
ARTICLE 4

**Land Use and Development
Permit Procedures**

CHAPTER 27.40 - APPLICATIONS - FILING AND PROCESSING

27.40.010 - Purpose of Chapter

This Chapter provides procedures and requirements for the preparation, filing, and initial processing of the land use permit applications required by this Zoning Ordinance.

27.40.020 - Authority for Land Use and Zoning Decisions

Table 4-1 (Review Authority) identifies the Town official or body responsible for reviewing and making decisions on each type of permit application required by this Zoning Ordinance.

**TABLE 4-1
REVIEW AUTHORITY**

Type of Decision	Role of Review Authority (1)		
	Director	Planning Commission	Town Council

Administrative and Amendments

Interpretations	Decision (2)	Appeal	Appeal
General Plan Amendments	Recommend	Recommend	Decision
Zoning Map Amendments	Recommend	Recommend	Decision
Zoning Ordinance Amendments	Recommend	Recommend	Decision

Land Use Permits/Development Approvals

Comprehensive Sign Program	Recommend	Decision	Appeal
Limited-Term Permits	Decision (2)	Appeal	Appeal
Minor Use Permits	Decision (2)	Appeal	Appeal
Minor Variances	Decision (2)	Appeal	Appeal
Sign Permits	Decision (2)	Appeal	Appeal
Site Plan and Design Review			
a. Minor, 2 to 10 dwellings, or up to 20% increase in GFA (3)	Decision (2)	Appeal	Appeal
b. Major, 11 dwellings or more, or over 20% increase in GFA (3)	Recommend	Decision	Appeal
Specific Plan	Recommend	Recommend	Decision
Use Permits	Recommend	Decision	Appeal
Variance	Recommend	Decision	Appeal
Zoning Clearances	Decision (2)	Appeal	Appeal

Subdivisions

Certificates of Compliance	Decision (2)	Appeal	Appeal
Lot Line Adjustments	Decision (2)	Appeal	Appeal
Minor Subdivisions	Decision (2)	Appeal	Appeal
Tentative Maps	Recommend	Decision	Appeal

Notes:

- (1) "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 27.54 (Appeals).
- (2) The Director may defer action and refer the request to the Commission, so that the Commission may instead make the decision.
- (3) "GFA" means gross floor area.

27.40.030 - Application Preparation and Filing

- A. Pre-application conference.** A prospective applicant is strongly encouraged to request a pre-application conference with the Department before permit application submittal. The purpose of this conference is to inform the applicant of Town requirements as they apply to the proposed project, review the Town's permit review, possible project alternatives or modifications, and to identify necessary technical studies and required information relating to the environmental review of the project. Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as a recommendation for approval or disapproval of the application/project by Department representatives.
- B. Application contents.** Land use permit applications shall be filed with the Department using the forms provided by the Department. Applications shall include all necessary fees and/or deposits, and all other information and materials required by the Department. It is the responsibility of the applicant to provide information in support of any findings required by Chapter 27.42 (Permit Approval or Disapproval) for the approval of the permit or other approval being requested.
- C. Compliance with Growth Control Ordinance.** Any application for proposed residential dwelling units, whether through subdivision or non-subdivision application, shall include evidence of compliance with the Growth Control Ordinance, section 16-4.100 et seq., either through Reserved Allocations, exemption, or waiver. No application for proposed residential dwelling units shall be deemed complete until and unless the requirements of the Growth Control Ordinance have been met.” (Revised 03/5/08, ORD. 2008-231)
- D. Eligibility for filing.** Applications may only be filed by the owner of the subject property, or other person with the written consent of the property owner.
- E. Filing date.** The filing date of any application described in this Chapter shall be the date when the Department receives the last submission of information or materials required by Subsection B., above, in compliance with Section 27.40.060 (Initial Application Review).

27.40.040 - Application Fees

- A. Fee schedule.** The Council shall establish a schedule of fees for the processing of the permit applications required by this Zoning Ordinance, hereafter referred to as the Town's Fee Resolution.
- B. Multiple applications.** The Town's processing fees are cumulative. For example, if an application for a Lot Line Adjustment also requires a Variance, both fees shall be charged. Unusually large or complex projects may be subject to an hourly rate in addition to the basic application fees, at the discretion of the Director.
- C. Timing of payment.** An application shall not be processed until all required fees and deposits have been paid.
- D. Refunds and withdrawals.** The required application fees cover Town costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, no refunds due to a disapproval are allowed. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to-date and the status of the application at the time of withdrawal.

27.40.050 - Initial Application Review

Applications filed with the Department in compliance with this Zoning Ordinance and applicable provisions of State law shall be processed as follows:

- A. Completeness review.** The Director shall review all applications for completeness and accuracy before they are accepted as being complete and officially filed.
 - 1. Notification to applicant.** The applicant shall be informed in writing, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the Director's letter, shall be provided.
 - 2. Appeal of determination.** Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Director is not required, the applicant may appeal the determination in compliance with Chapter 27.54 (Appeals).
 - 3. Time for submittal of additional information.** When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur. The time available to an applicant for submittal of additional information is limited by the following Subsection (A.4).
 - 4. Expiration of application.** If an applicant fails to provide the additional information specified in the Director's letter within six months after the first filing with the

Department, the application shall expire and be deemed withdrawn. The Director may grant one extension. After the expiration of an application, project approval shall require the submittal of a new, complete application.

5. Environmental information. After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with Section 27.40.070 (Environmental Assessment).

B. Referral. At the discretion of the Director, or where otherwise required by this Zoning Ordinance or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed project.

CHAPTER 27.42 - PERMIT APPROVAL OR DISAPPROVAL

27.42.010 - Purpose of Chapter

- A. Permit review procedures.** This Chapter provides procedures for the final review, and approval or disapproval of the land use permit applications established by this Zoning Ordinance.
- B. Subdivision review procedures.** Procedures and standards for the review and approval of subdivision maps are found in the Town's Subdivision Ordinance.
- C. Application filing and initial processing.** Where applicable, the procedures of this Chapter are carried out after those described in Chapter 27.40 (Applications - Filing and Processing), for each application.

27.42.020 - Zoning Clearances

- A. Purpose.** Zoning Clearance is the procedure used by the Town to verify that a proposed structure or land use complies with the permitted list of activities allowed in the applicable zoning district, and the development standards applicable to the type of use.
- B. Applicability.** Where Article 2 (Zoning Districts and Allowable Land Uses) or other provision of this Zoning Ordinance requires a Zoning Clearance as a prerequisite to establishing a land use, a Zoning Clearance shall be required at the time of Department review of any building, grading, or other construction permit, or other authorization required by this Zoning Ordinance for the proposed use.
- C. Review and approval.** The Director shall issue the Zoning Clearance after determining that the request complies with all Zoning Ordinance provisions applicable to the proposed use.

27.42.030 - Site Plan and Design Review

- A. Purpose.** This Section establishes procedures for the Town's review of the design aspects of proposed development (for example, building design, landscaping, site planning and development, and signs). These procedures are not intended to restrict imagination, innovation, or variety in design, but rather to focus on design issues and solutions that will have the greatest effect on community character and aesthetics, to encourage imaginative solutions and high-quality urban design. The purposes of this Section are, therefore, to:
 - 1. Recognize the interdependence of land values and aesthetics and encourage the orderly and harmonious appearance of development within the community;
 - 2. Ensure that new uses and structures enhance their sites and are compatible with the highest standards of improvement in the surrounding neighborhoods;

3. Better protect the increasing values, standards, and importance of land and development in the community;
4. Retain and strengthen the visual quality of the community;
5. Assist project developers in understanding the public's concerns for the aesthetics of development, and
6. Ensure that development complies with all applicable Town standards and guidelines, and does not adversely affect community health, safety, aesthetics, or natural resources.

B. Applicability. Site Plan and Design Review approval is required for the following types of commercial, industrial, and institutional projects. This approval is also required for the following types of residential projects of two or more dwellings within a Planned Development (PD) or multi-family zoning district.

1. **Construction.** New construction on a vacant parcel.
2. **New structures.** New structures, additions to structures, and reconstruction projects.
3. **Substantial change.** Projects involving a substantial change or intensification of land use (for example, the conversion of an existing structure to a restaurant, or the conversion of a residential structure to an office or commercial use). All properties within the Windsor Station Area/Downtown Specific Plan area are subject to the requirements and standards of the Windsor Station Area/Downtown Specific Plan.
(Revised 02/06/13, ORD 2013-277)

C. Review authority. An application for Site Plan and Design Review shall be reviewed, and approved or disapproved by the review authority identified in Table 4-2. The Commission shall review any project that is not exempt from the California Environmental Quality Act (CEQA).

**TABLE 4-2
REVIEW AUTHORITY FOR SITE PLAN AND DESIGN REVIEW**

Project Features	Review Authority	
	Director (1)	Commission

Residential

2 to 10 dwelling units	✓	
11 or more dwelling units		✓
A 20% or less increase in the number of units in an existing multi-family project.	✓	
A 21% or more increase in the number of units in an existing multi-family project.		✓

Commercial

New structures subject to CEQA		✓
New structures exempt from CEQA	✓	
Additions to existing structures that are 50% or less of the existing gross floor area, and are 10,000 sq.ft. or less.	(2)	
Additions to existing structures that are 51% or more of the existing gross floor area, or are 10,001 sq.ft. or more.	(2)	✓
Projects of a limited size and scope that do not meet the criteria identified above.	✓	

Industrial

New structures subject to CEQA		✓
New structures exempt from CEQA	(3)	
Projects of a limited size and scope that do not meet the criteria identified above.	✓	

Notes:

- (1) The Director may instead refer any application to the Commission for a decision. The Commission shall be responsible for design review of any project that is not exempt from the California Environmental Quality Act (CEQA).
- (2) When located within an existing commercial center, consistent with all applicable Zoning Ordinance provisions, and designed by a licensed architect. Commission approval is otherwise required.
- (3) The land use shall be allowed by right, within an approved subdivision with adequate existing public improvements, when constructed on an interior parcel, not adjoining a residential land use.

D. Application filing and processing. An application for Site Plan and Design Review approval shall be filed and processed in compliance with Chapter 27.40 (Applications - Filing and Processing).

- E. Project review.** The review authority shall consider the location, design, site plan configuration, and the overall effect of the proposed project upon surrounding properties and the Town in general. Review shall be conducted by comparing the proposed project to applicable General Plan policies, any applicable specific plan, applicable Zoning Ordinance requirements, design guidelines, and other applicable Town requirements.
- F. Review with other entitlements.** Site Plan and Design Review applications for projects that also require the approval of a discretionary permit (e.g., Use Permit, Variance, etc.) shall be acted upon concurrently with the discretionary permit. The final determination shall be made by the highest level of review authority in compliance with Table 4-1 (Review Authority). The review authority may approve, or approve with conditions based upon the findings in Subsection H.
- G. Notice and hearing.** Any application for a Site Plan and Design Review shall be scheduled for a public hearing once the Department has determined the application complete. Notice of the public hearing shall be provided in compliance with State law and Town requirements.
- H. Findings and decision.** A Site Plan and Design Review application shall be approved if the review authority first finds all of the following:
1. The design and layout of the proposed development are consistent with the General Plan, any applicable specific plan, the development standards of the applicable zoning district, design standards/guidelines, and architectural criteria for special areas;
 2. The design and layout of the proposed development will not interfere with the use and enjoyment of neighboring existing or future developments, and will not create traffic or pedestrian hazards;
 3. The architectural design of the proposed development is compatible with the character of the surrounding neighborhood;
 4. The design of the proposed development will provide a desirable environment for its occupants, visiting public, and its neighbors through the appropriate use of materials, texture, and color, and will remain aesthetically appealing and be appropriately maintained; and
 5. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
- I. Conditions of approval.** In granting Site Plan and Design Review approval, the review authority may impose any reasonable conditions of approval to ensure that the project will comply with the findings required by Subsection H. above.

- J. Post approval procedures.** The procedures relating to appeals, project changes, issuance of a Building Permit, performance guarantees, and revocation in Article 5 (Zoning Ordinance Administration), and those in Chapter 27.44 (Permit Implementation, Time Limits, and Extensions), shall apply following the approval of a Site Plan and Design Review.

27.42.040 - Limited-Term Permits

- A. Purpose.** This Section establishes procedures for the granting of ministerial Limited-Term Permits for short-term activities.
- B. Applicability.** A Limited-Term Permit allows the short-term activities listed in Subsection D. (Allowed Temporary Uses) that may not comply with the normal development or use standards of the applicable zoning district, but may otherwise be acceptable because of their temporary nature.
- C. Exempt temporary activities.** The following allowed temporary activities are exempt from the requirement for a Limited-Term Permit. Activities that do not fall within the categories defined below shall comply with Subsection D.
- 1. Car washes-Up to two days per month.** Car washes, limited to a maximum of two days each month for each sponsoring organization when conducted on non-residential properties. Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts.
 - 2. Construction yards-On-site.** On-site contractors' construction yards, in conjunction with an approved construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit authorizing the construction project, whichever first occurs.
 - 3. Emergency facilities.** Emergency public health and safety needs/activities.
 - 4. Public property.** Activities conducted on public property that is approved by the Council.
- D. Allowed temporary uses.** The following temporary activities may be allowed within the specified time limits, but in no event for more than 12 months, subject to the issuance of a Limited-Term Permit by the Director. Other temporary or short-term activities that do not fall within the categories defined below shall instead comply with the land use permit requirements and development standards that otherwise apply to the property.
- 1. Car washes - More than two days per month.** Car washes, more than two days each month for each sponsoring organization when conducted on non-residential properties. Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts.

2. **Construction yards - Off-site.** Off-site contractors' construction yards, in conjunction with an approved construction project. The permit shall expire and the construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit, authorizing the construction project, whichever first occurs.
3. **Events.** Arts and crafts exhibits, carnivals, circuses, concerts, fairs, farmer's markets, festivals, flea markets, food events, outdoor entertainment/sporting events, rodeos, rummage sales, second hand sales, and swap meets for up to seven consecutive days, or six two-day weekends, within a 12-month period when conducted on non-residential properties.
4. **Location filming.** The temporary use of a specific site for the location filming of commercials, movies, videos, etc., for the time specified by the Director, but not to exceed 12 months.
5. **Outdoor displays and sales.** The temporary outdoor display and sales of merchandise, in compliance with Section 27.34.140 (Outdoor Display and Sales) when conducted on non-residential properties.
6. **Seasonal sales lots.** Seasonal sales activities (e.g., Halloween, Thanksgiving, Christmas, etc.) including temporary residence/security trailers, on non-residential properties, for up to 30 days.
7. **Temporary real estate sales offices.** A temporary real estate sales office may be established within the area of an approved development project, solely for the first sale of homes. An application for a temporary real estate office may be approved for a maximum of one year from the date of approval.
8. **Temporary residence.** A temporary mobile residence as a temporary residence of the property owner when a valid Building Permit for a new single-family dwelling is in force. The permit may be approved for no longer than one year, or upon expiration of the Building Permit, whichever first occurs. The following criteria pertains to a temporary residence under this section.
 - a. The temporary residence shall not be larger than 400 square feet.
 - b. Shall not be located within a front yard setback.
 - c. Shall be located within a side or rear yard and not beyond the front facade of the primary residence.
 - d. A cash financial security shall be secured at the discretion of the Building Official and shall be sufficient to cover the cost of removal, if necessary.

- e. Any proposed deviation from the above (a-d) may be considered through the Administrative Hearing process.
(Revised 03/03/04, ORD. 2004-178)

9. Temporary structures. A temporary classroom, office, or similar structure, including a manufactured or mobile unit, may be approved for a maximum of one year from the date of approval, as an accessory use or as the first phase of a development project.

10. Temporary work trailers. A trailer or mobile home used as a temporary work site for employees of a business:

- a. During construction or remodeling of a permanent commercial or manufacturing structure for a maximum of one year, or upon expiration of the Building Permit, whichever first occurs; or
- b. Upon demonstration by the applicant that the temporary work site is a short-term necessity for a maximum of one year, while a permanent work site is being obtained.

11. Similar temporary activities. Similar temporary activities that the Director determines are compatible with the zoning district and surrounding land uses.

E. Application filing, processing, and review. An application for a Limited-Term Permit shall be filed and processed in compliance with Chapter 27.40 (Applications - Filing and Processing).

F. Development standards. The Director shall establish the following standards based on the type of temporary use, using the requirements of the applicable zoning district and Article 3 for guidance:

1. Floor areas, heights, landscaping, off-street parking, setbacks, signs, and other structure and property development features;
2. Measures for removal of the activity and site restoration, to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this Zoning Ordinance; and
3. Limitation on the duration of approved "temporary structures," to a maximum of one year, so that they shall not become permanent or long-term structures.

G. Findings and decision. A Limited-Term Permit may be approved by the Director only after the Director first finds that the requested activity complies with applicable standards, and therefore the establishment, maintenance, or operation of the temporary activity would not be detrimental to the public health, safety, or welfare of persons residing or working in the neighborhood of the proposed activity.

H. Post approval procedures. Procedures relating to appeals, performance guarantee, and revocation as identified in Chapter 5 (Zoning Ordinance Administration), in addition to those identified in Chapter 27.44 (Permit Implementation, Time Limits, and Extensions), shall apply following the approval of a Limited-Term Permit application.

- 1. Condition of the site following temporary activity.** Each site occupied by a temporary activity shall be cleaned of debris, litter, or other evidence of the temporary activity on completion or removal of the activity, and shall thereafter be used in compliance with the provisions of this Zoning Ordinance. A bond may be required before initiation of the activity to ensure cleanup after the activity is finished.
- 2. Performance security for temporary structures.** Prior to issuance of a Limited-Term Permit the applicant shall provide performance security in a form and amount acceptable to the Director to guarantee removal of all temporary structures within 30 days following the expiration of the Limited-Term Permit.

27.42.050 - Use Permits and Minor Use Permits

- A. Purpose.** Use Permits and Minor Use Permits provide a process for reviewing uses and activities that may be desirable in the applicable zoning district, but whose effect on the site and surroundings cannot be determined before being proposed for a particular location.
- B. Applicability.** A Use Permit or Minor Use Permit is required to authorize proposed land use activities identified by Article 2 (Zoning Districts and Allowable Land Uses) as being allowable in the applicable zoning district subject to the approval of a Use Permit or Minor Use Permit.
- C. CEQA review.** A Minor Use Permit application shall be determined exempt from the California Environmental Quality Act (CEQA) in compliance with State law and the Town's CEQA Guidelines or it shall be processed as a Use Permit.
- D. Filing.** An application for a Use Permit or Minor Use Permit shall be filed and processed in compliance with Chapter 27.40 (Applications - Filing and Processing).
- E. Project review, notice and hearing.** Each application shall be analyzed by the Department to ensure that the application is consistent with the purpose and intent of this Section. The Director shall conduct a public hearing on an application for a Minor Use Permit; the Commission shall conduct a public hearing on an application for a Conditional Use Permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with State law.
- F. Findings and decision.** The review authority may approve or disapprove an application for Use Permit or Minor Use Permit approval. The review authority shall record the decision and the findings on which the decision is based. The review authority may approve a Use Permit or Minor Use Permit only after first finding all of the following:

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Ordinance and the Town Code;
2. The proposed use is consistent with the General Plan and any applicable specific plan;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and
5. Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

G. Conditions of approval. In approving a Use Permit or Minor Use Permit, the review authority may impose any conditions (e.g., buffers, landscaping and maintenance, off-site improvements, performance guarantees, screening, surfacing, time limits, etc.) deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection E. (Findings and Decision).

H. Post approval procedures. Procedures relating to appeals, performance guarantee, and revocation as identified in Article 5 (Zoning Ordinance Administration), in addition to those identified in Chapter 27.44 (Permit Implementation, Time Limits, and Extensions), shall apply following the approval of a Use Permit or Minor Use Permit application.

27.42.060 - Variances

This Section allows Variances from the development standards of this Zoning Ordinance only when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other conditions, the strict application of this Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.

- A. Applicability.** A Variance may be granted to waive or modify any requirement of this Zoning Ordinance except allowed land uses, residential density, specific prohibitions (for example, prohibited signs), or procedural requirements. The Director may grant a Minor Variance for a 10 percent maximum adjustment to any provision of this Zoning Ordinance eligible for a Variance. The Commission may grant all other Variances.
- B. Application filing and processing.** An application for a Variance shall be filed in compliance with Chapter 27.40 (Applications - Filing and Processing).
- C. Project review, notice and hearing.** Each application shall be analyzed by the Department to ensure that the application is consistent with the purpose of this Chapter. The review authority shall conduct a public hearing on the application. Notice of the

public hearing shall be provided, and the hearing shall be conducted in compliance with State law.

D. Findings and decision. The review authority may approve a Variance, with or without conditions, only after first making all of the following findings, as applicable.

1. General findings.

- a. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of this Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts or creates an unnecessary and non-self created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the development standards.
- b. Granting the Variance is necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owner for which the Variance is sought.
- c. Granting the Variance is consistent with the General Plan and any applicable specific plan.

2. Findings for off-street parking Variances. For a nonresidential development project proposing to locate a portion of the required parking at an off-site location, or provide in-lieu fees or facilities instead of the required on-site parking spaces, the review authority shall first make both of the following findings in compliance with State law (Government Code Section 65906.5), instead of those required by Subsection D.1 above.

- a. The Variance would be an incentive to, and a benefit for, the subject nonresidential development; and
- b. The Variance would facilitate access to the subject nonresidential development by patrons of public transit facilities.

E. Conditions of approval. In approving a Variance, the review authority:

1. Shall impose conditions to ensure that the Variance does not grant special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located; and
2. May impose conditions (e.g., buffers, landscaping and maintenance, off-site improvements, performance guarantees, screening, surfacing, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection D. above.

F. Post approval procedures. Procedures relating to appeals and revocation as identified in Article 5 (Zoning Ordinance Administration), in addition to those identified in Chapter 27.44 (Permit Implementation, Time Limits, and Extensions), shall apply following the approval of a Variance application.

CHAPTER 27.44 - PERMIT IMPLEMENTATION, TIME LIMITS, AND EXTENSIONS

27.44.010 - Purpose of Chapter

This Chapter provides requirements for the implementation or "exercising" of the land use permits required by this Zoning Ordinance, including time limits, and procedures for granting extensions of time.

27.44.020 - Effective Date of Entitlements

The permits required by this Zoning Ordinance shall become effective on the 11th day following the date of the decision of the review authority, provided that no appeal has been filed in compliance with Chapter 27.54 (Appeals).

27.44.030 - Applications Deemed Approved

A land use permit application deemed approved in compliance with State law (Government Code Section 65956) shall be subject to all applicable provisions of this Zoning Ordinance, which shall be satisfied by the applicant before a Building Permit is issued or a land use not requiring a Building Permit is established.

27.44.040 - Performance Guarantees

An applicant may be required by conditions of approval, or by action of the Director, to provide adequate security to guarantee the faithful performance of any conditions of approval imposed by the review authority. The Director shall be responsible for setting the amount of the required security, after consultation with the Building Official.

27.44.050 - Time Limits and Extensions

A. Time limits.

1. Unless conditions of approval or other provisions of this Zoning Ordinance establish a different time limit, any permit or approval not exercised within two years of approval shall expire and become void in compliance with Subsection D. below, except where an extension of time is approved in compliance with Subsection B., below.
2. The permit shall not be deemed "exercised" until the permittee has substantially commenced the approved activity or has actually commenced the allowed use on the site in compliance with the conditions of approval.

3. The land use permit shall remain valid after it has been exercised as long as a building permit is active for the project or a final building inspection or certificate of occupancy have been granted.
4. If a project is to be developed in approved phases, each subsequent phase shall be exercised within two years from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit shall expire and be deemed void in compliance with Subsection D. below, except where an extension of time is approved in compliance with Subsection B., below. If the project also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the permit shall be exercised before the expiration of the Tentative Map, or the permit shall expire and be deemed void.

B. Extensions of time. Upon written request by the applicant, the Director may extend the time for an approved entitlement to be exercised.

1. The applicant shall file a written request for an extension of time with the Department at least 30 days before the expiration of the entitlement, together with the filing fee required by the Town's Fee Resolution.
2. The Director shall determine whether the applicant has made a good faith effort to exercise the entitlement. The burden of proof is on the applicant to establish, with substantial evidence beyond the control of the applicant (e.g., demonstration of financial hardship, legal problems with the closure of the sale of the parcel, poor weather conditions in which to complete construction activities, etc.), why the entitlement should be extended.
3. An entitlement may be extended no more than two additional six-month periods beyond the expiration of the original approval.

C. Action on extension.

1. **Public hearing.** If the original approval required a public hearing, the applicable review authority shall hold a public hearing on a proposed extension of a land use permit, and give notice in compliance with State law.
2. **Director's action.** Upon good cause shown, the first extension may be approved, approved with modifications or disapproved by the Director, whose decisions may be appealed to the Commission, in compliance with Chapter 27.54 (Appeals).
3. **Commission action.** One subsequent extension may be approved, approved with modifications, or disapproved by the Commission, whose decisions may be appealed to the Council.

D. Action on expiration.

1. **Public hearing.** If the time limit for exercising a land use permit provided by Subsection A. expires, the review authority for the original permit shall conduct a public hearing after notice in compliance with State law, to determine whether the permit should be deemed expired and void.
2. **Decision.** If the review authority determines that the applicant has not diligently pursued establishing the land use or constructing the project as authorized by the land use permit, or that all delays in progress were not entirely beyond the applicant's control, the review authority shall deem the land use permit expired and void. Otherwise, the review authority may grant one additional time extension in compliance with this Section.

E. Effect of expiration. After the expiration of a land use permit in compliance with Subsection E., no further work shall be done on the site until a new land use permit is first obtained.

27.44.060 - Changes to an Approved Project

Development or a new land use authorized through an entitlement granted in compliance with this Zoning Ordinance shall be established only as approved by the review authority and subject to any conditions of approval, except where changes to the project are approved in compliance with this Section.

- A. Application.** An applicant shall request desired changes in writing, and shall also furnish appropriate supporting materials and an explanation of the reasons for the request. Changes may be requested either before or after construction or establishment and operation of the approved activity.
- B. Public hearing.** If the matter originally required public notice and a hearing, the Director shall hold a public hearing on the requested changes, and give notice in compliance with State law.
- C. Director's action.**
 1. The Director may authorize changes to an approved site plan, architecture, or the nature of the approved activity if the changes:
 - a. Are consistent with all applicable provisions of this Zoning Ordinance and the spirit and intent of the original approval;
 - b. Do not involve a feature of the project that was a basis for findings in a negative declaration or environmental impact report for the project;

- c. Do not involve a feature of the project that was specifically addressed or was a basis for conditions of approval for the project or that was a specific consideration by the review authority (e.g., the Director, Commission, or Council) in the approval of the entitlement; and
 - d. Do not result in an expansion of the activity.
2. The Director may defer action on the requested change(s) and refer the request to the original review authority for final action.

27.44.070 - Resubmittals

For a period of one year following the approval, disapproval, or revocation/modification of a discretionary entitlement, no application for the same or substantially similar discretionary entitlement for the same site shall be filed. The Director shall determine whether the new application is for a discretionary entitlement which is the same or substantially similar to the previously approved or disapproved entitlement. The determination of the Director may be appealed to the Commission, in compliance with Chapter 27.54 (Appeals).