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MODULE 4: ADMINISTRATIVE PROCEDURES AND PERMITS

Prepared for

City of Vallejo

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Introduction

This summary provides an overview of the procedures for administration of the new Zoning Code. The provisions will be incorporated in Part V of the new Code and are intended to clearly convey both the responsible party for making zoning decisions and the permit or decision process.

Part V will be organized to address relevant responsibilities of those involved in review and decision-making first, followed by provisions that establish procedures to specific zoning approvals, are then listed. Currently many of the procedures appear randomly in different chapters and not in any logical order (e.g. Chapter 16.100, Enforcement and 16.102, Appeals, etc.). Provisions that apply to specific zoning approvals, are then listed. These proceed from ministerial reviews, including a new procedure that codifies a process for determining zoning compliance, to more technical and substantive adjudicative and legislative approvals, including site development plans, use permits, and variances, as well as General Plan and Zoning Ordinance amendments beginning with the most frequently implemented provisions.

One of the most significant additions is a new chapter called Common Procedures consolidating the permits and processes in one place. Another important change is combining the existing Conditional Use Permit procedure in Chapter 16.82 with the Administrative Permit provisions in Chapter 16.96. The existing Code classifies Administrative Permits as a separate type of review and approval procedure applied generally to temporary and accessory uses, which makes it difficult to distinguish administrative permits from conditional use permits. This draft also combines the procedures for different types of Planned Development (PD) Districts into a single process reflecting the proposal considered earlier this year during the discussion of the new Codes districting scheme. That change would eliminate the separate and duplicative procedures for PD Residential, Commercial, Industrial, and Mixed-Use districts to a single process that would apply to all types of Planned Development. The draft Code also calls for using the site development permit procedure, renamed as Development Review, to review PD projects for Code compliance, particularly for standards provided in the landscaping and fencing, off-street parking and loading, and site development Chapters of the Code.

This report highlights the most significant changes to the provisions regarding administration and permits that will comprise Part V of the new Zoning Code and includes the following:

- Adding a Zoning Clearance for ministerial actions, some of which now require an Administrative Permit, that require compliance with a checklist such as Community Gardens and Mobile Food Vendors. Staff now uses this approach to review and approve ADUs and sign permits.
- Increasing the public notice radius for minor discretionary decisions from 200 to 300 feet;
- ~~Renaming the former Administrative Permit used for temporary and accessory uses to Minor Use Permit;~~
- Reviewing all development projects approved through the Planned Development procedures under the Development Review procedure regardless of zoning district allowing elimination of the redundant “Unit Plan” process;
- Incorporating California Environmental Quality Act (CEQA) procedures in the Code; and

- Providing an expiration date of 24 months for all permits, with the exception of affordable housing projects that expire based on State standards, with an additional extension of 12 months when requested by applicant and subject to the Director's approval.

The Module 4 report is divided into the following sections:

- I. Planning Authorities
- II. Common Procedures
- III. Development Review
- IV. Exceptions
- V. Zoning Clearance

The report provides background information on each of the above topics with policy questions and comments that require input from Planning Commission and public, followed by the draft regulations. The numbering is included solely for ease of referencing the regulations for the Planning Commission and public to review and comment and does not reflect the chapter and section numbers that will be included in the final version of the Draft Code.

I. Planning Authorities

BACKGROUND

This chapter identifies the bodies and officials with responsibilities under the Zoning Code and lay out the basic roles and functions including the City Council, Planning Commission, Director or designee, Architectural Heritage & Landmarks Commission, Design Review Board and other officials and authorities with a role in implementing the Zoning Code. It incorporates provisions in the existing Chapter 16.81, Procedures and other parts of the Municipal Code as necessary. This chapter also includes a Review Authority Table that identifies the authorities responsible for decisions and appeals and classifies actions by decision type (i.e. ministerial, quasi-judicial, and legislative).

Vallejo's existing Zoning Code designates the Development Services Director as the Staff person responsible for implementing the requirements for minor discretionary permits including the current provisions for "Administrative permits". This allows for a streamlined approach for day to day permits. To ensure the City Manager has the flexibility needed to decide how to best deploy the City's staff resources, the draft regulations use the term "the Director" to mean the Director or the Director's designee.

POLICY QUESTIONS AND COMMENTS FOR DISCUSSION

- Are the proposed review thresholds and review responsibilities appropriate?
- What is an appropriate threshold for identifying approvals that would be appropriate for review and approval by the Director?
- The existing Zoning Code assigns a variety of review responsibilities to the City's Building Official. Staff recommends the new Code identify the planning authority in the new Zoning Code for planning and land use decisions.

PLANNING AUTHORITIES DRAFT REGULATIONS

16.10.010 Purpose

The purpose of this chapter is to identify the bodies, officials, and administrators with designated responsibilities under various chapters of the Zoning Ordinance. Other chapters of this Title provide detailed information on procedures, applications, and permits, including zoning and General Plan text and map amendments, establishment of fees, and enforcement. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of this Ordinance as minimum requirements adopted to implement the policies and achieve the objectives of the General Plan.

16.10.020 City Council

The powers and duties of the City Council under this Title include, but are not limited to the following:

- A.** Consider and adopt, reject or modify amendments to the General Plan map and text pursuant to the provisions of Chapter TBD, Amendments to General Plan, and of the Government Code, following a public hearing and recommended action by the Planning Commission.
- B.** Consider and adopt amendments to the Zoning Map and to the text of this Ordinance pursuant to the provisions of Chapter TBD, Amendments to Zoning Ordinance and Map, and the Government Code, following a public hearing and recommended action by the Planning Commission.
- C.** Consider and adopt, reject or modify Specific Plans or amendments to Specific Plans pursuant to the provisions of Chapter TBD, Specific Plans and Amendments and of the Government Code, following a public hearing and recommended action by the Planning Commission.
- D.** Adopt guidelines for design review applicable to designated areas;
- E.** Hear and decide appeals from decisions of the Planning Commission, Architectural Heritage and Landmarks Commission and Design Review Board on any other permits that can be appealed, pursuant to Section 16.10 TBD, Appeals.
- F.** Hear and decide appeals on environmental determinations by the Director or the Planning Commission, pursuant to Section TBD, Environmental Review.
- G.** Establish, by resolution, a Municipal Fee Schedule listing fees, charges, and deposits for various applications and services provided, pursuant to this Ordinance.

16.10.030 Planning Commission

The Planning Commission is established and organized pursuant to Article X, Appointive Boards and Commissions of the Municipal Code and the requirements of the Government Code. The powers and duties of the Planning Commission under this Ordinance include, but are not limited to the following:

- A.** Conduct public hearings and make recommendations to the City Council on proposed amendments to the General Plan map and text, pursuant to Chapter TBD, Amendments to General Plan.

- B.** Annually review progress towards implementation of the General Plan and recommend to the City Council changes needed due to new legislation, development trends and changing economic, social and environmental conditions.
- C.** Conduct public hearings and make recommendations to the City Council on proposed amendments to the Zoning Map and to the text of this Ordinance, pursuant to Chapter TBD, Amendments to Zoning Ordinance and Map.
- D.** Initiate, conduct hearings, and make recommendations to the City Council on proposed Specific Plans and Amendments, pursuant to Chapter TBD, Specific Plans and Amendments.
- E.** Approve, conditionally approve, modify or deny Conditional Use Permits and Variances, pursuant to Chapter TBD, Use Permits, and Chapter TBD, Variances.
- F.** Hear and decide appeals from decisions of the Planning and Development Services Director on determinations, or interpretations made in the enforcement of this Ordinance and any other decisions that are subject to appeal, pursuant to Section TBD, Appeals.
- G.** Make environmental determinations on any approvals it grants that are subject to environmental review under the California Environmental Quality Act and the procedures in Section TBD, Environmental Review.
- H.** Recommend to the City Council for adoption guidelines for conducting architectural review, pursuant to Chapter TBD, Architectural Review.
- I.** Such other duties and powers as assigned or directed by the City Council.

16.10.040 Design Review Board

The Design Review Board is established and organized pursuant to the requirements of Section 402 of the City Charter. The powers and duties of the Design Review Board are established by Chapter 2.59 of the Municipal Code, and include but are not limited to the following:

- A.** Conduct public hearings for projects within in the Downtown Vallejo Specific Plan area.
- B.** Conduct public hearings for projects within the districts specified in the Waterfront and Vallejo Station Project Planned Development Master Plan and accompanying waterfront design guidelines (collectively, the "waterfront PDMP/design guidelines") for the waterfront area (the "waterfront area") the disposition and development agreement (the "DDA") between the redevelopment agency of the City of Vallejo (the "agency") and the developer of the waterfront area (the "developer"), and the development agreement between the city and the developer. Pursuant to the DDA, the developer is obligated to timely appeal decisions of the design review board regarding major projects, as determined by the Director, to the City Council.
- C.** Hear and decide appeals of the Director on decisions, determinations, or interpretations made in the enforcement of this Ordinance and any other decisions that are subject to appeal, pursuant to Section TBD, Appeals.
- D.** Advise or make recommendations on the design of architecture, lighting, landscaping, site layout and signage of projects on a preliminary basis, as referred by the City Council, Planning Commission, Architectural Heritage and Landmarks Commission, or Director.
- E.** Such other duties and powers as assigned or directed by the City Council.

16.10.050 Architectural Heritage and Landmarks Commission

The powers and duties of the Architectural Heritage and Landmarks Commission are established by Chapter 2.59 of the Municipal Code, and include but are not limited to the following:

- A.** Approve, conditionally approve, modify or deny Certificate of Appropriateness Permits, Variances and Exceptions for projects within the Architectural Heritage Overlay Districts, pursuant to Chapter 16.TBD, the Architectural Heritage Overlay District.
- B.** Designate certain structures, sites, portions of structures, groups of structures, landscape elements, objects, works of art, or integrated combinations thereof as landmarks, pursuant to Chapter 16.TBD, Designation of landmarks.
- C.** Conduct public hearings for Certificate of Appropriateness Permits, Variances, Exceptions and landmark designations.
- D.** Review decisions of the Director on Certificate of Appropriateness Permits to determine if a project will adversely affect the character of the historic district and if so, conduct a public hearing for the project.
- E.** Hear and decide appeals of the Director on Certificate of Appropriateness Permits, pursuant to Section 16.TBD, Appeals.
- F.** Undertake and complete one or more architectural heritage surveys. Upon completion of such survey(s), the commission shall undertake to establish and maintain a list of structures, objects and areas having a special historical, cultural, architectural or aesthetic interest or value. This list may include single structures or sites, portions of structures, groups of structures, manmade or natural landscape elements, objects, works of art, or integrated combinations thereof.

16.10.060 Planning and Development Services Director

The Planning and Development Services Director (the Director) is a City staff member appointed by the City Manager with powers and duties that include but are not limited to the following:

- A.** Approve, conditionally approve, modify or deny requests for waivers to dimensional requirements, pursuant to Chapter 16.TBD, Exceptions.
- B.** Monitor and enforce provisions of this Ordinance.
- C.** Other duties and powers as may be assigned by the City Manager.
- D.** Review and issue land use permits that are minor in nature and which customarily result in an activity of generally little public controversy and adverse impact based on specific findings of fact to support the resulting decision. The Director has authority to require specific conditions when warranted to ensure that the requested activity or project is conducted or constructed in a manner consistent with the goals, objectives, and policies of the General Plan.
- E.** Maintain and administer the Zoning Ordinance, including processing of applications, abatements and other enforcement actions.
- F.** Interpret the Zoning Ordinance to members of the public and to other City Departments.

- G.** Prepare and effect rules and procedures necessary or convenient for the conduct of the Department's business. These rules and procedures must be as approved by a resolution of the City Council following review and recommendation of the Planning Commission. They may include the administrative details of hearings (e.g., scheduling, rules of procedure and recordkeeping).
- H.** Issue administrative regulations for the submission and review of applications subject to the requirements of this Ordinance and Government Code Section 65950, Deadlines for Project Approval Conformance; Extensions.
- I.** Review applications for permits and licenses for conformance with this Ordinance and issue a Zoning Clearance when the proposed use, activity or building is allowed by right and conforms to all applicable development and use standards.
- J.** Review applications for discretionary permits and approvals under this Ordinance for conformance with applicable submission requirements and time limits.
- K.** Review applications for discretionary permits and approvals to determine whether the application is exempt from review under the California Environmental Quality Act and the City's environmental review requirements and notify the applicant if any additional information is necessary to conduct the review.
- L.** ~~Hear and D~~decide applications for Minor Use Permits, modifications to conditions of approved Minor Use Permits, and time extensions of Use Permits, pursuant to Chapter TBD, Use Permits.
- M.** Approve, conditionally approve, modify or deny applications for Temporary Use Permits, pursuant to Chapter TBD, Temporary Use Permits.
- N.** ~~Hear and d~~Decide requests for minor modifications to approved permits, pursuant to Section TBD, Modification of Approved Plans.
- O.** ~~Hear and d~~Decide proposals to revoke permits, pursuant to Section TBD, Revocation of Permits, following a public hearing.
- P.** Refer items to the Planning Commission where, in his or her opinion, the public interest would be better served by a Planning Commission public hearing and action.
- Q.** Process and make recommendations to the City Council on all applications, amendments, appeals and other matters upon which the Council has the authority and the duty to act under this Ordinance.
- R.** Process and make recommendations to the Planning Commission on all applications, appeals and other matters upon which the Commission has the authority and the duty to act under this Ordinance.
- S.** Serve as Secretary of the Planning Commission, Architectural Heritage and Landmarks Commission, and Design Review Board.
- T.** Delegate administrative functions as he/she so deems to members of the Planning Division.
- U.** Other duties and powers as may be assigned by the City Council or established by legislation.

16.10.070 Summary of Review Authorities for Decisions and Appeals

Application or Action Type	Chapter	Advisory Body	Decision Maker	Appeal Body
Abbreviations:				
PC – Planning Commission				
CC – City Council				
AHLC – Architectural Heritage and Landmarks Commission				
DRB – Design Review Board				
Ministerial Actions				
Zoning Compliance Clearance/ Determination	TBD	N/A	Director	PC
Interpretations	TBD	N/A	Director	PC
Adjudicative Actions				
Minor Changes to an Approved Permit (Ministerial or Discretionary)	TBD	N/A	Director	PC
Minor Modification or Modification of Dimensional Standards Exception	TBD	Director	Director	PC/DRB/ AHLC/CC
Major Modification or Waiver of Dimensional Standards Exception	TBD	Director	Director PC/DRB/AHLC	PC/CC
Permit Modifications, Major	TBD	Director	Review Authority of Original Permit	CC
Permit Revocation	TBD	Director	Director PC	CC
Temporary Use Permit	TBD	N/A	Director	PC
Waivers and Adjustments	TBD	Director	Director/PC/DRB/ AHLC	PC/CC
Development Review Permit A. Downtown/Waterfront - Minor A- Major B. All other areas - Minor B- Major	TBD	Director Director DRB Director Director	Director PC DRB PC Director PC	CC CC PC CC
Minor Use Permit	TBD	N/A	Director	PC
Major Use Permit	TBD	Director	PC	CC
Variance	TBD	Director	PC/AHLC	CC

Application or Action Type	Chapter	Advisory Body	Decision Maker	Appeal Body
Certificate of Appropriateness Administrative-Minor Public Hearing-Major	TBD	Director Director	Director AHLC	AHLC CC
Legislative Actions				
General Plan Text and Map Amendments	TBD	PC	CC	Superior Court
Zoning Ordinance and Map Amendments	TBD	PC	CC	Superior Court
Specific Plans	TBD	PC	CC	Superior Court
Area Plans	TBD	PC	CC	Superior Court

II. Common Procedures

BACKGROUND

The purpose of this chapter is to establish uniform procedures that are common to the application and processing of a variety of different permits and approvals such as Use Permits, Variances, Development Review, Exceptions, General and Specific Plan Amendments, and others. This chapter will consolidate, and revise provisions included in several different sections of Chapter 16.81, Procedures, of the current Code. This material will include everything from pre-application review to time limits and extensions through to post-decision provisions (e.g. expiration, extension, and modification of approvals). Because this chapter will likely be the most frequently consulted of all administrative chapters, it should appear immediately following Chapter 16.23, which establishes the powers and duties of the planning authorities. Other regulations that can be included in this chapter are requirements for making written findings, and rules regarding public access to applications and other records. Because they are common to different types of permits and approvals, this chapter should incorporate provisions in Chapters 16.8.40, Permit Implementation, Time Limits, and Extensions and 16.8.50, Permit Modification and Revocations. An alternative would be to include revocation procedures in Chapter 16.21. TBD, Enforcement. Environmental review procedures and appeal provisions are also included but could be in a separate chapter.

POLICY QUESTIONS AND COMMENTS FOR DISCUSSION

- Staff is recommending streamlining Unit Plans into the Planned Development process.
- Should the City require Community Meetings for certain types of projects that may be of particular community concern or those that exceed a specific threshold (20,000 square feet or more)?
- Are there other provisions that should be incorporated in this Chapter? Should any of the sections included in the draft of the Chapter be in separate chapters?

COMMON PROCEDURES DRAFT REGULATIONS

16.10.080 Purpose

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

16.10.090 Application Forms and Fees

- A. Applicants.** The following persons may file applications:
1. The owner of the property or the owner's authorized agent with the owner's written consent verified by signature;
 2. A lessee, with a written lease signed by the property owner the term of which exceeds one year; or
 3. An entity authorized to exercise the power of eminent domain.
- B. Application Forms and Materials.**
1. *Application Forms.* The Director shall prepare and issue application forms and lists that specify the information required from applicants for projects subject to the provisions of this Ordinance. The Director may update the application forms and checklist on an as needed basis as long as the required form and checklist are available to applicants.
 2. *Supporting Materials.* The Director may require the submission of supporting materials describing the project in the application and sufficient information to permit the City to determine the level of environmental review that required pursuant to the California Environmental Quality Act and the City's adopted environmental review guidelines.
 3. *Availability of Materials.* All material submitted becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the Planning Division offices. Unless prohibited by law, copies of such materials shall be made available at a reasonable cost to be established annually and published in the Master Fee Schedule.
- C. Application Fees.**
1. *Schedule of Fees.* The City Council shall approve by resolution a Master Fee Schedule that establishes fees for permits, informational materials, penalties, copying, and other such items. Applications for permits shall be accompanied by the required fees. Payment of the fee is required in order for an application to be complete under the Permit Streamlining Act. No application shall be processed without payment of a fee unless a fee waiver has been approved subject to any applicable provision of the Municipal Code.
 2. *Multiple Applications.* The City's processing fees are cumulative unless the Master Fee Schedule lists an alternate fee. For example, if an application for Design Review also includes a Conditional Use Permit, both fees shall be charged.

3. *Fee Waiver.* No fee shall be required when the applicant is the City, or if it is waived under any other provision of the Municipal Code.
4. *Refund of Fees.* If an application is withdrawn prior to a decision, the applicant may be eligible to receive a refund of a portion of the fee. The Director shall determine the amount of the refund based on the level of staff review conducted to date. No refund shall be made for any application that has been denied.
5. *Resubmittal of Withdrawn Application.* An applicant may resubmit an application that has been withdrawn or deemed denied without prejudice because it was incomplete within two years of the original submission. The Director shall determine whether the resubmitted application is the same or substantially similar to the previous application and whether it meets all existing standards and requirements. Resubmittal will require a new fee to cover the review of a resubmitted application including the actual cost of additional permits that may be required by the Code as of the resubmittal date. The resubmittal shall adhere to current code requirements.

16.10.100 Pre-application for preliminary review

Pre-application review is an optional review process that is intended to provide information on relevant General or Specific Plan policies, zoning regulations, and procedures related to projects that will be subject to discretionary approvals, including both legislative and quasi-judicial decisions, pursuant to the Zoning Ordinance. This review is intended for large or complex projects and projects that are potentially controversial.

- A. Application Forms.** The Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for pre-application review. No application will be accepted for pre-application review without submission of materials that the Director has determined necessary to conduct such review.
- B. Payment of Fee.** No application will be accepted for pre-application review without payment of a fee specified in the Master Fee Schedule established by City Council resolution.
- C. Permit Streamlining Act.** Pre-application review is not subject to the requirements of the California Permit Streamlining Act (the Act). An application that is accepted for pre-application review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project pursuant to this Ordinance and has reviewed the application and determined it to be complete in compliance with the requirements of Section 16.24.050, Review of Applications.
- D. Review Procedure.** The Planning Division shall conduct pre-application review. The Director may consult with or request review by any City agency or official with interest in the application.
- E. Recommendations Are Advisory.** Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as a recommendation for approval or denial of the application by City representatives. Any recommendations that result from pre-application review shall be considered advisory only and shall not be binding on either the applicant or the City.

16.10.110 Application Review

- A. Review Process.** The Director shall determine whether an application is complete within 30 calendar days of the date the application is filed consistent with the Permit Streamlining Act and the required fee. As part of the review to determine whether an application for a development project is complete, the Director shall conduct a preliminary assessment of potential environmental issues. The purpose of this review is to help the City decide if the project is subject to environmental review and, if so, which issues may require analysis.
- B. Incomplete Application.** If an application is incomplete, the Director shall provide written notification to the applicant listing the applications for permit(s), forms, information and any additional fees that are necessary to complete the application.
1. **Zoning Ordinance Violations.** An application shall not be found complete if conditions exist on the site in violation of this Ordinance or any permit or other approval granted in compliance with this Ordinance, unless the proposed project includes the correction of the violations.
 2. **Appeal of Determination.** Determinations of incompleteness are subject to the appeal provisions of Chapter 16.TBD, Appeals, except there shall be a final written determination on the appeal not later than 60 calendar days after receipt of the appeal. The fact that an appeal is permitted to both the Planning Commission and City Council does not extend the 60-day period.
 3. **Submittal of Additional Information.** The applicant shall provide the additional information specified in writing by the Director. The written notification shall specify the deadline for submittal of the additional information, which must be no sooner than 30 calendar days. The Director may grant one extension of up to 90 calendar days.
 4. **Expiration of Application.** If an applicant fails to correct the specified deficiencies within 60 calendar days from the date of the Director's notification and has not requested an extension as provided for in sub-section E of this section, the application shall expire and be deemed withdrawn. After the expiration of an application, project review shall require the submittal of a new, complete application, along with all required fees.
 5. **Abandoned Application.** If an applicant fails to act on an application without formal notification to the Director for more than six months, the application shall be deemed inactive and withdrawn and no fee shall be reimbursed for an abandoned application.
- C. Complete Application.** When an application is determined to be complete the Director shall make a record of that date. If an application requires a public hearing, the Director shall schedule it and notify the applicant of the date and time.
- D. Additional Information.** After an application is deemed complete, the Director shall not subsequently request of an applicant any new information requested on the application form. The Director may request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application in the course of processing the application. This request shall not invalidate the original determination that an application is complete and shall not result in a delay in processing the application. The Director may request additional information needed to prepare adequate environmental documentation.

- E. Extensions.** The Director may, upon written request and for good cause, grant extensions up to two years for review of applications imposed by this Ordinance in compliance with applicable provisions of State law.

16.10.120 Environmental review

Before approving any application subject to discretionary review under the Zoning Code, the requirements of the California Environmental Quality Act (“CEQA”) (California Public Resources Code Section 21000 *et seq.*) and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 *et seq.*) must be met. The City adopts and incorporates by reference the State CEQA Guidelines as its environmental review procedures. An application subject to environmental review pursuant to the California Environmental Quality Act (CEQA) shall not be considered complete until the applicant has submitted all studies and other documentation the Director has deemed necessary to make an environmental determination together with all required fees. Environmental review shall be conducted pursuant to the State CEQA Guidelines unless otherwise stated in this section.

- A. Procedures.** The City adopts and incorporates by reference the State CEQA Guidelines as its environmental review procedures.
- B. Review for Exemption.** If the Director determines that the application is subject to review under CEQA, within 30 days after determining that the application is complete, he or she shall determine if the project is exempt from environmental review pursuant to State law, CEQA Guidelines and any environmental guidelines that the City has adopted in compliance with CEQA.
1. If the Director has determined that a project is exempt from environmental review under CEQA, such determination shall be announced in any required public notice. The notice shall include a citation to the State Guidelines section or statute under which it is found to be exempt.
 2. Following approval of a project that is exempt from CEQA review, the Director or the Applicant may file a Notice of Exemption with the Solano County Clerk. The applicant for a private project shall be responsible for any fees required to file such notice.
 3. A determination of exemption by any decision-making authority other than the City Council may be appealed to the City Council in the same manner provided for other appeals in Section TBD, Appeals.
- C. Non-exempt Projects.** If the Director determines that the project is not exempt from environmental review under CEQA, the applicant must be notified and must deposit with the City sufficient funds to pay the anticipated cost of preparation and processing of the required environmental document, include the City's administration fee. Prior to approving the project, the approving authority must first approve the Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. Any identified mitigation measures must be incorporated into the conditions of approval of the project unless a Statement of Overriding Considerations is adopted. Following project approval, a Notice of Determination must be filed with the Solano County Clerk-Recorder's Office at the applicant's expense.
- D. Environmental Review Application.** If the proposed project is not exempt from environmental review, the applicant shall submit an application for environmental review accompanied by the required fee. After receiving an environmental review application, the Director shall determine

whether to require preparation of an Environmental Impact Report (EIR) or Negative Declaration or Mitigated Negative Declaration. In order to make this determination, the Director shall prepare, with his or her own staff or by contract with a consultant chosen by the City, an Initial Study at the applicant's expense. If the Director and project applicant agree that an EIR is necessary, an Initial Study is not required.

- E. Preparation of Initial Study.** The Initial Study shall consider all phases of project planning, implementation, and operation and may rely upon expert opinion supported by facts, including documentation submitted by the applicant, technical studies, or other substantial evidence to document its findings regarding the project's potential impacts. Following completion of the Initial Study, the Director shall notify the applicant in writing of changes to the project that Staff has deemed necessary to reduce or avoid the significant effects identified in the Initial Study. Within 30 days following the date of the letter, the applicant shall provide written notification to the Director indicating that the proposed modifications are acceptable or shall propose alternative measures that will achieve the same result. If the applicant does not agree to revise the project, an EIR shall be prepared.
- F. Determination of Environmental Significance.** Based on the Initial Study, the Director will make one of the following findings:
1. The project will have "No Significant Impacts" on the environment, and a Negative Declaration will be prepared;
 2. The project has been modified to mitigate potential environmental impacts to a level of insignificance and a Mitigated Negative Declaration will be prepared; or
 3. The proposed project will have, or may have, significant impact(s) and an EIR will be required.

G. The procedures for preparing an EIR shall be pursuant to the State CEQA Guidelines.

~~**G. Preparation of a Draft EIR.** If it is determined that an EIR is required, the Director shall prepare, distribute, and post a Notice of Intent to Prepare an EIR. The purpose of this notice is to inform interested parties that an EIR is being prepared, and to seek guidance about significant environmental issues and mitigation measures that should be explored. The applicant or any aggrieved party who believes that a Negative Declaration, rather than an EIR, should be prepared for the proposed project may appeal to the City Council within 10 days after the notice has been posted. The City Council's decision shall be final. The City will prepare the Draft EIR with its own staff or by contract with a consultant chosen by the City. The applicant shall pay the cost of preparing an EIR and reasonable costs for administering the work of outside consultants.~~

~~**H. Public Review of Draft EIR.** Following completion of a Draft EIR, the Director shall prepare and post a Notice of Completion initiating a minimum 30 day public review period or 45 days if the project is subject to review by a State Agency. The Director shall mail a notice of the availability of a Draft EIR to those requesting such notice in writing, to local and regional agencies, and interested Federal agencies. The City shall make copies of the Draft EIR available for public review at the Planning Division office during regular office hours and at the Vallejo Public Library.~~

~~**I. Final EIR.** After the public review period has expired, the City or its consultant will prepare a Final EIR for certification by the decision-making bodies responsible for action on the project. The Final EIR will consist of the Draft EIR, all of the comments received, a list of persons,~~

~~organizations and public agencies commenting on the Draft EIR, and a response from the City on significant environmental issues raised in the Draft EIR and comments.~~

J.H. Responsibility for Action on Environmental Document. Any City official or body responsible for taking action on a project for which a Negative or Mitigated Negative Declaration, or EIR has been prepared shall use the environmental assessment to make its decision on the development proposal. If the project is approved, the decision-maker shall impose conditions to mitigate any adverse environmental impacts. The decision-maker responsible for action on an application for a development permit shall approve the Negative Declaration or Mitigated Negative Declaration or certify the Final EIR prior to the time the project is considered for approval. The decision-maker may decline to approve or certify the environmental document and request further review or analysis if, in its judgment, approval of the Negative Declaration or Mitigated Negative Declaration or certification of the Final EIR would not comply with the requirements of CEQA and applicable State and local environmental review requirements. Approval of a Negative Declaration or Mitigated Negative Declaration or certification of a Final EIR shall be deemed to be a finding that the document has been prepared in compliance with CEQA and State and local CEQA guidelines and not an approval of a project.

K.I. Mitigation Monitoring and Reporting Program. The City shall approve a mitigation monitoring and reporting program (MMRP) for all projects that it approves with a Mitigated Negative Declaration or a Final EIR. The purpose of the MMRP is to ensure that the project applicant complies with all of the provisions or changes identified as mitigation measures during implementation of the project.

1. **Submittal and Approval.** The MMRP shall be prepared and considered as part of a Mitigated Negative Declaration or EIR.
2. **Enforcement.** Failure to comply with the conditions and requirements of an approved MMRP shall be considered a violation of the conditions of approval of a project, subject to enforcement under this Ordinance.
3. **Amendment of Mitigation Program Not Permitted Following Adoption.** Unless specifically authorized or required by the conditions of project approval, neither CEQA nor this Ordinance authorize the City to modify or add mitigation measures if the MMRP shows that the mitigation measures have not achieved the desired result.

L.J. Appeals. Any person may appeal to the City Council from the decision of a nonelected decision-making body of the City to certify an environmental impact report, approve a negative declaration or mitigated negative declaration or determine that a project is not subject to Public Resources Code Section 21080 et seq. (California Environmental Quality Act) if that decision is not otherwise subject to further administrative review. Any such appeal must be filed with the Secretary of the nonelected decision-making body within 104 calendar days of the date that the decision is made. The appellant shall state the specific reasons for the appeal on an appeal form prepared by the City. The appeal must be accompanied by the required filing fee.

16.10.130 Noticing

Unless otherwise specified, whenever the provisions of this Title require public notice, notification shall be provided in compliance with the requirements of State law and as follows.

- A. Mailed Notice.** The Director, or the City Clerk for public hearings before the City Council, shall provide a public notice as required below by First Class mail delivery based on the following:
1. **Projects exempt from the California Environmental Quality Act (CEQA)** at least 14 calendar days before the date of the public hearing or 14 calendars days before the date of action when no public hearing is required;
 2. **Projects subject to CEQA** at least 21 calendar days before date of the public hearing or date of action when no public hearing is required.
 3. **Notification list.** Notification shall be provided to the following:
 - a. The applicant, the owner, and/or the occupant of the subject property;
 - b. All property owners of record within a minimum 300-foot radius of the subject property for actions when no public hearing is required, and a minimum of 500 feet of the subject property for actions when a public hearing is required, as shown on the latest available assessment role or a larger radius if deemed necessary by the Director in order to provide adequate public notification. In lieu of the assessment roll, the records of the County Assessor or Tax Collector, whichever contains more recent information than the assessment role may be used. In the case of a large-scale, complex, or controversial project the Director may require a 1,000-foot radius notice from the subject property;
 - c. All neighborhood and community organizations within 1,000 feet of the subject property and that have previously filed a written request for notice of projects in the area where the site is located;
 - d. The Vallejo City Unified School District and any other local agency expected to provide water, wastewater treatment, streets, roads, schools, or other essential facilities or services to the project; and
 - e. Any person or group who has filed a written request for notice regarding the specific application and has paid any required fee that the City Council has adopted to provide such service.
- B. Posted Notice.** A Notice of Public Hearing ~~shall~~may be posted at a location visible to the public at the subject property. The notice shall include all of the information listed in subsection E below.
- C. Newspaper Notice.** At least 14 calendar days before the date of the public hearing or the date of action when no public hearing is required, the Director or the City Clerk for hearings before the City Council, shall provide notice by at least one publication in a newspaper of general circulation published in the City.
- D. Alternative Method for Large Mailings.** If the number of property owners to whom notice would be mailed or delivered is greater than 1,000, mailed notice is not required and the Director or City Clerk shall instead provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation at least 10 days prior to the hearing.
- E. Contents of Notice.** The notice shall include the following information:
1. The location of the real property, if any, that is the subject of the application, Assessor Parcel Number, and project number;
 2. A general description of the proposed project and requested action;

3. The date, time, location, and purpose of the public hearing or the date of action when no public hearing is required;
 4. The name of the hearing body;
 5. The names of the applicant and the owner /s of the property that is the subject of the application;
 6. The location and times at which the complete application and project file may be viewed by the public;
 7. A statement that any interested person or authorized agent may appear and be heard;
 8. A statement describing how to submit written comments;
 9. A vicinity and/or parcel map showing the project location; and,
 10. The proposed environmental determination.
- F. Failure to Notify Individual Properties.** The validity of the proceedings shall not be affected by the failure of any property owner, resident or neighborhood or community organization to receive such mailed notice.
- G. Community Meetings.** In addition to providing public notice as State law and this section require, the Director may require a neighborhood or community meeting to receive comments on any project that exceeds 20,000 square feet in building or site area or is anticipated to be of community concern due to potential environmental impacts or other significant planning concerns. The applicant shall be required to pay for the reasonable cost of conducting such a meeting including, but not limited to, mailing notices and facility costs.

16.10.140 Public Hearings

Whenever the provisions of this Zoning Code require a public hearing, the hearing shall be conducted in compliance with the requirements of State law as follows:

- A. Generally.** Hearings shall be conducted pursuant to procedures adopted by the hearing body. They do not have to be conducted according to technical rules relating to evidence and witnesses.
- B. Scheduling.** Hearings shall be scheduled by the Director.
- C. Presentation.** An applicant or an applicant's representative may make a presentation of a proposed project.
- D. Public Hearing Testimony.** Any person may appear at a public hearing and submit oral or written evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing representing an organization shall identify the organization being represented.
- E. Time Limits.** The presiding officer may establish time limits for individual testimony and require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.

F. Continuance of Public Hearing. The body conducting the public hearing may by motion continue the public hearing to a fixed date, time and place or may continue the item to an undetermined date and provide notice of the continued hearing or as provided below.

1. **Prior to Public Notice.** An application may be withdrawn from a scheduled hearing at the written request of the applicant provided that the public notice of the meeting and the public hearing on the application has not been mailed or published. The application shall be rescheduled for a time agreed to by the applicant and the Director if such extension is consistent with the requirements of State law and this chapter.
2. **After Public Notice.** If public notification has been given, an application may be continued by the hearing body or the Director or by written request of the applicant if there is a valid reason to justify the applicant's written request, which could not reasonably have been planned for or anticipated. The rescheduled public hearing shall be re-noticed in the original manner, and the applicant shall be subject to payment of a re-notification fee prior to the re-scheduled hearing.

~~Request Made Ten or More Days Prior to Hearing. The Director may grant the continuance.~~

~~Request Made Less than Ten Days Prior to Hearing. The request for continuance shall be acted upon by the hearing body at the meeting for which the application was scheduled for.~~

~~9. Time Limits. The time limitations for action on any application withdrawn, rescheduled, or continued by the Planning Commission at the request of the applicant, shall be extended by the period of time that consideration of the application was suspended.~~

J.G. Decision. The public hearing must be closed before a vote is taken.

16.10.150 Notice of Action and Findings Required

When making a decision to approve, approve with conditions, modify, revoke or deny any discretionary permit under this Ordinance, the responsible authority shall issue a Notice of Action to the applicant and make findings of fact as required by this Ordinance.

A. Date of Action. The responsible authority shall decide to approve, modify, revoke, or deny any discretionary permit following the close of the public hearing, or if no public hearing is required, within the time period set forth below. These deadlines do not apply to any action that has been appealed in accordance with Section 16.TBD, Appeals.

1. **Project Exempt from Environmental Review.** Within 30 calendar days of the date the city has determined an application to be complete, a determination must be made whether the project is exempt from Environmental Review per State CEQA requirements.
2. **Project for which a Negative Declaration or Mitigated Negative Declaration is Prepared.** Within 60 calendar days of the date a Negative Declaration or Mitigated Negative Declaration has been completed and adopted for project approval, the City shall take action on the accompanying discretionary project.

3. ***Project for which an EIR is Prepared.*** Within 180 calendar days from the date the decision-making authority certifies a Final EIR, the City shall take action on the accompanying discretionary project.

B. Notice of Action

1. ***Statement of Official Action.*** Within 30 calendar days from the date the decision has been made, the hearing body shall approve a statement of official action which shall include:
 - a. A statement of the applicable criteria and standards against which the proposal was tested and the determination of what is required to achieve compliance with the criteria and standards.
 - b. A statement of the facts found that establish compliance or non-compliance with each applicable criteria and standards.
 - c. The reasons for a determination to approve or deny the application.
 - d. The decision to deny or to approve with or without conditions and subject to compliance with applicable standards.
2. ***Notice.***
 - a. ***Director Decisions.*** The Director shall transmit the Statement of Official Action to the applicant at the address shown on the application on the same day the Statement of Official Action has been approved.
 - b. ***Planning Commission, Architectural Heritage and Landmarks Commission Design Review Board and City Council Decisions.*** The Director shall transmit the Statement of Official Action to the applicant at the address shown on the application within 230 calendar days after Statement of Official Action has been approved.
 - c. ***Findings.*** Findings, when required by State law or this Ordinance, shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record and shall be stated in writing in the resolution or record of the action on the permit.

16.10.160 Scope of Approval

- A. Scope.** Approval shall only apply to those uses and activities actually proposed in the application and excludes other uses and activities. Unless otherwise specified, the approval of a new use shall terminate all rights and approvals for previous uses no longer occupying the same site or location, unless specified in the application.
- B. Conditions of Approval.** The site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or submitted during the approval process shall be deemed conditions of approval. Any approval may be subject to requirements that the applicant guarantees, warranties or insures that he will comply with the plans and conditions in all respects.
- C. Actions Voiding Approval.** If the construction of a building or structure or the use established is contrary to the description or illustration in the application, so as to either violate any provision of this Ordinance or require additional permits, then the approval shall be deemed null and void.

- D. Periodic Review.** All approvals may be subject to periodic review to determine compliance with the permit and applicable conditions. If a condition specifies that activities or uses allowed under the permit are subject to periodic reporting, monitoring or assessments, it shall be the responsibility of the permit holder, the property owner or successor property owners to comply with such conditions.

16.10.170 Effective Dates

A final decision on an application for any discretionary approval subject to appeal shall become effective after the expiration of 10 calendar days, or seven calendar days in the case of Temporary Use Permits, appeal period following the date of action, unless an appeal is filed. No building permit or business license shall be issued until the 11th day, or 8th day in the case of Temporary Use Permits, following the date of the action. If a different termination date is fixed at the time of granting, or if actual construction or alteration has begun under valid building permits, the 10-day, or seven-day in the case of Temporary Use Permits, period may be waived.

16.10.180 Expiration and Extension

- A. Expiration.** The decision-maker, in the granting of any permit, may specify a time, consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare, within which the proposed use must be undertaken and actively and continuously pursued. If no time period is specified, any permit granted under this Ordinance shall automatically expire if it is not exercised or extended within the time limits listed below:
1. **Permits for Affordable Housing and Mixed-Use Projects.** Three years of the effective date, for affordable housing or mixed-use projects where housing units comprise at least 75 percent of the floor area of the project, and the housing project has received City, State or Federal funding or is comprised of units at least 50 percent of which are deed-restricted to be affordable to low income households and the remainder of which are deed-restricted to be affordable to low or moderate income households.
 2. **All Other Permits.** Two years of the effective date.
- B. Exercise of Rights.** A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the site unless the permit is granted in conjunction with approval of new construction.
1. **New Construction.** If a permit is granted in conjunction with approval of new construction, issuance of a building permit shall constitute exercise of rights; provided, however, that, unless otherwise specified as a condition of project approval, the permit shall expire if:
 - a. The building permit expires;
 - b. Final inspection is not completed, or Certificate of Occupancy issued within the time specified as a condition of project approval; or
 - c. The rights granted under the permit are not exercised within one year following the earliest to occur of the following: issuance of a Certificate of Occupancy; or if no Certificate of Occupancy is required, the last required final inspection for the new construction.

C. Extensions.

1. **First Time Extension.** The Director may approve an extension of any permit or approval granted under this Ordinance upon receipt of a written application received 45 calendar days before the expiration date with the required fee prior to expiration of the permit for the time periods listed below.
 - a. Projects with residential uses: one-year extension.
 - b. Nonresidential projects: one-year extension.
2. **Other Extensions.** The Planning Commission or Director may approve a further extension of an additional one ~~two~~-years on any permit or approval granted under this Ordinance upon receipt of a written application with the required fee at least 45 calendar days prior to expiration of the permit. Such extension request shall be processed in the same manner as a Major Permit Modification. The Planning Commission or Director may grant an extension request for good cause, and may consider in this review the reason for the extension, the extent to which the project is consistent with current development standards and policies, whether the project is consistent in principal with the goals, objectives, policies, land uses, and programs specified in the adopted General Plan, conditions surrounding the project site and whether the project will adversely affect public health, safety and general welfare.

16.10.190 Changes to an Approved Permit

No change in the use or structure for which a permit or other approval has been issued is permitted unless the permit is modified as provided for in this Ordinance. For the purpose of this section, the modification of a permit may include Minor modification of a Development Review approval that is in substantial compliance as determined by the Director

- A. **Minor Modifications.** The Director may approve minor changes to approved plans that are consistent with the original findings and conditions approved by the hearing body and would not intensify any potentially detrimental effects of the project.
- B. **Major Modifications.** A request for changes in conditions of approval of a discretionary permit or a change in an approved site plan or building plan that would affect the findings adopted as a basis for project approval shall be treated as a new application, except that the Director may approve changes that he or she determines to be minor.

16.10.200 Revocation of Permits

Any permit granted under this Ordinance may be revoked or modified for cause if any of the conditions or terms of the permit are violated or if any law or ordinance is violated. Notwithstanding this provision, no lawful residential use can lapse regardless of the length of time of the vacancy.

- A. **Initiation of Proceeding.** Revocation proceedings may be initiated by the City Council or the Director.
- B. **Public Notice, Hearing, and Action.** After conducting a duly-noticed public hearing, the Planning Commission may revoke or modify the permit if it makes any of the following findings:
 1. The approval was obtained by means of fraud or misrepresentation of a material fact;

2. The use, building, or structure has been substantially expanded beyond what is set forth in the permit or substantially changed in character;
 3. The use in question has ceased to exist or has been suspended for six months or more; or
 4. There is or has been a violation of or failure to observe the terms or conditions of the permit or Variance, or the use has been conducted in violation of the provisions of this Ordinance, or any applicable law or regulation.
- C. Notice of Action.** A written determination of revocation shall be mailed to the property owner and the permit holder within ten calendar days of such determination.
- D. Appeals.** Revocation decisions are subject to the appeal provisions of Section 16.TBD, Appeals.

16.10.210 Appeals

- A. Applicability.** Any action by the Director, Planning Commission, Architectural Heritage and Landmarks Commission, or Design Review Board in the administration or enforcement of the provisions of this Ordinance may be appealed in accordance with this section.
1. **Appeals of Director Decisions.** Decisions of the Director may be appealed to the Planning Commission, Architectural Heritage and Landmarks Commission or Design Review Board by filing a written appeal with the Planning Division.
 2. **Appeals of Planning Commission Architectural Heritage and Landmarks Commission, or Design Review Board Decisions.** Original decisions of the Planning Commission, Architectural Heritage and Landmarks Commission and Design Review Board may be appealed to the City Council by filing a written appeal with the Director. Decisions by the Planning Commission, Architectural Heritage and Landmarks Commission and Design Review Board on appeal shall be final and not subject to further appeal to the City Council.
- B. Rights of Appeal.** Appeals may be filed by the applicant, by the owner of property, or by any other person adversely affected by a decision that is subject to appeal under the provisions of this Ordinance.
1. The appeal shall clearly and concisely set forth the grounds upon which the appeal is based. Fees for the appeal established by Master Fee Schedule shall be paid by the appellant.
 2. For ministerial determinations including, but not limited to, zoning clearance, the grounds for the appeal shall be based on factual information demonstrating whether application meets specific standards applicable to the project.
- C. Time Limits.** Unless otherwise specified in State or Federal law, all appeals shall be filed in writing within 10 calendar days of the date of the action, decision, motion, or resolution is taken or seven calendar days in the case of Temporary Use Permits. In the event an appeal period ends on a Saturday, Sunday, or any other day the City is closed, the appeal period shall end at the close of business on the next consecutive business day.
- D. Procedures.**

1. If a timely appeal is made by the applicant, the City Clerk shall forward a copy of the written appeal to the Director. If the appeal is made by someone other than the applicant, the Clerk shall forward a copy of the written appeal to the applicant and a copy to the Director.
 2. Proceedings Stayed by Appeal. The timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses.
 3. Transmission of Record. The Director shall schedule the appeal for consideration by the authorized hearing body within 45 calendar days of the date the appeal is filed. The Director shall forward the appeal, the Notice of Action, and all other documents that constitute the record to the hearing body. The Director shall also prepare a staff report that responds to the issues raised by the appeal and may include a recommendation for action.
- E. Calls for Review.** A majority of the City Council may call for review of a decision of the Director, ~~Director~~, Planning Commission, Architectural Heritage and Landmarks Commission or Design Review Board within the appeal period. The call for review shall be processed in the same manner as an appeal by any other person. Such action shall stay all proceedings in the same manner as the filing of an appeal. Such action shall not require any statement of reasons and shall not represent opposition to or support of an application or appeal.
- F. Public Notice and Hearing.** Public notice shall be provided, and the hearing conducted by the applicable appeal body pursuant to Chapter TBD, Common Procedures. Notice of the hearing shall also be given to the applicant and party filing the appeal and any other interested person who has filed with the Director a written request for such notice. In the case of an appeal of a Planning Commission, Architectural Heritage and Landmarks Commission or Design Review Board decision, notice of such appeal shall also be given to the Planning Commission, Architectural Heritage and Landmarks Commission or Design Review Board, who may be represented at the hearing.
1. After opening the public hearing on an appeal, the Council may take one of the following actions:
 - a. Continue the public hearing;
 - b. Based on the record of the Council's consideration and hearing, reverse or affirm, wholly or partly, or modify any decision, determination, condition or requirement of the Commission's or the Board's original action; or
 - c. Remand the matter to the Commission to reconsider the application or any revisions submitted to the Council after the Commission's action, in which case the Council shall specify whether or not the Commission or Board shall hold a new public hearing, and which issues the Commission or Board is directed to reconsider.
- G. Standards of Review.** When reviewing any decision on appeal, the appeal body shall use the same standards for decision-making required for the original decision. The appeal body may adopt the same decision and findings as were originally approved; it also may request or require changes to the application as a condition of approval.
- H. Action.** An action by the Commission, Board or the Council to grant an appeal shall require a majority vote of the hearing body members. A tie vote shall have the effect of rejecting the appeal.

III. Development Review

BACKGROUND

A number of changes are proposed to the provisions in Chapter 16.90, Site Development Plan Approval, to clarify the scope of this review procedure and ensure compliance with new State requirements for using objective design standards to make decisions on residential projects. The new regulations will be broader in scope and renamed “Development Review”. As described in the existing Codes, this procedure is for code compliance and discretionary determination. The review of residential projects typically focuses on standards for landscaping and fencing, off-street parking and loading and other site development standards. The new Code will objective standards and includes findings for approval.

The draft regulations for each zoning district will establish objective standards to provide a clearer basis for reviewing site developments. (Review and discussion of the new District standards is tentatively scheduled for January 2020.) Where there are exceptions from the State for building code, such as those required by the Housing Accountability Act (Government Code Section 65589.5) and related legislation, these regulations will replace the current discretionary review process with a ministerial review using a checklist for ministerial review to ensure compliance with applicable objective design standards for residential development. This includes exempt projects that are 100 percent residential, mixed-use developments in which at least two-thirds of the square footage is designated for residential use, transitional housing and supportive housing, and affordable housing projects such as SB 35.

The reason for this change is that State law prohibits local agencies from denying residential projects or imposing conditions that would require a reduction in density when a proposed housing development meets objective standards and criteria “including design review standards” without finding that the project would have a “specific, adverse impact upon the public health or safety” that cannot be mitigated. The State law would not preclude adoption of a checklist the City could use to identify a menu of approaches an applicant could use to comply with the adopted standards. Another approach would be to adopt a carefully crafted set of design guidelines that spelled out alternative design treatments that could be applied in different development scenarios. Discretionary review would only be required if the applicant wanted to use a distinct approach and could demonstrate that such a unique approach was consistent with the purposes of the district and was appropriate under the circumstances.

POLICY QUESTIONS AND COMMENTS FOR DISCUSSION

- Staff recommends a streamline measure to allow non-residential projects that meet the design standards and do not require a Use Permit to be approved with a Director's Permit based solely on a determination of compliance with all applicable standards.

DEVELOPMENT REVIEW DRAFT REGULATIONS

16.10.220 Purpose

Development review is a discretionary action that the City uses to ensure that the design of new construction and alterations to existing buildings will be consistent with the General Plan and any applicable specific plan and any applicable design standards and adopted design guidelines that the City has adopted to implement the General Plan. This chapter establishes standards and procedures for conducting design review of site design and development proposals. More specifically, this review is intended to:

- A.** Promote excellence in design that will enhance the attractiveness of the City's districts and neighborhoods by being compatible with the best elements of the existing character of the area to provide a pleasing environment for residents, pedestrians, and building occupants;
- B.** Support site development practices that are appropriate with respect to the site's solar orientation, drainage patterns, existing trees and landscaped areas and the location, size and massing of existing structures adjacent to the subject property;
- C.** Supplement other City regulations and standards in order to ensure that exterior design features that are not otherwise addressed but have a bearing on land use compatibility and neighborhood fit are considered during the development review and approval process.

16.10.230 Applicability.

Development review is required for all permits for new construction, reconstruction, rehabilitation alteration, or other improvements to the exterior of a structure, development site or parking area except for:

- A.** Replacement in kind;
- B.** Parking lots providing fewer than ten parking spaces;
- C.** Decks that do not exceed four feet in height at any point excluding railings;
- D.** The relocation or movement of any non-residential building or accessory structure under 500 square feet in area to another lot or a new location less than 100 feet or more from the existing location;
- E.** New single-unit residential structures on existing lots and residential additions less than 500 square feet in area and less than 15 feet in height including, but not limited to, minor window, door, and roof modifications except for additional stories to an existing building and as long as no more than one addition is exempted from design review in any 24-month period;
- F.** Additions or repairs that do not affect any street-facing façade or add stories to existing buildings;
- G.** Accessory structures less than 250 square feet in area and less than nine feet in height;
- H.** Additions or improvements to industrial, commercial and mixed-use structures that are less than 1,000 square feet in area and are not adjacent to a residential zoning district;
- I.** Accessory Dwelling Units in compliance with State standards;

- J.** Residential solar panels located on roofs or in a rear yard;
- K.** Temporary structures;
- L.** Exterior alterations required by State or federal law or other public agencies;
- M.** Development or improvements that require approval of the Planning Commission, Design Review Board or the Architectural Heritage and Landmarks Commission;
- N.** The Director may waive review of the design of detached garages, carports, sheds, and agricultural buildings.
- O.** Any other buildings, structures, and improvements requiring a building permit that the Director finds in compliance with all applicable standards of this Title 16 when the exterior of any existing improvement will not be significantly altered;
- P.** The final determination as to whether a proposed addition or repair would significantly affect any existing improvement shall be made by the Director. The city council may, by resolution, direct that design review of such additions or repairs shall be conducted within specified areas of the city if the exterior is to be significantly altered.

16.10.240 Application for development review.

- A.** Applications for development plan review must be filed and processed in compliance with the requirements in Chapter 16.TBD, Common Procedures and shall be subject to a fee established by the Master Fee Schedule.
- B.** Applications for development plan approval shall include such information as may be required in submission requirements issued by the Director and available from the Planning Division, which may include, but is not limited to, site plans, floor plans, building sections perpendicular to the street, exterior elevations, photographs of the subject or abutting properties, perspective or axonometric drawings and/or a model, description of building materials, material and/color samples, exterior lighting and fence plans, signage details and locations, and landscape and irrigation plans as stated in a current Checklist maintained by the City.
- C.** When a development review project requires a Use Permit, Variance, or any other discretionary approval, the development review application may be submitted to the Planning Division as part of the application for the Use Permit, Variance, or other discretionary approval. The Director has the authority to require consideration of the Use Permit, Variance, or other discretionary approval prior to or concurrently with the development review.

16.10.250 Development procedure.

- A. Notification.** Notice shall be provided in compliance with the requirements of Chapter 16.TBD, Common Procedures, Section 16.TBD, Noticing. When a development proposal subject to development review approval requires a use permit, variance, or an amendment of the zoning ordinance, the notice that this Title requires for such approvals shall also state that the project is subject to development review.
- B. Mailed Notice.** Public notices shall be provided as required in accordance with Section 16.TBD Common Procedures of this Title.

- C. **Transfer of Authority.** Whenever the Director finds that the decision on any application is beyond his or her purview of authority, the application shall be forwarded to the Planning Commission or Design Review Board for its determination.
- D. **Conditions.** The Director, Planning Commission or Design Review Board may impose reasonable conditions related to the design impacts of the proposed development plan approvals. Such conditions must be consistent with the considerations of this chapter as deemed reasonable and necessary under the circumstances to carry out the intent of this chapter.
- E. **Scope of Review.** The development review process shall focus on issues of design and shall not address land use issues, which are considered separately. Development plan review approval may not be used to require a reduction in density, height or floor area or an increase in setbacks or parking that is different from the standards that are required by this Title or have been imposed by a discretionary approval including but not limited to a Major or Minor Use Permit, Variance, Specific Plan, Planned Development, or tentative map applicable to the project or the location where it is proposed.
- F. **Findings Required.** Prior to granting a development plan approval, the Director, Planning Commission, or Design Review Board shall find:
 - 1. That the proposed development complies with all applicable specific standards and criteria of this title;
 - 2. That the proposed development is consistent with the Vallejo General Plan and any applicable approved specific plan;
 - 3. Any design conditions, standards, or requirements imposed by a discretionary approval including but not limited to a Major or Minor Use Permit, Variance, Specific Plan, Planned Development, or tentative map applicable to the project or the location where it is proposed;
 - 4. Is in substantial compliance with any applicable adopted design guidelines;
 - 5. That the proposed development shall serve to achieve groupings of structures which will be well related one to another and which, taken together, will result in a well-composed urban design, with consideration given to site, height, arrangement, texture, material, color and appurtenances, the relation of these factors to other structures in the immediate area, and the relation of the development to the total setting as seen from key points in the surrounding area; only elements of design which have some significant relationship to outside appearance shall be considered;
 - 6. That the proposed development shall be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;
 - 7. That the design of the development conforms in all significant respects with the proposals of any applicable district plan or development and control map which has been adopted by the city council.
- G. **Concurrent Review.** When a development proposal subject to development plan approval requires a use permit, variance, or an amendment of the zoning ordinance, development review shall be conducted concurrently with any review required by the use permit, variance or amendment application.

- H. Referral to the Design Review Board.** The Director, Planning Commission may refer development review applications to the Design Review Board for review and comment if such referral seems appropriate.
- I. Notification of Approval or Denial.** Upon making a determination, the Director shall prepare and send one copy of the staff report to the applicant, and one copy of the staff report shall be made available at no cost to each of the identified neighborhood groups within three hundred feet of the subject property at City Hall. Any other person or group requesting a copy of the staff report shall be charged the city's current per page copying cost.

16.10.260 Expiration, Extensions and Modifications.

Development review approvals are effective and may only be extended or modified as provided for in Chapter 16.TBD, Common Procedures.

16.10.270 Appeals

Development review approvals for projects that do not require a use permit, variance, or other final action by the Planning Commission may be appealed to the Planning Commission and Design Review Board as provided for in Chapter 16.TBD, Common Procedures, Section 16.TBD, Appeals.

16.10.280 Prohibitions.

No building permit, license, certificate or other approval or entitlement shall be issued or given by the City or any department or employee thereof with respect to any improvement subject to development review approval until the design of the improvement has been approved as provided in this chapter. No certificate of use and occupancy or similar approval shall be issued or given for any improvement subject to development review approval under this chapter unless and until the Director has certified that the improvement has been completed in accordance with the design approved pursuant to this chapter.

16.10.290 Other ordinances not affected.

Nothing in this chapter shall be construed to exempt any application from compliance with any requirement of any other provision of this code or any other ordinance of this city, or to amend any such other ordinance unless so stated in the ordinance codified in this chapter.

IV. Exceptions

BACKGROUND

The purpose of this chapter is to provide an alternate means of granting relief from the ordinance's requirements when so doing would be consistent with the ordinance's objectives and it is not possible or practical to approve a variance. The chapter will incorporate a revised version of the provisions in Chapter 16.80, Exception Regulations, of the current Code with additional procedures for granting exceptions when necessary to accommodate uses protected by State or federal law. Such exceptions or waivers may be subject to conditions that terminate certain authorizations when the use is no longer eligible for protection such as when a religious assembly use vacates a property. This chapter establishes the applicability and procedures for the granting of a zoning exception including findings required as a basis for such approvals.

The existing provisions in Chapter 16.80 do not clearly distinguish between those exceptions that require a discretionary determination by the Director and those that are permitted by right subject to a compliance determination. To avoid confusion the new Code could include revised Chapter 16.80 divided into two sets of provisions (i.e. discretionary vs. ministerial) or should move those allowed by right to Part III to be incorporated with other general regulations regarding site development and design. The discretionary exceptions include those subject to Section 16.80.090, Exceptions to measurable standards and Section 16.80.080, Exception to residential parking space requirements. Those allowed by right include exceptions to minimum lot areas and yard depth and encroachments in residential districts).

POLICY QUESTIONS OR COMMENTS FOR DISCUSSION

- Should the City reduce the percentage for an exception from 25 percent (current percentage of change) to 10 percent?

Currently, the City allows exceptions to standards regarding lot area, width, etc. As best practice, Staff is recommending that this continue to assist with streamlining a review.

EXCEPTIONS DRAFT REGULATIONS

16.10.300 Purpose

This article is intended to provide an alternate means of granting relief from the ordinance's requirements for minor deviations from dimensional and design standards when so doing would be consistent with the ordinance's objectives and it is not possible to grant a variance. Further to this end, it is the policy of the City to comply with the federal Fair Housing Act, the Americans with Disabilities Act, the Religious Land Use and Institutionalized Persons Act, and the California Fair Employment and Housing Act to provide reasonable accommodation for protected uses and for persons with disabilities seeking fair access to housing through a waiver of the application of the City's zoning regulations. This article authorizes the Director to grant administrative relief from dimensional requirements to achieve these objectives.

16.10.310 Applicability

The Director may grant relief from the dimensional requirements specified in this ordinance, not to exceed 25 percent of the requirement. The Director also may grant an exception that would exceed 25 percent where such an exception is necessary to comply with the reasonable accommodation provisions of State and/or federal law, based on a determination that the specific circumstances of the application warrant such an accommodation. Exceptions may be granted for:

- A. **Setbacks.** Up to 25 percent of front, side, and rear yard setback standards.
- B. **Build-to Lines.** Up to 25 percent of the standards for building facade location.
- C. **Parking.** Up to 25 percent of the dimensional standards for parking spaces, aisles, driveways, landscaping, garages on sloping lots, and parking facility design.
- D. **Fences.** Up to 25 percent of the standards for the maximum height and location of fences.
- E. **Lot Coverage.** Up to 25 percent of the maximum amount of lot coverage.
- F. **Height.** Up to 25 percent or two feet of the maximum building height or other height limitations, whichever is less.
- G. **Landscaping.** Up to 25 percent of the required landscaping.
- H. **Transparency.** Up to 25 percent of the minimum ground-floor building transparency requiring views into buildings.
- I. **Other Standards.** Up to 25 percent of other development standards not listed in Section TBD below.

16.10.320 Exclusions

Exceptions shall not be granted from any of the following standards:

- A. Lot area, width, or depth;
- B. Maximum number of stories;
- C. Minimum number of required parking spaces;

- D. Minimum or maximum residential density; or
- E. Maximum floor area ratio (FAR).

16.10.330 Procedures

- A. **Authority and Duties.** The Director must approve, conditionally approve, or deny applications for exceptions based on consideration of the requirements of this article.
- B. **Application Requirements.** An application for an Exception must be filed and processed in accordance with the procedures in Chapter 16.TBD (Common Procedures). In addition to any other application requirements, the application for an exception must include data or other evidence explaining why the findings necessary to grant the exception, set forth in Section 16.11.050 (Required Findings), are satisfied.
- C. **Review of Exception Requests for Reasonable Accommodation to Ensure Access to Housing.** An application for an exception based on a request for a reasonable accommodation to ensure access to housing will be referred to the Director for review and consideration. Such a request may exceed the 25 percent limits in Section 16.11.020 (Applicability). The Director must issue a written decision within 45 calendar days of the date the application is deemed complete, and may grant the reasonable accommodation request, grant with modifications, or deny the request. All written decisions must give notice of the right to appeal and to request reasonable accommodation in the appeals process.
- D. **Concurrent Processing.** If a request for an exception is being submitted in conjunction with an application for another approval, permit, or entitlement under this Ordinance, it must be heard and acted upon at the same time and in the same manner as that application.

16.10.340 Required findings

A decision to grant an exception must be based on the following findings:

- A. The exception is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance.
- B. There are no alternatives to the requested exception that could provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or to the general public.
- C. The granting of the requested exception will not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this Ordinance.
- D. If the exception requested is to provide reasonable accommodation pursuant to State or federal law, the review authority must also make the following findings in addition to any other findings that this article requires:
 1. That the housing or other property that is the subject of the request for reasonable accommodation will be used by an individual or organization entitled to protection;

2. If the request for accommodation is to provide fair access to housing, that the request for accommodation is necessary to make specific housing available to an individual protected under State or federal law;
3. That the conditions imposed, if any, are necessary to further a compelling public interest and represent the least restrictive means of furthering that interest; and
4. That denial of the requested exception would impose a substantial burden on religious exercise or would conflict with any State or federal statute requiring reasonable accommodation to provide access to housing.

16.10.350 Conditions of approval

The decision-maker has the authority to impose reasonable conditions that are related and proportionate to what is being requested by the applicant, as deemed necessary and appropriate to ensure that the provisions of the General Plan, any applicable specific plan, and Title 16 are met. The decision-maker may require reasonable guarantees and evidence that such conditions are being, or will be, complied with. Waivers approved based on State or federal requirements for reasonable accommodation may be conditioned to provide for rescission or automatic expiration based on a change of occupancy or other relevant change in circumstance.

16.10.360 Appeal

The Director, Architectural Heritage and Landmarks Commission or Design Review Board's decision on an exception may be appealed in accordance with Section 16.TBD, Appeals.

V. Zoning Clearance Review

BACKGROUND

This new procedure codifies a process for implementing the standard requirement to ensure all permits or licenses the City issues conform to the provisions of the new Zoning Code. This chapter describes the process for Staff review of applications for business licenses, building permits, and other entitlements to ensure that the proposed use or structure is permitted by right or conforms to the requirements and conditions of any ministerial approval granted under the Ordinance. This determination would be documented by the issuance of a Zoning Certificate, a computer-generated permit tracking software. The revised requirements for development review will cross-reference the zoning clearance procedure, which Staff will use to verify that projects exempt from development review comply with all applicable development and design standards.

Zoning clearance review is a way to evaluate applications for zoning approval to ensure that uses that are allowed by right, including a variety of commercial uses, meet all of the Code's objective standards and requirements. These standards include general regulations applicable to site development and design, such as standards for designing parking areas, and standards for specific uses including Accessory Dwelling Units, Community Gardens, Mobile Food Vendors and others permitted by the State as of right. Many of these are requirements the new Zoning Code will include to reduce potential conflicts with adjacent development and ensure new development and building additions are a good fit for the neighborhoods and districts in which they are proposed. The zoning clearance will help to reduce the time it takes to review a variety of commercial uses. Zoning clearance is ministerial review process but the Staff determination of compliance with all applicable requirements may be appealed to the Planning Commission in the same manner as Minor Use Permits.

ZONING CLEARANCE DRAFT REGULATIONS

16.10.370 Purpose

This article establishes procedures for conducting a zoning clearance review to verify that each new or expanded use or structure complies with all of the applicable requirements of this Title.

16.10.380 Applicability

Zoning clearance review is required for buildings or structures erected, constructed, altered, repaired or moved, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building that are allowed as a matter of right by this Title . Before the City may issue any business license, building permit, subdivision approval, lot line adjustment, or any other license, approval, or permit, the Director must review the application to determine whether the use, building, or change in lot configuration complies with all provisions of this Title, any applicable specific plan and any prior design review, Use Permit or Variance approval, and that all conditions of such permits and approvals have been satisfied.

16.10.390 Review and Decision

- A. Application.** An application for zoning clearance review must be filed and processed in accordance with the provisions of this Chapter.
- B. Determination.** The Director must review the application to determine whether the proposed use or construction is allowed by right, requires any type of discretionary planning permit, is allowed pursuant to any previously approved permit, or is prohibited. If the Director determines that the proposal conforms to the requirements of this Title and any applicable specific plan, a Zoning Certificate will be issued. If the Director determines that the proposal does not conform to the requirements of this Title or any applicable specific plan, a Zoning Certificate will not be issued, and the applicant will be advised as to how the proposal can be brought into compliance.

16.10.400 Appeals.

The Director's determination may be appealed to the Planning Commission in accordance with Section 16.TBD, Appeals.