation Commission	Planning Commission	City Council
17. Subdivisions									
a. Lot Merger (Merger of Contiguous Parcels) [1] (Ref: ODC Section 4.02.085)					R			X	A
b. Reversions to Acreage [1] (Ref: ODC Section 4.02.090)					R			X	A
c. Tentative Tract and Parcel Maps, and Vesting Maps [1] (Ref: ODC Section 4.02.095)					R			X	A
d. Tentative Tract and Parcel Map Time Extensions (Ref: ODC Section 2.02.025.A.3 & 4)					R			X	A
18. Time Extensions, excepting tentative subdivision maps (Ref: ODC Section 2.02.025)	X							A	A
19. Variances (Ref: ODC Section 4.02.020.E)									
a. Homeowner [1]				X				A	A
b. Other [1]					R			X	A
C. MINISTERIAL (ADMINISTRATIVE) PERMITS AND DECISIONS									
1. Administrative Use Permits (Ref: ODC Section 4.03.015)	X							A	A
2. Airport Land Use Compatibility Plan (ALUCP) Interagency Reviews [7] (Ref: ALUCP)	X								A[8]
3. Business License - Zoning/Land Use Compliance (Ref: OMC 3-1.129 (Zoning Compliance)	X							X	X
4. Landscape and Irrigation Plans (Ref. ODC Section 6.05.005)	X							A	A
5. Off-Site (Public) Improvement Plans (Ref: ODC Section 6.08.040)		X						A	A
6. Other Plan Checks required by this Development Code	X							A	A
7. Shopping Cart Retention Plans (Ref: ODC Section 6.11.020)	X							A	A
8. Sign Plans (Ref: ODC Section 4.03.020)	X							A	A
9. Subdivisions									
a. Certificates of Compliance (Ref: ODC Section 4.03.025)		X						A	A
b. Final Tract and Parcel Maps, and Vesting Maps (Ref: ODC Section 4.03.030)									X

Table 2.02-1: Review Matrix

Applications, Actions, Decisions and Processes	Reviewing Authorities [4]								
	Planning Director	City Engineer	Building Official	Zoning Administrator [2]	Development Advisory Board	Historic Preservation Subcommittee [2]	Historic Preservation Commission	Planning Commission	City Council
c. Lot Line Adjustments (Ref: ODC Section 4.03.035)		X						A	A
d. Map Corrections and Amendments (Ref: ODC Section 4.03.040)		X						A	A
e. Street Address Numbering (Ref: ODC Section 6.06.010)			X					A	A
f. Street Name Assignment (Ref: ODC Section 6.06.010)	X							A	A
g. Subdivision Improvement Agreement (Ref: ODC Section 6.08.040.G)		X						A	A
10. Tier 1 wireless telecommunications facility pursuant to ODC Section 5.03.415 (Wireless Telecommunications Facilities)	X							A	A
11. Wall, Fence, and Obstructions Plans (Ref: ODC Section 6.02.005)	X							A	A
D. ENVIRONMENTAL DETERMINATIONS AND ACTIONS									
1. Environmental Impact Reports (EIRs) (Ref: CCR Section 15080 et seq.)								X[3]	X[3]
2. Exempt Projects (Ref: CCR Section 15300 et seq.)	X[3]			X[3]	X[3]	X[3]	X[3]	A	A
3. Ministerial Projects (Ref: CCR Section 15268)	X[3]								
4. Negative Declarations (NDs) and Mitigated Negative Declarations (MNDs) (Ref: CCR Section 15070 et seq.)				X[3]	X[3]	X[3]	X[3]	X[3]	X[3]
5. Addendums to previously certified EIRs and previously adopted NDs and MNDs (Ref: CCR Section 15164)				X[3]	X[3]	X[3]	X[3]	X[3]	X[3]

Notes:

- [1] A hearing is required pursuant to the procedures set forth in Division 2.03 (Public Hearings) of this Development Code.
- [2] The Approving Authority may refer any application subject to their review to the next higher authority (Appeal Authority).
- [3] The Approving Authority for environmental determinations/actions shall be the same as the related legislative or discretionary actions. NDs and MNDs, and Addendums to previously certified EIRs, and previously adopted NDs or MNDs, which are not associated with, or are independent of, legislative or discretionary actions, shall be subject to Development Advisory Board review and adoption. EIRs that are not associated with, or are independent of, legislative or discretionary actions shall be subject to Planning Commission review and certification.

- [4] An application submitted for concurrent review and action with another application, action or decision requiring review and action by a higher Reviewing Authority shall be subject to concurrent review and action by that higher Reviewing Authority.
- [5] The Approving Authority for a Stay of Permit Approval Time Limit shall be the same as the related application, action or decision.
- [6] An appeal of an Historic Preservation—Certificate of Appropriateness—Waiver shall be considered by the Historic Preservation Subcommittee, except that an Historic Preservation—Waiver for an Historic Landmark shall be considered by the Historic Preservation Commission.
- [7] Refer to the ALUCP for procedures for application processing and administration, and appeals processing.
- [8] Appeal shall be subject to review by the Mediation Board established pursuant to ALUCP Section 4.

2.02.010: Applications and Fees

A. Application filing.

1. An application for a permit, permit modification, amendment, or any other matters pertaining to this Development Code shall be filed with the City, on a City application form, together with any required fees, plans, maps, reports, special studies, exhibits, and any other information deemed necessary by the City to process the application.

2. An application may be initiated by the City, owner(s) or lessee(s) of property, or their agent(s), or person(s) who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Development Code, or their agent(s).

3. A project requiring the filing of more than one land use or entitlement permit application shall, to the extent possible, be filed with all related applications for concurrent review and action by the highest required Reviewing Authority, except that an Administrative Exception application filed in conjunction with a Development Plan shall require separate review and action by the appropriate Reviewing Authority.

B. Filing Fees.

1. The City Council may establish by resolution, a schedule of fees for permits, amendments, inspections, licenses, services, and other matters pertaining to this Development Code. The schedule of fees may be changed or modified only by resolution of the City Council.

2. Application review and action shall not commence until such time that all applicable filing fees and/or deposits have been paid in full. An application received without all applicable filing fees and/or deposits shall be deemed incomplete for filing and further processing, and shall be deemed just cause for denial of the application. In the case of time and materials projects, the payment of additional deposits may be required to fully cover all City processing costs.

C. Refunds and Withdrawals.

1. The refund of filing fees in response to the denial of an application shall be prohibited, recognizing that filing fees are utilized to cover City costs related to public hearings, mailings, postings, transcripts, and staff time involved in processing applications.

2. An applicant wishing to withdraw their application may do so by written request to the Planning Director at any time prior to action by the Approving Authority.

3. Upon receipt of a request for application withdrawal, the Planning Director may order the refund of all or part of the filing fees, based upon the prorated costs to date and determination of the status of the application at the time of withdrawal.

2.02.015: Application Processing Procedures

This section is intended to provide general procedures for the processing of applications for legislative actions, discretionary permits and actions, and ministerial permits and decisions filed pursuant Table 2.02-1 (Review Matrix) of this Division.

A. Legislative Actions. The Advisory and Approving Authorities for legislative actions are established by Table 2.02-1 (Review Matrix) of this Division. Unless otherwise stipulated by Division 4.01 (Legislative Actions) of this Development Code, the procedure for reviewing and acting upon an application resulting in a legislative action is as follows:

1. Initial Review for Application Completeness. Legislative actions shall be initially reviewed for application completeness and acceptance, as follows:

a. *Review for Application Completeness.*

(1) Following receipt of an application filed in compliance with this Division, the Planning Department shall determine, in writing, whether the application is complete for processing and shall transmit the determination to the applicant.

(2) If an application is determined to be incomplete for processing, the Planning Department shall specify those parts of the application that are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the City in response to the list and description, which shall be reviewed pursuant to Subparagraph A.1.a(1), above.

(3) If the application, together with the submitted materials, is determined to be incomplete for processing, the applicant may appeal that decision to the Planning Commission pursuant to the provisions of Division 2.04 (Appeals) of this Development Code.

(4) Failure of an applicant to submit complete or adequate information pursuant to the provisions of Subparagraphs A.1.a(1) and (2), above, shall constitute grounds for denial of the application.

b. *Application Acceptance.*

(1) Following acceptance of an application as complete for processing, no new or additional information may be requested of the applicant; however, in the course of processing the application, the Planning Department may request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application. This provision shall not be so construed as to require an applicant to submit with the initial application, the entirety of the information that the Planning Department may require in order to take final action on the application.

(2) Prior to accepting an application as complete for processing, the Planning Department shall inform the applicant of any information included in the list prepared pursuant to Subparagraph A.1.b(1), above, which will subsequently be required from the applicant in order to complete final action on the application.

(3) The provisions of this Section shall not be construed as limiting the ability of the Planning Department to request and obtain information that may be needed in order to comply with the provisions of PRC Division 13 (commencing with Section 21000).

2. Investigation and Report.

a. Following acceptance of an application as complete for processing pursuant to Subparagraph B.1 (Initial Review for Application Completeness), above, the Planning Department shall investigate the facts bearing on the application and shall prepare a written report, which shall be transmitted to the appropriate Reviewing Authority.

b. The Planning Department's report shall provide the information necessary for action on the application, consistent with the provisions of this Development Code and The Ontario Plan, and shall report all findings to the appropriate Reviewing Authority.

c. During the investigation of the facts bearing on the application, the Planning Department may consult with other City departments and public agencies.

3. Public Hearings.

a. The Advisory and Approving Authorities established by Table 2.02-1 (Review Matrix), shall each conduct at least one public hearing, which shall be duly noticed, heard, and acted upon pursuant to Division 2.03 (Public Hearings) of this Development Code.

b. The Planning Department's written report, prepared pursuant to Subparagraphs A.2.a through c, above, shall be made available to the property owner and applicant, if different from the property owner, at least 72 hours prior to the public hearing.

4. Advisory Authority Review and Recommendation. The procedure for review and recommendation on a legislative action by an Advisory Authority is as follows:

a. The Advisory Authority shall make recommendation to the Approving Authority whether to approve, approve in modified form, or deny an application, which shall be transmitted to the Approving Authority in such manner and form as specified by the Approving Authority.

b. The Advisory Authority shall forward its recommendation to the Approving Authority within 60 days following the date its decision was rendered.

5. Approving Authority Review and Action. The procedure for review and action on a legislative action by the Approving Authority is as follows:

a. Upon receipt of the Advisory Authority's recommendation, the Approving Authority shall approve, approve in modified form, or deny an application.

b. The action of the Approving Authority shall be by written decision, setting forth the basis for the action, and shall include any applicable findings prescribed by Division 4.01

(Legislative Actions) of this Development Code. There shall be no time limit within which the Approving Authority must act on a legislative action.

c. The Approving Authority's action shall be final and conclusive.

6. Effective Date of Approving Authority Action. A legislative approval granted by resolution is effective immediately upon adoption of the numbered resolution by the City Council. A legislative approval granted by ordinance is effective 30 days following the date of adoption of the ordinance by the Approving Authority.

B. Discretionary Permits and Actions. The Advisory, Approving, and Appeal Authorities for discretionary permits and actions are established by Table 2.02-1 (Review Matrix) of this Division. Unless otherwise stipulated by Division 4.02 (Discretionary Permits and Actions) of this Development Code, the procedure for reviewing and acting upon an application resulting in a discretionary permit or action is as follows:

1. Initial Review for Application Completeness. Applications requesting discretionary permits and/or actions shall be initially reviewed for application completeness and acceptance, as follows:

a. *Review for Application Completeness.*

(1) Within 30 days following receipt of an application filed in compliance with this Division, the Planning Department shall determine, in writing, whether the application is complete for processing and shall transmit the determination to the applicant. If the written determination is not made within the required period, the application shall be automatically deemed complete for processing. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which time completeness of the resubmitted application shall be determined.

(2) If an application is determined to be incomplete for processing, the Planning Department shall specify those parts of the application that are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the Planning Department in response to the list and description, which shall be reviewed pursuant to Subparagraph B.1.a(1), above.

(3) If the application, together with the submitted materials, is determined to be incomplete for processing, the applicant may appeal that decision to the Planning Commission pursuant to the provisions of Division 2.04 (Appeals) of this Development Code.

(4) Failure of an applicant to submit complete or adequate information pursuant to the provisions of Subparagraphs B.1.a(1) and (2), above, shall constitute grounds for denial of the application.

b. *Application Acceptance.*

(1) Following acceptance of an application as complete for processing, no new or additional information may be requested of the applicant; however, in the course of processing the application, the Planning Department may request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application. This

provision shall not be so construed as to require an applicant to submit with the initial application, the entirety of the information that the City may require in order to facilitate final action on the application.

(2) Prior to accepting an application as complete for processing, the Planning Department shall inform the applicant of any information included in the list prepared pursuant to Subparagraph B.1.b(1), above, which will subsequently be required from the applicant in order to complete final action on the application.

(3) The provisions of this Subsection shall not be construed as limiting the ability of the Planning Department to request and obtain information that may be needed in order to comply with the provisions of PRC Division 13 (commencing with Section 21000).

2. Investigation and Report.

a. Following acceptance of an application as complete for processing pursuant to Subparagraph B.1 (Initial Review for Application Completeness), above, the Planning Department shall investigate the facts bearing on the application and shall prepare a written report, which shall be transmitted to the appropriate Reviewing Authority.

b. The Planning Department's report shall provide the information necessary for action on the application, consistent with the provisions of this Development Code and The Ontario Plan, and shall report all findings to the appropriate Reviewing Authority.

c. During the investigation of the facts bearing on the application, the Planning Department may consult with other City departments and public agencies.

3. Public Hearings.

a. The Advisory, Approving and Appeal Authorities established by Table 2.02-1 (Review Matrix), and which require a public hearing pursuant to the Review Matrix, shall each conduct at least one public hearing, which shall be duly noticed, heard, and acted upon pursuant to Division 2.03 (Public Hearings) of this Development Code.

b. The Planning Department's written report, prepared pursuant to Subparagraphs B.2.a through c, above, shall be made available to the property owner and applicant, if different from the property owner, at least 72 hours prior to the public hearing.

4. Advisory Authority Review and Recommendation. If required pursuant to Table 2.02-1 (Review Matrix), the procedure for review and recommendation on a discretionary permit or action by an Advisory Authority is as follows:

a. The Advisory Authority shall make recommendation to the Approving Authority whether to approve, approve in modified form, or deny an application, which shall be transmitted to the Approving Authority in such manner and form as specified by the Approving Authority.

b. The Advisory Authority shall forward its recommendation to the Approving Authority within 60 days following the date its decision was rendered.

c. In instances where review and recommendation by more than one Advisory Authority is required, the initial Advisory Authority shall forward its recommendation

whether to approve, approve in modified form, or deny an application to the subsequent Advisory Authority within 30 days following the date its decision was rendered. The 30-day time limit may be extended by mutual agreement of the applicant and City.

5. Approving Authority Review and Action. The procedure for review and action on a discretionary permit or action by an Approving Authority is as follows:

a. Upon receipt of the Advisory Authority's recommendation, the Approving Authority shall approve, approve in modified form, or deny an application, and may impose reasonable conditions to the approval of an application.

b. The action of the Approving Authority shall be by written decision, setting forth the basis for the action, and shall include any applicable findings prescribed by Division 4.02 (Discretionary Permits and Actions) of this Development Code. A discretionary permit or action shall be acted upon within the timeframes specified by GC Section 65950, 65950.1, 65951, and 65952, except that Tentative Subdivision Maps shall be acted upon within the timeframes specified by GC Section 66452.1.

c. The decision of the Approving Authority shall be final and conclusive in the absence of an appeal filed pursuant to Division 2.04 (Appeals) of this Development Code.

6. Effective Date of Approving Authority Action. A discretionary permit or action shall become effective on the City business day following Approving Authority action, unless the discretionary permit is being processed concurrently with and dependent upon any legislative action; in which case, the effective date of the discretionary permit or action shall be governed by Paragraph A.6 (Effective Date of Approving Authority Action) of this Section. The Approving Authority's action to approve, approve in modified form, or deny a discretionary permit or action shall be immediately suspended upon the filing of an appeal pursuant to Division 2.04 (Appeals) of this Development Code.

C. **Ministerial Permits and Decisions.** The Advisory, Approving and Appeal Authorities for ministerial permits and decisions are established by Table 2.02-1 (Review Matrix) of this Division. Unless otherwise stipulated by Division 4.03 (Ministerial Permits and Decisions) of this Development Code, the procedure for reviewing and acting upon an application requiring a ministerial permit or decision is as follows:

1. Initial Review for Application Completeness. Applications requesting ministerial permits and/or decisions shall be initially reviewed for completeness and acceptance, as follows:

a. *Review for Application Completeness.*

(1) Within 30 days following receipt of an application filed in compliance with this Division, the City shall review the application and determine, in writing, whether the application is complete for further processing, and shall transmit the determination to the applicant. If the written determination is not made within the required period, the application shall automatically be deemed complete for further processing. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which time completeness of the resubmitted application shall be determined.

(2) If an application is determined to be incomplete for processing, the City shall specify those parts of the application that are incomplete, and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific

information needed to complete the application. The applicant shall submit materials to the responsible City department in response to the list and description, which shall be reviewed pursuant to Subparagraph C.1.a(1), above.

(3) If an application, together with the submitted materials, is determined to be incomplete for processing, the applicant may appeal that decision to the Planning Commission pursuant to the provisions of Division 2.04 (Appeals) of this Development Code.

(4) Failure of an applicant to submit complete or adequate information pursuant to the provisions of Subparagraphs C.1.a(1) and (2), above, shall constitute grounds for denial of the application.

b. Application Acceptance.

(1) Following acceptance of an application as complete for processing, no new or additional information may be requested of the applicant; however, in the course of processing the application, the responsible City department may request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application. This provision shall not be so construed as to require an applicant to submit with the initial application, the entirety of the information that the responsible City department may require in order to facilitate final action on the application.

(2) Prior to accepting an application as complete for processing, the responsible City department shall inform the applicant of any information included in the list prepared pursuant to Subparagraph C.1.b(1), above, which will subsequently be required from the applicant in order to complete final action on the application.

(3) The provisions of this Subsection shall not be construed as limiting the ability of the responsible City department to request and obtain information that may be needed in order to comply with the provisions of PRC Division 13 (commencing with Section 21000).

2. Investigation. Following acceptance of an application as complete for processing, the responsible City department shall investigate the facts bearing on the application and provide the information necessary for action or determination, consistent with this Development Code and The Ontario Plan, which shall be reported to the Approving Authority.

3. Review and Action.

a. The Approving Authority shall review the application and shall then approve, approve in modified form, or deny the application. The decision of the Approving Authority shall be final and conclusive in the absence of an appeal filed pursuant to the provisions of Division 2.04 (Appeals) of this Development Code.

b. The Approving Authority shall act on a ministerial approval request within 60 days following acceptance of an application as complete for processing pursuant to Paragraph C.1 (Initial Review for Application Completeness), above. The 60-day time limit may be extended by mutual agreement of the applicant and City.

4. Effective Date of Approving Authority Action. A ministerial permit or action shall become effective immediately upon Approving Authority action. An Approving Authority action

to approve or deny a ministerial permit or decision shall be immediately suspended upon the filing of an appeal pursuant to Division 2.04 (Appeals) of this Development Code.

2.02.020: Environmental Review

A. Purpose. The purpose of this Section is to assist the City in accomplishing the basic objectives of CEQA, as follows:

1. Enhance and provide long-term protection for the environment, while providing a decent home and satisfying living environment for every Californian;
2. Provide information to governmental decision-makers and the public regarding the potential significant environmental effects of the proposed project;
3. Provide an analysis of the environmental effects of future actions associated with a project in order to adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project;
4. Identify ways that environmental damage can be avoided or significantly reduced;
5. Prevent significant avoidable environmental damage through utilization of feasible project alternatives or mitigation measures; and
6. Provide full public disclosure of the City's basis for project approval in the manner chosen. Public participation is an essential part of the CEQA process. Each public agency should encourage wide public involvement, formal and informal, in order to receive and evaluate public reactions to environmental issues related to a public agency's activities. The involvement should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.

B. Applicability. The provisions of this division shall apply to any activity of the City that is determined to be a "project" pursuant CEQA (PRC Section 21000 through Section 21178) and the CEQA Guidelines (CCR Section 15000 through Section 15387).

C. CEQA Implementation. Local guidelines for the implementation of CEQA shall be adopted by Resolution of the City Council. The guidelines may be changed or modified only by resolution of the City Council.

D. Environmental Review. The City of Ontario shall conduct an environmental review of any activity within the City that constitutes a "project" pursuant CEQA, the CEQA Guidelines and the City's local guidelines for the implementation of CEQA. Depending upon the nature and scope of a "project," it may be found to be exempt from further environmental review, or a negative declaration, mitigated negative declaration or environmental impact report may be required to be completed. Negative declarations, mitigated negative declarations and environmental impact reports shall be prepared pursuant to the requirements of CEQA and the implementing guidelines, and City's local guidelines for the implementation of CEQA.

2.02.025: Time Limits and Extensions

A. Time Limits. Discretionary permits/actions granted pursuant to this Division shall become invalid if not exercised within the below-listed timeframes:

1. Generally. Unless otherwise stipulated by the conditions of approval, a discretionary permit/action shall become invalid if not exercised within 12 months following the effective date of application approval, except as specified in Paragraphs A.2 through A.6, below, unless extended by time extension pursuant to Subsection B (Time Extensions) of this Section.

2. Development Plan. Unless otherwise stipulated by the conditions of approval, a Development Plan shall become invalid if not exercised within 24 months following the effective date of application approval, unless extended by time extension pursuant to Subsection B (Time Extensions) of this Section.

3. Tentative Subdivision Map. A Tentative Tract or Parcel Map shall become invalid if not exercised within the time limits specified by GC Section 66452.6.

4. Vesting Tentative Maps.

a. A vesting tentative map shall become invalid if not exercised within the time limits specified by Paragraph A.3 (Tentative Subdivision Map), above.

b. If a final tract map is approved prior to the expiration of the vesting tentative map, the tentative map vesting rights for the final tract map area shall last for the periods listed below:

(1) An initial period of 12 months following recordation of the final tract map. Where several final tract maps are recorded on phases of a project covered by a single vesting tentative map, the 12-month period for each final tract map shall begin on the date of recordation of that final tract map;

(2) The initial period set forth in Subparagraph A.4.b.(1), above, shall be automatically extended by any time used by the City for processing a complete application for a grading permit or for design or architectural review, if such processing exceeds 30 days; provided, that the extension shall only be for the number of days in excess of 30 days; and

(3) If during the 24-month period following approval of a final tract map or parcel map, the City receives a complete application for a building permit and the subdivider has satisfied all requirements for the issuance of a building permit, the right to proceed with development in accordance with the tentative map shall continue until the expiration of the building permit.

5. Expiration of Vesting Development Rights. Vesting development rights shall expire if a final map is not filed for approval prior to the expiration of the vesting tentative map, as provided in Paragraph A.6 (Vesting Tentative Maps) of this Section. If the final map is approved, these rights shall last for the following time periods, extending beyond the recording of the final map:

a. An initial period of 12 months, except that where several final maps are recorded for various project phases of a single vesting tentative tract map, this initial time period shall begin with each phase, when the final map for that phase is recorded;

b. The initial time period set forth in Subparagraph A.6.b(1) of this Section shall be automatically extended by any time used for processing a complete application for a grading permit or for design or architectural review, if the processing exceeds 30 days from the date a complete application is filed;

c. A subdivider may apply for a 12-month extension at any time before the initial expiration date for map approval; and

d. If the subdivider submits a complete application for a building permit during the time periods specified in Subparagraphs A.5.a through A.5.c, above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.

6. Certificate of Appropriateness. A Certificate of Appropriateness granted pursuant to this Division shall become invalid if not exercised within the time limit specified by the conditions of approval, or within 24 months if no time limit has been specified.

7. Phased Projects.

a. Wherein a project involves the construction of multiple phases over an extended period, and the conditions of approval do not specify a time limit differing from Paragraphs A.2 through A.5, above, the portion of entitlement applicable to a particular phase shall be deemed exercised through the issuance of a building permit for that phase. The remainder of the entitlement related to further construction shall expire 12 months following building permit expiration, final building inspection, or Certificate of Occupancy issuance for the previous construction phase, unless extended pursuant to Subsection B, below.

b. A building permit may be issued for a subsequent phase if no more than 12 months have lapsed since a Certificate of Occupancy was issued for the previous phase and the applicant is diligently pursuing the project toward completion. However, if more than 12 months have lapsed since Certificate of Occupancy issuance or final inspection has occurred for the previous phase, and the entitlement was not extended pursuant to Subsection B, below, the entitlement granting the construction of any subsequent phases shall be deemed invalid and no further building permits shall not be issued, unless a time extension is granted pursuant to Section 2.02.025 (Time Limits and Extensions) of this Division.

8. Projects Involving Pending Litigation. The time limits specified in Paragraphs A.1 through A.5, above, including any time extension granted pursuant to Subsection B, below, shall not include the period of time during which a lawsuit involving the approval or conditional approval of a discretionary permit is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the Approving Authority pursuant to this Division. After service of the initial petition or complaint in the lawsuit upon the City, the applicant, or property owner if different from the applicant, may apply to the local agency for a Stay of Permit Approval Time Limit. Within 40 days after receiving the application, the Review Authority may stay the time limit for up to 5 years.

9. Definition. For the purposes of this Section, the term "exercised" shall mean the following:

a. The applicant, or property owner if different from the applicant, has completed or fulfilled all conditions of approval imposed upon the permit or action by the Approving Authority; and

b. In the case of permits or actions pertaining to a development project approval, a Building Permit shall have been issued and construction shall have been diligently pursued toward project completion. In the case of permits or actions pertaining to a land use approval, the approved use shall have commenced. In the case of a Merger of Contiguous Parcels, Reversion to Acreage, or Tentative Subdivision Map, the Merger, Reversion, or Final Subdivision Map shall have been recorded at the office of the San Bernardino County Recorder.

B. Time Extensions. The time limits within which a discretionary permit or action must be exercised, may be extended as follows:

1. Project Applicant or Property Owner Requested Time Extension. The project applicant, or property owner if different from the applicant, may file a time extension request, together with any required filing fees, with the City (Planning Department or Engineering Department, as applicable) prior to the expiration date of the approved discretionary permit or action, which shall then be acted upon as follows:

a. The Approving Authority may grant a time extension upon determination of the following:

(1) Each of the findings and conditions of the original approval are still applicable to the project and there are no changed circumstances;

(2) The time extension will not adversely affect the public health, safety or welfare; and

(3) There has been diligent pursuit to exercise the permit or action for which an extension is being requested.

b. The burden of proof shall lie with the permittee to establish with substantial evidence that the approval for which the time extension is requested should not be allowed to expire. If the Approving Authority determines that the permittee has good-faith intent to commence with the proposed project, the Approving Authority may grant a time extension.

c. A discretionary permit or action may be granted time extensions for a period or periods not to exceed a total of 5 years, excepting tentative subdivision maps which shall be subject to the provisions of GC Section 66452.6.

2. Blanket Time Extensions Granted by the City Council.

a. In addition to the time extensions allowed pursuant to Paragraph B.1 of this Section, the City Council may, by resolution, grant time extensions for discretionary permits and actions, as identified in Table 2.02-1 (Review Matrix) of this Division, to benefit homeowners, developers, landowners, and business owners within the City that may be negatively affected by economic slowdown/downturn or recession.

b. A blanket time extension shall be applicable only to those permits and actions that have not expired prior to the date that the time extension is granted.

2.02.030: Failure by Applicant to Complete Application Processing

- A. Within 180 days following a written request by the City for plan changes, corrections, revisions, or the submittal of additional information, an application shall be deemed withdrawn if the Planning Director determines that the applicant has not made reasonable progress toward providing necessary plan changes or corrections, or additional information. Application processing shall not resume thereafter until a new application is filed, including fees, plans, exhibits, and other materials required for any project on the same site.
- B. Upon written request of the applicant, the Planning Director may order the refund of all or a portion of filing fees pursuant to Section 2.02.010.C (Refunds and Withdrawals) of this Division.

2.02.035: Limitations on Application Refiling

A final action denying an application shall prohibit the further filing of the same or a substantially similar application for a period of not less than 12 months following the date of application denial, except that an application denied without prejudice may be resubmitted within the 12-month period following application denial.

2.02.040: Indemnification

It shall be a condition of any application approved pursuant to this Division, or any approval or certification required pursuant to CEQA or the CEQA Guidelines, that a property owner or applicant, if different from the property owner, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees:

- A. From any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul the City's decision to approve any development, land use permit, and/or approvals and certifications under CEQA, but excluding any subdivision approval governed by GC Section 66474.9. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the City, if any, and the cost of any suit, attorney's fees, and/or other costs, liabilities, and expenses incurred in connection with a lawsuit, whether incurred by the applicant, the City, and/or the parties initiating or bringing a lawsuit;
- B. For all costs incurred in additional investigation and/or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as, but not limited to, a negative declaration, mitigated negative declaration, environmental impact report, general plan amendment, specific plan, or specific plan amendment), if made necessary by a lawsuit and if the applicant desires to pursue securing approvals that are condition of application approval, after initiation of a lawsuit; and
- C. For all costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in Subsections A and B of this Section.

Division 2.03—Public Hearings

Sections:

- 2.03.000: Purpose
- 2.03.005: Applicability
- 2.03.010: Public Hearing Notices
- 2.03.015: Public Hearing Procedures
- 2.03.020: Request for Notification
- 2.03.025: Failure to Receive a Public Notice
- 2.03.030: Cemeteries

2.03.000: Purpose

The purpose of this Division is to implement GC Division 1, Chapter 2.7 (commencing with GC Section 65090), which governs public hearing and notification procedures for consideration of legislative actions, discretionary land use and development entitlements, and discretionary administrative actions. Public hearings are not required for nondiscretionary administrative permits, decisions and actions; however, public notice may be required pursuant to this Division.

2.03.005: Applicability

- A.** A public hearing for a legislative action, land use or development entitlement, or any other matters pertaining to this Development Code requiring a public hearing pursuant to GC Division 1, Chapter 2.7 (commencing with GC Section 65090), shall be scheduled and heard in accordance with the provisions of this Division.
- B.** Public hearing notification for legislative actions, land use or development entitlements, or administrative permits, decisions, or actions shall be provided in the manner prescribed by Table 2.03-1 (Notification Matrix), below.

Table 2.03-1: Notification Matrix

Applications, Actions, Decisions And Processes	Required Method of Public Notification			
	Not Required	Newspaper or Posting [2]	First Class Mail or Delivery [2]	Newspaper—1/8 page advertisement if the number of property owners to whom notices would be mailed or delivered is greater than 1,000
A. LEGISLATIVE ACTIONS				
1. Airport Land Use Compatibility Plan and Amendments [1] (Ref: ODC Section 4.01.010)		X	X	X
2. Development Agreements [1] (Ref: ODC Section 4.01.015)		X	X	X

Table 2.03-1: Notification Matrix

Applications, Actions, Decisions And Processes	Required Method of Public Notification			
	Not Required	Newspaper or Posting [2]	First Class Mail or Delivery [2]	Newspaper—1/8 page advertisement if the number of property owners to whom notices would be mailed or delivered is greater than 1,000
3. Development Code Amendments [1] (Ref: ODC Section 4.01.020)				X
4. Amendment to the Policy Plan (General Plan) Component of The Ontario Plan [1] (Ref: ODC Section 4.01.025)		X	X	X
5. Planned Unit Developments and Amendments [1] (Ref: ODC Section 4.01.030)		X	X	X
6. Specific Plans and Amendments [1] (Ref: ODC Section 4.01.035)		X	X	X
7. Williamson Act Contract Cancellations [1] (Ref: GC Section 51200 et.seq.)		X	X	X
8. Zone Changes [1] (Ref: ODC Section 4.01.040)		X	X	X
B. DISCRETIONARY PERMITS AND ACTIONS				
1. Administrative Exceptions (Ref: ODC Section 4.02.020.C)	X			
2. Billboard Relocation Agreements [1] (Ref: ODC Section 4.02.010)	X			
3. Conditional Use Permits (Ref: ODC Section 4.02.015)				
a. Hotels, Motels and Residence Inns [1]		X	X	
b. Use established in conjunction with a Development Plan [1]		X	X	
c. Use established within an existing structure [1]		X	X	
d. Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1]		X	X	
e. Revocation due to abandonment of use per ODC Division 2.05 (City Initiated Modification or Revocation) [1]		X	X	
4. Density Bonus and Other Incentives per ODC Section 6.01.010.G (Density Bonus and Other Incentives) [1]		X	X	

Table 2.03-1: Notification Matrix

Applications, Actions, Decisions And Processes	Required Method of Public Notification			
	Not Required	Newspaper or Posting [2]	First Class Mail or Delivery [2]	Newspaper—1/8 page advertisement if the number of property owners to whom notices would be mailed or delivered is greater than 1,000
5. Development Plans (Ref: ODC Section 4.02.025)				
a. Residential developments totaling 5 or more dwelling units or the development of 3 or more dwelling units on a single lot or parcel		X		
b. Commercial developments, and developments in the CIV, OS-R, OS-C and UC zoning districts, greater than 500 SF in area		X		
c. Industrial developments equal to or less than 0.45 FAR		X		
d. Industrial developments exceeding 0.45 FAR		X		
e. Wireless telecommunications facilities pursuant to Section 5.03.415 (Wireless Telecommunications Facilities) of this Development Code				
(1) Tier 2 facilities		X		
(2) Tier 3 facilities [1]		X	X	
f. All others		X		
6. Extensions of Legal Nonconforming Status [1] (Ref: ODC Section 4.02.030)		X	X	
7. Fair Housing and Reasonable Accommodation [1] (Ref: ODC Section 4.02.035)		X	X	
8. Historic Preservation				
a. Certificates of Appropriateness (Ref: ODC Section 4.02.050)				
(1) Designated Historic Landmarks and Contributors, and Architectural Conservation Areas; and Demolition of an Historic Resource [1]		X	X	
(2) Deferral of Replacement Structure [1]		X	X	
(3) Eligible Historic Resources [1]		X	X	
(4) Modification or revocation per ODC Division 2.05 (City initiated Modification or Revocation) [1]		X	X	
(5) Waivers and Minor Improvements	X			

Table 2.03-1: Notification Matrix

Applications, Actions, Decisions And Processes	Required Method of Public Notification			
	Not Required	Newspaper or Posting [2]	First Class Mail or Delivery [2]	Newspaper—1/8 page advertisement if the number of property owners to whom notices would be mailed or delivered is greater than 1,000
b. Certificates of Economic Hardship [1] (Ref: ODC Section 4.02.055)		X	X	
c. Certificates of Economic Hardship—Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1]		X	X	
d. Conservation Plans (Ref: ODC Section 4.02.060)		X		
e. Historic Resource Tiering (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045)		X		
f. Local Historic Landmark and Local District Designations, and Architectural Conservation Areas (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045)		X		
g. Mills Act Contracts (Ref: ODC Section 4.02.065)		X		
h. Mills Act Cancellations [1]		X	X	
i. Addition/Removal of Resources to/from the Ontario Register (Ref: ODC Section 4.02.045)				
(1) At the request of the property owner, or upon City initiation if the most recently prepared Historic Resource Survey evaluating the resource is more than 5 years old.	X			
(2) Loss of all historic and/or cultural significance due to a catastrophe causing a loss of integrity, or due to extensive legally performed alterations performed after the property was initially surveyed.	X			
9. Interpretations and Land Use Determinations (Ref: ODC Section 1.02.010)	X			
10. Master Plans and Amendments [1] (Ref: ODC Section 4.02.070)		X	X	X
11. Minor Variances [5] (Ref: ODC Section 4.02.020.D)		X	X	
12. Nonconforming Structure Reconstruction [1] (Ref: ODC Section 3.01.020)		X	X	

Table 2.03-1: Notification Matrix

Applications, Actions, Decisions And Processes	Required Method of Public Notification			
	Not Required	Newspaper or Posting [2]	First Class Mail or Delivery [2]	Newspaper—1/8 page advertisement if the number of property owners to whom notices would be mailed or delivered is greater than 1,000
13. Parking Reduction (Ref: ODC Section 6.03.025)	X			
14. Sign Programs (Ref: ODC Section 4.02.075)	X			
15. Specific Plan Minor Amendments (Ref: ODC Section 4.02.080)	X			
16. Stays of Permit Approval Time Limit (Ref: ODC Section 2.02.025.A.8)	X			
17. Subdivisions				
a. Lot Merger (Merger of Contiguous Parcels) [1] (Ref: ODC Section 4.02.085)		X	X	
b. Reversions to Acreage [1] (Ref: ODC Section 4.02.090)		X	X	
c. Tentative Tract and Parcel Maps, and Vesting Maps [1] (Ref: ODC Section 4.02.095)		X	X	
d. Tentative Tract and Parcel Map Time Extensions (Ref: ODC Section 2.02.025.A.3 & 4)		X		
18. Time Extensions, excepting tentative subdivision maps (Ref: ODC Section 2.02.025)	X			
19. Variances (Ref: ODC Section 4.02.020.E)				
a. Homeowner [1]		X	X	
b. Other [1]		X	X	
C. MINISTERIAL (ADMINISTRATIVE) PERMITS AND DECISIONS				
1. Administrative Use Permit (Ref: ODC Section 4.02.015)	X			
2. Airport Land Use Compatibility Plan (ALUCP) Interagency Reviews [3] (Ref: ALUCP)	X			
3. Landscape and Irrigation Documentation Plans (Ref: ODC Section 6.05.015)	X			
4. Off-Site (Public) Improvement Plans (Ref: ODC Section 6.08.040)	X			
5. Sign Plans (Ref: ODC Section 4.03.020)	X			

Table 2.03-1: Notification Matrix

Applications, Actions, Decisions And Processes	Required Method of Public Notification			
	Not Required	Newspaper or Posting [2]	First Class Mail or Delivery [2]	Newspaper—1/8 page advertisement if the number of property owners to whom notices would be mailed or delivered is greater than 1,000
6. Subdivisions				
a. Certificates of Compliance (Ref: ODC Section 4.03.025)	X			
b. Final Tract and Parcel Maps, and Vesting Maps (Ref: ODC Section 4.03.030)	X			
c. Lot Line Adjustments (Ref: ODC Section 4.03.035)	X			
d. Map Corrections and Amendments (Ref: ODC Section 4.03.040)	X			
e. Subdivision Improvement Agreement (Ref: ODC Section 6.08.040.G)	X			
7. Tier 1 wireless telecommunications facility pursuant to ODC Section 5.03.415 (Wireless Telecommunications Facilities)	X			
D. ENVIRONMENTAL DETERMINATIONS AND ACTIONS				
1. Environmental Impact Reports (EIRs) (Ref: CCR Section 15080 et seq.)		X	X	X
2. Exempt Projects (Ref: CCR Section 15300 et seq.)	X			
3. Ministerial Projects (Ref: CCR Section 15268)	X			
4. Negative Declarations (NDs) and Mitigated Negative Declarations (MNDs) (Ref: CCR Section 15070 et seq.)		X		
5. Addendums to previously certified EIRs and previously adopted NDs and MNDs (Ref: CCR Section 15164)	X			

Notes:

- [1] Public hearing is required.
- [2] Notification shall not be required for Development Advisory Board or Historic Preservation Subcommittee hearings when acting in the capacity of an Advisory Authority.
- [3] A Large Family Day Care facility shall require notification pursuant to Subparagraph 2.03.010.C.1.b(1) of this Division.
- [4] Refer to the LA/Ontario International Airport Land Use Compatibility Plan for procedures for application processing and administration, and appeals processing.
- [5] A Minor Variance shall require notification pursuant to Paragraph 4.02.020.D.3 (Application Filing, Processing and Hearing) of this Development Code.

2.03.010: Public Hearing Notification

A. Public hearing notices shall contain the following minimum information:

1. A general description, in text or by diagram, of the location of the real property that is the subject of the hearing;
2. Time, place and location of the public hearing;
3. A general description of the matter to be considered;
4. A statement indicating that additional application materials and documentation are on file with the City of Ontario and where such additional project information may be viewed or obtained;
5. A statement that any interested person may appear at the hearing or submit written material prior to the commencement of the hearing; and
6. The identity of the hearing body or officer.

B. A notice for a public hearing conducted by the City Council cannot be published in advance of a public hearing conducted by the Planning Commission pursuant to Table 2.02-1 (Review Matrix) of this Development Code, as the public hearing notice must include the recommendation of the Planning Commission.

C. Public hearing notices shall be given a minimum of 10 days in advance of any hearing and shall be distributed in one of the following methods, as necessary:

1. First Class Mail or delivery to:
 - a. Any person filing a request to the Planning Department to receive such notices; and
 - b. All owners of real property located within 300 FT of the exterior boundaries of the property that is the subject of the hearing, as shown on the last equalized assessment roll, or records of the county assessor or tax collector if those records contain more recent information than the information contained on the assessment roll, except that:
 - (1) For large family daycare facilities, the area of notification shall be within 100 FT of the exterior boundaries of the property that is the subject of the hearing; and
 - (2) For wireless telecommunications facilities located 500 FT or less from residentially zoned property, the area of notification shall be within 500 FT of the exterior boundaries of the property that is the subject of the hearing.
 - c. The owner's duly authorized agent, if any; and
 - d. The project applicant; and
 - e. Any owner of a mineral right pertaining to the subject real property who has recorded a notice of intent to preserve the mineral right pursuant to CC Section 883.230; and

f. Each local agency expected to provide water, sewage, streets, roads, schools or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.

2. If the number of owners to whom notice would be mailed or delivered pursuant to Subparagraph C.1.b of this Section, is greater than 1,000, in lieu of mailed or delivered notice, a display advertisement of at least 1/8 page may be placed in at least one newspaper of general circulation within the City of Ontario.

3. If notice is mailed or delivered pursuant to Subparagraph C.1.b of this Section, notice shall also be published in at least one newspaper of general circulation in the City or, if there is no such newspaper of general circulation, the notice shall be posted in at least 3 public places within the boundaries of the City, including the subject site.

4. In addition to the public noticing required by Paragraphs C.1 through C.3 of this Section, the City may give notice of a hearing in any other manner deemed necessary or desirable by the Planning Director.

D. Notices required in accordance with the CEQA shall be prepared and advertised in accordance with the *City of Ontario Guidelines for the implementation of the California Environmental Quality Act*.

E. If an applicant or affected person requests a public hearing regarding a Large Family Child Day Care application pursuant to Subsection 5.03.100.B (Family Child Day Care, Large Family) of this Development Code, the noticing requirements prescribed by Subsections A through C of this Section shall be fulfilled.

2.03.015: Public Hearing Procedures

A. At any public hearing held pursuant to the provisions of this Division, the Advisory, Approving or Appeal Authority shall hear the applicant, appellant, and any interested persons. The Advisory, Approving or Appeal Authority may restrict the oral presentation by any person to a time period established in the rules and procedures of the Authority, and may preclude the introduction of any evidence determined to be irrelevant to the public hearing. However, an Advisory, Approving or Appeal Authority shall receive any person's written statement.

B. In the event that an Advisory, Approving or Appeal Authority has obtained evidence outside of the hearing, the information shall be placed into the record. Thereafter, the applicant, appellant or any interested person may rebut the information and shall be entitled to a continuance for that purpose; however, no person may examine an Advisory, Approving or Appeal Authority.

C. Any action or decision of an Advisory, Approving or Appeal Authority shall require a majority vote of its attending members. An abstention by any member who is present at the hearing, and has heard all presented evidence, shall constitute an affirmative vote on any motion regarding the application.

D. When an action or decision of an Approving Authority is anticipated to be contested, the City shall insure that a verbatim record of the hearing is made and duly preserved, provided that a written request is submitted to the City, along with a deposit equal to the total anticipated cost of preparing the record, at least 5 days prior to the date of the hearing. If the actual cost to

prepare the record is greater than the provided deposit, the difference (amount owed) shall be paid to the City prior to the record being made available. The City shall return any unused portion of the deposit following completion of the record.

E. Any public hearing conducted pursuant to this Section may be continued from time-to-time. If a hearing is continued at the request of an applicant or appellant, the continuance shall constitute a waiver of any applicable time period in which to take action or render a decision.

F. Any action or decision of the Approving Authority shall be final and conclusive, unless appealed pursuant to the provisions of Division 2.04 (Appeals) of this Development Code.

2.03.020: Request for Notification

Wherein notice of a public hearing is required pursuant to Section 2.03.010 (Public Hearing Notices) of this Division, the notice shall also be mailed or delivered at least 10 days prior to the hearing to any person who has filed a written request for such notice with either the city clerk or the Planning Department.

2.03.025: Failure to Receive a Public Notice

Pursuant to GC Section 65093, the failure of any person or entity to receive notice given pursuant to this Division shall not constitute grounds for any court to invalidate the actions of the Approving Authority for which the notice was given.

2.03.030: Cemeteries

Wherein an application is submitted for a Development Code Amendment, General Plan Amendment, Specific Plan Amendment, Variance, Conditional Use Permit, Development Plan, or any entitlement for use which would permit all or any part of a cemetery, as defined in HSC Section 8100, to be used for other than cemetery purposes, the City shall give notice pursuant to Section 2.03.010 (Public Hearing Notices) of this Division. Those persons requesting notice shall be notified by the City at the address provided at the time of the request.

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Division 2.04—Appeals

Sections:

- 2.04.000: Purpose
- 2.04.005: Applicability
- 2.04.010: Appeals
- 2.04.015: Planning Commission Right to Direct that a Decision or Action of the Zoning Administrator or Development Advisory Board be Further Considered
- 2.04.020: City Council Right to Direct that a Decision or Action of the Planning Commission, Zoning Administrator, or Development Advisory Board be Further Considered

2.04.000: Purpose

The purpose of this Division is to implement GC Section 65903, which governs the establishment of procedures for the filing, processing and hearing of appeals on actions or decisions of a City department, agency, or Approving Authority.

2.04.005: Applicability

Any person having legal standing, including but not limited to an applicant, resident, business owner, or any person owning real property within the City, that is aggrieved by an interpretation, action or decision made pursuant to this Development Code by any City agency or department, or by an Approving Authority, may appeal such action to the Appeal Authority in accordance with the provisions of this Division.

2.04.010: Appeals

A. Appeal Authority.

1. The Appeal Authority for all legislative actions, discretionary permits and actions, and ministerial permits and decisions, is hereby established pursuant to Table 2.02-1 (Review Matrix) of this Development Code.

2. The Appeal Authority for an administrative interpretation, action, or decision made by any City agency or department head regarding any matter prescribed or governed by this Development Code may be appealed to the Planning Commission, except as otherwise prescribed by this Development Code.

B. Appeal Procedure.

1. An appeal request shall be filed with the Planning Department on a City application form, along with any appropriate fees established by resolution of the City Council, within 10 days following the action or decision being appealed. The appeal shall include a statement identifying the specific action or decision of the Approving Authority that is being appealed, the specific grounds for the appeal, and the relief requested from the Appeal Authority.

2. An appeal of an action or decision by the Approving Authority shall be limited to those matters raised during the hearing and contained in the appeal statement. The Appeal Authority shall not consider any matter that was not raised during the hearing before the Approving Authority, and contained in the appeal statement.

3. Upon receipt of an appeal request, copies of the request and supporting information shall be conveyed to the Appeal Authority within 45 days (30 days for a tentative subdivision map) following the filing of the appeal request. The Appeal Authority shall set the matter for hearing, which shall be noticed and conducted pursuant to Division 2.03 (Public Hearings) of this Development Code.

4. Upon receipt of an appeal request, the Planning Director shall prepare the record on the subject matter of the appeal, including any staff reports and meeting minutes, and transmit the record to the Appeal Authority. The Planning Director shall also prepare a written report responding to the appeal statement, containing a recommendation on the appeal and appropriate findings supporting the recommendation, along with any appropriate conditions of approval. The report shall be made available to the Appellant at least 72 hours prior to the hearing before the Appeal Authority.

5. Within 30 days (10 days for a tentative subdivision map) following the conclusion of the hearing, the Appeal Authority shall render its decision on the appeal. The Appeal Authority may deny the appeal, or may grant the appeal in whole or in part, along with any conditions it deems necessary to protect the public health, safety and general welfare. The decision shall include all required findings.

2.04.015: Planning Commission Right to Direct Further Consideration of a Zoning Administrator or Development Advisory Board Action

A. Agendas of Zoning Administrator and Development Advisory Board hearings shall be provided to the Planning Commission at least 72 hours prior to the date of the hearing.

B. Within 10 days following any decision or action of the Zoning Administrator or Development Advisory Board, the Planning Commission may call-up such decision or action for further consideration.

C. Upon calling-up a decision or action pursuant to Subsection B, above, the Planning Commission shall set the matter for hearing, which shall be noticed and conducted pursuant Division 2.03 (Public Hearings) of this Development Code. The hearing shall proceed pursuant to Subsection 2.04.010.B (Appeal Procedure) of this Division.

D. The Planning Commission may affirm, reverse, or modify the decision or action being reconsidered. The Planning Commission's decision shall be final and conclusive in the absence of an appeal filed pursuant to this Division.

2.04.020: City Council Right to Direct Further Consideration of a Planning Commission, Zoning Administrator, or Development Advisory Board Action

A. All agendas for Zoning Administrator, Development Advisory Board and Planning Commission hearings shall be provided to the City Council at least 72 hours prior to the date of the hearing.

- B.** Within 10 days following any decision or action of the Planning Commission, Zoning Administrator, or Development Advisory Board, the City Council may direct that such decision or action be sent to the Planning Commission for further consideration.
- C.** Within 10 days following any decision or action of the Planning Commission, the City Council may call-up such decision for further consideration.
- D.** Upon sending or calling-up a decision or action pursuant to Subsections B and C of this Section, the applicable hearing body shall set the matter for hearing, which shall be noticed and conducted pursuant to Division 2.03 (Public Hearings) of this Development Code. The hearing shall proceed pursuant to Section 2.04.010.B (Appeal Procedure) of this Division.
- E.** The Planning Commission or City Council may affirm, reverse, or modify the decision or action being reconsidered. The Planning Commission's decision shall be final and conclusive, unless appealed to the City Council pursuant to Section 2.04.010 (Appeals) of this Division. The City Council's decision shall be final and conclusive.

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Division 2.05—City Initiated Modification or Revocation

Sections:

- 2.05.000: Purpose
- 2.05.005: Applicability
- 2.05.010: Procedures for Disciplinary or Punitive Modification or Revocation
- 2.05.015: Procedures for Conditional Use Permit Revocation Due to Abandonment of Use

2.05.000: Purpose

The purpose of this Division is to:

- A.** Establish procedures for securing disciplinary or punitive modification or revocation of a previously granted Conditional Use Permit, or Historic Preservation—Certificate of Appropriateness or Certificate of Economic Hardship; and
- B.** Establish procedures for the revocation of Conditional Use Permits, for which the land use granted has been abandoned.

2.05.005: Applicability

A. Conditional Use Permit.

1. Disciplinary or Punitive Modification.

a. The Approving Authority shall have authority to add, delete, or modify conditions of approval imposed upon a previously granted Conditional Use Permit, based upon one or more of the following causes of action:

(1) The Conditional Use Permit granted is being, or has recently been exercised contrary to the terms and/or conditions of application approval;

(2) The Conditional Use Permit granted is being, or has recently been exercised in violation of a federal, State or City statute, ordinance, law, or regulation; and/or

(3) The Conditional Use Permit granted was exercised in a way that is detrimental to the public peace, health, safety, or welfare, or constitutes a nuisance.

b. The action to modify a Conditional Use Permit shall have the effect of changing the physical and/or operational aspects of the Conditional Use Permit. The changes may include the physical and/or operational aspects related to noise, buffers, duration of the permit, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect or condition determined to be reasonable and necessary to ensure that the Conditional Use Permit is implemented in a manner consistent with the original findings for approval, and all conditions of project approval.

2. Disciplinary or Punitive Revocation.

a. The Approving Authority shall have authority to revoke a Conditional Use Permit, based upon one or more of the following causes of action:

- (1) The Conditional Use Permit approval was obtained by fraud;
- (2) The Conditional Use Permit granted is not being exercised, has ceased to exist, or has been suspended for more than 180 consecutive days;
- (3) The Conditional Use Permit granted is being, or has recently been exercised contrary to the terms and/or conditions of application approval;
- (4) The Conditional Use Permit granted is being or has been exercised in violation of a federal, State or City statute, ordinance, law, or regulation; and/or
- (5) The Conditional Use Permit granted was exercised in a way that is detrimental to the public peace, health, safety, or welfare, or constitutes a nuisance.

b. The Approving Authority's action to revoke a Conditional Use Permit shall have the effect of terminating the permit and denying the privileges granted by the original approval and any subsequent modifications.

3. Revocation of Due to Abandonment of Use. A Conditional Use Permit granting a land use that is not being exercised, has ceased to exist, or has been suspended for more than 180 consecutive days, may be deemed to be abandoned (cause of action) and may be revoked solely on the basis of its abandonment.

B. Historic Preservation—Certificate of Appropriateness or Certificate of Economic Hardship.**1. Disciplinary or Punitive Modification.**

a. The Approving Authority shall have authority to add, delete, or modify conditions of approval imposed upon a previously granted Certificate of Appropriateness or Certificate of Economic Hardship, based upon one or more of the following causes of action:

- (1) The Certificate of Appropriateness or Certificate of Economic Hardship granted is being, or has recently been exercised contrary to the terms and/or conditions of certificate approval;
- (2) The Certificate of Appropriateness or Certificate of Economic Hardship granted is being, or has recently been exercised in violation of a federal, State or City statute, ordinance, law, or regulation; and/or
- (3) The Certificate of Appropriateness or Certificate of Economic Hardship granted was exercised in a way that is detrimental to the public peace, health, safety, or welfare, or constitutes a nuisance.

b. The action to modify a Certificate of Appropriateness or Certificate of Economic Hardship shall have the effect of changing the physical aspects of the certificate, such as landscaping and irrigation, lighting, parking, performance guarantees, property maintenance, signs, paving, or any other aspect or condition determined to be reasonable and necessary to

ensure that the certificate is implemented in a manner consistent with the original findings for approval, and all conditions of project approval.

2. Disciplinary or Punitive Revocation.

a. The Approving Authority shall have authority to revoke a Certificate of Appropriateness or Certificate of Economic Hardship, based upon one or more of the following causes of action:

(1) The Certificate of Appropriateness or Certificate of Economic Hardship approval was obtained by fraud;

(2) The Certificate of Appropriateness or Certificate of Economic Hardship granted is not being exercised;

(3) The Certificate of Appropriateness or Certificate of Economic Hardship granted is being, or has recently been exercised contrary to the terms and/or conditions of application approval;

(4) The Certificate of Appropriateness or Certificate of Economic Hardship granted is being or has been exercised in violation of a federal, State or City statute, ordinance, law, or regulation; and/or

(5) The Certificate of Appropriateness or Certificate of Economic Hardship granted was exercised in a way that is detrimental to the public peace, health, safety, or welfare, or constitutes a nuisance.

b. The Approving Authority's action to revoke a Certificate of Appropriateness or Certificate of Economic Hardship shall have the effect of terminating the certificate and denying the privileges granted by the original approval and any subsequent modifications.

2.05.010: Procedures for Disciplinary or Punitive Modification or Revocation

A. Initiation of Modification or Revocation.

1. Conditional Use Permit. It shall be the responsibility of the Zoning Administrator to determine whether reasonable grounds exist to initiate a Conditional Use Permit modification or revocation.

2. Certificate of Appropriateness or Certificate of Economic Hardship. It shall be the responsibility of the Historic Preservation Subcommittee to determine whether reasonable grounds exist to initiate a Certificate of Appropriateness or Certificate of Economic Hardship modification or revocation.

B. Hearing Notification. Upon determination that reasonable grounds exist to initiate a permit or certificate modification or revocation, the City shall:

1. Schedule a hearing before the Approving Authority, which shall be noticed pursuant to Division 2.03 (Public Hearings) of this Development Code, based upon the type of application being considered (Note: If Division 2.03 (Public Hearings) does not require public

notification for the application type being considered, no public notice shall be required for the modification/revocation hearing); and

2. Serve the affected applicant(s) and property occupant(s), and property owner if different from the applicant(s) or property occupant(s), with a *Notice of Commencement of Modification/Revocation Proceedings*. The notice shall be sent by certified mail at least 10 days prior to the public hearing date, and shall contain the following minimum information:

a. A description of the subject property, including street address, Assessor Parcel Number(s) or legal description;

b. The name(s) of the owner, and name(s) of occupants if different from the owner;

c. The project file number and date of issuance;

d. A description of the authorized land use or development entitlement, or discretionary administrative permit;

e. Statements supporting one or more of the causes of action contained in Section 2.05.005 (Applicability) of this Division;

f. A statement that the Approving Authority will hold a public hearing within 60 days following the date of the Notice, to determine whether sufficient cause exists and that the Approving Authority, at the conclusion of the hearing, may either revoke the entitlement or permit, or take other action as deemed appropriate to ensure entitlement or permit compliance;

g. A statement that the applicant, owner, and/or occupant may appear in person and/or be represented by legal counsel, may present oral and documentary evidence, and may call witnesses and may ask questions of witnesses called on behalf of the City; and

h. The date, time and place of the public hearing.

C. Hearing.

1. The modification or revocation shall be heard and acted upon pursuant to the procedures for public hearings contained in Division 2.03 (Public Hearings) of this Development Code.

2. At the conclusion of the hearing, the Approving Authority may take appropriate action to ensure permit or certificate compliance, including the addition, deletion, or modification of conditions of approval, or revocation of the permit or certificate.

D. Decision and Notice to Property Owner.

1. Within 45 days following the conclusion of the modification or revocation hearing, the Approving Authority shall render a decision and shall mail notice of the decision, including facts and reasons supporting the causes of action, to the property owner and property occupant, if different from the property owner, and any other interested persons that have filed a written request for the notice.

2. The decision of the Approving Authority to modify or revoke an approved discretionary permit or action shall be final and conclusive in the absence of an appeal filed pursuant to Division 2.04 (Appeals) of this Development Code.

2.05.015: Procedures for Conditional Use Permit Revocation Due to Abandonment of Use

A. Revocation Initiation. The Approving Authority may initiate the revocation of a Conditional Use Permit when sufficient grounds exist, which clearly demonstrate abandonment of the use granted.

B. Hearing Notification. Upon determination by the Approving Authority that reasonable grounds exist to initiate Conditional Use Permit revocation, the Approving Authority shall conduct a hearing, setting the date and time upon which the request will be considered. Notice of the hearing shall be given, and the hearing shall be conducted, pursuant to Division 2.03 (Public Hearings) of this Development Code.

C. Decision and Notice to Property Owner.

1. The Approving Authority shall not revoke a Conditional Use Permit if there is a compelling government interest in maintaining the subject permit.

2. The Approving Authority's action to revoke a Conditional Use Permit shall have the effect of terminating the land use permit, along with any privileges granted by the original approval and any subsequent modifications that may have been granted.

3. Following the conclusion of the revocation hearing, the Approving Authority shall render a decision and shall mail notice of the decision, including facts and reasons supporting the cause of action, to the property owner and property occupant, if different from the property owner, and any other interested persons that have filed a written request for the notice.

4. The decision of the Approving Authority shall be final and conclusive in the absence of an appeal filed pursuant to Division 2.04 (Appeals) of this Development Code.

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Division 2.06—Performance Guarantees

Sections:

- 2.06.000: Purpose
- 2.06.005: Applicability
- 2.06.010: Surety Form and Amount
- 2.06.015: Surety for Maintenance
- 2.06.020: Duration of Surety
- 2.06.025: Release or Forfeiture of Surety

2.06.000: Purpose

The purpose of this Division is to establish a procedure by which a discretionary permit or action, or ministerial permit or decision may require, by conditions of approval or by action of the Approving Authority, to provide surety guaranteeing the faithful performance and proper completion of any approved work and compliance with conditions of approval.

2.06.005: Applicability

The provisions of this Division shall apply to performance guarantees for projects authorized by any a discretionary permit or action, of ministerial permit or decision required by this Development Code.

2.06.010: Surety Form and Amount.

The required surety shall be in a form (e.g., cash deposit, certificate of deposit, surety bond, etc.) approved by the Planning Director or City Engineer, upon recommendation of the City Attorney. The amount of surety shall be as determined by the Planning Director or City Engineer to be necessary to ensure proper completion of the work and compliance with conditions of approval.

2.06.015: Surety for Maintenance.

In addition to any improvement surety required to guarantee proper completion of work, the Planning Director or City Engineer may require surety for maintenance of the work in an amount determined by the Planning Director or City Engineer to be sufficient to ensure the proper maintenance and functioning of improvements.

2.06.020: Duration of Surety.

Required improvement surety shall remain in effect until final inspections have been made and all work has been accepted by the Planning Director or City Engineer, or until any warranty period required by the Planning Director or City Engineer has elapsed. Maintenance surety shall remain in effect for the one-year period following the date of final inspection.

2.06.025: Release or Forfeiture of Surety.

- A. Upon satisfactory completion of work and the approval of a final inspection at the end of the required time for maintenance surety, the improvement and/or maintenance deposits or bonds shall be released.
- B. Upon failure to complete all required work, failure to comply with all of the terms of any applicable permit or failure of the completed improvements to function properly, the City may perform the required work or cause it to be completed, and collect from the permittee or surety, all the costs incurred by the City, including the all costs for the work and all related administrative, inspection and legal costs.
- C. Any unused portion of the surety shall be refunded to the funding source after deduction of all costs for the work and all related administrative, inspection and legal costs.

EXHIBIT B

Title 17 - PLANNING

Chapter 17.05 - LANDMARKS PRESERVATION ADVISORY BOARD**Sections:**

17.05.010 - Creation and membership.

17.05.020 - Terms.

17.05.030 - Vacancies.

17.05.040 - Removal.

17.05.050 - Compensation.

17.05.060 - Organization and rules.

17.05.070 - Meetings.

17.05.080 - Auxiliary committees and staffing.

17.05.090 - Powers and duties.

17.05.100 - Additional duties.

17.05.010 - Creation and membership.

There is created a Landmarks Preservation Advisory Board. It shall consist of seven members appointed by the Mayor subject to the affirmative vote of five or more members of the City Council. In making appointments, the Mayor may consult persons and organizations interested in landmarks or historic preservation. The members shall include at least one architect; one landscape architect or city planner; one person having extensive knowledge of Oakland history, or of relevant architectural history; and one real estate broker or other person with significant experience in the financing or management of real estate.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(a))

17.05.020 - Terms.

Of the original appointments, two shall be for a one-year term, two shall be for a two-year term, and three shall be for a three-year term. After the expiration of the original terms, all appointments, other than those to fill a vacancy, shall be for three-year terms.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(b))

17.05.030 - Vacancies.

Vacancies shall be filled for any unexpired term in the same manner as the original appointments were made.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(c))

17.05.040 - Removal.

Any member of the Board may be removed for cause, after hearing, by the affirmative vote of six or more members of the City Council.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(d))

Title 17 - PLANNING

17.05.050 - Compensation.

The Board members shall serve without compensation. However, necessary actual travel and other expenses shall be reimbursed them, when the city's interests shall so require, if such is authorized by the City Council.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(e))

17.05.060 - Organization and rules.

The Board shall elect a chairperson and vice-chairperson from its own membership, and shall select a secretary who may be a member of the city staff. The Board shall establish rules and regulations for its own organization, procedure, and meetings.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(f))

17.05.070 - Meetings.

All meetings shall be open to the public, and interested persons shall be given reasonable opportunity to be heard.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(g))

17.05.080 - Auxiliary committees and staffing.

The Board shall make every effort to obtain assistance from, and to work with, private groups and citizens interested in preservation. It may designate auxiliary committees to assist it. The Board may seek staff assistance from the City Administrator or the City Council.

(Ord. 12776 § 3, Exh. A (part), 2006; Ord. 12054 § 1(e), 1998; prior planning code § 5(h))

17.05.090 - Powers and duties.

The Board shall advise and assist the City Planning Commission and the Director of City Planning, as well as other public agencies, civic groups, and the general public, on the matters described in Section 17.03.020.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(i))

17.05.100 - Additional duties.

- A. The Board shall submit regular status reports to the City Council committee designated as liaison to the Board. The regular status reports must be submitted at least once a year, or more frequently if directed by the chairperson of the City Council committee to which the Board reports.
- B. Status reports submitted in fulfillment of the requirements of this code must include a detailed description of operating and staffing needs, to be developed and maintained by the department responsible for staffing and administration of the Board.
- C. Each year, the Board shall review the annual goals and objectives of the City Council. Review of City Council goals and objectives shall be undertaken to provide the Board the opportunity to better integrate the activities of the Board with the city's overall goals and objectives.
- D. City Council approval must be obtained prior to the creation of any standing committee of the Board. A proposal to create a standing committee of the Board must include information regarding the costs

Title 17 - PLANNING

associated with staffing the standing committee, and the costs of complying with noticing and reporting requirements resulting from the establishment of any such standing committee of the Board

Title 17 - PLANNING

Chapter 17.132 - ADMINISTRATIVE APPEAL PROCEDURE**Sections:**

17.132.010 - Title, purpose, and applicability.

17.132.020 - Appeal.

17.132.030 - Procedure for consideration.

17.132.040 - Appeal to Council on transit line sign controls.

17.132.010 - Title, purpose, and applicability.

The provisions of this chapter shall be known as the administrative appeal procedure. The purpose of these provisions is to prescribe the procedure by which an appeal may be taken to the City Planning Commission or, if applicable, to the Commission's Residential Appeals Committee from any determination or interpretation made by the Director of City Planning under the zoning regulations. This procedure shall apply to all appeals from such determinations and interpretations.

(Ord. 12376 § 3 (part), 2001; prior planning code § 9100)

17.132.020 - Appeal.

Within ten calendar days after the date of any administrative determination or interpretation made by the Director of City Planning under the zoning regulations, an appeal from such decision may be taken to the City Planning Commission by any interested party. In the case of appeals involving one- or two-unit Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department and shall be accompanied by such a fee as specified in the City fee schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Upon receipt of the appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof and, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal.

(Ord. 12776 § 3, Exh. A (part), 2006; Ord. 12376 § 3 (part), 2001; prior planning code § 9101)

17.132.030 - Procedure for consideration.

In its review of an administrative appeal, the City Planning Commission or, if applicable, the Commission's Residential Appeals Committee shall consider the purpose and intent, as well as the letter, of the pertinent provisions, and shall affirm, modify, or reverse the Director's determination or interpretation. The decision of the Commission or Committee shall be final immediately, except as otherwise provided in Section 17.132.040.

(Ord. 12776 § 3, Exh. A (part), 2006; Ord. 12376 § 3 (part), 2001; prior planning code § 9102)

Title 17 - PLANNING

17.132.040 - Appeal to Council on transit line sign controls.

Within ten calendar days after the date of a decision by the City Planning Commission on an administrative appeal involving the provisions of Sections 17.104.040 or 17.114.150, an appeal from said decision may be taken to the City Council by any interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall review the purpose and intent, as well as the letter, of the pertinent provisions, and shall affirm, modify, or reverse the Commission's decision. The decision of the Council shall be final.

(Ord. 12776 § 3, Exh. A (part), 2006, prior planning code § 9103)

EXHIBIT C

ORDINANCE NO. 348.4840
AN ORDINANCE OF THE COUNTY OF RIVERSIDE PROVIDING FOR LAND USE
PLANNING AND ZONING REGULATIONS AND RELATED FUNCTIONS.
ARTICLE I RIVERSIDE COUNTY LAND USE ORDINANCE

ORDINANCE NO. 348.4840
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
PROVIDING FOR LAND USE PLANNING AND ZONING
REGULATIONS AND RELATED FUNCTIONS.

The Board of Supervisors of the County of Riverside, State of California, do ordain as follows:

ARTICLE I RIVERSIDE COUNTY LAND USE ORDINANCE

SECTION 1.1. TITLE.

This ordinance shall be known as, and may be cited as, the Riverside County Land Use Ordinance.

SECTION 1.2: PLANNING AGENCY.

Pursuant to Section 65100 et seq. of the Government Code, the planning agency for Riverside County shall consist of the County Board of Supervisors, the County Planning Commission, and the Planning Department. The planning agency shall perform all functions required by State law and this ordinance.

SECTION 1.3. COUNTY BOARD OF SUPERVISORS.

The Board of Supervisors shall consist of five members elected in the manner provided by law. The Board shall perform the duties and functions specified by State law and this ordinance including, but not limited to, the duties related to legislative matters and the duties related to the appeal of quasi-judicial matters. The Board shall also perform those planning and zoning duties and functions which are not expressly delegated or reserved to another body or officer.

SECTION 1.4. COUNTY PLANNING COMMISSION.

- A. The County Planning Commission shall consist of five members. Each member of the Board of Supervisors shall recommend that a resident of his district be appointed to the Commission; provided, however, the appointments to the Commission shall require the affirmative vote of not less than a majority of the entire membership of the Board.
- B. Members of the Commission shall be appointed for a four year term. Notwithstanding the specified term of four years for a member of the Commission, a member shall not remain eligible to remain on the Commission should the member of the Board of Supervisors from the district which the Commission member was appointed ceases to be a member of the

ORDINANCE NO. 348.4840
AN ORDINANCE OF THE COUNTY OF RIVERSIDE PROVIDING FOR LAND USE
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ARTICLE I RIVERSIDE COUNTY LAND USE ORDINANCE

Board of Supervisors or if a Commission member moves his residence out of the district from which he was appointed, and in either such situation membership shall automatically terminate upon the appointment by the Board of a new member to fill the remainder of the unexpired term. The term of two Commissioners shall expire on June 30 of the same year and the term of three Commissioners shall expire on June 30, two years thereafter.

- C. The Commission shall elect one member as chairman and one as vice chairman, to hold office at the pleasure of the members. Three members shall be a quorum and three affirmative votes shall be required to carry a motion. The Commission shall hold at least one regular meeting per month.
- D. The Commission shall perform those planning and zoning duties specified by State law or ordinance, including, but not limited to, the duties related to legislative matters and the duties related to quasi-judicial matters and appeals thereof.
- E. Members of the County Planning Commission shall receive such compensation as may be fixed by or pursuant to the salary ordinance. Commission members shall also receive travel expenses for attending Commission meetings, and other authorized travel, as may be fixed by or pursuant to the salary ordinance.

SECTION 1.5. PLANNING DEPARTMENT.

The Planning Department shall be headed by a Planning Director who shall be appointed by the Director of the Transportation and Land Management Agency to hold office at his pleasure, and shall include a staff of employees under his direction as provided by or pursuant to the salary ordinance. The Planning Department shall provide technical and clerical assistance to the County Planning Commission and shall perform functions related to planning, zoning and land divisions as may be required by State law, ordinance or order of the Board of Supervisors.

SECTION 1.6. NOTICE OF HEARING BY PUBLICATION.

- A. When a provision of this ordinance requires notice of a public hearing to be given pursuant to this Section, notice shall be published once in at least one newspaper of general circulation within the County at least 10 days prior to the hearing.
- B. The notice shall include the information specified in Section 1.10. of this ordinance.
- C. In addition to the notice required by this Section, the Planning Director may direct that notice of the hearing be given in any other manner deemed necessary or desirable. The failure of any person or entity to be given such optional additional notice pursuant to this Subsection, or to receive any such notice, shall not constitute grounds for the invalidation of any action of the County.
- D. Whenever the County considers the adoption or amendment of policies or ordinances affecting drive-through facilities, the County shall incorporate, where necessary, notice procedures to the blind, aged, and disabled communities in order to facilitate their

ORDINANCE NO. 348.4840
AN ORDINANCE OF THE COUNTY OF RIVERSIDE PROVIDING FOR LAND USE
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participation. Such notice shall be satisfied by providing mailed notice of hearing to at least one organization which works with the blind community, at least one organization which works with the aged community, and at least one organization which works with the disabled community.

SECTION 1.7. NOTIFICATION PROCEDURES.

- A. When a provision of this ordinance requires notice of a public hearing to be given pursuant to this Section, notice shall be given in all of the following ways:
1. Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to the owner of the subject real property as shown on the latest equalized assessment roll. Instead of using the assessment roll, the County may use records of the County assessor or tax collector if those records contain more recent information than the information contained on the assessment roll. Notice shall also be mailed to the owner's duly authorized agent, if any, and to the project applicant.
 2. Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities' or services to the project, whose ability to provide those facilities and services may be significantly affected.
 3. Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. In lieu of using the assessment roll, the County may use records of the County assessor or tax collector which contain more recent information than the assessment roll. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph or paragraph (1) is greater than 1,000, the County, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the County at least 10 days prior to the hearing.
 4. If the notice is mailed or delivered pursuant to paragraph (3), the notice shall also be published once in at least one newspaper of general circulation within the County at least 10 days prior to the hearing.
- B. The notice shall include the information specified in Section 1.10, of this ordinance.
- C. In addition to the notice required by this Section, the Planning Director may direct that notice of the hearing be given in any other manner deemed necessary or desirable. The failure of any person or entity to be given such optional additional notice pursuant to this Subsection, or to receive any such notice, shall not constitute grounds for the invalidation of any action of the County.
- D. Whenever a hearing is held regarding a permit for a drive-through facility, or modification of an existing drive-through facility permit, the County shall incorporate, where necessary,

ORDINANCE NO. 348.4840
AN ORDINANCE OF THE COUNTY OF RIVERSIDE PROVIDING FOR LAND USE
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notice procedures to the blind, aged, and disabled communities in order to facilitate their participation in any hearing on, or appeal of the denial of, a drive-through facility permit. Such notice shall be satisfied by providing mailed notice of hearing to at least one organization which works with the blind community, at least one organization which works with the aged community, and at least one organization which works with the disabled communities.

SECTION 1.8. REQUEST FOR NOTIFICATION.

When a provision of this ordinance requires notice of a public hearing to be given pursuant to Section 1.6. or 1.7., the notice shall also be mailed or delivered at least 10 days prior to the hearing to any person who has filed a written request for notice with the Planning Director accompanied by the fees set forth in County Ordinance No. 671. Any such request for notice shall expire after one year unless renewed by the filing of a new request accompanied by the fees set forth in County Ordinance No. 671.

SECTION 1.9. FAILURE TO RECEIVE MANDATORY NOTICE; FAILURE TO GIVE OR RECEIVE OPTIONAL ADDITIONAL NOTICE.

The failure of any person or entity to receive notice required to be given pursuant to this ordinance shall not constitute grounds for any court to invalidate the actions of the County for which the notice was given. The failure of any person or entity to be given optional additional notice pursuant to either Subsection 1.6.c. or Subsection 1.7.c. of this ordinance, or to receive any such notice, shall not constitute grounds for the invalidation of any action of the County.

SECTION 1.10. CONTENTS OF NOTICE OF PUBLIC HEARING.

As used in this ordinance, "notice of a public hearing" means a notice that includes the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

SECTION 1.11. HEARING CONTINUANCES.

Any public hearing conducted under this ordinance may be continued from time to time. No additional notice of public hearing shall be required for a continued public hearing.

SECTION 1.12. REASONABLE ACCOMODATION.

- A. **REASONABLE ACCOMMODATION.** This section provides a procedure to request reasonable accommodations in land use and zoning regulations for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act.

EXHIBIT D

ENVIRONMENTAL NOTICE AND FEE SCHEDULE

California Environmental Quality Act document fees pursuant to Fish and Game Codes §711.4(a),(b), (c) and (e) and Ord. 91-0025 § 1, 1991, are as follows:

The following is a list of notices and requirements to be posted by the Los Angeles County Clerk's office:

NOD - Notice of Determination

- ⇒ Original signatures are required on both Notice and No Effect Form from the Department of Fish & Game
- ⇒ When filed with a No Effect Form from the Department of Fish & Game, filing fee is **\$75.00**
- ⇒ When filed without a No Effect Form from the Department of Fish & Game fees are as follows:
 - ↳ If an **Environmental Impact Report (EIR)** was prepared for the project then the fee is **\$3,078.25** plus the **\$75.00** County posting fee = **\$3,153.25**
 - ↳ If an **Negative Declaration (ND)** was prepared for the project then the fee is **\$2216.25** plus the **\$75.00** County posting fee = **\$2,291.25**
 - ↳ If a **Mitigated Negative Declaration (MND)** was prepared for the project then the fee is **\$2216.25** plus the **\$75.00** county posting fee = **\$2,291.25**

NOE - Notice of Exemption

- ⇒ Original signatures are required
- ⇒ **\$75.00** County posting fee is required

NOP - Notice of Preparation

- ⇒ An (**NOP**) is given to inform the public that the lead agency is in the process of preparing either a **DRAFT EIR** or a **MITIGATED NEG DEC**
- ⇒ **\$75.00** County posting fee is required
- ⇒ Original signature is not required

NOC - Notice of Completion

- ⇒ An (**NOC**) is issued to inform the public when the lead agency has completed a **NEG DEC** or **DRAFT EIR**
- ⇒ **\$75.00** County posting fee is required
- ⇒ Original signature is not required

NPH - Notice of Public Hearing

- ⇒ Normally issued to inform the public of a hearing date on a particular project
- ⇒ **\$75.00** County posting fee is required
- ⇒ Original signature is not required

ND - Negative Declaration

- ⇒ **All NEG DEC filings are considered to be final negative documents unless otherwise indicated and are not accepted for filing without an NOD, unless NEG DEC is PROPOSED or MITIGATED**

PND - Proposed Negative Declaration

- ⇒ Name is self explanatory
- ⇒ **\$75.00** County posting fee is required
- ⇒ Original signature is not required

EIR - Environmental Impact Report

- ⇒ **NEVER** accepted for filing without an NOD

DRAFT EIR - Draft Environmental Impact Report

- ⇒ **Not** accepted for filing alone, can only be accepted along with a Notice (**NOI, NPH, NOC and NOP**)

NOI - Notice of Intent (adopt an EIR, ND, DRAFT EIR or MND) normally issued to inform the public of the hearing date of a particular project

- ⇒ Original signature is not required
- ⇒ **\$75.00** County posting fee is required

NOA - Notice of Availability

⇒ **\$75.00** County posting fee is required

INITIAL STUDY

⇒ Not accepted alone, must be presented along with an Environmental Notice

Please provide one (1) additional copy of the notice and/or exemption form from the Department of Fish and Game to be conformed for your record.

Note: No person or Agency is exempt from the Department of Fish and Game's filing fee and/or the Los Angeles County Clerk's Documentary Handling Fee.

IN THE SUPREME COURT OF CALIFORNIA

PROOF OF SERVICE

Union of Medical Marijuana Patients, Inc.. v. City of San Diego, et al.

S238563

4th Civil No. D068185
San Diego County Superior Court
Case No. 37-2014-00012481-CU-TT-CTL

I, the undersigned, declare that:

I was at least 18 years of age and not a party to the case; I am employed in the County of Riverside, California, where the mailing occurs; and, my business address is 3390 University Avenue, 5th Floor, Riverside, California 92501.

I served the foregoing document:

**AMICI CURIAE LEAGUE OF CALIFORNIA CITIES
AND CALIFORNIA STATE ASSOCIATION OF COUNTIES'
REQUEST FOR JUDICIAL NOTICE (DOCUMENTS ATTACHED
EXHIBIT A THROUGH EXHIBIT D)**

to the following:

[BY OVERNIGHT MAIL VIA FEDERAL EXPRESS]

Jamie T. Hall
Julian K. Quattlebaum
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Attorneys for Defendant and Respondent City of San Diego

[BY U.S. MAIL]

I further declare I served the individuals named below by placing a true and correct copy of the documents in a sealed envelope and placed it for collection and mailing with the United States Postal Service this same day, at my address shown above, following ordinary business practices.

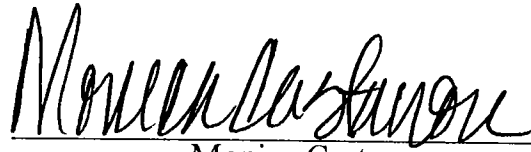
[CCP § 1013(a).]

I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business.

The Honorable Joel Wohlfeil
San Diego County Superior Court
Department C-73
330 West Broadway
San Diego, CA 92101

Court of Appeal
4th District, Division 1
750 B Street, Suite 300
San Diego, CA 92101

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct. Executed on November 20, 2017, at Riverside, California.



Monica Castanon
Legal Secretary