

Article 5

Land Use and Development Review Procedures

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CHAPTER 838.5 - APPLICATION FILING, PROCESSING, AND FEES

838.5.010 - Purpose of Chapter

The purpose of this Chapter is to identify the procedures for the filing and processing of the different land use permit or approval applications contained within this Article.

838.5.020 - Multiple Permit Applications

An applicant for a development project, which requires the filing of more than one application, shall file all related applications, except for Site Plan Reviews, concurrently and submit appropriate processing deposits/fees in compliance with Section 838.5.060 (Application Fees), below, unless this concurrent filing requirement is waived by the Director.

838.5.030 - Permit Required

- A. **Permit required before work.** Before commencing any work pertaining to the alteration, construction, conversion, erection, moving, or reconstruction of any structure, or any addition to any structure, a permit shall be secured from the Department by any owner or owner's agent for the work, and it shall be unlawful to commence any work until and unless the permit shall have been obtained.
- B. **Certificate of Occupancy required.** No structure shall be occupied or used unless a Certificate of Occupancy, and a license for the use, where required, is first obtained from the Department or person vested with the duty or authority to issue same.

838.5.040 - Building Permit Application Procedures

A. Building Permit application requirements.

1. Each application for a Building Permit shall be made on a printed form to be obtained from the Department and shall be accompanied by accurate information and dimensions as to the size and location of the parcel; the size and location of the structures on the parcel; the dimensions of all yards and open spaces; and other information as may be necessary for the enforcement of those regulations.
2. Where complete and accurate information is not readily available from existing records, the Division of Building and Safety may require the applicant to furnish a survey of the parcel prepared by a licensed surveyor.
3. A copy of the original of the application shall be kept in the office of the Division of Building and Safety.

B. Review of application.

1. Each application shall be reviewed for compliance with the requirements of this Chapter.
2. No permit shall be granted unless the proposal meets all applicable requirements of this Chapter.

C. Completion of all improvements required.

1. Before a Certificate of Occupancy Permit shall be issued, all required on-site (outside the County right-of-way) and off-site (within the County right-of-way) improvements shall have either been completed or, if not completed, the permittee shall have entered into an agreement with the County to complete the work within 180 days from the date of the issuance of the permit.
2. The Director may extend the completion date for one additional 180-day period upon written request of the permittee upon a showing of good cause therefore.
3. The agreement shall be secured either by cash deposited with the County, a cash deposit in an irrevocable escrow approved by the Director, or other financial security approved by the Director as the equivalent thereof in compliance with Chapter 868.6.070 (Performance Guarantees).
4. The security shall be in the amount of 100 percent of the estimated cost of completion to be determined by the Director.
5. In the event the work is not completed within the period provided or any extension, the County shall be authorized to take all necessary action to enforce the agreement including the use of the security to cause the completion of all required improvements.
6. Monies deposited with the County or in escrow may be partially released to the depositor by the Director during the progress of the work so long as the same ratio of security is maintained on deposit to secure all uncompleted work.

838.5.050 - Building Permit General Conditions**A. Applicability.**

1. The provisions of this Section shall not apply to structures or uses exempted by this Chapter.
2. No Building Permit shall be issued or Conditional Use Permit, Director's Review and Approval, Minor Deviation, Site Plan Review, or a Variance approved for any use which would be forbidden by a proposed change in the subject zone or zoning regulation(s).

3. In addition, all Building Permits, Conditional Use Permits, Director's Review and Approvals, Minor Deviations, Site Plan Reviews, Variances, parcel maps, or final maps shall meet the property development standards of the existing zone or zoning regulation(s), or the proposed zone or zoning regulation(s), whichever is the more restrictive.
4. A change of zone or zoning regulation(s) shall be construed as initiated by the filing of an application of a Zone Map amendment, by the adoption of a resolution of intention by the Commission or Board, or by Board direction to staff in compliance with Chapter 872.6 (Amendments).

B. Director may validate the issuance of a permit.

1. Despite any other provision of this Chapter to the contrary, the Director may validate the issuance of a permit authorizing construction in compliance with the impending zoning regulation(s) on property being rezoned after the Board has taken affirmative action adopting an ordinance rezoning the property, provided the permittee and owner of the land and owner of the property being constructed shall have entered into a written agreement with the Director to the effect that should the zoning for any reason whatsoever not be effective, the permittee or owner shall remove from the property, within 30 days following written notice from the Director, any improvements or construction authorized by the permit and in conflict with existing zoning regulations and restore the property as nearly as practicable to its prior condition.
2. The written agreement may include provisions dealing with a bond, cash deposit, covenants running with the land, entry permission, hold harmless clause, lien clause, and similar provisions to ensure that should the permittee or owner fail to so remove the improvements or construction that the County could accomplish the removal without cost to the County.

838.5.060 - Authority for Land Use and Zoning Decisions

Table 5-1 (Review Authority) identifies the County official or authority responsible for reviewing and making decisions on each type of application or land use entitlement required by this Zoning Ordinance.

**TABLE 5-1
THRESHOLD OF REVIEW**

Type of Application	See Chapter	Director Review (1)	Commission Review	Board Review
Amendments (General Plan, Zone Map, and Zoning Ordinance) (2)	872.6		Recommend	Final
Conditional Use Permits and Unclassified Use Permits (3)	842.5		Final	Appeal
Development Agreements (2)	844.5		Recommend	Final
Director's Review and Approval (1)	846.5	Final	Appeal	Appeal (in specified instances)
Minor Deviations (1)	860.5	Final	Appeal	Appeal
Reasonable Accommodations (4)	852.5	Final		
Site Plan Reviews	854.5	Final	Appeal	Appeal
Specific Plans/Amendments (2)	856.5		Recommend	Final
Temporary Use Permits	858.5	Final	Appeal	Appeal
Variances	860.5		Final	Appeal
Zoning Clearances	862.5	Final	Appeal	Appeal

Notes:

- (1) The Director may defer action and refer any permit or approval application to the Commission for final determination except in the case of a Reasonable Accommodation.
- (2) Commission recommends to Board for final determination.
- (3) Specific conditionally permitted uses may be allowed subject to recommendation by the Commission and approval by the Board.
- (4) The Director's decision on a Reasonable Accommodations request may be appealed to the County Hearing Officer.

838.5.080 - Application Fees**A. Filing fees required.**

1. The Board shall, by resolution, establish a schedule of fees for amendments, permits and approvals, and other matters pertaining to this Zoning Ordinance, referred to in this Zoning Ordinance as the Master Schedule of Fees. The purpose of the fee is to defray the costs incidental to the proceedings.
2. The Master Schedule of Fees may be changed only by resolution of the Board.
3. County processing fees are cumulative. For example, if an application for a Conditional Use Permit also requires a Minor Deviation, both fees shall be charged.
4. Processing shall not commence on an application until all required fees/deposits have been paid.

5. Without the application fee/deposit, the application shall not be deemed complete.
6. The County is not required to continue processing any application unless all fees/deposits are paid in full.

B. Refunds and withdrawals.

1. Recognizing that filing fees are used to cover County costs of public hearings, mailing, posting, transcripts, and staff time involved in processing applications, no refunds for denied projects are allowed.
2. In the case of a withdrawal, the Director may authorize a complete or partial refund based upon the pro- rated costs to-date and determination of the status of the application at the time of withdrawal.

838.5.090 - Initial Application Review

All applications filed with the Department shall be initially reviewed and processed as follows.

- A. Notification of applicant.** As required by Government Code Section 65943, within 30 calendar days of application filing, the applicant shall be informed in writing, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the Director's letter, shall be provided.
- B. Submittal of additional information.**
1. When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur.
 2. The additional specified information shall be submitted in writing or electronically, as required.
 3. The review of the any information resubmitted by the applicant shall be accomplished in compliance with this Section, along with another 30-day period of review for completeness.
- C. Available for public review.** After an application, has been accepted as complete, in compliance with the Freedom of Information Act the application may be made available for public review as requested.
- D. Environmental Information.** After an application has been accepted as complete, additional information may be needed for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA) and the County's CEQA guidelines.

- E. Routing of application.** An application will be routed to any public agency that may be affected by or have an interest in the proposed land use activity.

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CHAPTER 842.5 - CONDITIONAL USE PERMITS

842.5.010 - Purpose of Chapter

The purpose of this Chapter is to allow for activities requiring a Conditional Use Permit or an Unclassified Conditional Use Permit and which are so unique that their effect on the surrounding environment cannot be determined before being proposed for a particular location. At the time of application, a review of the configuration, design, location, and potential effect of the proposed activity shall be conducted by comparing it to established development and site standards. This review shall determine whether the proposed use should be allowed by weighing the public need for and the benefit(s) to be derived from the proposed use, against the potential negative effects it may cause.

842.5.020 - Applicability

- A. Conditional Use Permits for Uses listed in Article 2.** The land use activities listed in Article 2 (Zones, Allowable Land Uses, and Zone-Specific Standards) may be allowable subject to the approval of a Conditional Use Permit, also referred to as a “Classified” Conditional Use Permit.
- B. Unclassified Conditional Use Permits for specified uses.** In addition, to those uses allowed subject to a “Classified” Conditional Use Permit listed in Article 2, all of the following uses may be allowed in any zone through the approval of an Unclassified Conditional Use Permit, except for any use, including a power generating plant, that utilizes coal, coke, or other coal based fuel as an industrial fuel source, or where expressly prohibited. For purposes of the Zoning Ordinance, the Conditional Use Permit and Unclassified Use Permit shall be treated and processed in the same manner:
1. Airport or aircraft landing facilities, provided, however, no review of the permit shall be required in any of the following areas: Section 28, T. 13 S., R. 14 E.; Section 4, T. 15 S., R. 17 E.; Section 21, T. 17 S., R. 17 E.; Section 34, T. 19 S., R. 17 E.; M.D.B and M; (Prohibited in Residential, Open Space and Commercial Zone Districts);
 2. Ambulance substations (Prohibited in the O, P and TPZ zone districts);
 3. Cemeteries (Prohibited in Multifamily Residential, T-P, and Commercial Zone Districts);
 4. Convents and rectories, when connected with other religious institutions (e.g., places of worship or schools) (Prohibited in O, P and TPZ zone districts);
 5. Development of natural resources with necessary structures, apparatus, or appurtenances related to the subject development. For surface mining operation see the provisions of Section 834.4.220 (Development of Material Extraction Sites) (Prohibited in Residential, Commercial and P Zone Districts);
 6. Golf courses and driving ranges;

7. Governmental facilities;
8. Health spas (Prohibited in the O, P, Industrial and TPZ zone districts);
9. Hospitals (Prohibited in the O, P, and TPZ zone districts);
10. Observatories;
11. Oil and gas development uses in compliance with Section 834.4.250 (Oil Drilling/Extraction Standards);
12. Parks, including facilities appropriate and incidental to parks (Section 834.4.260);
13. Power production, storage and generation facilities (includes utility-scale photovoltaic facilities subject to the County's adopted Solar Facility Guidelines, wind farms and hydroelectric facilities subject to County jurisdiction) including without limitation any associated facilities for the storage or transmission of electrical energy (Amended by Ord. T-100-389 adopted 2024-12-17);
14. Private clubs and lodges (Prohibited in O, P and TPZ zone districts);
15. Public utility and public services, structures, and uses, except as otherwise provided in this Chapter;
16. Radio or television antennas and transmitters (commercial);
17. Residential facilities caring for seven or more, subject to the population density standards of rest homes (Section 834.4.310 Rest Home Standards) (Prohibited in zones that do not permit single or multifamily residential uses);
18. Rest homes;
19. Rifle and pistol practice range, skeet field, archery range, or other similar place (Prohibited in Residential and C-P, C-1, R-P, P and TPZ zone districts);
20. Special Event Facility
21. Solid waste disposal facilities;
22. Solid waste processing facilities;
23. Solid waste transfer stations (Prohibited in Residential and C-P, C-1, R-P, P and TPZ zone districts);
24. Small oil refineries limited to removal of entrained crude oil from natural gas; separation of crude oil into naphtha, kerosene, fuel oil, and diesel oil; blending of

naphtha and kerosene to produce jet fuel and gasoline; and reforming of heavy naphtha in the presence of a catalyst to produce unleaded gasoline (Prohibited in Residential and C-P, C-1, R-P, P and TPZ zone districts);

- 25. Stadia (Prohibited in Residential and C-P, C-1, R-P, P and TPZ zone districts); and
- 26. Wireless Telecommunication Facilities (Section 834.4.420).

842.5.030 - Application Filing, Processing, and Review

- A. Filing.** An application for a Conditional Use Permit, together with the required fee in compliance with the Master Schedule of Fees, shall be filed with the Department in compliance with Chapter 838.5 (Application Filing, Processing, and Fees).
- B. Contents.** The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings/sketches, elevations, floor plans, landscape plans, and/or any other data/materials specified in the most up-to-date Department handout for Conditional Use Permit applications.
- C. Project review procedures.** Following receipt of a completed application, the Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this Chapter.
- D. Review authority.** The Commission shall be the applicable review authority for reviewing Conditional Use Permits.
- E. Notice and hearings.**
 - 1. A public hearing shall be required for the Commission's decision on a Conditional Use Permit.
 - 2. A public hearing shall be scheduled once the Director has determined the application complete.
 - 3. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with Chapter 874.6 (Public Hearings).

842.5.040 - Project Review

Each Conditional Use Permit application shall be analyzed to ensure that the application is consistent with the intent and purpose of this Chapter.

842.5.050 - Findings and Decision

- A. Commission's action.**

1. Following a hearing, the Commission shall record the decision in writing and shall recite the findings upon which the decision is based.
 2. The Commission may approve or deny a Conditional Use Permit in whole or in part and may impose specific development and operational conditions.
 3. These conditions shall relate to both on and off-site improvements that are necessary to accommodate property development, mitigate project related adverse effects, and to carry out the purpose and requirements of the subject zone.
 4. The Commission's action is final unless appealed, except Conditional Use Permits filed concurrently with other applications required to be heard by the Board.
 5. A tie vote shall constitute denial.
- B. Required findings.** The Commission may approve a Conditional Use Permit application, with or without conditions, only if all of the four following findings are first made:
1. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Chapter, to adjust the use with land and uses in the neighborhood;
 2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;
 3. The proposed use will have no adverse impact on abutting property and surrounding neighborhood or allowed use thereof; and
 4. The proposed development is consistent with the General Plan.

842.5.060 - Conditions of Approval

In approving a Conditional Use Permit application, the Commission may impose conditions deemed reasonable and necessary to protect the public health, safety, and general welfare and to ensure that the approval would be in compliance with the findings required by Section 842.5.050 (Findings and Decision), above.

842.5.070 - Use of Property Before Final Action

Permits shall not be issued for any use involved in an application for a Conditional Use Permit until and unless the same shall have become final, in compliance with Section 868.6.030 (Effective Date of Permits).

842.5.080 - Modification of Permit

- A. Changes to an approved project.** An approved Conditional Use Permit may be modified in compliance with Section 868.6.100 (Changes to an Approved Project).

- B. Modifications by Director.** Minor modifications to an approved permit may be approved by the Director, in compliance with Section 868.6.100.

842.5.090 - Mapping

- A. Mapping required.** Within 30 days following the granting of a Conditional Use Permit, the Department shall indicate on the Zone Map the parcel(s) affected by the Conditional Use Permit.

- B. File number of the permit.** The indication shall show the file number of the permit.

842.5.100 - Post Decision Procedures

The procedures relating to changes, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration) and those identified in Chapter 868.6 (Permit Implementation, Time Limits, Extensions and Revocation) shall apply following the decision on a Conditional Use Permit application. Provisions for additional time to exercise certain approved Conditional Use Permits prior to expiration within the boundaries of a County-adopted Specific Plan are noted in Subsection 868.6.020.A.4.

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CHAPTER 844.5 - DEVELOPMENT AGREEMENTS

844.5.010 - Purpose of Chapter

- A. Purpose.** A development agreement is a contract between the County and an applicant for a development project, in compliance with State law (Government Code Article 2.5 [Development Agreements]). A development agreement is an optional, not mandatory, application, based on the needs and desires of the applicant.
- B. Intent.** A development agreement is intended to provide assurance to the applicant that an approved project may proceed subject to the policies, rules, regulations, and conditions of approval applicable to the project at the time of approval, regardless of any changes to County policies, rules, and regulations after project approval. In return, the County is provided assurance of payment of required fees, installation of necessary infrastructure, and other considerations the County might obtain in the development agreement.

844.5.020 - Application Filing and Review

- A. Filing.** An application for a Development Agreement shall be filed with the Department in compliance with Chapter 838.5 (Application Filing, Processing, and Fees.)
- B. Findings and decision.** The review authority may approve a development agreement only after first making all of the following findings:
1. The development agreement is in the best interests of the County;
 2. The development agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable specific plan, and this Zoning Ordinance;
 3. The development agreement will promote the public convenience, health, interest, safety, and general welfare of the County;
 4. The project will be compatible with the uses authorized in, and the regulations prescribed for, the zone in which the real property is located;
 5. The project will not adversely affect the orderly development of property or the preservation of property values;
 6. The project will further important County-wide goals and policies that have been officially recognized by the Board; and
 7. The project will provide the County with important, tangible benefits beyond those that may be required by the County through project conditions of approval.

844.5.030 - Content of Development Agreement

- A. Mandatory contents.** A development agreement shall contain the applicable provisions in compliance with Government Code Section 65865.2.
- B. Permissive contents.** A development agreement may contain the applicable provisions in compliance with Government Code Section 65865.2.

844.5.040 - Execution and Recordation

- A. Ordinance becomes effective.** The County shall not execute any development agreement until on or after the date upon which the ordinance approving the agreement, enacted in compliance with Subsection 844.5.030 D. (Notice and hearings), above, becomes effective.
- B. Recordation of agreement.** A development agreement shall be recorded in the County Recorder's Office no later than 10 days after it is executed.

844.5.050 - Amendment and Cancellation of Development Agreements

- A. Proposed amendment or cancellation.** Either party to the agreement may propose an amendment to or cancellation of the development agreement.
- B. Same procedures.** The procedure and notice requirements for amendment or cancellation of the development agreement are the same as the procedure for entering into an agreement in compliance with this Chapter.
- C. County initiated amendment or cancellation.** Where the County initiates the amendment or cancellation of the development agreement, it shall first give notice to the property owner of its intention to initiate the proceedings at least 15 days before giving public notice to consider the amendment or cancellation, in compliance with Chapter 874.6 (Public Hearings).

844.5.060 - Periodic Review

- A. Subject to periodic review.**
 - 1.** Every development agreement approved and executed in compliance with this Chapter, shall be subject to periodic County review during the full term of the agreement in compliance with Government Code Section 65856.1.
 - 2.** The County shall review the development agreement at least every 12 months from the date the agreement is entered into.
 - 3.** The review schedule shall be specified in the agreement.

B. Purpose of periodic review.

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

844.5.070 - Effect of Development Agreements

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

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CHAPTER 846.5 - DIRECTOR'S REVIEW AND APPROVAL

846.5.010 - Purpose of Chapter

The purpose of this Chapter is to protect the integrity and character of the residential, commercial, and industrial areas of the County, through the application of provisions of this Chapter consistent with the General Plan. The application will be reviewed for conformance to established standards.

846.5.020 - Applicability

- A. Director's Review and Approvals listed in Article 2.** The land use activities listed in Article 2 (Zones, Allowable Land Uses, and Zone-Specific Standards) may be allowable subject to the approval of a Director's Review and Approval.
- B. Unclassified Director's Review and Approvals for specified uses.** In addition, to those uses allowed subject to a "Classified" Director's Review and Approval listed in Article 2, the following uses may be allowed by Unclassified Director's Review and Approval, except where expressly prohibited:
 - 1. Ham radio towers which exceed the maximum structure height allowed in the zone.
 - 2. Billboards, limited to the C-3, C-4, C-6, C-M, M-1, M-2, and M-3 zones, with a sign face area exceeding 75 square feet and/or a height exceeding 18 feet, subject to the provisions of Chapter 830.3 (Signs).
- C. Class II Home Occupations.** Class II Home Occupations may be allowed subject to the review and approval of a Director's Review and Approval in compliance with this Chapter and Section 834.4.190 (Home Occupation Standards).

846.5.030 - Application Filing, Processing, and Review

- A. Filing.** An application for a Director's Review and Approval, together with the required fee in compliance with the Master Schedule of Fees, shall be filed with the Department in compliance with Chapter 838.5 (Application Filing, Processing, and Fees).
- B. Contents.** The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings/sketches, elevations, floor plans, landscape plans, and/or any other data/materials specified in the most up-to-date Department handout for Director's Review and Approval applications.
- C. Project review procedures.** Following receipt of a completed application, the Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this Chapter.

D. Review authority. The Director shall be the applicable review authority for reviewing Director's Review and Approval applications.

E. Notice requirements.

- 1. Notice of application.** Within 15 days of the acceptance of an application, owners of property located within a radius of 300 feet of the exterior boundaries of the subject property, shall be notified in writing of the application.
- 2. Opportunity to submit written comments.** Notified persons shall be provided the opportunity to submit written comments within 15 days following the date of the notice.
- 3. Notice to owners.** The notices shall be by mail; and the owners, for the purposes of the notices, shall be deemed to be the person(s) to whom the properties were assessed on the last assessment roll.
- 4. Address of owners.** The address to which the written notice shall be mailed shall be that shown upon the latest assessment roll.
- 5. Notice of application.** The notice of application shall not be required when an application is referred directly to the Commission for a decision.

846.5.040 - Project Review

Each Director's Review and Approval application shall be analyzed to ensure that the application is consistent with the intent and purpose of this Chapter.

846.5.050 - Referral to Commission

- A. Commission referral.** When, in the opinion of the Director, the Director's Review and Approval application submitted is of significant consequence or magnitude or involves potential public controversy, the Director may refer the application to the Commission for review and final decision.
- B. Next Commission agenda.** Every attempt will be made to place the referral on the next available regular Commission meeting agenda following the Director's referral.

846.5.060 - Findings and Decision

A. Director's action.

- 1.** Following a hearing, the Director (or the Commission on a referral) shall record the decision in writing and shall recite the findings upon which the decision is based.
- 2.** The Director may approve or deny a Director's Review and Approval in whole or in part and may impose specific development and operational conditions.

B. Required findings. The Director (or the Commission on a referral) may approve a Director's Review and Approval application, with or without conditions, only if all the following findings are first made:

1. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Chapter, to adjust the use with land and uses in the neighborhood;
2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;
3. The proposed use will not be detrimental to the character of the development in the immediate neighborhood or the public health, safety, and general welfare; and
4. The proposed development is consistent with the General Plan.

C. Notice of approval.

1. **Written notice of approval.** When an application is approved by the Director, written notice of the decision shall be mailed in compliance with Section 868.6.050 (Notice of Approval).
2. **Mobilehome park services.** When an application relating to mobilehome park services is approved by the Director, the following procedures shall apply.
 - a. The applicant (property owner or owner's representative) shall provide a list of all of the tenants within the mobilehome park.
 - b. Those tenants located within 300 feet of the site of the proposed use shall be notified in lieu of the property owners identified in Subsection 846.5.020 E. (Notice requirements), above.

846.5.070 - Conditions of Approval

- A. Reasonable and necessary conditions.** In approving a Director's Review and Approval application, the Director (or the Commission on a referral) may impose conditions deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Section 846.5.060 (Findings and Decision), above.
- B. Carry out the purpose of the subject zone.** These conditions shall relate to both on and off-site improvements that are necessary to accommodate property development, mitigate project related adverse effects, and to carry out the purpose and requirements of the subject zone.

846.5.080 - Large Child Day Care Facility Procedures

The following procedures shall apply to all large child day care facilities subject to review and approval by the Director. Locational, developmental, and operational standards for large child day care facilities are specified in Section 834.4.100 (Child Day Care Facility Standards).

- A. Content of application.** Any person seeking approval of a Director's Review and Approval for a large child day care facility shall submit an application for the permit to the Department specifying any reasonably required information which the Director shall request.
- B. Review procedures.**
1. It shall be the duty of the Director to review the proposed use to ascertain all facts pertinent to it, and in writing to state approval, approval with conditions, or denial of the proposed use, together with the Director's reasons for the decision.
 2. If a hearing is requested in compliance with Subparagraph 3., below, the Director shall refer the proposed application directly to the Commission for a public hearing and decision.
 3. If the proposed use is referred to the Commission, the hearing and Board appeal procedures of Chapter 842.5 (Conditional Use Permits) shall be followed.
 4. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with Chapter 874.6 (Public Hearings).
 5. Those applications which are referred directly to the Commission by the Director shall be appealable to the Board.
 6. Those applications which are filed and heard concurrently with any application requiring a Board hearing, shall after the Commission decision, be heard by the Board together with that concurrent application.
- C. Notice of application.**
1. **Provision of written notice.** Not less than 10 days before the date on which the decision will be made on the application, the Director shall give written notice of the proposed use by mail or personal delivery to all property owners shown on the last equalized assessment roll as owning real property located within a 100-foot radius of the exterior boundaries of the proposed large child day care facility.
 2. **Opportunity to request a public hearing.** Notified persons shall be provided the opportunity to submit a written request for a public hearing on the application within 15 days following the date of the notice.

3. **Approval notice.** When an application is approved by the Director, written notice of the decision shall be mailed in compliance with Chapter 842.5 (Conditional Use Permits).
4. **Appeals.** The provisions of Chapter 876.6 (Appeals) shall apply.
5. **Time limit for development.** The provisions of Section 868.6.080 (Expiration) shall apply.
6. **Revocation.** The provisions of Section 878.6.060 (Revocation and Modifications) shall apply.
7. **Reapplication.** The provisions of Section 868.6.110 (Resubmittals) shall apply.

846.5.090 - Use of Property Before Final Action

Permits (e.g., building, grading, etc.) shall not be issued for any use involved in an application for a Director's Review and Approval until and unless the same shall have become final, in compliance with Section 868.6.040 (Effective Date of Permits).

846.5.100 - Modification of Permit

Modifications to an approved Director's Review and Approval may be approved by the Director in compliance with Section 868.6.100 (Changes to an Approved Project).

846.5.110 - Post Decision Procedures

The procedures relating to changes, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration) and those identified in Chapter 868.6 (Permit Implementation, Time Limits, Extensions and Revocation) shall apply following the decision on a Director's Review and Approval application.

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CHAPTER 852.5 – REASONABLE ACCOMMODATIONS

852.5.010 - Purpose of Chapter

This subsection provides a procedure to request Reasonable Accommodation for persons with disabilities seeking equal access to housing under the California Fair Employment and Housing Act, the Federal Fair Housing Act, and the Americans with Disabilities Act (ADA) (also known as the Acts) in the application of zoning laws and other land use regulations, policies, and procedures in response to the needs of a person with a disability.

A. Definitions. For the purposes of this subsection unless otherwise apparent from the context, certain words or phrases used in this subsection are defined as follows:

1. Person with a disability means: a person who has a physical or mental impairment that makes achievement of a major life activity difficult, as defined by state and federal disability laws; anyone who is regarded as having such impairment; or anyone with a record of such impairment.
2. RA Request means a request for a Reasonable Accommodation submitted by, or on behalf of, a person with a disability.
3. Reasonable Accommodation means providing persons with disabilities flexibility in the application of County programs, including County land-use, zoning and building regulations, policies, practices, and procedures, or waiving certain requirements when it is necessary to provide meaningful access to County programs or to eliminate barriers to housing opportunities for persons with disabilities.
4. Review Authority means the County employee who is the final authority on RA Requests as specified in subsection 852.5.020 below.

852.5.020 – Applicability and Review Authority

A. Review Authority.

Review Authority. The Director of Public Works and Planning (Director) is the final authority on a RA Request relating to a requirement of the Zoning Ordinance. The Director may designate an employee in the Department as the Review Authority, to make a final determination on such RA Requests. Denial of an RA Request may be appealed by the requestor to the County Hearing Officer as provided by subsection 852.5.060 below. The hearing officer's decision is final.

B. Eligibility

1. An RA Request may be made by any person with a disability, his or her representative, or a developer or provider of housing or other services for persons with disabilities, when the application of a County land-use or building regulation, policy, practice, or

procedure, acts as a barrier to meaningful access to County programs or to fair-housing opportunities for persons with disabilities.

2. The Acts afford no protection to persons with or without disabilities whose tenancy presents a direct threat to the persons or property of others. Determining whether someone's tenancy poses such a direct threat must be made on an individualized basis, however, and may not be based on general assumptions or speculation about the nature of a disability.

C. Eligible request.

The subject matter of an RA Request may include a modification or exception to the practices, rules, or standards for a County program or for the development, siting, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability with meaningful access to County programs and equal opportunity to housing of the person's choice.

852.5.030 – Application

A. Requirements.

An RA Request may be initiated with the Department staff orally or in writing. The County will not require a requestor to use a particular form or medium to initiate an RA Request.

- B. Contents.** An RA Request need not take any particular form or include particular information. Individuals submitting an RA Request are encouraged to provide information that will assist the Review Authority in making its determination. This information includes:

1. Information necessary to establish the individual has a disability, unless the disability of the individual requesting an accommodation is readily apparent.
2. A description of the needed accommodation or modification.
3. A showing of the relationship between the disability and how the requested accommodation or modification is necessary to afford the person with a disability equal opportunity to use or enjoy a dwelling or housing opportunity.

C. Administration.

The Department may create any forms, documents, online portals, telephone hotlines, or other methods to facilitate the submittal of RA Requests.

D. Development Proposals.

If a project involves both a request for Reasonable Accommodation and some other discretionary or ministerial approval, a requestor may submit the RA request for separate processing.

E. Initial Processing and Routing.

The law requires the Reasonable Accommodation process to be iterative and interactive. Department staff will assist requestors in completing their RA Request as needed to ensure that the process is accessible to persons with disabilities and will route all RA requests to the Review Authority.

852.5.040 - Review and Processing

A. Application Review. The Review Authority will approve, approve with conditions, or deny an RA Request in accordance with the required findings in subsection 852.5.050 below.

B. Decision.

1. **Request for Further Information.** The Review Authority may request further information from the individual making an RA Request consistent with state and federal disability laws, including the Acts, and this subsection 855-O(4), specifying in detail the further information required.
2. **Decision and Timing.** The Review Authority will issue a written decision within 30 days of its receipt of a complete RA Request (including any additional information required under subsection 4.e.2.A. above). The written decision must: explain in detail the basis of the decision under the required findings in subsection 4.f., give notice of the applicant's right to appeal the decision, and be sent to the applicant by first-class mail with return receipt requested.

C. Compliance with other Regulations. An approved accommodation does not affect any person's obligations to comply with all other applicable regulations not at issue in the requested accommodation.

D. Confidentiality. All information concerning an RA Request will be kept confidential and will not be shared with other persons who are not directly involved in the interactive process or decision making about the RA Request unless disclosure is:

1. Required to make or assess the decision to grant or deny the request for accommodation or modification.
2. Required to administer or implement the requested accommodation or modification.

3. Authorized by the individual with the disability in writing; or
4. Required by law.

E. Finality. The decision of the Review Authority is final.

852.5.050 – Findings and Decision

A. Required Findings. Prior to approval of an RA Request, the following findings must be made consistent with the Acts:

1. The housing which is the subject of the RA Request will be used by a person with disabilities protected under the Acts.
2. As applicable, the requested accommodation is necessary to afford a person with disabilities protected under the Acts with equal opportunities to use or enjoy a dwelling or housing opportunity.
3. The requested accommodation would not impose an undue financial or administrative burden on the County.
4. The requested accommodation would not require a fundamental alteration in the nature of the County's policies, practices, or procedures, including consideration of alternatives which may provide an equal level of benefit.
5. The requested accommodation will not result in a direct and significant threat to the health or safety of other persons or substantial physical damage to the property of others.

852.5.060 - Appeals

- A. Notice of Appeal.** The action of the Review Authority is final unless appealed within fifteen (15) business days of the date of mailing of the Review Authority's written decision. The notice of appeal must be in writing.
- B. Appeal Procedure.** The Review Authority will schedule the appeal to be heard by the County Hearing Officer (established by section 2.81.010 of the Fresno County Code of Ordinances) within thirty (30) calendar days from the date that the Review Authority receives the notice of appeal. The appeal hearing shall be confidential and be held in a manner with the Acts. Where the Acts are inconsistent with the procedural and evidentiary requirements of Chapter 2.81 of the Fresno County Code of Ordinances, the Hearing Officer shall comply with the requirements of the Acts. The decision of the Hearing Officer is final and shall be mailed by first-class mail to the applicant with return receipt requested.

- C. Assistance with Appeal.** Upon request, Department staff will provide assistance to a Requestor needing assistance in filing an appeal to ensure that the appeals process is accessible to persons with disabilities. However, Department staff is prohibited from providing legal advice or legal representation.

852.5.070 - Rescission and Modification

- A. Modifications Initiated by the Applicant.** The individual(s) making the RA Request may apply for a modification to an accommodation. Any proposed modification will be treated by the Department as a new RA Request and will be subject to the procedures set forth in subsections above.
- B. Recission or Modification Initiated by the County.**
1. An approval or conditional approval of an RA Request may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances (e.g., the individual(s) defined as disabled under the Acts vacates the subject site or the disability is temporary), unless allowed to remain under subsection 2 below.
 2. If the person(s) initially occupying the housing which is the subject of the RA Request vacates, the accommodation shall remain in effect only if the Review Authority first determines that:
 - i. The modification is physically integrated into the housing and cannot easily be removed or altered to comply with this Zoning Ordinance; or
 - ii. The accommodation is to be used by another qualifying person with a disability.
 3. Where an accommodation is to be used by another qualifying person with a disability, the Review Authority may request the individual making the RA Request, the successor-in-interest to the property, or the then-current property owner as appropriate to provide information allowed under the Acts that subsequent occupants are qualifying persons with disabilities.
 4. The Review Authority may make changes or revoke the approval of an RA Request when conditions of approval are violated, it is necessary to resolve a direct and significant threat to the health or safety of other persons or substantial physical damage to the property of others, or when the individual(s) making the RA Request provided incorrect, false, or misleading information.
 5. The Review Authority will notify the applicant of the change or revocation of the approval by first-class mail with return receipt requested no later than the next business day after the Review Authority's decision.

CHAPTER 854.5 - SITE PLAN REVIEW

854.5.010 - Purpose

- A. Purpose.** The purpose of the Site Plan Review process is to provide a tool to enable the Director to ensure that projects and proposals, either approved through a separate discretionary land use permit or by right, meet the property development standards of the zone in which the property is located and/or are developed in a manner consistent with the approved land use permit, if applicable, through review of detailed site development and structure plans.
- B. Applicability.** When a Site Plan Review is required by this Zoning Ordinance, the procedures of this Chapter shall apply. Before any building or structure is erected on any parcel in the applicable districts noted below, a Site Plan Review shall have been submitted to and approved by the Director or his designee pursuant to the provisions of this Chapter.

Applicable districts are: R-2 and R-2-A (for uses other than a single family residence); R-3; R-4; TP; RP; CP; C-1; C-2; C-3; C-4; C-5; C-6; AC; RCC; CR; CM; M-1; M-2; M-3; RS (for those uses subject to a CUP); and A-1 (for two-family dwellings, multi-family, commercial or industrial buildings except for those uses permitted by-right or with a Director Review and Approval in the AE, AL and A-2 zone districts)

854.5.020 – Application Filing

- A. Filing.** An application for a Site Plan Review, together with the required fee in compliance with the Master Fee Schedule, shall be filed with the Department in compliance with Chapter 838.5 (Application Filing, Processing, and Fees).
- B. Contents.** The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings/sketches, elevations, floor plans, landscape plans, and/or any other data/materials specified in the most up-to-date Department handout for Site Plan Review applications. Specifically, five prints and electronic copies in PDF format of detailed and fully dimensioned plans shall be submitted, drawn to scale, and shall indicate clearly and with full dimensioning all of the following information:
- 1. Access.** Points of ingress and egress and internal circulation for all pedestrian and vehicular service;
 - 2. Landscaping.** In the "RCC," "C-P," "C-1," "C-2," "C-3," and "C-R" zones, the location of all proposed landscaping shall be shown;
 - 3. Lighting.** Location and general nature and holding devices;
 - 4. Off-street loading.** Location, dimensions, individual spaces, and internal circulation.

5. **Off-street parking.** Location, number of individual spaces and dimensions of parking area, and internal circulation patterns;
6. **Property dimensions.** Bearings in DMS format and distances in decimal feet;
7. **Signs.** Location, size, material, and height;
8. **Streets.** Street dedications and improvements, in compliance with Section 822.3.030 (Dedications and Improvements Required);
9. **Structures.** Location, elevations, size, height, and existing/proposed use;
10. **Utilities.** Location of existing and proposed utilities;
11. **Walls and fences.** Location, height and materials;
12. **Yards and space between structures; and**
13. **Other data.** Other data as may be required to allow the Director to make the required determinations.

854.5.030 - Director's Action

Within 50 days following the Director's determination of completeness in compliance with Section 838.5.100 (Initial Application Review), the Director shall approve, or approve with requirements deemed necessary to protect the public health, safety, and welfare the Site Plan Review application.

854.5.050 - Action on Site Plan Review

- A. **Dated and signed by Director.** The approved Site Plan Review including any requirements shall be dated and signed by the Director.
- B. **Mailed to applicant.** One copy of the approved Site Plan Review including any requirements shall be mailed to the applicant.

854.5.060 - Revisions

Revisions requested by the applicant to an approved Site Plan Review shall be made in compliance with the procedure specified in Section 868.6.100 (Changes to an Approved Project).

854.5.070 - Occupancy Permit

An Occupancy Permit for a structure or use as shown on an approved Site Plan Review shall not be issued until all proposed structures and other stated improvements in an indivisible project or phase of a divisible project are completed, or the Director authorizes its issuance upon determining that all on-site and off-site requirements relating to the structure(s) or use have been or will be met.

854.5.080 - Building Permit

Before a Building Permit may be issued for any structure, the Director shall first determine that all of the following are true:

- A. In compliance with Site Plan Review.** The proposed structure(s) is/are in compliance with the approved Site Plan Review and any requirements.
- B. Agreement and performance guarantees required.**
 - 1. All required on-site (outside the County right-of-way) and off-site (within the County right-of-way) improvements shall have either been completed, or if not completed, the permittee shall have entered into an agreement with the County to complete the work within 180 days from the date of the issuance of the Building Permit, in compliance with Section 868.6.070 (Performance Guarantees).
 - 2. The Director may extend the completion date for one additional 180-day period upon written request of the permittee and upon a showing of good cause for the request.
 - 3. The security shall be in the amount of 100 percent of the estimated cost of completion of all required improvements to be determined by the Director.
 - 4. All of the required dedications have been given.

854.5.100 - Post Decision Procedures

The procedures relating to changes, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration) and those identified in Chapter 868.6 (Permit Implementation, Time Limits, Extensions and Revocation) shall apply following the action on a Site Plan Review application.

CHAPTER 858.5 - TEMPORARY USE PERMITS

858.5.010 - Purpose of Chapter

The purpose of this Chapter is to allow for short-term activities that would be compatible with adjacent and surrounding uses when conducted in compliance with this Chapter.

858.5.020 - Definition

A temporary (short-term) land use activity is a land use that is interim, non-permanent, and/or seasonal in nature, not conducted for more than 12 months in duration, or a lesser time period approved by the review authority.

858.5.030 - Applicability

- A. Short-term activities.** A Temporary Use Permit allows short-term activities that might not meet the normal development or use standards of the applicable zone but may otherwise be acceptable because of their temporary nature.
- B. Temporary Use Permit required.** No temporary land use, except for those specified as exempt in compliance with Section 858.5.040, below, shall be established, operated, or conducted in any manner without the approval and maintenance of a valid Temporary Use Permit.
- C. Categories of land uses.** The following two categories of temporary land uses identify the level of permit required, if any, based on the proposed duration, size, and type of use:
 - 1. Exempt temporary uses are identified in 858.5.040 (Exempt Temporary Uses), below; and
 - 2. Allowed Temporary Use Permits are identified in 858.5.050 (Allowed Temporary Uses), below.

858.5.040 - Exempt Temporary Uses

The following minor and limited duration temporary uses are exempt from the requirement for a Temporary Use Permit. Uses that do not fall within the categories defined below shall comply with 858.5.050 (Allowed Temporary Uses), below.

- A. Car washes.** Car washes, limited to one fund-raising event each month for each sponsoring organization, not exceeding three days in length. Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Revenue and Taxation Code.
- B. Construction yards - on-site.**

1. On-site contractors' construction yard(s), in conjunction with an approved construction project on the same parcel.
 2. One adult caretaker may be present during non-construction hours.
 3. The construction yard(s) shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit, authorizing the construction project, whichever first occurs.
- C. **Emergency needs/activities.** Emergency public health and safety needs/land use activities, as determined by the Board.
- D. **On-location filming.** The temporary use of a specified and approved on-location site for the filming of commercials, movie(s), videos, etc. The Director shall find that the approval would not result in a frequency of use likely to create incompatibility between the temporary filming activity and the surrounding areas.
- E. **Conducted on publicly owned property.** Events that are to be conducted on publicly owned property for three or less consecutive days, within a 90-day period and are sponsored by educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Revenue and Taxation Code.

858.5.050 - Allowed Temporary Uses

The following limited duration temporary uses are allowed, if not already listed as a by-right or by-right value-added use in the underlying Zone District, subject to the issuance of a Temporary Use Permit, and only when conducted on non-residentially zoned properties and in compliance with Section 858.5.090 (Conditions of Approval), below.

- A. **Contractors' construction yards - off-site.** The permit may be effective for up to 12 months, or the expiration of the companion Building Permit, authorizing the construction project, whichever first occurs.
- B. **Events.**
1. Amusement rides, arts and crafts exhibits, auctions, carnivals, circuses, community clean-ups, concerts, fairs, farmer's markets, festivals, flea markets, food events including farmer's markets, outdoor entertainment/sporting events, rodeos, rummage sales, secondhand sales, and swap meets for 10 consecutive days or less, or five two-day weekends, within a 12-month period.
 2. Religious-related sales, bazaars, dinners, parties, or other outdoor events conducted on religious-owned property other than the uses identified in Subparagraph 1., above shall not be limited to the number of occasions or the duration of each.

3. Outdoor meetings and group activities within the parking areas for seven consecutive days or less, within a 12-month period.
4. Seasonal sales including holiday boutiques, Halloween pumpkin sales and Christmas tree sale lots only by businesses holding a valid Business License, provided the activity may only be held from October 1st through October 31st, of the same year for the Halloween pumpkin sales, and from the day after Thanksgiving through December 26th, of the same year for Christmas tree sales.

C. Temporary sales trailers.

1. A trailer may be used for temporary sales activities (e.g., model home sales, etc.).
2. A permit for temporary sales trailer(s) may be granted for up to 12 months.

D. Temporary structures. A temporary classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved, for a maximum time period of 12 months, as an accessory use or as the first phase of a development project, in the commercial and industrial zones.

E. Temporary work trailers.

1. A trailer or mobile home may be used as a temporary work site for employees of a business:
 - a. During construction or remodeling of a permanent commercial or industrial structure, when a valid Building Permit is in force; or
 - b. Upon demonstration by the applicant that the temporary work site is a short-term necessity, while a permanent work site is being obtained.
2. A permit for temporary work trailer(s) may be granted for up to 12 months.

F. Other similar temporary uses. Similar limited duration temporary uses which, in the opinion of the Director, are compatible with the subject zone and surrounding land uses.

858.5.060 - Application Filing, Processing, and Review

- A. Filing.** An application for a Temporary Use Permit shall be filed with the Department in the following manner:
1. **Application required.** An application for a Temporary Use Permit, together with the required fee in compliance with the Master Schedule of Fees, shall be filed with the Department in compliance with Chapter 838.5 (Application Filing, Processing, and Fees).

- 2. Application before operation.** The application shall be filed with the Department at least 180 days before the date that the proposed temporary use is scheduled to take place.
- B. Contents.** The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings/sketches, and/or any other data/materials specified in the most up-to-date Department handout for Temporary Use Permit applications.
- C. Evidence.** It is the responsibility of the applicant to establish evidence in support of the findings required by Section 858.5.080 (Findings and Decision), below.
- D. Project review procedures.** Following receipt of a completed application, the Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this Chapter.
- E. Notice required.** For Events listed under Subsection 858.5.050.B.1 (amusement rides, arts and crafts exhibits, auctions, carnivals, circuses, community clean-ups, concerts, fairs, farmer's markets, festivals, flea markets, food events including farmer's markets, outdoor entertainment/sporting events, rodeos, rummage sales, secondhand sales, and swap meets) notice shall be sent to all property owners located within a radius of a minimum of 300 feet of the external boundaries of the subject parcel in compliance with Chapter 874.6 (Public Hearings).
- F. No public hearing required.** A public hearing shall not be required for the Director's decision on a Temporary Use Permit application, unless the application is referred to the Commission in compliance with Subsection 858.5.070 B. (Commission referral), below.

858.5.070 - Review Authority

- A. Director's authority.** The Director may approve, approve with conditions deemed necessary to protect the public health, safety, and welfare, or deny a Temporary Use Permit.
- B. Commission referral.**
1. When, in the opinion of the Director, the Temporary Use Permit application submitted is of significant consequence or magnitude or involves potential public controversy, the Director may refer the application to the Commission for review and final decision.
 2. The referral shall be placed on the agenda of the next available regular Commission meeting following the Director's referral.

858.5.080 - Findings and Decision

- A. Director's review.** The Director shall review all applications and shall record the decision in writing with the findings on which the decision is based.

- B. Required findings.** The Director (or the Commission on a referral) may approve a Temporary Use Permit application, with or without conditions, only if all of the following findings are first made:
1. The operation of the requested temporary use at the location proposed and within the time period specified would not jeopardize, endanger, or otherwise constitute a menace to the public convenience, health, safety, or general welfare;
 2. The proposed parcel is adequate in size and shape to accommodate the temporary use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the parcel;
 3. The proposed parcel is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use would or could reasonably be expected to generate; and
 4. Adequate temporary parking to accommodate vehicular traffic to be generated by the use would be available either on-site or at alternate locations acceptable to the Director.

858.5.090 - Conditions of Approval

In approving a Temporary Use Permit application, the Director (or the Commission on a referral) may impose conditions which are deemed reasonable and necessary to ensure that the permit would be in full compliance with the findings required by Section 858.5.080 (Findings and Decision) above. These conditions may address any pertinent factors affecting the operation of the temporary event, or use, and may include the following:

- A. Fixed period of time.** Unless otherwise stated in the permit, a provision for a fixed period of time not to exceed 30 days for a temporary use not occupying a structure, including promotional activities, or 12 months for all other temporary uses or structures, or for a shorter period of time as determined appropriate by the Director;
- B. Operating hours and days.** Regulation of operating hours and days, including limitation of the duration of the temporary use, as identified in Subsection A., above;
- C. Temporary pedestrian and vehicular circulation.** Provision for adequate temporary pedestrian and vehicular circulation, parking facilities (including vehicular ingress and egress), and public transportation, if applicable;
- D. Regulation of nuisance factors.** Regulation of nuisance factors including prevention of glare or direct illumination on adjacent parcels, dirt, dust, gases, heat, noise, odors, smoke, solid waste, and vibration;
- E. Regulation of temporary structures.** Regulation of temporary structures and facilities, including placement, height, and size, location of equipment and open spaces, including buffer areas and other yards;

- F. Sanitary and medical facilities.** Provision for sanitary and medical facilities, as appropriate;
- G. Waste collection, recycling, and/or disposal.** Provision for solid, hazardous, and toxic waste collection, recycling, and/or disposal;
- H. Sheriff/security and safety measures.** Provision for Sheriff/security and safety measures, as appropriate;
- I. Signs.** Regulation of signs;
- J. Performance bond or other security.** Submission of a performance bond or other security measures, satisfactory to the Director, to ensure that any temporary facilities or structures used would be removed from the site within a reasonable time following the event and that the property would be restored to its former condition, or better, as determined by the Director, in compliance with Section 868.6.070 (Performance Guarantees);
- K. Compliance with applicable provisions.** A requirement that the approval of the requested Temporary Use Permit is contingent upon compliance with applicable provisions of the County Ordinance Code and the successful granting of any/all required permits from any other department or governing agency; and
- L. Other conditions.** Other conditions which would ensure the operation of the proposed limited duration temporary use in an orderly and efficient manner, and in full compliance with the purpose of this Chapter.

858.5.100 - Condition of Site Following Temporary Use

Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use and shall continue to be used in compliance with this Zoning Ordinance.

858.5.110 - Post Decision Procedures

The procedures relating to changes, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration) and those identified in Chapter 868.6 (Permit Implementation, Time Limits, Extensions and Revocation) shall apply following the decision on a Temporary Use Permit application.

CHAPTER 860.5 - VARIANCES/MINOR DEVIATIONS

860.5.010 - Purpose of Chapter

A. Purpose. The purpose of this Chapter is to ensure that:

1. Variances and Minor Deviations are only granted when, because of special circumstances applicable to the property, the strict application of this Zoning Ordinance denies the owner of the property privileges enjoyed by other property located nearby and in an identical zone; and
2. Conditions are applied which would ensure that the Variance or Minor Deviation shall not constitute a granting of special privilege(s) inconsistent with the limitations upon other property in the vicinity and zone in which the property is located.

B. Not land uses. Does not extend to land uses.

1. The power to grant Variances and Minor Deviations does not extend to allowable land uses.
2. Flexibility in allowable land uses is provided in Chapters 842.5 (Conditional Use Permits) and 846.5 (Director's Review and Approvals).

860.5.020 - Review Authority

A. Responsibility. The applicable review authority shall approve, approve with conditions, or deny Variance and Minor Deviation applications, and impose conditions deemed reasonable and necessary to ensure compatibility with surrounding uses, to preserve the public convenience, health, interest, safety, or welfare, and necessary to make the findings required by Section 860.5.060 (Findings and Decision) below.

B. Applicable review authority. Variances and Minor Deviations may be granted in compliance with the following:

1. **Director.** The Director may grant Minor Deviations, or may defer action and refer the application to the Commission, in compliance with Section 860.5.030, below, and State law; and
2. **Commission.** The Commission may grant Variances in compliance with Section 860.5.030, below, and State law.

860.5.030 - Applicability

A. Minor Deviations. The Director may grant a Minor Deviation for only those requirements specified in Table 5-1 (Types of Minor Deviations Allowed), below.

**TABLE 5-1
TYPES OF MINOR DEVIATIONS ALLOWED**

Types of Minor Deviations Allowed	Maximum Deviation
1. Allowable height of a fence, hedge, or wall. An increase of the allowed maximum height of a fence, hedge, or wall.	Up to two additional feet over the allowed height.
2. Distances between structures. A decrease of the minimum required distances between detached accessory structures and main structures on the same site.	15 percent
3. Parcel coverage. An increase of the maximum allowable parcel coverage.	10 percent
4. Parcel dimensions (e.g., area, depth, or width). A decrease in the minimum required parcel area, parcel depth, or parcel width.	15 percent
5. Parking and loading requirements. Reduction in the number of required off-street parking and loading spaces and/or of off-street parking space design, layout, and landscape standards.	15 percent
6. Projections. An increase in the allowed projection of eaves, fireplaces, landings, masonry chimneys, overhangs, stairways, and steps into any required front, side, or rear setbacks.	10 percent
7. Reduction of landscape standards. Reduction of required on-site landscaping standards.	15 percent
8. Setbacks. A decrease of the minimum required setback areas (e.g., front, rear, side, and street side) for structures.	15 percent
9. Structure heights. An increase in the maximum allowed height of structures.	10 percent
10. Nonconforming structures. Reconstruction or remodeling of a nonconforming structure if, in the Director's judgment, it will bring the structure and subsequent use into greater conformity with the uses allowed in the subject zone.	

- B. Variances.** The Commission may grant an adjustment from any of the requirements of this Zoning Ordinance, except for procedural requirements.

860.5.040 - Application Filing, Processing, and Review

- A. Filing.** An application for a Variance or Minor Deviation, together with the required fee in compliance with the Master Schedule of Fees, shall be filed with the Department in compliance with Chapter 838.5 (Application Filing, Processing, and Fees).
- B. Contents.** The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings/sketches, elevations, and/or any other data/materials specified in the most up-to-date Department handout for Variance or Minor Deviation applications.
- C. Project review procedures.** Following receipt of a completed application, the Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this Chapter.

D. Notice and public hearing requirements.**1. Variances.**

- a. A public hearing shall be required for the Commission's decision on a Variance.
- b. The public hearing shall be scheduled once the Director has determined the application complete.
- c. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with Chapter 874.6 (Public Hearings).

- 2. Minor Deviations.** A public hearing shall not be required for the Director's decision on a Minor Deviation application; however, the Director shall have the discretion to provide notice (e.g., posting the subject parcel).

860.5.050 - Project Review

Each Variance and Minor Deviation application shall be analyzed to ensure that the application is consistent with the intent and purpose of this Chapter.

860.5.060 - Findings and Decision

- A. Review authority's action.** The Commission (Variance) or the Director (Minor Deviation) shall record the decision in writing and shall recite the findings upon which the decision is based, in compliance with State law (Government Code Section 65906 or as this section may be amended/replaced from time to time).
- B. Referral.** The Director may defer action on a Minor Deviation application and refer the application to the Commission.
- C. Required Minor Deviation findings.** The applicable review authority may approve an application, with or without conditions, only if all of the following findings are first made:
 1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification;
 2. The Minor Deviation is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification;
 3. The granting of the Minor Deviation will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located; and

4. The granting of the Minor Deviation will not be contrary to the objectives of the General Plan.

D. Required Variance findings. The applicable review authority may approve an application, with or without conditions, only if all of the following findings are first made:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification;
2. The Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification;
3. The granting of the Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located; and
4. The granting of the Variance will not be contrary to the objectives of the General Plan.

860.5.070 - Denial of Minor Deviation

The Director's decision to deny a Minor Deviation application shall not prohibit or affect the right of the applicant to file an application for a Variance in compliance with Subsection 860.5.030 B. (Variances), above.

860.5.080 - Precedents

Each application shall be reviewed on an individual case-by-case basis and the granting of a prior Variance or Minor Deviation is not admissible evidence for the granting of a new Variance or Minor Deviation.

860.5.090 - Burden of Proof

The burden of proof to establish the evidence in support of the findings, required by Section 860.5.060 (Findings and Decision), above, is the responsibility of the applicant.

860.5.100 - Conditions of Approval

In approving a Variance or Minor Deviation application, the review authority may impose conditions deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Section 860.5.060 (Findings and Decision), above.

860.5.110 - Use of Property Before Final Action

Permits shall not be issued for any structure involved in an application for a Variance or Minor Deviation until and unless the same shall have become final, in compliance with Section 868.6.030 (Effective Date of Permits).

860.5.120 - Post Decision Procedures

The procedures relating to changes, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration) and those identified in Chapter 868.6 (Permit Implementation, Time Limits, Extensions and Revocation) shall apply following the decision on a Variance or Minor Deviation application.

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