

Part 4

PERMITS AND APPROVALS

Chapters:

- 4-05 Zoning Use Permits**
- 4-10 Site Plan Approval**
- 4-15 Variance Permits**
- 4-20 Conditional Use Permits**
- 4-25 Development Agreements**

Chapter 4-05

ZONING USE PERMITS

Sections:

- 4-05-010 Purpose.
- 4-05-020 Procedure.
- 4-05-030 Required data.
- 4-05-040 Public hearings.
- 4-05-050 Findings – Zoning administrator.
- 4-05-060 Action – Zoning administrator.
- 4-05-070 Findings – Planning commission.
- 4-05-080 Action – Planning commission.
- 4-05-090 Effect of action.

4-05-010 Purpose.

The purpose of this chapter is to provide a means for determination of compliance with the provisions of this code. (Ord. 442 § 23.10)

4-05-020 Procedure.

No owner shall use or permit the use of any land, structure, or building, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a zoning use permit has been issued by the city of Livermore; provided, however, that no zoning use permit shall be required for agricultural uses and animal husbandry as defined herein. (Ord. 442 § 23.20)

4-05-030 Required data.

The application shall be accompanied by a plot plan showing lot lines, dimensions and locations of buildings and improvements, street right-of-way lines, building setback lines, yards, and any other data necessary to show that any applicable requirements of this code are fulfilled. (Ord. 442 § 23.21)

4-05-040 Public hearings.

No public hearing need be held; provided, that a hearing may be held when an application has been referred to the planning commission for determination by the zoning administrator, and the planning commission shall deem such hearing in the public interest, or when a public hearing is required by this code. (Ord. 442 § 23.30)

4-05-050 Findings – Zoning administrator.

The zoning administrator of the city of Livermore may approve an application for a zoning use permit only when the following conditions are found:

A. The proposed use conforms to the Livermore general plan in terms of land use and standards of development.

B. The proposed use conforms to the permitted uses listed in the district in which the subject property is located; that population density and open space as required by the terms of this code for the zoning district within which the use is to be located are provided.

C. The applicant exhibits proof where required herein that such use will not constitute a nuisance or be detrimental to the public health, safety, comfort, or general welfare of persons residing or working in or passing through the neighborhood of such proposed use or be detrimental or injurious to property, improvements, or existing land uses in the neighborhood or to the general welfare of the city of Livermore.

D. The proposed structure, building, premises or use conforms to all the requirements of LPZC Part 3 and any other applicable requirements set forth in this code.

E. All other reviews, actions, permits and approvals requested and/or required in this code have been complied with and all necessary approvals secured thereto. (Ord. 442 §§ 23.40 – 23.45)

4-05-060 Action – Zoning administrator.

A. Time Limit. The zoning administrator shall act upon an application for a zoning use permit within 17 days following the date of filing of application.

B. Variety of Action. The zoning administrator may approve and issue, or disapprove an application, or may refer the application to the planning commission if the zoning administrator is unable to determine approval or disapproval of the application by the requirements set forth in this code; or when the applicant desires to have the planning commission determine approval or disapproval of the application; or if site plan approval by the planning commission is required for the proposed use; or if performance standards approval by the planning commission is required for the proposed use; or if in the opinion of the zoning administrator the proposed use should be required to conform to performance standards; or if any application for any use is not specifically listed in this code; or if any application is for any use which, in the opinion of the zoning administrator, may require determina-

tion by the planning commission of requirements to use, permits and/or approvals not already specifically set forth in this code. If referred to the planning commission, the date of referral shall be noted on the application by the zoning administrator. (Ord. 442 §§ 23.50 – 23.52)

4-05-070 Findings – Planning commission.

When an application for a zoning use permit has been referred to the planning commission for determination, the planning commission shall approve said application only when it is determined that all applicable requirements to use as set forth in LPZC 4-05-050 are fulfilled. (Ord. 442 § 23.60)

4-05-080 Action – Planning commission.

A. Time Limit. Any zoning use permit referred to the planning commission for determination by the zoning administrator shall be acted upon within 50 days following the date of referral by the zoning administrator; or provided, that if a hearing is held, the planning commission shall act upon an application within 50 days after the date of referral of the application.

B. Variety of Action. The planning commission shall approve or disapprove the application, or may approve said application subject to additional conditions which may include a time limit within which a development may be limited or must take place. (Ord. 1024, 1980; Ord. 442 §§ 23.70 – 23.72)

4-05-090 Effect of action.

A. Effective Date. Date of approval.

B. Notification of Applicant. The zoning administrator shall notify the applicant in writing of action taken and shall issue any approved permit to the applicant. (Ord. 442 §§ 23.80 – 23.82)

Chapter 4-10

SITE PLAN APPROVAL

Sections:

- 4-10-010 Purpose.
- 4-10-020 Applicability.
- 4-10-030 Procedure.
- 4-10-040 Required data.
- 4-10-050 Findings.
- 4-10-060 Conditional approval.

4-10-010 Purpose.

The purpose of this chapter is to assure that a proposed development of land is in conformance with the regulations of this code and is designed in a manner which will not be detrimental to the public health, safety, and general welfare or be detrimental to adjacent properties. (Ord. 442 § 25.10)

4-10-020 Applicability.

A. Where stated within this code that site plan approval is required, it shall mean that site plan approval is required for any new building, structure, open land use, or addition to an existing development, whether proposed for occupancy or for primary or accessory usage.

B. This section shall not apply to an open or temporary use of land which does not exceed 10 days; to single-family residences and their accessory structures; to any fences or other dividing instrumentalities erected in conformance with this code; or to a development for which a site plan has been previously approved under the conditions of a zoning use permit, variance permit, or conditional use permit. (Ord. 1543 § 6, 1999; Ord. 442 §§ 25.20 – 25.22)

4-10-030 Procedure.

A. When site plan approval is required, the applicant shall file an application and any required data with the city planning department.

B. The zoning administrator shall, within 50 days, either approve, deny, or conditionally approve a site plan approval application or may refer the application to the planning commission.

C. The planning commission shall, within 50 days following referral by the zoning administrator of a site plan approval application, either approve, deny, or conditionally approve the application.

D. In cases where site plan approval is considered concurrently with another entitlement subject to city council approval, the site plan approval shall be reviewed and approved by the city council. (Ord. 1640 § 1, 2001; Ord. 1024, 1980; Ord. 442 §§ 25.30 – 25.33)

4-10-040 Required data.

The application for site plan approval shall be accompanied by a site plan showing lot lines and dimensions, location of existing and proposed buildings or improvements, height of structures, off-street parking lot design including ingress and egress points, street right-of-way lines, setbacks, exterior lighting and signs, fencing, and any other data necessary to indicate the proposed development, all of which must be in conformance with the provisions of this code. In addition, the site plan shall indicate the proposed or probable use of the development and a brief statement of the type of construction contemplated. (Ord. 442 § 25.40)

4-10-050 Findings.

The zoning administrator, planning commission, or city council shall make the following findings in approving a site plan approval application:

A. That the proposed development conforms in all respects to the provisions of this code and other applicable city ordinances.

B. That the design of the proposed development is such that it will not be detrimental to the public health, safety, or general welfare and not detrimental to adjacent property.

C. That the development is within the intent of the provisions set forth in LPZC 4-10-030. (Ord. 1640 § 2, 2001; Ord. 442 §§ 25.50 – 25.53)

4-10-060 Conditional approval.

The zoning administrator or planning commission shall have the function, duty, and power to require compliance to any site plan approval which is conditionally approved, as may be deemed necessary to carry out the purpose and intent of this section. (Ord. 442 § 25.60)

Chapter 4-15

VARIANCE PERMITS

Sections:

- 4-15-010 Purpose.
- 4-15-020 Procedure.
- 4-15-030 Required data.
- 4-15-040 Determination.
- 4-15-050 Conditions.
- 4-15-060 Action – Planning commission.
- 4-15-070 Effect of action.
- 4-15-080 Appeal.

4-15-010 Purpose.

The purpose of this chapter is to provide a means by which variance from the terms of this code may be granted. (Ord. 442 § 27.10)

4-15-020 Procedure.

A variance may be granted where special circumstances exist by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of the ordinance codified in this chapter, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property, or of property immediately adjoining the piece of property in question, so that the literal enforcement of the requirements of this code would involve practical difficulties or would cause undue hardship unnecessary to carry out the spirit, intent, and purpose of this code. In no case shall a variance be granted to authorize a use or activity which is not otherwise expressly authorized by the zone regulations governing the parcel. (Ord. 442 § 27.20)

4-15-030 Required data.

The application for a variance permit shall be accompanied by any maps, drawings, and data required to demonstrate that the requirements set forth in LPZC 4-15-040 apply to subject property. (Ord. 442 § 27.21)

4-15-040 Determination.

No variance shall be granted in whole or in part unless the planning commission makes specific reference to facts, in its own findings, which are sufficient to establish:

4-15-050

A. Special circumstances applicable to the specific property including size, shape, topography, location or surroundings which cause the strict application of this code to deprive such property of privileges enjoyed by other properties in the vicinity which are under identical zoning classification; and

B. Adjacent property will not incur a substantial detriment if the variance is granted. (Ord. 1694 § 1, 2003; Ord. 442 § 27.30)

4-15-050 Conditions.

Any variance granted shall be subject to conditions which will assure that the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the same vicinity and zone. (Ord. 442 § 27.40)

4-15-060 Action – Planning commission.

An application for a variance permit shall be set for public hearing and acted upon by the planning commission within 50 days of filing a complete application. When a project requires approval of both a variance and a conditional use permit, the planning commission shall act on both the variance and the conditional use permit. In cases where a variance is considered concurrently with another entitlement subject to city council approval, the variance shall be reviewed and approved by the city council. (Ord. 1694 § 2, 2003; Ord. 1640 § 3, 2001; Ord. 1024, 1980; Ord. 442 § 27.50)

4-15-070 Effect of action.

A. Effective Date. Fifteen days after date of approval.

B. Time of Permit. The planning commission may impose a time limit on the grant of a variance, but unless specified otherwise at the time the variance is granted, the variance applies to subject property for an indefinite time and is transferable to any future owner of the subject property.

C. Notification of Applicant. The applicant shall be notified in writing of action taken by the planning commission and any approved permit shall be issued to the applicant. (Ord. 1694 § 3, 2003; Ord. 972, 1978; Ord. 442 §§ 27.60 – 27.63)

4-15-080 Appeal.

Actions of the planning commission are subject to appeal procedures set forth in Chapter 5-15 LPZC. (Ord. 1694 § 4, 2003; Ord. 442 § 27.70)

Chapter 4-20

CONDITIONAL USE PERMITS*

Sections:

- 4-20-010 Purpose.
- 4-20-012 Major conditional use permit.
- 4-20-014 Minor conditional use permit.
- 4-20-020 Applicability of CUP procedure – C, I, E, and H zoning districts.
- 4-20-030 Applicability of CUP procedure – Specified uses – Any district.
- 4-20-040 Applicability of CUP procedure – Private and quasi-public uses.
- 4-20-050 Applicability of conditional use permit procedure – Modification of use regulations.
- 4-20-060 Applicability of conditional use permit procedure – Performance standards.
- 4-20-070 Approval by planning commission or city council.
- 4-20-080 Approval by city council.
- 4-20-090 Procedure – Minor conditional use permit.
- 4-20-095 Procedure – Major conditional use permit.
- 4-20-100 Action of approval – Findings.
- 4-20-110 Action of approval – Conditions.

*Prior legislation: Ords. 442, 972 and 1024.

4-20-010 Purpose.

The conditional use permit procedure provides a means whereby the city may consider and either approve, conditionally approve, or deny certain proposed uses. The procedure is intended to be permissive in that it allows the approval of certain conditional uses where it can be found that the city can do so and still control development and subsequent performance. It is intended to be prohibitive in that the city may deny certain uses where it is found that the use cannot be allowed without detriment to the adjacent land use and to the spirit and intent of the general plan and zoning code. The term conditional use permit refers to a major conditional use permit or a minor conditional use permit. (Ord. 1633 § 7, 2001)

4-20-012 Major conditional use permit.

A major conditional use permit must be approved by the city council and is required for the following conditional uses:

A. Any conditional use requiring an environmental impact report under the California Environmental Quality Act.

B. Any use using hazardous materials of the type and/or quantity to warrant a conditional use permit under LPZC 3-30-040 located within 500 feet of any residential area designated in the general plan.

C. Any hazardous waste management facility.

D. Any conditional use proposing extended business hours, including hours before 6:00 a.m. and/or after 10:00 p.m., located within 500 feet of any residential area designated in the general plan.

E. Any conditional use generating 2,000 average daily trips or more located within any industrial, commercial or community facilities area designated in the general plan.

F. Any conditional use generating 500 average daily trips or more located within any residential area designated in the general plan.

G. Any conditional use when considered concurrently with another application that requires city council approval. (Ord. 1633 § 7, 2001)

4-20-014 Minor conditional use permit.

Minor conditional use permits must be approved by the city council when considered concurrently with another application that requires city council approval. (Ord. 1640 § 4, 2001; Ord. 1633 § 7, 2001)

4-20-020 Applicability of CUP procedure – C, I, E, and H zoning districts.

The conditional use permit procedure shall be utilized within the C, I, E, and H zoning districts where it is stated that other uses may be permitted subject to securing a conditional use permit. It shall mean that unlisted uses might be permitted by the decisionmaking body approving the conditional use permit when such uses are necessary to the development of the community and are in no way detrimental to existing uses or to those permitted in the district. (Ord. 1633 § 7, 2001)

4-20-030 Applicability of CUP procedure – Specified uses – Any district.

The conditional use permit procedure shall be utilized whenever it is stated in this code that specified uses may be permitted subject to securing a conditional use permit. It shall mean that such uses

might be permitted in a district when such uses are necessary to the development of the community and are in no way detrimental to existing uses or to those permitted in the district. (Ord. 1633 § 7, 2001)

4-20-040 Applicability of CUP procedure – Private and quasi-public uses.

Uses of a regional nature may be permitted in any zone subject to securing a conditional use permit where found to be essential and/or desirable for the public convenience and welfare, and where said uses are in conformity with the general plan and its objectives. Uses shall include, but not be limited to:

A. Airport or aircraft landing field (private or public);

B. Cemeteries, columbariums, crematories and mausoleums;

C. Churches and health facilities;

D. Development of natural resources together with the necessary building apparatus or appurtenances thereto;

E. Golf courses, driving ranges, parks and similar commercial, quasi-public, public and private recreation facilities requiring extensive use of land;

F. Commercial radio and television antennas and/or transmitters;

G. Public utilities facilities including electric generating plants, substations, and overhead and underground transmission and distribution lines having a capacity over 50 KV; gas and oil transmission lines; and water wells pumping treatment and storage facilities and major transmission pipes and viaducts;

H. And such other uses as the decisionmaking body approving the conditional use permit may deem to be similar and equally essential to service the public welfare. (Ord. 1633 § 7, 2001)

4-20-050 Applicability of conditional use permit procedure – Modification of use regulations.

The conditional use permit procedure shall be utilized wherever it is stated in this code that regulations to use may be modified through approval of a conditional use permit. It shall mean that such modification may be granted provided the prerequisite findings can be made. (Ord. 1633 § 7, 2001)

4-20-060

4-20-060 Applicability of conditional use permit procedure – Performance standards.

The conditional use permit procedure shall be utilized when it is stated or determined by the city that performance standards approval shall be required. It shall mean that a conditional use permit may be granted provided the prerequisite findings can be made. (Ord. 1633 § 7, 2001)

4-20-070 Approval by planning commission or city council.

After public hearing required by this code, minor conditional use permit applications may be approved by the planning commission or city council. (Ord. 1640 § 5, 2001; Ord. 1633 § 7, 2001)

4-20-080 Approval by city council.

After public hearing required by the code and with a recommendation by the planning commission, major conditional use permit applications may be approved by the city council. (Ord. 1633 § 7, 2001)

4-20-090 Procedure – Minor conditional use permit.

A. Application. An application shall be filed with the city planning division on forms provided by the city.

B. Required Data. Data accompanying an application shall be adequate to fully support the application including existing circumstances related to the property and the proposed use. Data shall be submitted as desired by the applicant and/or as required by the city and may include, but not be limited to, site, elevation, parking, and landscape plans; information descriptive of existing conditions on the site and neighboring properties; and economic, traffic and population studies.

C. Action on Minor Conditional Use Permit by Planning Commission. Except as may be otherwise permitted by the applicant, an application for a minor conditional use permit shall be processed in accordance with the following schedule:

1. An application shall be set for public hearing and acted upon by the planning commission within 50 days of filing.

2. The community development director shall summarize the action taken by the planning

commission at the next city council meeting following said action.

D. Variety of Action. An application may be approved, conditionally approved, or denied.

E. Notification. Notification of action shall be by letter from the secretary of the planning commission.

F. Appeal. Action of the planning commission is subject to appeal as set forth in Chapter 5-15 LPZC. (Ord. 1633 § 7, 2001)

4-20-095 Procedure – Major conditional use permit.

A. Application. An application shall be filed with the city planning division on forms provided by the city.

B. Required Data. Data accompanying an application shall be adequate to fully support the application including existing circumstances related to the property and the proposed use. Data shall be submitted as desired by the applicant and/or as required by the city and may include, but not be limited to, site, elevation, parking, and landscape plans; information descriptive of existing conditions on the site and neighboring properties; and economic, traffic and population studies.

C. Action on Major Conditional Use Permit by Planning Commission. Except as may be otherwise permitted by the applicant, an application for a major conditional use permit shall be processed in accordance with the following schedule:

1. An application shall be set for public hearing and recommendation by the planning commission within 50 days of filing.

2. The application shall be set for public hearing and decision by the city council within 30 days of the planning commission hearing and recommendation.

D. Variety of Action. An application may be approved, conditionally approved, or denied.

E. Notification. Notification of action shall be by letter from the secretary of the planning commission. (Ord. 1633 § 7, 2001)

4-20-100 Action of approval – Findings.

An application shall be approved only when all of the following findings can be made:

A. The site for the intended use is adequate in size and shape to accommodate the use and any yards, setbacks, walls, fences, landscaping, or sim-

ilar features required by the code or deemed by the city to be necessary to assure that the use is compatible with those on abutting land and/or in the neighborhood.

B. The site for the intended use is served by streets and highways adequate to carry the type and quantity of traffic generated by the use from the standpoint of location or proximity and width of right-of-way.

C. In approving the intended use there will not be adverse effects on abutting or neighboring property and the permitted uses thereof.

D. The intended use is not in conflict with the general plan.

E. Any other findings prerequisite to approval of a conditional use permit stated elsewhere in the code can be made.

F. The conditions imposed as conditions of approval are necessary to protect the health, safety, and general welfare and to make possible development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this code and in the general plan. (Ord. 1633 § 7, 2001)

4-20-110 Action of approval – Conditions.

As conditions to approval of an application, the city shall impose regulations in addition to and/or greater than those required by this code, which shall include the following:

A. Time limit for commencement and completion of development; and

B. Time limit after which use is to be terminated. In addition, other conditions may include, but such shall not be limited to, the following:

1. Special setbacks, height limits, and similar regulations;
2. Special walls, fencing, screening, or buffer areas;
3. Additional off-street parking and landscaped areas;
4. Regulation of lights, glare, noise, vibrations, and odor;
5. Regulation of operating hours;
6. Restrictions on egress and ingress to and from the site;
7. Off-site improvement of streets, storm drain lines, and other public works facilities. (Ord. 1633 § 7, 2001)

Chapter 4-25

DEVELOPMENT AGREEMENTS

Sections:

- 4-25-010 Purpose and scope.
- 4-25-020 Application.
- 4-25-030 Contents of development agreements.
- 4-25-040 Initial review.
- 4-25-050 Consideration and decision.
- 4-25-060 Amendment and cancellation.
- 4-25-070 Annual review.
- 4-25-080 Effect of development agreement.
- 4-25-090 Agreements for newly annexed areas.

4-25-010 Purpose and scope.

The purpose of this chapter is to implement the development agreement provisions of the state planning and zoning law. All development agreements shall be processed in accordance with this chapter.

A development agreement provides assurance to a developer that he or she may proceed with a project in accordance with existing policies, rules and regulations and subject to certain conditions of approval. Such assurance will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce economic costs of development. Also, by requiring some public benefit, this process assures some additional benefit to the public in exchange for the vested rights granted under a development agreement. [Government Code Secs. 65864 – 65869.5. Bracketed references throughout this chapter are to the California Government Code.] (Ord. 1641 § 2, 2001)

4-25-020 Application.

A. Filing by Owner. An application for a development agreement may only be filed by a person having a legal or equitable interest in real property. If the real property is located in unincorporated territory within the city's sphere of influence, the agreement shall not become operative unless annexation proceedings annexing the property to the city are completed within the period of time specified by the agreement. If the annexation is not completed within the time specified, the agreement is void.

B. Form of Application. An application for a development agreement shall be on a form approved by the community development director.

4-25-030

C. Application Fees. The applicant shall pay fees for the filing and processing of an application as established by resolution of the city council. [Sec. 65865.] (Ord. 1641 § 2, 2001)

4-25-030 Contents of development agreements.

A. Required Provisions. A development agreement shall include the following:

1. The duration of the agreement;
2. The permitted uses of the property;
3. The density or intensity of the use;
4. The maximum height and size of the proposed buildings;
5. Provisions for the dedication of land for public purposes;
6. The public benefit offered by the applicant as consideration for entering into the agreement;
7. The provisions set forth in LPZC 4-25-080(B).

Provisions in subsections (A)(2), (3) and (4) of this section may be satisfied by incorporating the terms of a PD District governing the same property.

B. Optional Provisions. A development agreement may include the following:

1. Conditions, terms, restrictions, and requirements for subsequent discretionary actions; provided, that such conditions, terms, restrictions and requirements shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement;
2. Provisions providing that construction shall begin within a specified time and that the project or any phase be completed with a specified time;
3. Terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

C. Provisions Not Allowed. A development agreement shall not include the following:

1. Requirements for the city to provide public facilities, improvements or services;
2. Requirements for the city to exercise its legislative or quasi-judicial powers in a particular way;
3. Waivers or modifications of any city fees or requirements. [Sec. 65865.2.] (Ord. 1641 § 2, 2001)

4-25-040 Initial review.

A. Completeness. The planning manager shall determine whether the application is complete. The planning manager shall schedule the proposed development agreement for the required hearing for initial review under this section.

B. Initial Review by Council. The city council shall hold a noticed public hearing to initially review an application for development agreement. At the hearing, the council shall determine whether it wishes to enter into such an agreement and, if so, the general subject areas the staff is authorized to negotiate. Notice of the hearing shall be given as provided in Government Code Sections 65090 and 65091.

C. Initial Review Not Required. Initial review under this section is not required for:

1. A development agreement approved in conjunction with the approval or amendment or a residential, commercial or industrial planned development zoning district under LPZC 2-76-080 or 2-76-100. The development agreement for these planned district projects shall be substantially in the standard form prepared by the city attorney's office;
2. A development agreement approved in conjunction with a PUD permit in the South Livermore Valley Specific Plan area, under Chapter 2-82 LPZC;
3. An amendment to an existing development agreement. (Ord. 1641 § 2, 2001)

4-25-050 Consideration and decision.

A. Community Development Director Direction. The community development director shall direct the negotiations with the developer regarding terms of the development agreement. The community development director shall determine what environmental review is appropriate under the California Environmental Quality Act (CEQA). Once negotiations are completed, the community development director shall schedule the proposed development agreement for the required hearings under this section.

B. Planning Commission Hearing and Determination. The planning commission shall hold a public hearing to consider whether the development agreement should be approved. Notice of the hearing shall be given as provided under Government Code Sections 65090 and 65091. The commission

may recommend approval, approval subject to conditions, or denial of the application.

C. City Council Determination. The city council shall hold a public hearing to consider whether the development agreement should be approved. Notice of the hearing shall be given as provided under Government Code Sections 65090 and 65091. Approval, authorizing the city manager to sign the development agreement, shall be by ordinance (which takes effect 30 days after adoption).

D. Findings. The planning commission may recommend approval and the city council may approve the development agreement only after finding that the development is consistent with the general plan, any applicable specific plan, and this chapter.

E. Recordation. Within 10 days after the city enters into a development agreement, the city clerk shall record a copy of the agreement with the county recorder. (Ord. 1641 § 2, 2001)

4-25-060 Amendment and cancellation.

A development agreement may be amended or cancelled using the same procedure for entering into the agreement under LPZC 4-25-050. The initial review under LPZC 4-25-040 is not required. [Sec. 65868.] (Ord. 1641 § 2, 2001)

4-25-070 Annual review.

A. Review. The planning commission shall hold a public hearing to review each development agreement at least every 12 months from the date it is entered into. The planning commission or city council, or both, may hold public hearings to conduct more frequent reviews of a development agreement.

B. Notice. The planning manager shall give notice of the intention to conduct a review under this section as provided in Government Code Sections 65090 and 65091. In addition, at least 10 days before the hearing, the planning manager shall give notice to all persons having a legal or equitable interest in the real property subject to the agreement. The notice shall include the following:

1. A statement that the applicant, or the successor-in-interest to the agreement, has the burden of demonstrating good faith compliance with the terms of the agreement; and
2. A statement that if, as a result of such review, the planning commission or city council finds on the basis of substantial evidence that the appli-

cant or successor to the agreement has not complied in good faith with the terms and conditions of the agreement, the city may modify or terminate the agreement.

C. Determination. If the planning commission finds, on the basis of substantial evidence, that the applicant or successor-in-interest has not complied in good faith with the terms or conditions of the agreement, it may recommend modification or termination to the city council. Based on substantial evidence that the applicant or successor has not complied in good faith with the terms or conditions of the agreement, the city council may modify or terminate the agreement. [Sec. 65866.] (Ord. 1641 § 2, 2001)

4-25-080 Effect of development agreement.

A. Vested Development Rights. The development of the property shall be governed by those rules, regulations and official policies in effect at the time of execution of the agreement, regarding permitted uses of the land, density, design, improvement and construction standards and specifications, except:

1. As otherwise provided by the development agreement; or
2. As provided in subsection (B) of this section.

B. Limitations. Notwithstanding the vested rights set forth in subsection (A) of this section, the property owner shall:

1. Pay the processing and development impact fees in effect at the time those fees are paid;
2. Comply with building code requirements in effect on a city-wide basis at the time of construction;
3. Comply with construction and technical design standards or specifications for public improvements which are applicable city-wide;
4. Comply with changes in city laws, regulations, plans or policies applicable city-wide, the terms of which are found by the city council, based on substantial evidence, to be necessary to protect members of the public from a condition dangerous to their health or safety;
5. Comply with a change in city law, regulations, plans or policies which is:
 - a. Specifically mandated by state or federal law, or by any regional governmental agency that has legal authority over the city under state law or a joint powers agreement; or

4-25-090

b. A result of or in response to state or federal law, or regional agency action, made necessary in order for the city to avoid losing or not receiving substantial funding or other substantial public benefits or facilities that would be available to the city only if it makes such a change; or

c. Specifically mandated by, or necessary for compliance with or implementation of, the terms of any permit, entitlement or other authorization necessary for the development of the property issued or granted to the city, county and/or property owners by any federal, state or regional agency; and

6. Following any subsequent environmental review, comply with required mitigation measures.

C. City's Rights. A development agreement does not prevent the city in subsequent actions applicable to the property from:

1. Applying new rules, regulations and policies which do not conflict with those set forth in the development agreement; or

2. From denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations and policies. [Sec. 65866.] (Ord. 1641 § 2, 2001)

4-25-090 Agreements for newly annexed areas.

If newly annexed area comprises territory that was formerly unincorporated, any development agreement entered into by the county before the effective date of annexation shall be governed by Government Code Section 65865.3. (Ord. 1641 § 2, 2001)