

Article 7 **Zoning Code Administration**

CHAPTER 25.94 **ADMINISTRATIVE RESPONSIBILITY**

§ 25.94.010. Purpose.

This chapter describes the authority and responsibilities of the City Council, Planning Commission, Director of Community Development, and Community Development Department Planning Division staff in the administration of this Title 25.

(Ord. 2000 § 2, (2021))

§ 25.94.020. Planning Agency Defined.

The Planning Commission, the Director of Community Development, and the Community Development Department Planning Division staff shall function as the Planning Agency and as the Advisory Agency, when so required or authorized, in compliance with California Government Code Section 65100.

(Ord. 2000 § 2, (2021))

§ 25.94.030. City Council.

The City Council, referred to in this Title 25 as the Council, in matters related to the City's planning process shall perform the duties and functions prescribed in this title, which include the following:

- A. Review Authority on Specified Legislative Planning Matters. Final legislative decisions on development agreements and amendments, Zoning Code amendments, General Plan amendments, specific plans and amendments, Zoning Map amendments, related California Environmental Quality Act (CEQA) environmental documents, and other applicable policy or Zoning Code matters related to the City's planning processes.
- B. Appeals. The review of appeals filed from Commission decisions.
- C. Compliance. The functions listed above shall be performed in compliance with Table 6-1 (Review Authority) and CEQA.
- D. Imposition of Conditions. In making decisions on applications, the Council may impose conditions it deems reasonable and necessary to implement the General Plan, any applicable specific plans, and the Municipal Code standards that apply to development, and to further the public health, safety, and general welfare of the community.

(Ord. 2000 § 2, (2021))

§ 25.94.040. Planning Commission.

The Planning Commission, referred to in this Title 25 as Commission, shall be established and have the powers and duties set forth in Chapter 3.40 (Planning Commission) of the Municipal Code.

(Ord. 2000 § 2, (2021))

§ 25.94.050. Clerk to Keep Record of Recommendations and Orders.

The City Clerk shall keep and maintain a record of all recommendations of the Commission and of all orders made by the Commission and Council.

(Ord. 2000 § 2, (2021))

§ 25.94.060. Design Review Panel.

- ~~A. With the approval of the Commission, the Director shall appoint one or more design professionals to advise the Director and Commission on applications in residential districts made under this title. The panel appointees shall be persons in the business of residential design who have practiced their design profession involving residential designs in the City and who are willing to contract with the City to provide advisory services specified in this title and Article 6 (Permit Processing Procedures) in particular.~~
- ~~B. For applications in the commercial, industrial, and mixed-use districts, with the approval of the Commission, the Director shall appoint one or more design professionals who shall be persons in the business of commercial design and who are willing to contract with the City to provide advisory services specified in this title and Article 6 (Permit Processing Procedures) in particular.~~

(Ord. 2000 § 2, (2021))

§ 25.94.0670. Director.

- A. Appointment. The Community Development Director, referred to in this Title 25 as the Director, shall be appointed by the City Manager.
- B. Duties and Authority. The Director shall:
 1. Have the responsibility to perform all of the functions designated by State law;
 2. Perform the duties and functions prescribed in this Title 25, including Table 6-1 (Review Authority), California Government Code Section 65901 et seq., and CEQA;
 3. Have the authority to defer action on an application and refer the request to the Commission for consideration and final action;
 4. Perform other responsibilities assigned by the Council, Commission, or City Manager; and
 5. Delegate the responsibilities of the Director to Department staff under the supervision of the Director.
- C. Imposition of Conditions. In making decisions on applications, the Director may impose conditions the Director deems reasonable and necessary to implement the General Plan, any applicable specific plans, and the Municipal Code standards that apply to development, and to further the public health, safety, and general welfare of the community.

(Ord. 2000 § 2, (2021))

CHAPTER 25.96
AMENDMENTS TO THE ZONING CODE, ZONING MAP, AND GENERAL PLAN

§ 25.96.010. Purpose.

This chapter provides procedures for the amendment of this Zoning Code, the Official Zoning Map, and the General Plan whenever the Council determines public necessity and general welfare require an amendment.

(Ord. 2000 § 2, (2021))

§ 25.96.020. Initiation of Amendment.

- A. Who May Initiate. Upon application of any property owner, or on the initiative of a majority of the Commission or the Council, land within the City may be classified within a zoning district, or reclassified from one zoning district to another, in the manner provided in this chapter.
- B. No Obligation to Consider Formally. An application for a General Plan or Zoning Map amendment shall be construed as a suggestion only. The City shall not be required to hold any public hearings merely because an application has been filed. The Council shall have the authority to indicate whether an application for an amendment may be accepted.

(Ord. 2000 § 2, (2021))

§ 25.96.030. Processing, Notice, and Hearings.

- A. Application Filing and Processing.
 1. If initiated by the filing of an amendment application in compliance with Section 25.96.020 (Initiation of Amendment), the application shall be processed in compliance with Chapter 25.62 (Application Processing Procedures).
 2. The application shall include the information and materials specified in the Department handout for amendment applications, together with the required fee in compliance with the Council's fee schedule.
 3. It shall be the responsibility of the applicant to provide evidence in support of the findings required by Section 25.96.060 (Findings and Decision).
- B. Timing of General Plan Amendments. The mandatory elements of the General Plan may be amended up to four times in a single calendar year, as authorized by and subject to the provisions of [California](#) Government Code Section 65358.
- C. Public Hearings Required. The Commission and Council shall each conduct one or more public hearings regarding the amendment.
- D. Notice and Hearing. Notice of the public hearings shall be provided and the hearings shall be conducted in compliance with Chapter 25.100 (Public Hearings and Notice) and as specified in Government Code Sections 65353, 65355, 65854, and 65856.

(Ord. 2000 § 2, (2021))

§ 25.96.040. Commission's Action on Amendment.

A. Recommendation to Council.

1. All Amendments. After a public hearing, the Commission shall forward a written recommendation, and reasons for the recommendation, to the Council whether to approve, approve in modified form, or deny the proposed amendment, based on the findings identified in Section 25.96.060 (Findings and Decision), below.
2. Recommendation for Approval of Zoning Code or Zoning Map Amendments. A recommendation for approval or approval in modified form of a Zoning Code or Zoning Map amendment shall require only a majority vote of the Commission.
3. Recommendation for Approval of General Plan Amendments. A recommendation for approval or approval in modified form of a General Plan amendment shall require the affirmative vote of not less than a majority of the total voting members of the Commission in compliance with Government Code Section 65354.
- 3.4. Recommendation for Denial by Commission. A recommendation against the proposed amendment shall require only a majority vote.
4. The Commission may act to deny an application without prejudice, meaning that the applicant shall not lose any rights or privileges regarding his/her ability to submit a new application at a later date.

(Ord. 2000 § 2, (2021))

§ 25.96.050. Council's Action on Amendment.

A. Approval.

1. All Amendments. Upon receipt of the Commission's recommendation to approve or approve in modified form a proposed amendment, the Council shall conduct a public hearing and either approve, approve in modified form, or deny the proposed amendment based on the findings identified in Section 25.96.060 (Findings and Decision), below.
2. Approval of Zoning Code or Zoning Map amendments. The action by the Council to approve the Commission's recommendation regarding a Zoning Code or Zoning Map amendment shall be by a majority vote of the members present, adopted by ordinance, and shall be final and conclusive.
3. Approval of General Plan Amendments. The action by the Council to approve the Commission's recommendation regarding a General Plan amendment shall require the affirmative vote of not less than a majority of the total voting members in compliance with Government Code Section 65356, adopted by resolution, and shall be final and conclusive.

B. Referral to Commission.

1. If the Council proposes to adopt a substantial modification(s) to the amendment not previously considered by the Commission, the proposed modification shall be first

referred to the Commission for its recommendation in compliance with Government Code Sections 65356 and 65857.

2. Failure of the Commission to report back to the Council within the time limits identified in Government Code Sections 65356 and 65857 following the referral shall be deemed approval by the Commission of the proposed modification(s).

(Ord. 2000 § 2, (2021))

§ 25.96.060. Findings and Decision.

An amendment to this Zoning Code, the Official Zoning Map or the General Plan may be approved only if all the following findings are first made, as applicable to the type of amendment.

A. Findings for General Plan Amendments.

1. The amendment is internally consistent with all other provisions of the General Plan;
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
3. The affected site is physically suitable in terms of design, location, operating characteristics, shape, size, topography; is suitable in terms of the provision of public and emergency vehicle access and public services and utilities; and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

B. Findings for Zoning Code and Zoning Map Amendments.

1. The proposed amendment is consistent with the General Plan and any applicable specific plan;
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City;
3. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code; and
4. Specific to Zoning Map amendments, the affected site is physically suitable in terms of design, location, operating characteristics, shape, size, topography; is suitable in terms of the provision of public and emergency vehicle access and public services and utilities; and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

(Ord. 2000 § 2, (2021))

§ 25.96.070. Prezoning Annexations.

- A. Prezoning Required. Before the annexation to the City of any property, the sponsor of any annexations shall file an application for rezoning of the subject property to be annexed, and the City shall establish the zoning district(s) which will be in effect on the effective date of the annexation.
- B. Same as Zoning Map Amendments. The process for rezoning property to be annexed to the City shall be the same as is specified in this chapter for Zoning Map amendments.
- C. Compliance with Plans. The zoning shall be in compliance with the General Plan and any applicable specific plan.
- D. Rezoning.
 - 1. Any property lying outside the corporate limits of the City but adjacent to and within its sphere of influence may be rezoned with a City zoning district in compliance with Government Code Section 65859 and this chapter.
 - 2. If any property has been rezoned in this manner, the assigned zoning district shall become effective at the same time the annexation of the property becomes effective.

(Ord. 2000 § 2, (2021))

§ 25.96.080. Effective Dates.

- A. General Plan. A General Plan amendment shall become effective immediately upon the adoption of a resolution by the Council.
- B. Zoning Code and Zoning Map. A Zoning Code or Zoning Map amendment shall become effective on the 31st day following the adoption of an ordinance by the Council.

(Ord. 2000 § 2, (2021))

CHAPTER 25.98 APPEALS AND CALLS FOR REVIEW

§ 25.98.010. Purpose.

This chapter establishes procedures for the appeal of determinations and decisions rendered by the Commission and Director, and for calls for review.

(Ord. 2000 § 2, (2021))

§ 25.98.020. Appeal and Calls for Review Subjects and Jurisdiction.

- A. ~~Ministerial and~~ Administrative Permits and Actions. ~~Ministerial Administrative~~ permits and actions, as defined in Section 25.60.020.A (~~Ministerial and~~ Administrative Permits and Actions), may be appealed or called for review to the Commission pursuant to Chapter 25.60 (General Provisions).
- B. Quasi-Judicial Permits and Actions. Quasi-judicial permits and actions, as defined in Section 25.60.020.B (Quasi-Judicial Permits and Actions), may be appealed ~~or called for review~~ to the Council.
- C. Legislative Actions. When the Commission recommends denial of an application to amend the Zoning Code, Zoning Map, or General Plan, such action is automatically forwarded to the Council for action; no appeal is required.
- D. Enforcement Actions. Appeal of enforcement actions relating to violations of this Title 25 shall follow the procedures found in Title 1 of the Burlingame Municipal Code.

(Ord. 2000 § 2, (2021))

§ 25.98.030. Filing and Processing of Appeals and Calls for Review.

- A. Eligibility.
 - 1. Who May Appeal. An appeal or call for review in compliance with this chapter may be filed by any aggrieved person, except that in the case of a decision on a quasi-judicial permit or action, an appeal may only be filed by a person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of his/her concerns before the hearing.
 - 2. Call for Review on Administrative Permits.
 - a. Any person may request a call for review by the Planning Commission for any ~~Director action on an~~ administrative permit application pursuant to Article 6 for which notice has been given. Such call for review shall be provided in writing and shall be accompanied by payment of any required fee.
 - b. The following permits are subject to a call for review:
 - i. ~~Minor D~~esign ~~R~~eview - Minor;
 - ii. Hillside Area Construction Permit;

- iii. Minor ~~M~~odifications - two or fewer;
- iv. Minor ~~U~~se ~~P~~ermit;
- v. Administrative ~~U~~se ~~P~~ermit.

3. ~~Call for Review~~Appeal by Commissioners and Councilmembers.

- a. Any Commissioner may initiate ~~an appeal call for review~~ of a Director's determination or decision by filing a written request with the Department before the effective date of the action.
- b. Any Council member may initiate ~~an appeal call for review~~ of a Commission's or Director's determination or decision by filing a written request with the City Clerk before the effective date of the action.
- c. ~~No fees are required.~~
- d. ~~When an item is appealed by a Councilmember or Commissioner, the Councilmember or Commissioner who filed the written request shall act as the appellant in the appeal hearing and shall not render a decision on the item under review or count toward the quorum for purposes of the appeal.~~

4. Limitations on Denial by the Commission. If an application has been denied by the Commission, or if an application or a portion thereof is approved, an appeal may be made by the applicant or any interested person.

B. Timing and Form of Appeal or Call for Review. ~~An appeal or call for review shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal or call for review.~~

- 1. ~~Contents of Appeal or Call for Review. An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal.~~ The pertinent facts and the basis for the appeal shall include, at a minimum, the specific grounds for the appeal, where there was an error or abuse of discretion by the previous Review Authority in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record.
- 2. ~~Contents of Call for Review. A Call for Review shall be submitted in writing to the Community Development Department requesting a public hearing.~~
- 3. ~~Appeal to Be Filed Within 10 Days. An appeal shall be filed with the Department or City Clerk, as applicable, within 10 calendar days following the actual date the decision was rendered. If the 10th day is a holiday, the appeal period shall be extended to the next business day.~~
 - a. Appeals addressed to the Commission shall be filed with the Department.
 - b. Appeals addressed to the Council shall be filed with the City Clerk.
- 4. ~~Call for Review to Be Filed Within 10 Days. A call for review of a proposed Director action shall be filed with the Department within 10 calendar days of the date stated on the notice. If the 10th day is a holiday, the appeal period shall be extended to the next business day.~~

4.5. Filing Fee. The appeal or call for review shall be accompanied by the filing fee identified in the planning fee schedule, except for ~~calls for review appeals~~ filed by a member of the Commission or Council. The filing fee shall not be refundable following the end of the time period in which an appeal may be filed.

5.6. Suspension of Action. Once an appeal or call for review is filed, any action on the associated project is suspended until the appeal or call for review is processed and a final decision is rendered by the applicable Review Authority.

6.7. Withdrawal of an Appeal or Call for Review. Any person who has filed an appeal or call for review may withdraw such appeal or call for review prior to the posting of the meeting agenda. If the item has been scheduled for public hearing, the Commission or Council must place the item on the agenda for consideration.

C. ~~Report and~~ Scheduling of Hearing.

1. When an appeal or call for review has been filed, the Director shall ~~prepare a report on the matter, including all the application materials in question, and~~ schedule the matter for a public hearing by the appropriate Review Authority identified in Table 6-1 (Review Authority) within 45 days of the filing of the appeal or call for review.
2. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 25.100 (Public Hearings and Notice).
3. Any interested party may appear and be heard regarding the appeal or call for review.

D. Decision.

1. The appeal hearing shall be de novo, and the issues that may be raised and considered by the Review Authority are not limited to those raised by the appellant, and may include any aspect of the proposed project, whether or not originally considered as part of the decision being appealed.
2. The Review Authority may:
 - a. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with this title; or
 - b. Adopt additional conditions of approval which may address issues or concerns related to and/or other than the subject of the appeal.
3. If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the Director or Commission, as applicable, for further consideration.
4. In the event of a tie vote by the Review Authority on an appeal, the decision being appealed shall stand.
5. Provision of Notice of Decision.
 - a. Following the final decision on an application for a permit or other approval required by this title, the City shall provide notice of its final decision to the appellant, applicant, property owner/owner's representative, and to any person who specifically requested notice of the City's final action.

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- b. The notice of the final decision shall contain applicable findings, conditions of approval, and the reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City.

E. Effect of Decision.

1. The determination and order of the Commission or, if an appeal ~~or call for review~~ is heard under the foregoing provisions, the determination and order of the Council, is final and conclusive upon the applicant.
2. No same or similar application with reference to the same premises shall be filed for a period of one year from the date of the order.
3. Final action by the applicable Review Authority shall be effective in compliance with the provisions of Section 25.88.020 (Effective Dates of Permits) if no additional appeals are filed in compliance with this chapter.

(Ord. 2000 § 2, (2021); Ord. 2035, 12/16/2024)

**CHAPTER 25.100
PUBLIC HEARINGS AND NOTICE**

§ 25.100.010. Purpose.

This chapter provides procedures for public hearings required by this title. When a public hearing is required, advance notice of the hearing shall be given, and the hearing shall be conducted, in compliance with this chapter.

(Ord. 2000 § 2, (2021))

§ 25.100.020. Notice of Hearing.

When this title requires a noticed public hearing before a decision on a permit or for another matter, the public shall be provided notice of the hearing in compliance with California Government Code Sections 65090, 65091, 65094 and 66451.3, and California Public Resources Code 21000 et seq., and as required by this chapter.

- A. Content of Notice. Notice of a public hearing shall include all of the following information, as applicable.
 1. Hearing Information. The date, time, and place of the hearing and the name of the Review Authority; a brief description of the City's general procedure concerning the conduct of hearings and decisions (e.g., the public's right to appear and be heard); and the phone number, street address, and email address of the Department where an interested person could call or visit to obtain additional information.
 2. Project Information. A general explanation of the matter to be considered and a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing.
 3. Statement on Environmental Document. If a proposed Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, the hearing notice shall include a statement that the Review Authority will also consider approval of the proposed Negative Declaration or Mitigated Negative Declaration, or certification of the final Environmental Impact Report, as applicable.
- B. Method of Notice Distribution. Notice of a public hearing or any noticing requirement required by Article 6 for a planning approval shall be given as follows, as required by Government Code Sections 65090, ~~and~~ 65091, and 65854.
 1. Mailing. Notice shall be mailed or delivered to the following at least 10 days before the scheduled hearing, or for other noticing requirements:
 - a. Project Site Owner(s) and the Applicant. The owner(s) of the property being considered in the application or the owner's authorized agent, and the applicant.
 - b. Local Agencies. Each local agency expected to provide roads, schools, sewage, streets, water, or other essential facilities or services to the property which is the

subject of the application, whose ability to provide those facilities and services may be significantly affected.

- c. Affected Owners. All owners of real property, as shown on the latest adopted tax roll of the County, located within a radius as defined below of the exterior boundaries of the parcel that is the subject of the hearing or noticing requirement pursuant to Article 6 (Permit Processing Procedures).
 - i. 500-Foot Radius Required.
 - (A) All legislative actions pursuant to Table 6-1 (Review Authority);
 - (B) Any commercial, industrial, or institutional development exceeding 10,000 square feet of construction, whether new construction or addition to existing development;
 - (C) Any attached residential development consisting of five or more units; and
 - (D) Any combination of (B) and (C) above.
 - ii. 300-Foot Radius Required. All planning permits and approvals and all administrative and ministerial actions pursuant to Table 6-1, except for those specified in subsections B.1.c.i and iii, and any permits pursuant to subsection B.1.c.iii that are called for review or appealed to the Commission.
 - iii. 100-Foot Radius Required.
 - (A) Administrative Use Permits;
 - (B) Design Review- Minor;
 - (C) Minor Modifications - two or fewer;
 - (D) Hillside Area Construction Permits not requiring design review;
 - (E) Master Sign Programs;
 - (F) Minor Use Permits.
 - iv. No Radius Notification Required. Appeals of interpretations of the Zoning Code, home occupation permits, reasonable accommodation approvals, sign permits, and temporary use permits do not require noticing of affected owners.
- d. Persons Requesting Notice. Any person who has filed a written request for notice with the Director and has paid the required fee for the notice.
- e. Other Person(s). Any other person(s), whose property might, in the judgment of the Director, be affected by the proposed project.

(Ord. 2000 § 2, (2021); Ord. 2035, 12/16/2024)

§ 25.100.030. Scheduling of Hearing.

After the completion of any environmental document required by CEQA and a Department staff report, a matter requiring a public hearing shall be scheduled on the next available agenda (Director, Commission, or Council, as applicable) reserved for public hearings, but no sooner than any minimum time period established by State law.

(Ord. 2000 § 2, (2021))

§ 25.100.040. Hearing Procedure.

- A. Time and Place of Hearing. A hearing shall be held at the date, time, and place for which notice was given.
- B. Continued Hearing. Any hearing may be continued from time to time without further notice, provided the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- C. Deferral of Final Decision. The Review Authority may announce a tentative decision and defer action on a final decision until appropriate findings and/or conditions have been prepared.

(Ord. 2000 § 2, (2021))

§ 25.100.050. Recommendation by Commission.

After a public hearing on a proposed Specific Plan or amendment, or an amendment to this Zoning Code, the General Plan, or the Zoning Map, the recommendation and findings of the Commission and the minutes of the Commission meeting shall be forwarded to the Council. ~~A copy of the recommendation shall be mailed to the applicant and property owner/owner's representative, except that a denial by the Commission on amendments is not required to be forwarded to the Council but can be appealed to the Council pursuant to Chapter 25.98 (Appeals).~~

(Ord. 2000 § 2, (2021))

§ 25.100.060. Decision and Notice.

- A. Decision.
 1. The Review Authority may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing or defer action and continue the matter to a later meeting agenda in compliance with Section 25.100.040 (Hearing Procedure), above.
 2. The decision of the Council on any matter shall be final and conclusive.
- B. Notice of Decision.
 1. Provision of Notice. Following the final decision on an application for a permit or other approval required by this title, the City shall provide notice of its final action to the applicant, property owner/owner's representative, and to any person who specifically requested notice of the City's final action.

2. **Contents of Notice.** The notice of the final decision shall contain applicable findings, conditions of approval, reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City, and the procedure for appeal.

(Ord. 2000 § 2, (2021))

§ 25.100.070. Effective Date of Decision.

Final action by the applicable Review Authority shall be effective in compliance with the provisions of Section 25.88.020 (Effective Dates of Permits), if no additional appeals are filed in compliance with Chapter 25.98 (Appeals).

(Ord. 2000 § 2, (2021))

**CHAPTER 25.104
DEVELOPMENT AGREEMENTS**

§ 25.104.010. Citation and Authority.

This chapter is adopted in accordance with California Government Code Section 65867. (Ord. 2000 § 2, (2021))

§ 25.104.020. Purpose.

- A. The purpose of this chapter is to strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development by providing an option to both the City and developers to enter into development agreements.
- B. In defining the provisions of any development agreement executed in compliance with this section, each provision shall be consistent with the language of this section, State law and the agreement itself. Should any discrepancies between the meaning of these documents arise, reference shall be made to the following documents, and in the following order of precedence:
 1. The provisions of Federal or State law;
 2. The plain terms of the development agreement itself; and
 3. The provisions of this section.

(Ord. 2000 § 2, (2021))

§ 25.104.030. Applicability.

The procedures and requirements set forth in this chapter shall apply to all development agreements proposed by developers and entered into by the City Council.

(Ord. 2000 § 2, (2021))

§ 25.104.040. Pre-Application Study Session.

~~Prior to formal application submittal, a pre-application Planning Commission study session shall be required.~~

- A. ~~A person having a legal or equitable interest in real property may apply for a pre-application development agreement study session. The Community Development Director shall prescribe the pre-application form for development agreements. The applicant shall pay the fee for a study session set by City Council resolution and updated from time to time.~~
- B. ~~The City may require an applicant to submit such information and supporting data as the Community Development Director considers necessary for a pre-application development agreement study session application, and as provided in a submittal checklist which may be updated from time to time.~~
- C. ~~Following the staff review, a Planning Commission pre-application study session for the proposed development agreement shall be agendaized. Staff and the applicant will present the~~

~~proposed project to the Planning Commission. Following the project presentation, the Planning Commission will be invited to make individual comments on various aspects of the proposal. Such comments shall confer no vested rights upon the applicant to proceed and the City may thereafter reject the formal application even though it complies with the approved pre-application request. In conformance with State law, no formal direction or decision-making will take place until a project has undergone appropriate environmental review, public hearings, and evaluation for consistency with adopted City codes and plans.~~

(Ord. 2000 § 2, (2021))

§ 25.104.0450. Forms, Information and Fees.

- A. A person having a legal or equitable interest in real property may apply for a development agreement. The Community Development Director shall prescribe the application form for development agreements.
- B. The City may require an applicant to submit such information and supporting data as the Community Development Director considers necessary to process the application.
- C. Each application shall be accompanied by the key terms of the development agreement proposed by the applicant.
- D. The applicant shall reimburse the City for all its reasonable and actual costs, fees, and expenses, including legal counsel and special counsel fees, for preparation and review of an application for a development agreement. This reimbursement includes the applicant reimbursing the City for all its reasonable and actual costs, fees and expenses, including legal counsel and special counsel fees, incurred in the negotiation of the development agreement. The City Council may by resolution fix the schedule of fees and charges imposed for the filing and processing of each development agreement application and negotiation, and for the annual review.

(Ord. 2000 § 2, (2021))

§ 25.104.0560. Review of Application.

- A. The Community Development Director shall review the application and determine any additional information necessary to process the application. After the required information is received, a staff report and recommendation shall be prepared and shall state whether or not the agreement, as proposed or in an amended form, would be consistent with the General Plan and any applicable specific plan and shall describe the public benefits provided by the proposed agreement.
- B. Dependent upon policy implications, unique or unusual circumstances, the size of the project, or other factors determined by the Community Development Director to be significant enough to warrant additional review and engagement, the Community Development Director shall have the discretion to require a Planning Commission study session, public workshop and/or another public vetting opportunity ~~after the study session but~~ prior to the public hearings on the development application.

(Ord. 2000 § 2, (2021))

§ 25.104.0670. Notice of Public Hearing.

- A. The timing and manner of giving notice of public hearings on the development agreement shall be as prescribed in California Government Code Section 65867.
- B. The notice to consider adoption of the development agreement shall contain:
 - 1. The time and place of the hearing;
 - 2. A general explanation of the matter to be considered, including a general description of the area to be affected; and
 - 3. Other information required by law or which the Community Development Director considers necessary or desirable.

(Ord. 2000 § 2, (2021))

§ 25.104.0780. Review by Planning Commission.

- A. The Planning Commission shall hold a public hearing on the development agreement and shall make a written recommendation to the City Council.
- B. The Planning Commission's recommendation shall include a determination whether or not the proposed development agreement:
 - 1. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan; and
 - 2. Is consistent with the zoning and other land use regulations applicable to the property.

(Ord. 2000 § 2, (2021))

§ 25.104.0890. Decision by City Council.

- A. The City Council shall hold a public hearing, after which it may accept, modify or disapprove the recommendation of the Planning Commission.
- B. The City Council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the General Plan and any applicable specific plan and are consistent with the zoning and other land use regulations applicable to the property.

(Ord. 2000 § 2, (2021))

§ 25.104.0910. Approval of Development Agreement.

If the City Council approves the development agreement, it shall do so by the adoption of an ordinance. The agreement takes effect upon the effective date of the ordinance, unless the ordinance specifies a later date.

(Ord. 2000 § 2, (2021))

§ 25.104.1010. Amendment or Cancellation.

- A. The parties may mutually agree to amend or cancel in whole or in part the development agreement previously entered into.

B. The procedure for proposing and adopting an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into an agreement.

(Ord. 2000 § 2, (2021))

§ 25.104.1120. Recordation.

A. Within 10 days after the City enters into the development agreement, the City Clerk shall have the agreement recorded with the county recorder.

B. If the parties to the agreement amend or cancel the agreement as provided in Section 25.104.110 or modify or terminate the agreement as prescribed in Section 25.104.140 for failure of the applicant or its successor in interest to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

(Ord. 2000 § 2, (2021))

§ 25.104.1230. Periodic Review.

A. The City shall review the development agreement ~~annually every 12 months from the date the agreement is entered into~~. It is the applicant's or the applicant's successor in interest's responsibility to apply in a timely fashion for the annual review and pay any applicable review fees. The applicant or its successor in interest is responsible for submitting substantial evidence of good faith compliance with the development agreement with the application for annual review. The date for the annual review may be modified either by agreement between the parties or at the City's initiation, upon recommendation of the Community Development Director, and by an affirmative vote of a majority of the City Council.

B. The Community Development Director shall give notice to the applicant or its successor in interest that the City intends to undertake the review of the development agreement. Notice shall be given at least 10 days in advance of the time at which the matter will be considered by the City Council.

C. The City Council shall conduct a public hearing to determine whether the applicant or its successor in interest is in good faith compliance with the terms of the agreement. The burden of proof, by substantial evidence, of good faith compliance shall be upon the applicant or its successor in interest.

D. The City Council shall determine, based on substantial evidence, whether or not the applicant or its successor in interest has, for the period under review, complied in good faith with the terms and conditions of the agreement.

E. If the City Council determines, based on substantial evidence, that the applicant or its successor in interest has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded.

F. If the City Council determines, based on substantial evidence, that the applicant or its successor in interest has not complied in good faith with the terms and conditions of the agreement during the period under review, the City Council may terminate or modify the

agreement as provided in Section 25.104.140.
(Ord. 2000 § 2, (2021))

§ 25.104.1340. Modification or Termination.

- A. If the City Council determines, based upon substantial evidence, that the applicant or its successor in interest has not complied in good faith with the terms and conditions of the agreement during the period under review, the City Council may terminate or modify the agreement as provided in this section.
 1. Before modifying or terminating the agreement, the City shall give notice to the applicant or its successor in interest containing:
 - a. The time and place of the hearing;
 - b. A statement as to whether the City proposes to terminate or to modify the development agreement; and
 - c. Other information which the City considers necessary to inform the applicant or its successor in interest of the nature of the proceedings.
 2. At the time and place set for the hearing on modification or termination, the applicant or its successor in interest shall be given an opportunity to be heard.
 3. The City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation.
 4. The City Council may impose those conditions to the action it takes as it considers necessary to protect the public health, safety, or welfare.
 5. The decision of the City Council is final.

(Ord. 2000 § 2, (2021))