

# **ARTICLE 7: ZONING CODE ADMINISTRATION**

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## **Chapter 18.140 – Administrative Responsibility**

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### **18.140.010 – Purpose**

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The purpose of this Chapter is to describe the authority and responsibilities of the Board of Supervisors, Planning Commission, Hearing Officer, and Planning Director in the administration of this Zoning Code.

### **18.140.020 – Planning Agency**

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The Commission and the Department (including the Hearing Officer and the Director) shall function as the Planning Agency and as the Advisory Agency, when so required or authorized, in compliance with Government Code Section 65100.

### **18.140.030 – Board of Supervisors**

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The Board of Supervisors, referred to in this Zoning Code as the Board, in matters related to the County's planning process shall perform the duties and functions prescribed in this County Code Section 2.32.120 (Duties) and this Zoning Code, which include all of the following:

- A. **Review Authority on Specified Legislative Planning Matters.** Final legislative decisions on development agreements and amendments, General Plan amendments, specific plans and amendments, Zoning Code amendments, Zoning Map amendments, related CEQA environmental documents, and other applicable policy or Zoning Code matters related to the County's planning process.
- B. **Appeals.** The review of appeals filed from Planning Commission decisions.

- C. **Compliance.** The above-listed functions shall be performed in compliance with Table 6-1 (Review Authority), Table 6-2 (Administrative Permits - Review Authority), Table 6-3 (Review Authority for Site Plan and Design Review), Title 17 (Subdivisions), and the California Environmental Quality Act (CEQA).
- D. **Imposition of Conditions.** In making decisions on applications, the Board may impose conditions it deems reasonable and necessary to implement the General Plan, any applicable specific plans, the County Code standards that apply to development, and to further the public health, safety, and general welfare of the community.

### **18.140.040 – Planning Commission**

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- A. **Establishment.** The Planning Commission, referred to in this Zoning Code as the Commission, is established in compliance with County Code Section 2.32.040 (Terms of Office).
- B. **Appointment.** The Commission shall consist of five members who shall be appointed by the Board in compliance with County Code Section 2.32.040 (Terms of Office).
- C. **Duties and Authority.** The Commission shall perform the duties and functions prescribed by County Code Section 2.32.080 (Duties) and this Zoning Code, and the Board may, from time to time by resolution, prescribe additional powers and duties consistent with State Law, including the following:
  - 1. The review of development projects, including referrals from the Planning Director;
  - 2. The review of appeals from the Planning Director's decisions and the Planning Director's and Department staff's determinations;
  - 3. The recommendation, to the Board for final legislative decisions, on development agreements and amendments, General Plan amendments, specific plans and amendments, Zoning Code amendments, Zoning Map amendments, related CEQA environmental documents, and other applicable policy or regulatory matters related to the County's planning process; and
  - 4. The above-listed functions shall be performed in compliance with Table 6-1 (Review Authority), Table 6-2 (Administrative Permits - Review Authority), Table 6-3 (Review Authority for Site Plan and Design Review), and the California Environmental Quality Act (CEQA).
- D. **Meeting Rules.** The Commission shall conduct public hearings and meetings in compliance with County Code Section 2.32.070 (Quorum, Actions, adoption of Rules) and Chapter 18.146 (Public Notices and Hearings).
- E. **Imposition of Conditions.** In making decisions on applications, the Commission may impose conditions it deems reasonable and necessary to implement the General Plan, any applicable specific plans, the County Code standards that apply to development, and to further the public health, safety and general welfare of the community.
- F. **Appeals of Actions.** Any decision by the Commission may be appealed to the Board in compliance with Chapter 18.144 (Appeals).

### **18.140.050 – Hearing Officer**

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- A. **Duties and Authority of the Hearing Officer.** If a project application appears to be controversial or if there are unresolved issues, the project shall be scheduled for a public hearing before the Hearing Officer (Planning Director serving as the Hearing Officer), in compliance with Table 6-1 (Review Authority), Table 6-2 (Administrative Permits - Review Authority), Table 6-3 (Review Authority for Site Plan and Design Review), and the California Environmental Quality Act (CEQA).
- B. **Decisions of the Hearing Officer.**

1. The Hearing Officer shall make a decision on the application and, if approved and no appeal is filed within 10 days, the permit shall be mailed to the applicant and Building Permits may be processed and/or the use established.
  2. The Hearing Officer shall have the authority to defer action on an application and refer the request to the Commission for consideration and final action.
- C. **Distribution of Reports.** Any reports for matters to be reviewed by the Hearing Officer shall be distributed to the Hearing Officer and the applicant 10 days before the hearing date.
- D. **Conditions of Approval.** In making decisions on applications, the Hearing Officer may impose conditions the Hearing Officer deems reasonable and necessary to implement the General Plan, any applicable specific plans, the County Code standards that apply to development, and to further the public health, safety and general welfare of the community.
- E. **Appeal of Decisions.** Any decision by the Hearing Officer may be appealed to the Commission in compliance with Chapter 18.144 (Appeals).

### **18.140.060 – Director**

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- A. **Appointment.** The Planning Director, or the Planning Director's designee, referred to in this Zoning Code as the Director, shall be appointed by the County Executive Officer (CEO).
- B. **Duties and Authority.** The Director shall:
1. Have the responsibility to perform all of the functions designated by State law and County Code Sections 2.32.100 (Director) and 2.32.110 (Department - Duties);
  2. Perform the duties and functions prescribed in this Zoning Code, including compliance with Table 6-1 (Review Authority), Table 6-2 (Administrative Permits - Review Authority), Table 6-3 (Review Authority for Site Plan and Design Review), and the California Environmental Quality Act (CEQA).
  3. Have the authority to defer action on an application and, at the Director's discretion, refer the request to the Hearing Officer or Commission for consideration and final action;
  4. Perform other responsibilities assigned by the Board, Commission, or County Executive Officer (CEO); and
  5. Delegate the responsibilities of the Director to Department staff under the supervision of the Director.
- C. **Conditions of Approval.** 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, the County Code standards that apply to development, and to further the public health, safety and general welfare of the community.
- D. **Appeal of Decisions.** Any decision by the Director may be appealed to the Commission in compliance with Chapter 18.144 (Appeals).

## **Chapter 18.142 – Amendments (General Plan, Zoning Code, and Zoning Map) (Existing Section 18.50.03)**

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### **Contents:**

- 18.142.010 – Purpose**
- 18.142.020 – Initiation of Amendment**
- 18.142.030 – Processing, Notice, and Hearings**
- 18.142.040 – Commission's Action on Amendment**
- 18.142.050 – Board's Action on Amendment**

## **18.142.060 – Findings and Decision**

## **18.142.070 – Effective Dates**

### **18.142.010 – Purpose**

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

- A. **General Plan Amendments.** The General Plan is the County's guiding land use policy document which the Official Zoning Map is based on, and the two shall be consistent. The application shall first be heard by the Commission which shall adopt a recommendation for Board consideration. Then it shall be heard by the Board, which shall adopt a resolution, following a noticed public hearing.
- B. **Zoning Code Amendments.** This Zoning Code specifies all of the rules, regulations, and standards that serve to implement the General Plan. Amendments to this Zoning Code shall be by ordinance. The application shall first be heard by the Commission which shall adopt a recommendation for Board consideration. Then it shall be heard by the Board, which shall adopt an ordinance, following a noticed public hearing.
- C. **Zoning Map Amendments.**
  1. All land in the [18.142.020](#) – Initiation of Amendment unincorporated area of the County is classified into various zones. These zones are outlined on the County's Official Zoning Map. Article 2 (Zones, Allowable Uses, and Development Standards) describes the uses of land that are allowed in each zone and Article 4 (Standards For Specific Land Uses) describes the development standards applicable for each specific use.
  2. A Zoning Map Amendment is a procedure involving an application to reclassify land to a different zone that is consistent with the General Plan designation for the property. On occasion, a General Plan Amendment is processed together with a Zoning Map Amendment, however, the number of General Plan Amendments is limited by law. Additionally, by law, the two shall be consistent.
  3. Amendments to the Zoning Map shall be adopted by ordinance. The application shall first be heard by the Commission which shall adopt a recommendation for Board consideration. Then it shall be heard by the Board, which shall adopt an ordinance, following a noticed public hearing.

### **18.142.020 – Initiation of Amendment**

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- A. **Initiation by the County.** An amendment may be initiated by the Commission or Board, proposed by the Director, or as specified in Subsection B., below.
- B. **Initiation by Application.** In the case of the General Plan or the Zoning Map, an amendment may also be initiated by the filing of an amendment application with the Department by all of the owners or authorized agent(s)/representative(s) of property owner(s) for which the amendment is sought, or the plaintiff in an action in eminent domain to acquire the subject property.

### **18.142.030 – Processing, Notice, and Hearings**

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- A. **Application Filing and Processing.**
  1. If initiated by the filing of an amendment application in compliance with Subsection [18.142.020](#) B. (General Plan or Zoning Map Amendments Only), above, the application shall be processed in compliance with Chapter [18.112](#) (Application Processing Procedures).

2. The application shall include all of the information and materials specified in the most up-to-date Department handout for amendment applications, together with the required fee in compliance with the Fee Schedule.
  3. The planner assigned to the project application shall send out referrals to affected agencies and County departments for their review and comment.
  4. It is the responsibility of the applicant to provide evidence in support of the findings required by Section [18.142.060](#) (Findings and Decision), below.
- 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 specified in Government Code Section 65358.
- C. Public Hearings Required.** The Commission and Board shall each conduct one or more public hearings regarding the amendment; unless the application is denied by the Commission in compliance with Section [18.142.040](#) B. (Denial by Commission), below.
- D. Notice and Hearing.** Notice of the public hearings shall be provided and the hearings shall be conducted in compliance with Chapter [18.146](#) (Public Notices and Hearings) and as specified in Government Code Sections 65353, 65355, 65854, and 65856.

### **18.142.040 – Commission's Action on Amendment**

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**A. Recommendation to Board.**

1. **All Amendments.** After the public hearing, the Commission shall forward a written recommendation, in the form of a resolution, together with the findings in support of the recommendation, to the Board whether to recommend approval, approval in modified form, or denial of the proposed amendment, based on the findings identified in Section [18.142.060](#) (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 a majority vote.
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 vote of the total membership of the Commission in compliance with Government Code Section 65354 and County Code Section 2.32.070.

**B. Action for Denial by Commission.**

1. Commission's action for denial of the amendment shall require a majority vote.
2. The action of the Commission to deny an amendment shall be final and conclusive unless an appeal is filed with the Clerk of the Board, within five days following the date of the Commission's action, in compliance with Chapter [18.144](#) (Appeals) and as specified in Government Code Sections 65354.5 and 65856.
3. If denied by the Commission, in compliance with Subsection B.2., above, the Board shall not be required to take any further action on the amendment application unless appealed as specified in Subsection B.2., above.

### **18.142.050 – Board's Action on Amendment**

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**A. Approval.**

1. **All Amendments.** Upon receipt of the Commission's recommendation to approve, or approve in modified form the amendment, the Board shall conduct a public hearing and either approve, approve in modified form, or deny the amendment based on the findings identified in Section [18.142.060](#) (Findings and Decision), below.

2. **Approval of Zoning Code or Zoning Map Amendments.** The action by the Board 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 Board 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 (a super majority) in compliance with Government Code Section 65356, adopted by resolution, and shall be final and conclusive.

**B. Referral to Commission.**

**1. Board Referral for Further Study.**

- a. When the Board has requested the Commission to study and report on a proposed amendment and the Commission fails to act on the request within a reasonable time, the Board may, by written notice, require the Commission to render its report within 40 days.
- b. Upon receipt of the written notice, the Commission shall conduct the required public hearing if it has not already done so.
- c. Failure of the Commission to report back to the Board within the time period shall be deemed the Commission's recommendation for approval of the amendment in compliance with Government Code Section 65853.

**2. Board Referral for Information Not Previously Considered.**

- a. If the Board 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.
- b. The Commission shall not be required to hold a public hearing on the referral.
- c. Failure of the Commission to report back to the Board within 40 days (Zoning Code or Zoning Map - 65857) or 45 days (General Plan Amendments - 65356) after the referral, or a longer period as may be designated by the Board, shall be deemed the Commission's recommendation for approval of the amendment in compliance with Government Code Sections 65356 and 65857.

**18.142.060 – Findings and Decision**

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An amendment to the General Plan, this Zoning Code, or the Official Zoning Map may be approved only if all of 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 County; and
3. The affected site is physically suitable in terms of design, location, operating characteristics, shape, size, topography, and 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. **Findings Required for all Zoning Code and Zoning Map Amendments**
  - a. The proposed amendment is consistent with the General Plan and any applicable specific plan; and,
  - b. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.
2. **Additional Finding for Zoning Code Amendments.** The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.
3. **Additional Finding for Zoning Map Amendments.** The affected site is physically suitable in terms of design, location, operating characteristics, shape, size, topography, and 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.

### **18.142.070 – Effective Dates**

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

## **Chapter 18.144 – Appeals**

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### **Contents:**

- 18.144.010 – Purpose**
- 18.144.020 – Appeal Subjects and Jurisdiction**
- 18.144.030 – Filing and Processing of Appeals**
- 18.144.040 – Judicial Review**

### **18.144.010 – Purpose**

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This Chapter establishes procedures for the appeal of determinations and decisions rendered by the Commission, Hearing Officer, and Director.

### **18.144.020 – Appeal Subjects and Jurisdiction**

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- A. **Zoning Code Administration and Interpretation.** The following interpretations, determinations, and enforcement actions of the Director may be appealed to the Commission and then to the Board:
  1. **Interpretations.** Any determination on the meaning or applicability of the regulations contained in this Zoning Code that are believed to be in error, and cannot be resolved with the Director;
  2. **Determinations.** Any determination that a permit application or information submitted with the application cannot be accepted or is incomplete, in compliance with Government Code Section 65943; and
  3. **Enforcement Actions.** Any enforcement action filed in compliance with Chapter 18.154 (Enforcement Provisions).
- B. **Planning Permit Decisions.**

1. **Hearing Officer's and Director's Decisions.** Any decision of the Hearing Officer or Director may be appealed to the Commission.
  2. **Commission's Decisions.** Any decision of the Commission may be appealed to the Board.
- C. **Legislative Decisions.** Any decision of the Commission may be appealed to the Board.
- D. **CEQA Decisions.**
1. Any CEQA decision of the Director or Hearing Officer may be appealed to the Commission.
  2. Any CEQA decision of the Commission may be appealed to the Board.

### **18.144.030 – Filing and Processing of Appeals**

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- A. **Eligible Parties.** An appeal in compliance with this Chapter may be filed by any of the following parties:
1. Any person, except that in the case of a decision on a Conditional Use Permit, Variance, or other decision that followed a public hearing, 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 and provided comments/testimony;
  2. Any person appealing a decision of the Director not made during a public hearing; or
  3. Any person who informed the County in writing of the nature of their concerns before the hearing.
- B. Any action or decision by the Commission, Hearing Officer, or Director, in compliance with this Zoning Code may be appealed by a Board member acting as an individual in compliance with Subparagraph A.1., above, and shall be exempt from the filing fee requirements of this Subsection.
- C. **Timing and Form of Appeal.** An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal.
1. 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 (e.g., Commission, Hearing Officer, Director, or other County official) in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record. Appeals filed by a County official, a Commissioner, or a Board member shall be exempt from the filing and processing requirements of this Subsection, but not the 10-day appeal period limitation.
  2. The appeal shall be filed with the Department or Clerk of the Board, as applicable, within 10 days following the actual date the decision was rendered.
    - a. An appeal addressed to the Commission shall be filed with the Department; and,
    - b. An appeal addressed to the Board shall be filed with the Clerk of the Board.
  3. The appeal shall be accompanied by the filing fee identified in the Fee Schedule.
    - a. The appeal fees are established to cover the cost of the following items as are required for the particular case: field investigation; preparation of necessary reports; preparation of site maps; mailing notices; printing and posting notices and legal publications.
    - b. These fees, no part of which shall be refundable, shall be paid to the Department at the time the appeal is filed.



4. The appeal shall be accompanied by a written verification by at least one of the petitioners attesting to the truth and correctness of all facts and maps and other graphic materials presented with the appeal petition.
5. Once an appeal is filed, any action on the subject project is suspended until the appeal is processed and a final decision is rendered by the applicable Review Authority.

**C. Scope of Planning Permit Appeals.**

1. An appeal of a decision on a planning permit shall be limited to issues raised at the public hearing, or in writing before the hearing, which are part of the record, or information that was not known at the time of the decision that is being appealed.
2. For purposes of this Section, the record consists of all correspondence, minutes, reports, transcripts, written and oral testimony at the public hearing, and any other documents or evidence considered or relied upon by the Review Authority in the decision-making process.

**D. Report and Scheduling of Hearing.**

1. When an appeal has been filed, the Director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate Review Authority identified in Section 18.144.020 (Appeal Subjects and Jurisdiction), above, within 60 days of the filing of the appeal.
2. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 18.146 (Public Notices and Hearings).
  - a. Notice shall be mailed to the applicant and to all persons who spoke at the public hearing on the matter being appealed, to all persons who submitted written evidence before or during the public hearing on the matter being appealed, and to all persons whose names appear on the latest County equalized assessment roll as owning property located within 300 feet of the exterior boundaries of the parcel subject to the appeal.
  - b. Notice shall also be published once in a newspaper of general circulation either County-wide or in the community where the property is located not later than 10 calendar days before the hearing date.
3. Any interested party may appear and be heard regarding the appeal.

**E. Decision.**

1. During the appeal hearing, 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. The Review Authority may:
  - a. Affirm, affirm in part, modify, 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 Zoning Code; and,
  - b. Adopt additional conditions of approval, which may address issues or concerns other than the subject of the appeal.
2. If new or different evidence is presented on appeal, the Commission or Board may refer the matter to the Director, Hearing Officer, or Commission, as applicable, for further consideration.
3. In the event of a tie vote by the Review Authority on an appeal, the decision being appealed shall stand.

4. An appeal denied by the Commission may be further appealed to the Board within the time limits specified in Subsection 18.144. 030 B. (Timing and Form of Appeal), above. (Government Code Section 65956.5).
5. Provision of Notice of Decision.
  - a. Following the final decision on an application for a permit or other approval required by this Zoning Code, the County 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 County's final action.
  - 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 County.

F. **Effective Date of Appeal Decisions.** Final action by the applicable Review Authority shall be effective in compliance with the provisions of Section 18.132.030 (Effective Dates of Permits) if no additional appeals are filed in compliance with this Chapter.

### **18.144.040 – Judicial Review**

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No person shall seek judicial review of a County decision on a planning permit or other matter in compliance with this Zoning Code unless and until all available appeals to the Commission and Board have been first exhausted in compliance with this Chapter.

## **Chapter 18.146 – Public Notices and Hearings**

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### **Contents:**

**18.146.010 – Purpose**

**18.146.020 – Notice of Hearing**

**18.146.030 – Scheduling of Hearing**

**18.146.040 – Hearing Procedure**

**18.146.050 – Recommendation by Commission, Action by Board**

**18.146.060 – Decision and Notice**

**18.146.070 – Effective Date of Decision**

### **18.146.010 – Purpose**

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This Chapter provides procedures for public hearings required by this Zoning Code. 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.

### **18.146.020 – Notice of Hearing**

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When this Zoning Code 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 Government Code Sections 65090, 65091, 65092, 65094 and 66451.3, and Public Resources Code 21000 et seq., and as required by this Chapter.

- A. **Content of Notice.** Notice of a public hearing shall include all 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 County'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 and street address of the Department where an interested person could call or visit to obtain additional information.

2. **Project Information.** The date of filing of the application and the name of the applicant; the County's file number assigned to the application; 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 Negative Declaration, Mitigated Negative Declaration, or final Environmental Impact Report has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the County'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 required by this Chapter for a planning permit, amendment, appeal, or other approval shall be given as follows, as required by Government Code Sections 65090 and 65091.
1. **Mailing for a Hearing Before the Hearing Officer, Commission, or Board.** Notice shall be mailed or delivered at least 10 days before the scheduled hearing to all of the following:
    - 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.**
      - (1) **All applications – 300 feet.** All owners of real property, as shown on the latest County equalized assessment roll, located within a radius of 300 feet of the exterior boundaries of the parcel(s) that is the subject of a hearing before the Hearing Officer or Commission.
      - (2) **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subsection c. (1)., above is more than 1,000, the Director may choose to provide a one-eighth page newspaper advertisement allowed by Government Code Section 65091(a)(3).
    - d. **Approval of a Negative Declaration** A "Notice of Intent to Approve a Negative Declaration" at a public hearing, shall be sent to all contiguous property owners and occupants and the County Clerk.
    - e. **Persons Requesting Notice.** Any person who has filed a written request for notice with the Director and has paid the required fee to cover the cost of this mailing.
    - f. **Other Person(s).** Any other person(s), whose property might, in the judgment of the Director, be affected by the proposed project.
  2. **Alternative Notice for the Director's Decision Without a Public Hearing.**
    - a. If approval is by the Director without a public hearing, notice may be given only to the owner/applicant and the abutting property owners (i.e., abutting and across the street).
    - b. A newspaper notice is not required.
    - c. In addition, notice is not required to be given to abutting property owners in applications for minor modifications to permits where there are no significant issues, as determined by the Director.

3. **Publication and Posting.**
  - a. **Publication for All Applications.** Notice of a public hearing required by this Zoning Code for a permit, permit modification, amendment, or appeal shall be published at least once in a newspaper of general circulation either County-wide or in the community where the property is located at least 10 days before the scheduled hearing.
  - b. **Posting for All Applications.** Agendas listing all Public Hearing Items shall be posted in or immediately near the County Administration Building within a viewable area at least 72 hours prior to the scheduled hearing date.
  - c. **Posting by the Applicant. Placeholder**
4. **Additional Notice.** In addition to the types of notice required above, the Director may provide any additional notice with content or using a distribution method (e.g., posting on the County's website) as the Director determines is necessary or desirable.

### **18.146.030 – Scheduling of Hearing**

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After the completion of any environmental document required by the California Environmental Quality Act (CEQA), a matter requiring a public hearing shall be scheduled on the next available agenda (Director, Hearing Officer, Commission, or Board, as applicable) reserved for public hearings, but no sooner than any minimum time period established by State law.

### **18.146.040 – Hearing Procedure**

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- 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 Review Authority 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 their action on a final decision until appropriate findings and/or conditions have been prepared.
- D. **Conduct of Commission Hearings.**
  1. A quorum of the Commission shall consist of three members.
  2. Actions by the Commission shall require a simple majority vote of the Commission members present.
  3. Tie votes of the Commission for all matters that legally require the adoption of an ordinance, a resolution, or findings shall result in no action by the Commission. The motion shall fail to pass and the matter shall terminate any further action by the County until a majority vote of the quorum is achieved.

### **18.146.050 – Recommendation by Commission, Action by Board**

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- A. **Recommendation and Findings to the Board.** After a public hearing on a proposed amendment to the General Plan, this Zoning Code, the Zoning Map, a development agreement, or a specific plan, the Department shall forward the recommendation and findings of the Commission and the minutes of the Commission meeting to the Board.
- B. **Recommendation and Findings to the Applicant.** The recommendation and findings shall be mailed to the applicant at the address shown on the application.
- C. **Recommendation Included in Notice.** The recommendation shall be included in the required notice of the Board's public hearing.

## **18.146.060 – Decision and Notice**

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### **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 18.146.040 (Hearing Procedure), above.
2. Unless otherwise required by law (i.e., as with votes by the Commission on a General Plan amendment which requires a majority vote of the total membership of the Commission in compliance with Government Code Section 65354 and Subsection 18.146.040 D. 2., above), a majority of those entitled to vote or majority of quorum shall be required for any formal action by the applicable Review Authority.
3. Tie votes of the Review Authority shall result in no action by the Review Authority.
4. At the conclusion of a hearing conducted by the Director or the Hearing Officer, the Director or Hearing Officer, as applicable, may instead refer the matter to the Commission for review and final decision.
5. All decisions shall be in writing and, if required by law, shall contain written findings.

### **B. Notice of Decision.**

1. **Provision of Notice.** Following the final decision on an application for a permit or other approval required by this Zoning Code, the County shall provide notice of its final action to the applicant and to any person who specifically requested notice of the County'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 County, and the procedures for appeal.
3. **Delivery of Notice.**
  - a. The notice of the final decision shall be delivered by first class, postage prepaid certified mail, return receipt requested.
  - b. An affidavit of mailing shall be prepared and a copy delivered with the decision.
  - c. The Department shall retain the original affidavit.

- C. **Notifying County Assessor.** Whenever a Zoning Map amendment, Administrative Permit, Conditional Use Permit, Minor Deviation, Minor and Major Modifications, or Variance is granted with respect to any property, the Department shall, within 30 days, notify the County Assessor of the action in compliance with Government Code Section 65863.5.

## **18.146.070 – Effective Date of Decision**

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- A. **Director's, Hearing Officer's, or Commission's Decision.** The decision of the Director, Hearing Officer, or Commission is final and effective after 5:00 p.m. on the 10<sup>th</sup> day following the actual date the final decision is rendered if no appeal of that decision has been filed in compliance with Chapter 18.144 (Appeals).

### **B. Board's Decision.**

1. **Adopted by Ordinance.** A decision of the Board adopted by ordinance is final and shall become effective on the 31<sup>st</sup> day following the date the ordinance is actually adopted by the Board, unless otherwise provided in the adopting ordinance. For example, an ordinance adopted on October 1<sup>st</sup> will actually be effective on November 1<sup>st</sup>.

2. **Adopted by Resolution.** A decision of the Board adopted by resolution is final and shall be effective on the date the decision is rendered.
3. **Contingent on Future Date or Event.** The Board may take a final action and make it contingent on a future date or event.

## **Chapter 18.148 – Development Agreements**

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### **Contents:**

#### **18.148.010 – Purpose**

#### **18.148.020 – Application Requirements**

#### **18.148.030 – Application Filing, Processing, and Review**

#### **18.148.040 – Development Agreement Content**

#### **18.148.050 – Findings and Decision**

#### **18.148.060 – Execution and Recordation**

#### **18.148.070 – Amendment and Cancellation of Development Agreements**

#### **18.148.080 – Periodic Review**

#### **18.148.090 – Effect of Development Agreements**

#### **18.148.100 – Approved Development Agreements**

### **18.148.010 – Purpose**

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#### **A. Purpose.**

1. A development agreement is a contract between the County and an applicant with a legal or equitable interest in land subject to development, in compliance with Government Code Article 2.5 (Development Agreements).
2. A development agreement is intended to provide assurance to the applicant that an approved project may generally proceed subject to the policies, rules, regulations, and conditions of approval applicable to the project at the time of approval, regardless of any changes to County policies, rules, and regulations after project approval.
3. In return, the County is provided assurance that the project will further important Countywide goals and policies that have been officially recognized by the Board, and provide the County with significant, tangible benefits beyond those that may be required by the County through project conditions of approval.

#### **B. Construing the Provisions.** In construing the provisions of any development agreement entered into in compliance with this Chapter, those provisions shall be read to fully effectuate, and to be consistent with, the language of this Chapter, Government Code Article 2.5, and the agreement itself. Should any apparent discrepancies between the meaning of these documents arise, reference shall be made to the following documents, and in the following order:

1. The provisions of Government Code Article 2.5;
2. The provisions of this Chapter; and,
3. The plain terms of the development agreement itself.

### **18.148.020 – Application Requirements**

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#### **A. Equitable Interest.** Person(s) having a legal or equitable interest in real property may apply through the Director to enter into a development agreement if all of the following criteria are met:

1. The status of the applicant, having a legal or equitable interest in the subject real property, is established to the satisfaction of the Director. An applicant may also include an authorized agent; and,
  2. The application is made on approved forms, containing all lawfully required documents, materials, and information.
- B. **Director's Review and Recommendations.** The Director is authorized to receive, review, process, and prepare, together with recommendations for Commission and Board consideration, all applications for development agreements. The Director may call upon all other County departments for timely assistance in complying with this Chapter.
- C. **Fees.** Processing fees, as established by the Fee Schedule, shall be collected for an application for a development agreement made in compliance with this Chapter. Additionally, appropriate fees shall be established and collected for amendments to a development agreement and the periodic review identified in Section 18.148.080 (Periodic Review), below.

### **18.148.030 – Application Filing, Processing, and Review**

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- A. **Filing.** An application for a development agreement shall be filed with the Department in compliance with Chapter 18.112 (Application Processing Procedures).
- B. **Contents.** The application shall be accompanied by detailed data/materials identified in the most up-to-date Department handout for development agreement applications.
- C. **Project Review Procedures.** Following receipt of a completed application, the Director shall investigate the facts necessary for action consistent with the purpose of this Chapter.
- D. **Notice and Hearings.**
1. The Director, upon finding the application for a development agreement complete and in compliance with the provisions of the California Environmental Quality Act (CEQA), shall schedule the application, together with recommendations, for public hearing before the Commission. Following conclusion of the public hearing, the Commission shall make a written recommendation, in the form of a resolution, to the Board that it approve, conditionally approve, or deny the application, based on the findings identified in Section 18.148.050 (Findings and Decision), below.
  2. Upon receipt of the Commission's recommendations, the Clerk of the Board shall set the application and written report of the Commission for a public hearing before the Board. Following conclusion of the public hearing, the Board shall approve, conditionally approve, or deny the application, based on the findings identified in Section 18.148.050 (Findings and Decision), below.
  3. Notice of the hearings identified in Subparagraphs 1. and 2., shall be given in the form of a notice of intention to consider approval of a development agreement in compliance with Government Code Section 65867 and Chapter 18.146 (Public Notices and Hearings).

### **18.148.040 – Development Agreement Content**

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- A. **Mandatory Contents.** A development agreement shall contain the applicable provisions identified below, in compliance with Government Code Section 65865.2:
1. Specifying the:
    - a. Duration of the agreement;
    - b. Allowed uses for the subject property; and,
    - c. Density/intensity of the allowed uses.
  2. Describing the:

- a. Maximum height and size of proposed structures by clearly identifying and referring to the documents and exhibits approved;
  - b. Provisions, if any, for reservation or dedication of land for public purposes; and,
  - c. Provisions, if any, for the protection from either a future growth control ordinance or a future increase in development and/or effect fees.
3. Provide for a tiered amendment review procedure that may incorporate the following:
    - a. Director approval for minor modifications;
    - b. Commission approval for major modifications; and,
    - c. Board approval for major amendments.
  4. Provide for the possibility of subsequent discovery of health and safety issues like a "compelling public necessity" (e.g., a new environmental health hazard is discovered), which would necessitate a reconsideration/amendment of the previously approved development agreement.
- B. Permissive Contents.** A development agreement may contain the applicable provisions identified below, in compliance with Government Code Section 65865.2:
1. Conditions, terms, restrictions, and requirements for subsequent discretionary actions; provided, the conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density/intensity of development specified in the agreement;
  2. Provisions that require that construction shall be commenced within a specified time and that the project, or any single phase, be completed within a specified time;
  3. Terms and conditions relating to applicant financing of necessary public improvements and facilities including applicant participation in benefit assessment proceedings; and,
  4. Other terms, conditions and requirements as the Board may deem reasonable, necessary, and proper, including requirement(s) for ensuring, to the satisfaction of the Director, performance of all provisions of the agreement in a timely manner by the applicant/contracting party.

## **18.148.050 – Findings and Decision**

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The Review Authority may approve a development agreement only if it first makes all the following findings:

- A. The development agreement is in the best interests of the County;
- B. The development agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable specific plan, and this Zoning Code;
- C. The development agreement will promote the public convenience, health, interest, safety, and general welfare of the County;
- D. The project will be compatible with the uses authorized in, and the regulations prescribed for, the zone in which the real property is located;
- E. The project will not adversely affect the orderly development of property or the preservation of property values;
- F. The project will further important Countywide goals and policies that have been officially recognized by the Board; and
- G. The project will provide the County with important, tangible benefits beyond those that may be required by the County through project conditions of approval.



## **18.148.060 – Execution and Recordation**

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### **A. Adoption of Ordinance Becomes Effective.**

1. If the Board approves the development agreement, it shall do so by the adoption of an ordinance.
2. The County shall not execute a development agreement until on or after the date upon which the ordinance approving the agreement, enacted in compliance with Subsection [18.148.030.D](#). (Notice and Hearings), above, becomes effective.
3. The development agreement shall be signed by the Chairman of the Board or County Executive Officer (CEO).

### **B. Recordation of Agreement.** A development agreement shall be recorded in the County Recorder's Office no later than 10 days after it is executed.

## **18.148.070 – Amendment and Cancellation of Development Agreements**

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### **A. Proposed Amendment or Cancellation.** Either party to the development agreement may propose an amendment to or cancellation of the development agreement.

### **B. Processing Procedures.** The procedure and notice requirements for amendment or cancellation of the development agreement are the same as the procedure for entering into an agreement in compliance with this Chapter.

### **C. County Initiated Amendment or Cancellation.** Where the County initiates the amendment or cancellation of the development agreement, it shall first give notice to the property owner of its intention to initiate the proceedings at least 10 days before giving public notice to consider the amendment or cancellation, in compliance with Chapter [18.146](#) (Public Notices and Hearings).

## **18.148.080 – Periodic Review**

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### **A. Subject to Periodic Review.**

1. Every development agreement approved and executed in compliance with this Chapter, shall be subject to periodic County review during the full term of the agreement, in compliance with Government Code Section 65865.1.
2. The County shall review the development agreement upon initiation by the applicant/contracting party or its successor(s)-in-interest, but at least every 12 months from the date the agreement is executed.
3. The time for review may be shortened either by agreement between the parties or by initiation in one or more of the following ways:
  - a. Affirmative vote of at least three members of the Commission; or
  - b. Affirmative vote of at least three members of the Board.
4. The review schedule shall be specified in the development agreement.

### **B. Purpose of Periodic Review.** The purpose of the periodic reviews shall be to determine whether the applicant/contracting party or its successor(s)-in-interest has complied in good faith with the terms or conditions of the development agreement. The burden of proof shall be on the applicant/contracting party or its successor(s) to demonstrate compliance, to the full satisfaction of, and in a manner prescribed by, the County.

### **C. Notice of Periodic Review.**

1. The applicant/contracting party or its successor(s)-in-interest shall initiate the review proceeding by making application to the Director in compliance with this Section.

2. Upon receipt of a complete application, the Director shall begin the review proceeding by giving notice that the County intends to undertake a periodic review of the development agreement to the applicant/contracting party or its successor(s)-in-interest, and any person who has filed a written request for notice with the Director and has paid the required fee for the notice.
3. The Director shall give the notice at least 10 days in advance of the time when the matter will be considered by the Commission in compliance with Subsection [18.148.030.D](#). (Notice and Hearings), above.

**D. Review by Commission.** Review shall be conducted by the Commission.

1. The Commission shall conduct a hearing at which the applicant/contracting party or its successor(s)-in-interest shall demonstrate good faith compliance with the terms of the development agreement.
2. The burden of proof of this issue is on the applicant/contracting party or its successor(s)-in-interest.

**E. Findings.** The Commission shall determine, based upon substantial evidence provided by the applicant/contracting party or its successor(s)-in-interest, whether the applicant/contracting party or its successor(s)-in-interest has, for the period under review, complied in good faith with the terms and conditions of the development agreement.

**F. Procedure Upon Findings.**

**1. Has Complied.**

- a. If the Commission finds and determines that the applicant/contracting party or its successor(s)-in-interest has complied in good faith with the terms and conditions of the development agreement during the period under review, the review for that period is concluded, and a notice of that determination shall be sent to the Board and the applicant/contracting party or its successor(s)-in-interest.
- b. The Board shall review the Commission's action.
- c. If the Board so desires, it can schedule a public hearing for further review.

**2. Has Not Complied.** If the Commission finds and determines that the applicant/contracting party or its successor(s)-in-interest has not complied in good faith with the terms and conditions of the development agreement, the Commission shall forward its recommendation to the Board and the Board may modify or terminate the agreement, or provide more time for the applicant/contracting party or its successor(s)-in-interest to comply in good faith with the terms and conditions of the development agreement.

**G. Modification or Termination of Development Agreement.**

1. **Proceedings Upon Modification or Termination.** If, upon a finding under Subsection F. (Procedure upon Findings), above, the County determines to proceed with modification or termination of the development agreement, the County shall give notice to applicant/ contracting party or its successor(s)-in-interest of its intention to do so. The notice shall contain all of the following:
  - a. The time and place of the hearing, which shall be conducted by the Board;
  - b. A statement as to whether or not the County proposes to terminate or to modify the development agreement; and
  - c. Other information that the County considers necessary to inform applicant/ contracting party or its successor(s)-in-interest of the nature of the proceedings.
2. **Hearing on Modification or Termination of Development Agreement.**

- a. At the time and place set for the hearing on modification or termination, the applicant/contracting party or its successor(s)-in-interest shall be given an opportunity to be heard.
- b. At the hearing, the Board may affirm, modify, or reject the determination of the Commission.
- c. The Board may refer the matter back to the Commission for further proceedings or for report and recommendation.
- d. The Board may impose those conditions to the action it takes as it considers reasonable, necessary, and proper in order to protect the interests of the County.
- e. The decision of the Board on the modification or termination shall be final.

### **18.148.090 – Effect of Development Agreements**

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- A. **Rules in Force at the Time of Execution.** Unless otherwise provided by the development agreement, the policies, regulations, and rules governing allowed uses of the land, density, design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, are the policies, regulations, and rules in force at the time of execution of the agreement.
- B. **Application of New Rules.** In compliance with Government Code Section 65866, a development agreement shall not prevent the County, in subsequent actions applicable to the property, from applying new policies, regulations, and rules that do not conflict with those policies, regulations, and rules applicable to the property, nor shall a development agreement prevent the County from conditionally approving or denying any subsequent development project application on the basis of existing or new policies, regulations, and rules.

### **18.148.100 – Approved Development Agreements**

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Development agreements approved by the Board shall be on file with the Clerk of the Board.

## **Chapter 18.150 – Specific Plans**

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### **Contents:**

**18.150.010 – Purpose**

**18.150.020 – Intent**

**18.150.030 – Applicability**

**18.150.040 – Minimum Project Area**

**18.150.050 – Specific Plan Initiation**

**18.150.060 – Hearings and Notice Required**

**18.150.070 – Specific Plan Adoption**

**18.150.080 – Specific Plan Amendment**

### **18.150.010 – Purpose**

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The purpose of this Chapter is to provide a process for preparing, processing, reviewing, adopting, and amending specific plans in compliance with Government Code Section 65450 et seq. or as that section may be amended or replaced from time to time.

### **18.150.020 – Intent**

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- A. **General Plan Implementation.** After the Board has adopted the General Plan, or any amendment, the County may, or if directed by the Board, shall prepare specific plans for the implementation of the General Plan.
- B. **Adopted by Ordinance.** A specific plan adopted by ordinance shall replace the base zone(s) for the subject property, and the development standards and guidelines identified in the specific plan shall take precedence over the development standards contained in this Zoning Code.
- C. **Adopted by Resolution.** A specific plan adopted by resolution shall be applied as applicable regulations and standards to this Zoning Code, and the General Plan shall take precedence over the development standards and guidelines identified in the specific plan.

### **18.150.030 – Applicability**

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- A. **Specific Plan – When Required.** When required by the General Plan or this Zoning Code to systematically implement the General Plan, a specific plan shall be prepared, processed, approved and implemented, or denied in compliance with this Chapter.
- B. **Flexibility and Innovation.** A specific plan is designed to provide for flexibility, innovative use of land resources and development, a variety of housing and other development types, and an effective and safe method of pedestrian and vehicular circulation.
- C. **Commission and Board Review.** An application for a specific plan shall be considered by the Commission and Board.
  - 1. **Commission's Recommendation.** After a public hearing, the Commission shall forward a written recommendation, in the form of a resolution, together with the findings in support of the recommendation, to the Board whether to recommend approval, approval in modified form, or denial of the proposed specific plan, based on the findings identified in Section 18.150.070 A. (Mandatory Finding for Adoption), below.
  - 2. **Board's Action.** After a public hearing, the Board shall take appropriate action on the specific plan application, in the form of an ordinance or resolution, together with the findings in support of the action to approve, approve in modified form, or deny the proposed specific plan, based on the findings identified in Section 18.150.070 A. (Mandatory Finding for Adoption), below.

### **18.150.040 – Minimum Project Area**

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A specific plan may only be requested for a site(s) in compliance with the following minimum site area requirements:

- A. **Sites Located Within an Urban Area:** Five acres minimum.
- B. **Sites Located Outside of an Urban Area:** 20 acres minimum.

### **18.150.050 – Specific Plan Initiation**

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A specific plan may only be initiated by the Board or proposed by the Director.

### **18.150.060 – Hearings and Notice Required**

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- A. **Hearings.** Public hearings shall be required for the Commission's recommendation and the Board's action on a specific plan or a specific plan amendment.
- B. **Notice.** Notice of the public hearings shall be given and the hearings shall be conducted in compliance with Chapter 18.146 (Public Notices and Hearings).

### **18.150.070 – Specific Plan Adoption**

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- A. **Mandatory Finding for Adoption.** A specific plan may only be adopted if first found consistent with the General Plan in compliance with Government Code Section 65454.
- B. **Method of Adoption.** The specific plan shall be adopted by ordinance or by resolution of the Board, in compliance with Government Code Section 65453.

### **18.150.080 – Specific Plan Amendment**

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- A. **Process for Amendment.** A specific plan may be amended through the same procedure specified by this Chapter for the adoption of a specific plan.
- B. **Mandatory Finding for Amendment.** A specific plan may only be amended if first found consistent with the General Plan in compliance with Government Code Section 65454.
- C. **Frequency of Amendments.** The specific plan may be amended as often as deemed necessary by the Board, in compliance with Government Code Section 65453.

## **Chapter 18.152 – Permit Modifications and Revocations**

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### **Contents:**

#### **18.152.010 – Purpose**

#### **18.152.020 – Modifications**

#### **18.152.030 – Revocations**

#### **18.152.040 – Findings to Modify or Revoke**

#### **18.152.050 – Hearing and Notice Required**

#### **18.152.060 – Appeals**

### **18.152.010 – Purpose**

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- A. This Chapter provides procedures for securing punitive modification or revocation of previously approved permits or approvals.
- B. A discretionary permit may be modified or revoked for cause as provided by this Chapter.
- C. For purposes of this Chapter, modification may include the modification of the terms of the permit itself or the waiver, alteration, and imposition of new or modified conditions.
- D. Any action to modify or revoke a permit or approval may be initiated by order of the Board, Commission, or Hearing Officer, on its own motion or at the request of the Director.

### **18.152.020 – Modifications**

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The County's action to modify a permit or approval may include conditioning any operational aspect of the project, including buffers, duration of the permit or entitlement, hours of operation, landscaping and maintenance, outdoor lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect/condition determined to be reasonable and necessary to ensure that the permit or approval is operated in a manner consistent with the original findings for approval.

### **18.152.030 – Revocations**

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The County's action to revoke a permit or approval shall have the effect of terminating the permit or approval and denying the privileges granted by the original approval. The County's action to revoke a permit or approval shall be effective immediately upon the Review Authority's final action.

### **18.152.040 – Findings to Modify or Revoke**

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Modifications or revocations may be made upon a finding of any one or more of the following grounds:

- A. **Permits.** An Administrative Permit, Conditional Use Permit, or other County planning permit or approval (except a Variance or Minor Deviation, see Subsection B., below) may be modified or revoked by the Review Authority (e.g., Director, Hearing Officer, Commission, or Board) that originally approved the permit, if the Review Authority first makes any one of the following findings:
1. Circumstances under which the permit or approval was granted have been changed by the applicant to an extent that one or more of the findings that justified the original approval can no longer be made, and the public health, safety, and general welfare require the modification or revocation;
  2. The permit or other approval was granted or extended, in whole or in part, on the basis of a fraud, misrepresentation, or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or approval;
  3. One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated and/or the approved Zoning Clearance has not been followed;
  4. The permit or any improvement authorized in compliance with the permit or approval is in violation of any applicable code, law, ordinance, regulation, or statute; or
  5. The improvement/use allowed by the permit or approval has become detrimental to the public health, safety, or general welfare or the manner of operation constitutes or is creating a nuisance.
- B. **Variances and Minor Deviations.** A Variance or Minor Deviation may be modified or revoked by the Review Authority (e.g., Director, Hearing Officer, Commission, or Board) that originally approved the Variance or Minor Deviation, if the Review Authority first makes any one of the following findings, in addition to any of the findings specified in Subsection A., above:
1. Circumstances under which the original approval was granted have been changed by the applicant to a degree that one or more of the findings contained in the original approval can no longer be made in a positive manner, and the grantee has not substantially exercised the rights granted by the Variance or Minor Deviation; or
  2. One or more of the conditions of the Variance or Minor Deviation have not been met, or have been violated, and the grantee has not substantially exercised the rights granted by the Variance or Minor Deviation in compliance with Subsection 18.132.060 (Expiration).

## **18.152.050 – Hearing and Notice Required**

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A. **Public Hearing.**

1. The appropriate Review Authority which originally granted the permit or approval shall hold a public hearing to modify or revoke a permit or approval granted in compliance with the provisions of this Zoning Code.
2. The public hearing shall be noticed and conducted in compliance with Chapter [18.146](#) (Public Notices and Hearings).

B. **Mailing/Delivery of Notice.**

1. At least 10 days before the scheduled public hearing, notice shall be mailed or delivered to the owner as shown on the latest County equalized assessment roll and to the project applicant, if not the owner of the subject property, for which the permit or approval was granted.

2. The only exception to the 10-day notice provision shall be for Temporary Use Permits which, because of their short term nature, shall only require a 24-hour notice.
3. Notice shall be deemed delivered two days after being mailed through the United States Postal Service, postage paid, or by some other method providing for proof of delivery.

## **18.152.060 – Appeals**

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Any action to modify or revoke a permit or approval decided in compliance with this Chapter may be appealed in compliance with Chapter 18.144 (Appeals).

## **Chapter 18.154 – Enforcement Provisions**

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### **Contents:**

#### **18.154.010 – Purpose**

#### **18.154.020 – Permits and Approvals**

#### **18.154.030 – Responsibility to Enforce**

#### **18.154.040 – Inspections**

#### **18.154.050 – Initial Enforcement Action**

#### **18.154.060 – Recording Notice of Violation**

#### **18.154.070 – Violations**

#### **18.154.080 – Legal Remedies**

#### **18.154.090 – Remedies Are Cumulative**

#### **18.154.100 – Recovery of Costs (Existing Chapter 18.53.05)**

#### **18.154.110 – Penalty Assessments**

#### **18.154.120 – Reinspection Fees**

#### **18.154.130 – Monitoring Cost Recovery, Mitigation Measures/Conditions of Approval**

## **18.154.010 – Purpose**

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- A. **Establish Provisions.** This Chapter establishes provisions that are intended to ensure compliance with the requirements of this (Zoning Code) and any conditions of planning permit approval, to promote the County's planning efforts, and for the protection of the public health, safety, and welfare of the County.
- B. **Authorization of the Director.**
  1. This Chapter authorizes the Director, and the employee(s) of the Department designated by the Director, as Code Compliance Officer(s).
  2. The Director shall take all necessary actions to enforce the provisions of this Zoning Code and any conditions of planning permit approval and to carry out any other special enforcement programs initiated by order or resolution of the Board.
  3. This Chapter authorizes the Director to issue citations to persons for violations of the provisions of this Zoning Code.

## **18.154.020 – Permits and Approvals**

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All departments, officials, and public employees of the County who are assigned the authority or duty to issue certificates, licenses, permits, and other approvals shall comply with the provisions of this Zoning Code.

- A. **Applications for Parcels with Violations Shall Not be Accepted or Processed.** Administrative Permits, Conditional Use Permits, Variances, Zoning Map Amendments, Building Permits or other entitlement applications shall not be accepted or processed for parcels in violation of the provisions of this Zoning Code unless the entitlement corrects the violation.
- B. **Permits in Conflict with This Zoning Code.** Certificates, licenses, permits, and other approvals for uses or structures that would conflict with the provisions of this Zoning Code shall not be issued.
- C. **Permits Deemed Void.** Any certificate, license, permits, and other approvals issued in conflict with the provisions of this Zoning Code shall be void and of no effect.

### **18.154.030 – Responsibility to Enforce**

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- A. **Responsibility of Director.** The Director shall exercise the authority provided in California Penal Code Section 836.5 and issue notices of violation, stop work orders, and citations for any violations of this Zoning Code pertaining to the use of any land, and the addition, alteration, construction, conversion, installation, moving, reconstruction, or use of any structure.
- B. **Additional Responsibility to Enforce.** All officers of the County shall render all necessary assistance to the Director for the enforcement of this Zoning Code.

### **18.154.040 – Inspections**

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- A. **Right of entry.**
  - 1. The Director may enter at all reasonable times any structure or premise for the purpose of carrying out any activity required or authorized by the provisions of this Zoning Code.
  - 2. Upon request, the Director shall provide adequate identification.
  - 3. Except under exigent circumstances, an inspection warrant shall be obtained if entry is refused.
- B. **Pre-approval Inspections.** Every applicant seeking a permit or any other approval in compliance with this Zoning Code shall allow appropriate County officials handling the application access to any premises or property that is the subject of the application.
- C. **Post approval Inspections.** If the permit or other approval in compliance with this Zoning Code is approved, the owner or applicant shall allow appropriate County officials access to the premises in order to determine continued compliance with the approved permit and/or any conditions of approval imposed on the permit.

### **18.154.050 – Initial Enforcement Action**

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- A. **Procedures for Initiating Enforcement.** This Section describes the procedures for initiating enforcement action in cases where the Director has determined that real property within the County is being used, maintained, or allowed to exist in violation of the provisions of this Zoning Code.
- B. **Encourage Voluntary Cooperation.** It is the objective of these provisions to encourage the voluntary cooperation of responsible parties in the prompt correction of violations, so that the other enforcement measures provided by this Chapter may be avoided.
- C. **Other Steps.** These provisions shall not limit or prevent the County from taking any other steps necessary to obtain compliance with this Zoning Code.
- D. **Use of Other Enforcement Procedures.** The enforcement procedures of Section [18.154.080](#) (Legal Remedies) may be employed by the County after or instead of the provisions of this Section where the Director determines that this Section would be ineffective in securing the correction of the violation(s) within a reasonable time.



## **18.154.060 – Recording Notice of Violation**

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- A. **Record Notice with County Recorder's Office.** If property in the County exists in violation of this Zoning Code and the owner fails or refuses to correct the violation, the County may record a Notice of Violation against the affected property in the County Recorder's Office.
- B. **County Actions before Recordation.** Before recording a Notice of Violation, the County shall do all the following:
1. **Mailing of Notice.** The Director, through the County's Code Enforcement Staff, shall mail a written Notice of Violation to the current owner(s) and any mortgage holder(s) that a violation(s) exists and request that the owner(s) correct the violation within a specified, reasonable period of time, in compliance with Section 18.154.100 (Recovery of Costs), below.
  2. **Failure to Correct Violation.**
    - a. If the owner fails or refuses to correct the violation(s) within the specified time, the Director, through the County's Code Enforcement Staff, shall mail to the current owner(s) by regular first class and by certified mail a Notice of Intention to record a Notice of Violation, describing the real property in detail, naming the owner(s), describing the violation in detail (including relevant County Code sections), and stating that an opportunity will be given to the owner(s) to present evidence at the hearing on the matter.
    - b. The notice shall specify a time, date, and place for a Commission hearing at which the owner may present evidence to the Commission why the Notice of Violation should not be recorded.
    - c. The Commission hearing shall take place no sooner than 30 days and no later than 60 days following the date of mailing of the Notice of Violation.
  3. **Commission's Actions.**
    - a. The Commission shall hear the matter on the date scheduled.
    - b. If, after the owner(s) and the County staff have presented evidence, the Commission determines that there is no violation, the Director shall mail a clearance letter to the current owner(s).
    - c. If the owner(s) fails to appear, or the Commission determines that there is a violation(s), the Commission may, by resolution, direct the Director to record the Notice of Violation with the County Recorder.
  4. **Constructive Notice.** The Notice of Violation, when recorded, shall be deemed to be constructive notice of the violation(s) to all successors-in-interest in the property, under California Civil Code Sections 1213 and 1215.
  5. **Release or Cancellation of Notice of Violation.** If the owner(s) corrects the violation(s) or the property otherwise becomes conforming after the Notice of Violation has been recorded, and the owner(s) has notified the County in writing and following an inspection to confirm the correction, the Director shall record a release or cancellation of the Notice of Violation.

## **18.154.070 – Violations**

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- A. **Violations of this Zoning Code.**
1. Any use of land or structures operated or maintained contrary to the provisions of his Zoning Code and any structure constructed or maintained contrary to the provisions of this Zoning Code are hereby declared to be a public nuisance and a violation of this Zoning Code in compliance with County Code Chapter 1.28 (General Penalty).

2. The violation of any required condition imposed on a permit or approval shall constitute a violation of this Zoning Code and may constitute grounds for revocation or modification of the permit in compliance with Chapter 18.152 (Permit Modifications and Revocations), or any other remedy available to the County under the County Code or this Zoning Code.
  3. Any violations of this Zoning Code or any required condition(s) imposed on a permit or approval granted in compliance with this Zoning Code shall be treated as a strict liability offense regardless of intent.
  4. Any person, firm, or corporation, whether as principal, agent, employee, lessee, occupant, or otherwise, violating any provision of this Zoning Code shall be deemed guilty of an infraction under the County ordinances and shall be punished by: (1) a fine not exceeding \$100.00 for the first violation; (2) a fine not exceeding \$200.00 for the second violation within one year; (3) a fine not exceeding \$500.00 for each additional violation within one year. (See County Code Chapter 1.28).
- B. **Public Nuisance.** Any use or structure that is altered, constructed, converted, demolished, enlarged, established, erected, maintained, moved, or operated contrary to the provisions of this Zoning Code or any applicable condition(s) of approval imposed on a permit or approval, or any property that is found to be maintained in violation of County Code is hereby declared to be unlawful and a public nuisance, and shall be subject to the remedies and penalties established by County Code Chapters 1.28 (General Penalty).
- C. **Criminal Violations.** Any person, whether an agent, principal, or otherwise, violating, permitting, or causing the violation of any provision of this Zoning Code or any permit issued in compliance with this Zoning Code shall be guilty of a misdemeanor or an infraction at the election of the County and/or its prosecuting official, and upon conviction thereof, shall be punishable by the applicable fine(s) established by County Code Chapters 1.28 (General Penalty).
- D. **Penalties.**
1. **Infractions.** Except in cases where a different punishment is prescribed by any County ordinance, any person convicted of an infraction under the County ordinances shall be punished by (1) a fine not exceeding \$100.00 for the first violation; (2) a fine not exceeding \$200.00 for the second violation within one year; (3) a fine not exceeding \$500.00 for each additional violation within one year. (See County Code Chapter 1.28).
  2. **Misdemeanors.** Except in cases where a different punishment is prescribed by any County ordinance, any person convicted of a misdemeanor under the County ordinances shall be punished by a fine of not more than \$1,000.00 and/or by imprisonment. (See County Code Chapter 1.28).
- E. **Continuing Violation.** Any violator shall be guilty of a separate offense for each day during any portion of which any violation of this Zoning Code or any applicable condition of approval imposed on a permit is committed, continued, or allowed to continue and the violator shall be punished accordingly. (See County Code Chapter 1.28).
- F. **Compliance Responsibility.** Paying a fine or serving a jail sentence shall not relieve any person from the responsibility for correcting any condition which violates any provision of this Zoning Code.
- G. **Stop Work Order.**
1. Any construction in violation of this Zoning Code or any conditions imposed on a permit shall be subject to the issuance of a "Stop Work Order" or other similar notice issued by the County.
  2. Any violation of a Stop Work Order or other similar notice shall constitute a misdemeanor and a public nuisance, and shall be subject to the remedies and penalties established by the County Code and this Chapter.

## **18.154.080 – Legal Remedies**

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The County may choose, in addition to or in lieu of other actions, to undertake any one or all of the following legal actions to correct and/or abate any nuisances or violation(s) of this Zoning Code.

### **A. Civil Actions.**

1. **Injunction.** The County Counsel or District Attorney, upon order of the Board, shall apply to the Superior Court for injunctive or other appropriate relief to terminate a violation(s) of this Zoning Code.
2. **Abatement Proceedings.** The County Counsel or District Attorney, upon order of the Board, shall apply to the Superior Court for an order authorizing the County to undertake actions necessary to abate the violation(s) and require the violator to pay for the cost of the actions.
3. **Nuisance Abatement.** The County may pursue any remedies or enforcement action(s), as provided in the County Code or other applicable law for the abatement of a nuisance in compliance with County Code Chapters 1.28 (General Penalty).

### **B. Civil Remedies and Penalties.**

1. **Civil Penalties.** Any person who violates the provisions of this Zoning Code or any permit issued in compliance with this Zoning Code shall be liable for a civil penalty for each day, or a portion of the day, that a violation(s) continues to exist in compliance with County Code Chapters 1.28 (General Penalty).
2. **Costs and Damages.** Any person violating any provisions of this Zoning Code or any permit issued in compliance with this Zoning Code, shall be liable to the County for all of the costs incurred and the damages suffered by the County, its agents, and agencies as a direct result of the violation(s), including reasonable attorney fees and costs.
3. **Procedure.** In determining the amount of the civil penalty to impose, the Court should consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation(s), the nature and persistence of the conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the defendant, whether corporate or individual, and any corrective action taken by the defendant.

- C. **Criminal Actions and Penalties.** See County Code Section 1.28.010 (Designation) and Subsection 18.154.040 C. (Criminal Violations), above.

## **18.154.090 – Remedies Are Cumulative**

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- A. **Cumulative, Not Exclusive.** All remedies contained in this Zoning Code for the handling of violations or enforcement of the provisions of this Zoning Code shall be cumulative and not exclusive of any other applicable provisions of County or State law.
- B. **Other Remedies.** Should a person be found guilty and convicted of a misdemeanor or infraction for the violation of any provision of this Zoning Code, the conviction shall not prevent the County from pursuing any other available remedy to correct the violation(s).

## **18.154.100 – Recovery of Costs**

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This Section establishes procedures for the recovery of administrative costs, including County Staff and County Counsel time expended on the enforcement of the provisions of this Zoning Code in cases where no permit is required in order to correct a violation. The intent of this Section is to recover all County administrative costs reasonably related to enforcement in compliance with Code of Civil Procedure Section 1033.5, County Code Chapter 1.28 (General Penalty), and this Section.

**A. Record of Costs.**

1. The Department shall maintain records of all administrative costs incurred by responsible County departments, including County Counsel costs, associated with the processing of violations and enforcement of this Zoning Code, and shall recover the costs from the property owner(s) or the person(s) in control of the property in compliance with this Section.
2. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Board, or the actual rate charged to the County.

**B. Notice.** Upon investigation and a determination that a violation of any of the provisions of this Zoning Code or any condition(s) imposed on a permit or approval is found to exist, the Director shall notify the record owner(s) and/or any person(s) having possession or control of the property by mail, of the existence of the violation(s), the Department's intent to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing on any objections they may have. The notice shall be in a form approved by the County Counsel.

**C. Summary of Costs and Notice.**

1. At the conclusion of the case, the Director shall send a summary of costs associated with enforcement to the property owner(s) and/or person(s) having possession or control of the property by certified and first class mail.
2. The summary shall include a notice in a form approved by the County Counsel, advising the responsible party of their right to request a hearing on the charges for County cost recovery within 10 days following the date of the notice, and that if no request for hearing is filed, the responsible party will be liable for the charges.
3. In the event that no request for hearing is timely filed or, after a hearing the Director affirms the validity of the costs, the property owner(s) and/or person(s) in control shall be liable to the County in the amount stated in the summary or any lesser amount as determined by the Director.
4. The costs shall be recoverable in a civil action in the name of the County, in any court of competent jurisdiction, or by tax assessment or a lien on the property in compliance with Government Code Section 54988, at the County's election.
5. The obligation to pay any unpaid costs shall be made a personal obligation of the property owner(s). The obligation may be recovered against the property owner(s) through a civil action initiated by the County or its authorized collection agent, or in any other manner provided for by law. The County shall be entitled to recover costs of the civil action, including the County's attorney's fees.

**D. Attorney's Fees.** In any action or administrative proceeding to enjoin, or abate a nuisance, or seek a civil penalty, the prevailing party in the action or proceeding shall be entitled to recover reasonable attorney's fees; however, the amount of attorney's fees awarded to a prevailing party shall not exceed the amount of attorney's fees incurred by the County in the action or proceeding. Further, an award of attorney's fees in compliance with this Section shall only be allowed where the County elects, at the initiation of the action or proceeding, to seek recovery of its own attorney's fees.

**E. Request for Hearing on Costs.** Any property owner(s) and/or other person(s) having possession and control of the subject property who receives a summary of costs shall have the right to a hearing before the Director.

1. A request for hearing shall be filed with the Department within 10 days following the service by mail of the Department's summary of costs, on a form provided by the Department.

2. Within 30 days following the filing of the request, and on 10 days' written notice to the owner(s), the Director shall hold a hearing on the owner's objections, and determine their validity.
3. In determining the validity of the costs, the Director shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered shall include:
  - a. Whether the present owner(s) created the violation(s);
  - b. Whether there is a present ability to correct the violation(s);
  - c. Whether the owner(s) moved promptly to correct the violation(s);
  - d. The degree of cooperation provided by the owner(s); and,
  - e. Whether reasonable minds differ as to whether a violation(s) exists.
4. The Director's decision shall be appealable directly to the Board in compliance with Chapter 18.144 (Appeals).

### **18.154.110 – Penalty Assessments**

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### **18.154.120 – Reinspection Fees**

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#### **A. Amount and Applicability of Reinspection Fee.**

1. A reinspection fee shall be imposed on each person who receives a Notice of Violation, notice and order, or letter of correction of any provision of this Zoning Code or the County Code, adopted Building Code, or State law.
  - a. The fee amount shall be established by the Fee Schedule.
  - b. The fee may be assessed for each inspection or reinspection conducted when the particular violation for which an inspection or reinspection is scheduled is not fully abated or corrected as directed by, and within the time and manner specified in, the notice or letter.
2. The fee shall not apply to the original inspection to document the violations and shall not apply to the first scheduled compliance inspection made after the issuance of a notice or letter, if the correction has been made to the satisfaction of the Director.

#### **B. Continuation of the Original Case.**

1. If a notice or letter has been previously issued for the same violation and the property has been in compliance with the provisions of this Zoning Code, the County Code, or any condition of a permit or other approval for less than 90 days, the violation shall be deemed a continuation of the original case, and all inspections or reinspections, including the first inspection for the repeated offense, shall be charged a reinspection fee.
2. This fee is intended to compensate for administrative costs for unnecessary County inspections, and is not a penalty for violating this Zoning Code or the County Code.
3. Any reinspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of this Zoning Code or the County Code, or costs incurred by the County for the abatement of a public nuisance.

### **18.154.130 – Monitoring Cost Recovery, Mitigation Measures/Conditions of Approval**

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- A. **Purpose.** The purpose of this Section is to provide for the determination, imposition, and collection of administrative costs associated with the monitoring and enforcement of

mitigation measures or conditions of approval imposed upon the granting of any permit or other entitlement authorized by this Zoning Code.

- B. **Authority.** The Director shall have the authority to determine, impose, and collect all administrative costs associated with the monitoring or enforcement of mitigation measures or conditions of approval imposed upon the granting of any permit or other entitlement authorized by this Zoning Code.
- C. **Procedure.**
  - 1. Each County agency which grants permits or entitlements under this Zoning Code and which impose or provide mitigation measures or conditions which require monitoring shall be responsible for monitoring their own conditions. Additionally, as a further condition of granting the permit or approving the entitlement, each agency shall specify that the monitoring shall be conducted and that all associated costs shall be borne by the property owner(s) or other person(s) obtaining the permit or entitlement and shall be paid in compliance with this Section.
  - 2. The Director shall, at the time of the granting of the permit or approval of the entitlement, submit to the Review Authority a reasonable estimate of the administrative cost of monitoring the mitigation measures or conditions. The Review Authority shall, as a condition of approval, require the owner(s) or the other person(s) obtaining the permit or entitlement to deposit that amount on a one-time or annual basis.
  - 3. If the deposit is required on an annual basis, it may be adjusted in subsequent years, by agreement of the Director and the owner(s) or by subsequent action by the Review Authority at the request of the Director or owner.
- D. **Enforcement Costs.** The Director shall have the authority to recover enforcement costs arising from the failure of any property owner(s) or person(s) in control to conform to or implement any mitigation measures or conditions of approval imposed by any Review Authority in compliance with this Zoning Code.