ORDINANCE NO. 243

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 9, YUCCA VALLEY DEVELOPMENT CODE, BY ADOPTING ARTICLE 4, CHAPTERS 9.60 THROUGH 9.77, PERMIT PROCEDURES AND REPEALING SECTIONS 83.010105 THRU 83.0103.15, SECTIONS 83.010325 THRU 83.010335, SECTION 83.010505, SECTIONS 83.020105 THRU 83.020210, SECTIONS 83.030805 THRU 83.030855, SECTIONS 83.030145 THRU 83.030175, SECTIONS 83.030205 THRU 83.030230, SECTIONS 83.030310 THRU 83.030325, SECTION 83.030405, SECTION 83.030505, SECTION 83.030605 SECTIONS 83.030705 THRU 83.030765, SECTIONS 83.030905 THRU 83.030955 OF DIVISION 3 OF TITLE 8 FROM THE YUCCA VALLEY DEVELOPMENT CODE AND SECTIONS 41.151 THRU 41.1569 FROM CHAPTER 15, DIVISION 1 TITLE 4 OF THE YUCCA VALLEY MUNICIPAL CODE.

The Yucca Valley Town Council ordains as follows.

Section 1:

Article 4:
Permit Procedures

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Chapter 9.60 Permit Procedures – General Provisions

Sections:

9.60.010 – Purpose
9.60.020 – Types of Procedures
9.60.030 – Review Authority for Land Use and Zoning Decisions
9.60.040 – Referral to Next Higher Review Authority

9.60.010 – Purpose

This Chapter establishes the procedures to process land use entitlements and development proposals in any land use zoning district.

9.60.020 – Types of Procedures

This Development Code utilizes the following three basic procedures to review all types of applications:

Public Hearing

Formal open forum for public review. Public hearing procedures are distinguished by a formal open forum for public review of a proposal. During the course of the public hearing, the applicable review authority invites public testimony for and against the land use proposal, reviews evidence and then renders its decision in compliance with Chapter 9.85, *Public Notices and Hearings*. A public hearing may be conducted before the Council, the Commission, or the Director.

Review evidence and state relative positions. Public hearing procedures shall be used to give all interested parties an opportunity to review the evidence and to state their relative positions in a common public forum before the applicable review authority.

Staff Review with Notice

Based upon specific findings or conditions. Staff review with notice procedures are distinguished by land use decisions that are based upon specific findings or conditions that limit the discretion of the applicable review authority.

Rendering of a decision with notice. Staff review with notice procedures shall provide written or published notice given to affected and interested parties followed by a decision by the applicable review

authority. The notice shall be designed to ensure that all interested parties are aware of the pending decision and are given a chance to comment before the review authority renders its decision.

Such notice will be given at least fifteen (15) days prior to the scheduled hearing date. If no response has been received by the Town five (5) days prior to the scheduled hearing date and the applicant has no objections to the conditions of approval, the Community Development Director may elect not to hold a formal hearing.

Staff Review without Notice

Decisions based upon adopted standards. Staff review without notice procedures are distinguished by land use decisions made by the applicable review authority based upon standards that have been adopted by the Town as law or as policy.

Rendering of a decision without notice. Staff review without notice procedures shall be used when sufficient standards have been adopted by the Commission or the Council to allow the applicable review authority to render a decision without giving notice to surrounding property owners and other parties.

9.60.030 – Review Authority for Land Use and Zoning Decisions

Table 4.1 (Review Authority) identifies the Town official or authority responsible for reviewing and making initial decisions on each type of application or land use entitlement required by this Development Code, the nature of the initial decision (i.e. decision or recommend), and the nature of the response of the subsequent review authority.

TABLE 4.1
REVIEW AUTHORITY

Type of Entitlement or Decision	Applicable Code Section	Director (1) (2)	Planning Commission(3)	Town Council (4)
Amendments to Development Code or Zone Change	Ch. 9.62	Recommend(5)	Recommend	Decision
Land use Compliance Review	Ch. 9.66	Decision	Appeal	Appeal
Conditional Use Permits	Ch. 9.63	Recommend	Decision	Appeal
Development Agreements and Amendments	Ch. 9.64	Recommend	Recommend	Decision
General Plan Amendments	Ch. 9.66	Recommend	Recommend	Decision
Home Occupation Permits	Ch. 9.08.050	Decision	Appeal	Appeal
Interpretations	Section 9.02.010	Decision	Appeal	Appeal
Planned Development Permits	Ch. 9.67	Recommend	Recommend	Decision
Minor Revisions to Approved Actions	Varies	Decision	Appeal	Appeal
Native Plant Permits	Ch. 9.77	Decision	Appeal	Appeal
Sign Permits	Ch. 9.76	Decision	Appeal	Appeal
Site Plan and Design Review	Ch. 9.68	Recommend	Decision	Appeal
Special Use Permits	Ch. 9.69	Decision	Appeal	Appeal
Specific Plans and Amendments	Ch. 9.70	Recommend	Recommend	Decision

Temporary Special Event Permits	Ch. 9.71	Decision	Appeal	Appeal
Temporary Use Permits	Ch. 9.72	Decision	Appeal	Appeal
Variances	Ch. 9.73	Recommend	Decision	Appeal

Table 4.1 Notes:

(1) The Director may defer action and refer any permit or approval application to the Commission for final determination.

(2) All decisions of the Director are appealable to Commission, and then to the Council, in compliance with Chapter 9.81, *Appeals.*

(3) The Commission may refer consideration of an appeal to the Council.

(4) All decisions of the Council are final.

(5) "Recommend" means that the review authority makes a recommendation to a higher review authority; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier review authority, in compliance with Chapter 9.8,1*Appeals*.

(6) Concurrent processing. Multiple applications for the same project shall be processed concurrently, and shall be reviewed, and approved or disapproved by the highest review authority designated by this Development Code for any of the required applications (e.g., a project with applications for both a Zoning Map amendment and a Conditional Use Permit shall have both applications decided by the Council, instead of the Commission acting on the Conditional Use Permit as otherwise provided by Table 4.1 [Review Authority]).

9.60.040 – Referral to Next Higher Review Authority.

A Review Authority may refer any application to the next succeeding Review Authority, based upon the following criteria.

1. Impact upon public services and facilities greater than typical for the type of project proposed;

2. Impact upon surrounding properties greater than typical for the type of project proposed;

3. Floor or site square footage greater than typically found in the type of project;

4. Intensity of use greater than typically found in the type of projects;

5. Operating characteristics not typical of the type of project proposed;

6. Other factors including but not limited to public opposition to development of the project;

7. The need for Town interpretation of the General Plan and/or Development Code as related to the project.

Chapter 9.61 Application Processing Procedures

Sections:

9.61.010 – Purpose
9.61.020 – Applications for Land Use Decisions
9.61.030 – Development Review Committee
9.61.040 – Environmental Review
9.61.050 – Multiple Permit Applications
9.61.060 – Pre-Application Review
9.61.070 – Notice of Pending land Use Decisions
9.61.080 – Conditions of Approval
9.61.090 – Post-Decision Notice

9.61.010 – Purpose

This Chapter establishes the application requirements and noticing provisions necessary to process development proposals in any land use zoning district.

9.61.020 – Applications for Land Use Decisions

A. **Complete Application Required.** Any application for a permit or entitlement pursuant to this Code must be accepted as complete for processing in order to initiate the official review process. All required materials, information and fees as required by the Director shall be provided by the applicant before the application is deemed complete for processing.

B. **Determination of Completeness**. The Director shall determine in writing the completeness of the application and transmit this determination to the applicant within the time limits and in a form and content to be consistent with the types of project applications established by applicable state law and Town regulations.

C. **Time Period for Determining Completeness.** The statutory time period of thirty (30) days established by state law for determining completeness shall begin the day the application is made and date stamped. Formal processing of any application pursuant to this Code shall commence upon the date the application is accepted as complete, as provided in the state law regarding review and approval of development projects.

D. **Abandonment of Application**

1. An application for permits or approvals issued in compliance with the Development Code shall be deemed to have been abandoned when information and/or fees have been requested to complete the application and this information and/or fees have not been received by the Planning Division within ninety (90) calendar days.

2. The Director shall notify the applicant by mail of the abandonment. The applicant may provide a written explanation of the delay, stating the date by which the further application material and, when required, further fees will be submitted. If the Director finds that special circumstances exist and that unusual hardship to the applicant would result from deeming the application abandoned, the Director may appropriately extend the period during which the required material must be submitted. If the required material has not been submitted by the new date, and if the Director has not further extended the allowable period for submitting it, the application shall be deemed abandoned without further notification. A notice of abandonment shall thereafter be mailed to the applicant and a copy placed in the applicant's file.

E. **Additional Information.** Notwithstanding any procedures established in this section for determination of completeness, the Director may request the applicant to submit additional information in the course of processing the application if such information could not be anticipated as part of the original application. Such a request to clarify, amplify, correct or otherwise supplement submitted information shall not invalidate the original determination that the application was complete at the time the determination was originally made. The Director may request any additional information needed to prepare adequate environmental documentation in compliance with the California Environmental Quality Act (CEQA) and applicable guidelines.

F. **New Application Following Denial.** Following the denial of an application for any land use or policy application, no application for the same or substantially the same use or project as determined by the Director shall be filed within one year from the effective date of the denial. This provision shall not apply in the case of an application that is denied without prejudice or where otherwise permitted to be filed by a vote of at least 2/3 of the approving authority.

9.61.030 – Development Review Committee

A. **Evaluation of proposals by the Development Review Committee (DRC).** Development review procedures include evaluation of proposals at a scheduled meeting of the DRC.

B. **Consideration of design and proposed conditions.** The DRC meeting allows informal discussions between the applicant, Town staff, and others regarding the design and proposed conditions for a given proposal.

9.61.040 – Environmental Review

A. **Applications subject to CEQA.** All land use applications that are subject to the California Environmental Quality Act (CEQA) shall be reviewed by the Department in compliance with the Town's environmental review guidelines.

B. **Environmental findings required.** Before taking an action to approve a land use application that is subject to CEQA, the Town shall make one or more environmental findings. The environmental finding(s) is required in addition to the findings specified in this Development Code for each application type.

9.61.050 – Multiple Permit Applications

When more than one land use decision is required for a single project, all applications shall be filed concurrently.

9.61.060 – Pre-Application Review

When the complexity of a land use application warrants, the Director may require that the applicant submit materials and attend necessary conferences or hearings to conduct a preliminary review of a development proposal before the acceptance of the application.

9.61.070 – Notice of Pending Land Use Decisions

A. **Public hearing or staff review with notice procedures.** Upon receipt of a request for a land use decision that utilizes the public hearing or staff review with notice procedures, the applicable review authority shall give notice specifying the time and place for the decision at least 10 calendar days before the date of the scheduled land use approval/denial by the following applicable methods:

1. Notice shall be published once in a newspaper of general circulation in the respective community of the proposal for the following land use decisions using the public hearing procedure:

    a. Amendments to the text of the General Plan or a Specific Plan.

    b. Development Code amendments.

    c. General Plan map amendments.

    d. Subdivisions, where a tentative and final map are required.

    e. Conditional Use Permit and amendments

    f. Specific Plan and amendments

    g. Planned Development and amendments

    h. Variance

2. Notice shall be given by first class mail to any person who has filed a written request for a specific application.

3. Notice shall be given by first class mail or delivery to all surrounding property owners within 300 feet of the exterior boundaries of the subject site for land use decisions using the public hearing or staff review with notice procedures. Director shall have the discretion to extend the notification radius depending upon project characteristics.

4. Notice shall also be given, as required by Government Code Section 66451.3, in the case of a conversion of residential real property to a community apartment project, condominium project, or stock cooperative.

5. Notice may be given in any other manner as is deemed necessary or desirable by the Director.

B. **One-eighth page optional notice.** A one-eighth page legal display advertisement in a newspaper of general circulation may be substituted for individual property owner notice whenever the individual notice would require notification of more than 1,000 property owners.

C. **Ownership and addresses of properties.** Ownership and addresses of contiguous and surrounding properties shall be determined from the latest equalized tax assessment role or from other records of the County Assessor or County Tax Collector, whichever contains more recent information.

D. **Continued hearings.** During the public hearing, items that are continued by the review authority to a specific date shall not be re-noticed unless specifically requested by the review authority.

9.61.080 – Conditions of Approval

In approving an application for a land use decision, the review authority may establish reasonable conditions to its approval that are found to be necessary to protect the public health, safety, and general welfare that are consistent with the General Plan and this Development Code

9.61.090 – Post-Decision Notice

A. **Provision of notice.** Within 10 calendar days of a final decision on an application for a permit or other approval required by this Development Code, the Town shall provide notice of its final action to the applicant and to any person(s) who specifically requested notice of the Town's final action and has provided a self-addressed stamped envelope.

B. **Contents of notice.** The notice shall contain the final decision by the review authority.

Chapter 9.62 Amendments to Development Code and Zone Changes

Sections:

9.62.010 – Purpose
9.62.020 – Initiation
9.62.030 – Public Hearing and Notice
9.62.040 –Commission Action
9.62.050 –Council Action
9.62.060 – Required Findings

9.62.010 – Purpose

The provisions of this Development Code, including the official Zoning Map, may be amended to reflect changing development needs of the Town over time, to maintain consistency with the General Plan, and as determined by the Council to be in the best interest of the Town for the public health, safety and welfare of the community.

9.62.020 – Initiation

A. **Procedure.** A Development Code amendment may be initiated by an amendment application by one (1) or more property owners affected by the proposed amendment or by the Council.

1. If the Council initiates a change or addition to the Development Code, it may direct staff to process the amendment.

2. If the Commission wishes to initiate an amendment, it shall be referred to the Council for concurrence to initiate an amendment. The Council may then direct staff to process the amendment.

3. If the Director wishes to initiate an amendment, it shall be referred to the Commission for review and referral to Council

B. **Fees.** Application for an amendment to the provisions of this Development Code made by one (1) or more property owners affected by the proposed amendment shall be accompanied by a fee established by resolution of the Council and shall include submittal requirements as prescribed by the Director.

9.62.030 – Public Hearing and Notice

Upon receipt in proper form of a Development Code amendment application, or upon receiving direction from the Council, and following a Department review and recommendation, public hearings shall be set as hereinafter provided before the Commission and Council.

9.62.040 – Commission Action

A. **Public Hearing Required.** The Commission shall hold a public hearing after giving notice as required by Chapter 9.85, *Public Hearings and Notice*.

B. **Commission Recommendation.** The Commission shall make a written recommendation whether to approve, approve in modified form, or deny the proposed amendment.

9.62.050 – Council Action

A. **Council Options.** Upon receipt of the Commission's recommendation, the Council may approve, approve with modifications, or disapprove the proposed amendment based upon the findings contained in Section 9.62.060, *Required Findings*.

B. **Amendment to be made by Ordinance.** Amendments to this Development Code shall be made by ordinance.

C. **Public Hearing by Council.** Upon receipt of a Commission recommendation, the Council shall hold a public hearing and notices shall be mailed as set forth in Chapter 9.85, *Public Hearings and Notice*. Notices shall also be given to the applicant, the Commission and, if applicable, the appellant. The Director shall submit a report and meeting minutes of the Commission's recommendation to the Council setting forth the reasons for action taken by the Commission.

D. **Council Modifications to Proposed Amendment.** Any significant modification of an amendment to the zoning provisions of this Code made by the Council (i.e.: changes involving density, intensity, or standards), which (modification) was not previously considered by the Commission during its hearing, shall be referred to the Commission for report and recommendation. The Commission is not required to hold a hearing on such modification, and their failure to respond to a Council referral within forty-five (45) days shall constitute their (the Commission's) recommendation for approval.

9.62.060 – Required Findings

An amendment to this Development Code may be adopted only if the following findings are made:

A. The proposed amendment is consistent with the General Plan; and

B. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Chapter 9.63 Conditional Use Permit

Sections:

9.63.010 – Purpose and General Plan Consistency
9.63.020 – Applicability
9.63.030 – Authority
9.63.040 – Application Submittal Requirements
9.63.050 – Application Fee
9.63.060 – Investigation and Report
9.63.070 – Action by Review Authority
9.63.080 – Required Findings
9.63.090 – Minor Modifications of Previously Approved Conditional Use Permit
9.63.100 – Lapse of Permits/Permit Expiration
9.63.110 – Extension of Time
9.63.120 – CUP Amendment
9.63.130 – CUP Revocation
9.63.140 – Development of Property Before Final Decision
9.63.150 – Alteration to Nonconforming Use
9.6344.160 – Surface Mining and Reclamation

9.63.010 – Purpose and General Plan Consistency

The Conditional Use Permit Review procedure allows the Town to evaluate proposed development and determine its consistency with the General Plan, the Development Code and applicable Town ordinances. The Conditional Use Permit Review procedure is intended to protect and enhance the visual appeal, environment, economic stability and property values of the Town's residential, commercial, and industrial areas through the application of the provisions of this Code and the General Plan. Review of such uses is necessary and specific conditions of approval may be necessary to ensure that the uses are developed, operated, and located properly with respect to their effects on surrounding properties and so that any and all potentially adverse impacts are mitigated, and to ensure the general health, safety and welfare of the community through implementation of the General Plan through this Chapter.

9.63.020 – Applicability

A. All new construction which is listed in the use classification charts for the underlying land use districts that require a Conditional Use Permit Review.

B. Expansions which exceed the thresholds of Table 4.2 and are permitted subject to a Conditional Use Permit Review as specified in the use classification charts for the underlying land use district shall require a Conditional Use Permit.

TABLE 4.2
CONDITIONAL USE PERMIT
EXPANSION THRESHOLDS

SQUARE FOOTAGE OF EXISTING BUILDING	MAXIMUM SQUARE FOOTAGE	MAXIMUM PERCENTAGE
up to 5,000	1250 sq ft	50%
5,001 – 10,000	2000 sq ft	40%
10,001 +	2500 sq ft	25%

C. Change in use of an existing structure

D. Projects which fall within the thresholds of the Conditional Use Permit shall comply with the General Plan, the Development Code and applicable Town Ordinances and regulations, including but not limited to:

1. Half-width (½) street Improvements (curb, gutter, sidewalk, street lights, and pavement) on all streets fronting the project, except as defined by the parameters of the Council policies regarding Street Reconstruction

2. Onsite water retention of incremental increase

3. Dedication of easements for drainage facilities, streets, trails, avigation easements as required by this code and any adopted plans

4. Improvements to drainage facilities except as defined by the parameters of the Council policies regarding drainage facilities

5. Assessment Districts formation (including Landscape and Lighting, Street and Drainage, Community Facility District, and Public Safety)

6. Utility Undergrounding, pursuant to adopted standards

7. Landscaping and Landscaping Plan regulations (greater than 500 square feet of landscape area requires approval by Hi Desert Water District)

8. Commercial Design Guidelines

9. Outdoor Lighting regulations

10. Parking and screening requirements

11. Sign regulations

12. All other Development Code regulations

13. California Environmental Quality Act (CEQA) and any required mitigation measures

E. Expansions which fall within the thresholds specified in Table 4.2 shall be processed as a Land Use Compliance Review, pursuant to Chapter 9.66.

9.63.030 – Authority

A. Level of Review:

TABLE 4.3
CONDITIONAL USE PERMIT
LEVEL OF REVIEW

APPLICABILITY	LEVEL OF REVIEW	NOTICE REQUIREMENTS
New structures, including accessory structures and uses;	Commission	Public Hearing
Expansion of an existing structure in conformance with Table 4.2;	Director	None
Expansion of an existing structure which exceeds the thresholds in Table 4.2;	Commission	Public Hearing
Conversion of an existing structure (i.e. change in use);	Commission	Public Hearing
Construction or conversion of a structure(s) to allow a mixed-use development.	Commission	Public Hearing

Where the review for a Conditional Use Permit is not specified, the Director shall determine the appropriate review authority.

B **Referral to Next Higher Review Authority.** ; The Commission may refer an application for a Conditional Use Permit to the Council based upon the following criteria:

1. Impact upon public services and facilities greater than typical for the type of project proposed;

2. Impact upon surrounding properties greater than typical for the type of project proposed;

3. Floor or site square footage greater than typically found in the type of project;

4. Intensity of use greater than typically found in the type of projects;

5. Operating characteristics not typical of the type of project proposed.

6. Other factors including but not limited to public opposition to development of the project.

7. The need for Council interpretation of the General Plan and/or Development Code as related to the project.

C. **General Authority.** The Commission is authorized to approve, approve with conditions, or deny applications for Conditional Use Permits in compliance with the procedures established in this

Section. In approving an application for a Conditional Use Permit, the Commission may impose conditions to ensure compliance with this Code. Conditions may include, but shall not be limited to:

1. Requirements for special structure setbacks;

2. Open spaces;

3. Buffers;

4. Fences;

5. Walls and screening;

6. Requirements for the installation and maintenance of landscaping and erosion control measures;

7. Control of street improvements, other public infrastructure and related dedications;

8. Control of vehicular ingress and egress;

9. Control of traffic circulation;

10. Control of signs;

11. Control of hours of operation;

12. Control of potential nuisances;

13. Establishing standards for maintenance of buildings and grounds;

14. Establishing development schedules and development standards;

15. Control of periodic review;

16. Control of architectural and/or building design;

17. Any other conditions as may be deemed necessary to ensure the compatibility with surrounding uses, to preserve the public health, safety and welfare, and to enable the Commission to make the findings required by Section 9.63.080, *Required Findings.*

D. **Performance Guarantee.** In order to ensure implementation of conditions attached to a Conditional Use Permit, the applicant may be required to furnish a surety in a form of an instrument of credit, money or surety bond in the amount fixed by the authority granting or modifying the Conditional Use Permit.

E. **Providing Required Improvements.** Whenever a Conditional Use Permit is approved or modified subject to the condition that specified public improvements shall be installed by the applicant to meet Town standards and be accepted by the Town, the applicant may be required to

execute an agreement approved by the Town to make such improvements prior to the time/construction events specified in the Conditional Use Permit.

F. **Conditions Declared Void.** Whenever any final judgment of a court of competent jurisdiction declares one or more of the conditions of a Conditional Use Permit to be unconstitutional or invalid, such decision shall not affect the validity of the approval as a whole, or any portion thereof other than the section so declared

G. **Violation of Condition.** Whenever a Conditional Use Permit is approved or modified by the Commission subject to a condition(s), non-compliance with such condition(s) shall constitute a violation of this Code. Conditions which are not observed or which are violated may be enforced as provided in Chapter 9.82, *Enforcement and Violations* or said Conditional Use Permit may be revoked or modified under Chapter 9.83, *Permit Amendments* and 9.84, *Permit Revocations*.

9.63.040 – Application Submittal Requirements

Applications for Conditional Use Permits shall be filed on a form prescribed by the Planning Division and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Commission to make the required findings.

9.63.050 – Application Fee

The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter.

9.63.060 – Investigation and Report

The Director shall cause an analysis of each application for a Conditional Use Permit to be made. The level of detail of the analysis shall be appropriate to the type of project proposed and the needs of the Commission. The analysis shall examine the application's consistency with the content, intent and purpose of the General Plan, the Development Code, and any other applicable Town standards or policies. To insure effective implementation of General Plan policies and the provisions of this Code, applications may be reviewed by the Development Review Committee prior to consideration by the Commission. As a result of the analysis, the Director shall cause a report to be completed which shall include a listing of proposed conditions necessary to guarantee the public health, safety and welfare, should the proposed project be approved.

9.63.070 – Action by Review Authority

Commission Action. Pursuant to Section 9.63.030, *Authority*, the Commission shall review each application for a Conditional Use Permit. The applicant shall be provided with a copy of the Director's report regarding the application prior to the Commission's consideration. The Commission shall approve, deny, or conditionally approve applications for a Conditional Use Permit. Decisions by the Commission shall be final unless appealed as provided in Chapter 9.81, *Appeals*.

9.63.080 – Required Findings

Before approving a Conditional Use Permit, the Town and/or Commission shall find that the circumstances established below apply:

A. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of the land use district in which the site is located, and the development policies and standards of the Town;

B. That the location, size, design and architectural design features of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;

C. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of the development between adjacent land uses;

D. That the building site and architectural design is accomplished in an energy efficient manner;

E. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible and consistent with the adjacent and neighboring structures;

F. That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

G. That the amount, location, and design of open space and landscaping conforms to the requirements of the Development Code, enhances the visual appeal and is compatible with the design and functions of the structure(s), site and surrounding area;

H. That quality in architectural design is maintained in order to enhance the visual desert environment of the Town and to protect the economic value of existing structures;

I. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to be installed at the appropriate time to serve the project as they are needed;

J. That access to the site and circulation on and off-site is required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;

K. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;

L. That traffic improvements and/or mitigation measures have been applied or required in a manner adequate to maintain a Level of Service C or better on arterial roads, where applicable, and are consistent with the Circulation Element of the Town General Plan;

M. That there will not be significant harmful effects upon environmental quality and natural resources including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;

N. That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;

O. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be considered to be detrimental to the public health, safety and welfare of the community or be materially injurious to properties and/or improvements within the immediate vicinity or be contrary to the General Plan; and

P. That the proposed development will comply with each of the applicable provisions of the Development Code and applicable Town policies, except approved variances.

9.63.090 – Minor Modifications of Previously Approved Conditional Use Permit

An approved Conditional Use Permit may be modified upon the request of the property owner, or by the Town. Minor Modifications may be approved by the Director if it is determined that the changes would not affect the findings prescribed in Section 9.63.080, *Required Findings*, and that the subject of the proposed changes were not items of public controversy during the review and approval of the original permit; including modifications to phasing schedules for the project.

9.63.100 – Lapse of Permits/Permit Expiration

A. **Expiration.** A Conditional Use Permit approval shall expire three (3) years from the date the permit is approved unless it is otherwise conditioned or unless prior to the expiration of the three (3) years the following have occurred:

1. A building permit is issued and substantial construction is diligently pursued towards completion of the project which was the subject of the Conditional Use Permit application. After construction is commenced, if work is discontinued for a period of two (2) years, the Conditional Use Permit shall require review and reauthorization by the Commission; or

2. A certificate of occupancy is issued for the structure which was the subject of the Conditional Use Permit application.

B. **Phased Projects.** Projects may be built in phases if so approved by the Commission or Director pursuant to Section 9.63.090, *Minor Modifications of Previously Approved CUP*.

9.63.110 – Extension of Time

The Commission may grant a time extension not to exceed three (3) years. Applications shall be made on a form to be provided by the Planning Division. Prior to the granting of an extension, the Planning Division shall review the previously approved project to ensure it is consistent with all current provisions of the General Plan, Development Code and other Town Ordinances and that the findings for approval of a Conditional Use Permit in compliance with Section 9.63.080, *Required Findings*, can be made. Based upon this review, additional Conditions of Approval may be imposed upon the project by the review authority when the Extension of Time is approved.

The Commission may grant additional extensions of time provided that the project is consistent with the General Plan, Development Code, Master Plans and Specific Plans.

9.63.120 – CUP Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.63.130 – CUP Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.63.140 – Development of Property Before Final Decision

A building permit shall not be issued for, and no person shall commence to use, any structure until that structure and its accompanying development has received a Conditional Use Permit in compliance with the provisions of this Chapter. In addition, no other permits shall be issued for any use or structure requiring a Conditional Use Permit unless and until the Conditional Use Permit has been approved.

9.63.150 – Alteration to Nonconforming Use

A. **Procedure:** **Administrative Review**
Reviewing Authority: Director

The Director shall review and act upon requests to alter nonconforming uses.

B. An existing nonconforming use may be altered to accommodate a new structure or accessory use, except where it is an existing nonconforming use of land with no structure thereon.

C. **Findings.** Before any modification in a nonconforming use may be granted, it shall be found that all of the following conditions shall exist in reference to the alteration being considered:

1. The remaining normal life of the existing nonconforming use shall be determined pursuant to provisions specified in this Code prior to consideration of the proposed alteration if in a residential district.

2. The proposed alteration shall not prolong the normal life of the existing nonconforming use.

3. The alteration of the existing nonconforming use shall not be detrimental to nor prevent the attainment of objectives, policies, general land use and programs specified in the Town General Plan.

4. The granting of permission to alter the nonconforming use shall not be substantially detrimental to the public health, safety or welfare, or injurious to the property or improvements in the vicinity and district in which the use is located.

5. The alteration shall not change the primary use of the land nor increase the intensity of that use.

6. The existing nonconforming use shall comply with all other existing regulations.

7. Any alteration required by governmental or court action shall be exempt from these conditions.

9.63.160 – Surface Mining and Reclamation

State law requires a public hearing review for the Surface Mining and Reclamation process. The Mining and Land Reclamation Plan Application combine a Conditional Use Permit and Reclamation Plan into one application.

Chapter 9.64 Development Agreements

Sections:

9.64.010 – Purpose, Authority and Findings
9.64.020 – Qualifications of Applicant
9.64.030 – Application Submittal Requirements
9.64.040 – Application Fee
9.64.050 – Investigation and Report
9.64.060 – Action by Review Authorities
9.64.070 – Amendment or Cancellation of Development Agreements
9.64.080 – Recordation
9.64.090 – Periodic Review
9.64.100 – Modification, Termination or Suspension

9.64.010 – Purpose, Authority and Findings

This Chapter establishes procedures and requirements for consideration of development agreements. The purpose of this Chapter is to recognize that major, multi-phased development projects may require the developer to commit a substantial investment in "up front" costs and that some assurances that changing regulations will not adversely affect the entitlements of the project may be necessary to justify the "up front" costs. The purpose of this Chapter is also to recognize that the Town has an interest in assuring that large scale, long-term projects are implemented as approved. Development agreements may provide the mechanism to provide needed stability for such projects. These provisions are adopted under the authority of Title 7, Division 1, Chapter 4, Article 2.5 of the California Government Code (commencing at Section 65864). The findings and purposes as set forth in California Government Code Section 65865.

A. **Assurances to the applicant**. A development agreement is intended to provide assurance to the applicant that an approved project may proceed subject to the policies, regulations, rules, and conditions of approval applicable to the project at the time of approval, regardless of any changes to town policies, regulations, and rules after project approval.

B. **Assurances to the Town.** In return, the Town is provided assurance that the project would further important town goals and policies which have been officially recognized by the Council, and provide the Town with significant, tangible benefits beyond those that may be required by the Town through normal project conditions of approval.

9.64.020 – Qualifications of Applicant

Only a qualified applicant may file an application to enter into a development agreement, as determined at the sole discretion of the town. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. An applicant shall submit written proof of interest in the real property or of the authority of any agent to act for the applicant.

9.64.030 – Application Submittal Requirements

Applications for Development Agreements shall be filed on a form prescribed by the Planning Division and shall contain such information and reports as may be required by the Town in order to render a decision consistent with the purpose and findings required by this Chapter.

9.64.040 – Application Fee

The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter.

9.64.050 – Investigation and Report

The Director shall cause an analysis of each application for a Development Agreement to be made. The level of detail of the analysis shall be appropriate to the type of project proposed and the needs of the Commission and Council. The analysis shall examine the application's consistency with the content, intent and purpose of the General Plan, the Development Code, and any other applicable standards or policies. To insure effective implementation of General Plan policies and the provisions of this Code, applications may be reviewed by the Development Review Committee prior to consideration by the Commission. As a result of the analysis, the Director shall cause a report to be completed including findings regarding the public health, safety and welfare.

9.64.060 – Action by Review Authorities

A. **Notice of Hearing**. A public hearing for an application for a development agreement shall be held by the Commission and the Council. The Notice of Intention to consider a development agreement by the Commission and Council is governed by California Government Code Sections 65090 and 65091 and shall be consistent with Chapter 9.85, *Public Notices and Hearings.*

B. **Recommendation by Commission**. The Commission shall make its recommendation in writing to the Council. The recommendation shall include the Commission's determination of whether the development agreement proposed is:

   1. Consistent with the objectives, policies, land uses and programs specified in the General Plan and any applicable specific plan;

   2. Compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located; and

   3. Beneficial to the public health, safety, and welfare.

C. **Decision of the Council**

   1. The Council may approve, modify, or deny the recommendation of the Commission. It may, but need not, refer matters not previously considered by the Commission back to the Commission for report and recommendation. The Commission may, but need not, hold a

public hearing on matters referred back to it by the council. Failure of the Commission to respond to a Council referral within forty-five (45) days shall constitute their (the Commission's) recommendation for approval.

2. The Council may not approve the development agreement unless it finds that the provisions of the agreement are: (1) consistent with the General Plan or any applicable specific plan; (2) compatible with the uses authorized in, and the regulations prescribed for the land use district in which the real property is located; and (3) in conformity with good land use planning; and (4) not detrimental to the health, safety and welfare.

3. Consideration for and action upon development agreements shall be consistent with and in accordance with applicable State law.

D. **Approval of Development Agreements.** If the Council approves a development agreement, it shall do so by the adoption of an ordinance. Such approval is a legislative act and such ordinance is subject to referendum.

9.64.070 – Amendment or Cancellation of Development Agreements

A. Either party (or successors in interest thereof) may initiate an amendment to, or cancellation in whole or in part of, a previously executed development agreement.

B. The procedure for initiating and adopting an amendment to, or a cancellation in whole or in part of, the development agreement is the same as the procedure for entering into the original agreement.

C. A development agreement, after notice and public hearing, may be amended or canceled in whole or in part by mutual consent of the parties to the development agreement or their successors in interest.

D. Amendment of a development agreement is a legislative act and must be approved by ordinance, which ordinance is subject to referendum.

9.64.080 – Recordation

A. The applicant shall present to the Director the written consent to the development agreement of all parties having record ownership interest in the real property which is the subject of the development agreement, prior to the approval of the agreement by the Council.

B. No later than ten (10) days after the Council approves the development agreement, the Town Clerk shall record with the County Recorder a copy of the development agreement which shall describe the land subject thereto.

C. If the parties to the agreement (or their successors in interest) amend or cancel the agreement as provided in California Government Code Section 65868, or if the Council terminates, or modifies the agreement as provided in Government Code Section 65865.1, the Town Clerk shall record the appropriate document with the County Recorder in the manner prescribed by State law.

9.64.090 – Periodic Review

A. The Town shall review the development agreement every twelve (12) months from the date the agreement is entered into through a public hearing by the Commission and Council.

B. The Director shall initiate the review proceeding by giving notice as provided by Chapter 9.85, *Public Notices and Hearings*, that the Town intends to undertake a periodic review of the development agreement and shall prepare a staff report and recommendation.

C. The Director shall determine whether the property owner has demonstrated good faith compliance with the terms and conditions of the development agreement.

D. If the Director finds and determines on the basis of substantial evidence that the property owner has complied in good faith with all terms and conditions of the agreement during the period of review, the review for that period is concluded.

E. If the Director finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with any one or more of the terms or conditions of the development agreement during the period under review:

1. The Town may initiate proceedings to modify or terminate the agreement or undertake other enforcement action as deemed appropriate;

F Such periodic review will end when all the terms and conditions have been completed as found and determine necessary by the Commission and Council after public hearings.

9.64.100 – Modification, Termination or Suspension

A. A development agreement or portions thereof may be modified or terminated upon a finding of noncompliance under subsection 9.64.100, *Modification, Termination and Suspension.* In the event that State or Federal laws enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, such provisions of the agreements shall be modified or suspended as deemed necessary by the Council, on a recommendation by the Commission, to enforce compliance by the property owner with such subsequently enacted State or Federal laws or regulations. If such proceedings are initiated, notice shall be given as prescribed by this Code and applicable State law.

B. At the time and place set for the public hearing on modification, suspension or termination of the development agreement, the property owner and the public shall be given an opportunity to be heard. The finding of noncompliance under subsection 9.64.060(C), *Decision of the Town Council*, shall be deemed final and not subject to reconsideration at this hearing. The issue at this hearing shall be whether termination, suspension or modification is warranted, and if so, in what respects. The Council may impose those conditions to the action it takes as it deems to be in the best interest of the Town.

Chapter 9.65 General Plan Amendments

Sections:

9.65.010 – Purpose
9.65.020 – Initiation
9.65.030 – Notification Procedures
9.65.040 –Commission Action
9.65.050 –Council Action
9.65.060 – Required Findings.
9.65.070 – Amendment Frequency.
9.65.080 – Consistency Zoning

9.65.010 – Purpose

The text, diagrams, or maps of the General Plan may be amended to reflect changing physical and development needs of the Town over time, as determined by the Council to be in the best interest of the Town for the health, safety and welfare of the community.

9.65.020 – Initiation

A. **Procedure**. A General Plan Amendment may be initiated by filing an amendment application by one (1) or more property owners, affected by the proposed amendment or the Council.

If the Council initiates a change or addition to the General Plan, it may direct staff to process the amendment.

If the Commission wishes to initiate an amendment, it shall be referred to the Council for concurrence to initiate the amendment. The Council may then direct staff to process the amendment.

If the Director wishes to initiate an amendment, it shall be referred to the Commission for review and referral to Council.

Fees. Application for a General Plan Amendment made by one (1) or more property owners affected by the proposed amendment shall be accompanied by a fee established by resolution of the Council and shall include submittal requirements as prescribed by the Director.

9.65.030 – Notification Procedures

A. Public Hearing Notice.

Upon receipt in proper form of a General Plan Amendment application, or upon receiving direction from the Council, and following a Department review and recommendation, public hearings shall be set as hereinafter provided before the Commission and Council.

B. Other Agency Notice.

Pursuant to Government Code Section 65352, at least forty-five (45) days prior to Council action on a proposed amendment, the Planning Division shall notify the planning agency of every city which abuts the Town, the County, the Local Agency Formation Commission (LAFCO), and area-wide planning agency or federal agency whose operations may be significantly affected by the proposed action, each governmental body, commission, or council/board, including those of any school, public water system, or special districts, whose jurisdiction lies wholly or partially within the Town whose functions include recommending, preparing plans for, or constructing major public works projects, and any California Native American tribe that is on the contact list maintained by the Native American Heritage Commission with traditional lands located within the Town.

9.65.040 – Commission Action

A. Public Hearing Required. The Commission shall hold a public hearing after giving notice as required by Chapter 9.85, *Public Hearings and Notice*.

B. Commission Recommendation. The Commission shall make a written recommendation whether to approve, approve in modified from, or deny the proposed amendment. A recommendation for approval shall be made by an affirmative vote of not less than a majority of the total membership of the Commission.

9.65.050 – Council Action

A. Council Options. Upon receipt of the Commission's recommendation, the Council may approve, approve with modifications, or disapprove the proposed amendment based upon the findings contained in Section 9.65.060, *Required Findings*.

B. Amendment to be made by Resolution. Amendments to General Plan shall be made by resolution. A General Plan Amendment shall be effective upon passage of the Council's Resolution.

C. Public Hearing by Council. Upon receipt of a Commission recommendation, the Council shall hold a public hearing and notices shall be mailed as set forth in Chapter 9.85, *Public Hearings and Notice*. Notice shall also be given to the applicant, any property owners affected by the proposed amendment and, if applicable, the appellant. The Planning Division shall submit a report and meeting minutes of the Commission's recommendation to the Council setting forth the reasons for action taken by the Commission.

D. Council Modifications to Proposed Amendment. Any significant modification of an amendment which (modification) was not previously considered by the Commission during its hearing shall be referred to the Commission for report and recommendation. The Commission is not required to hold a hearing on such modification, and their failure to respond to Council referral within forty-five (45) days shall constitute their (the Commission's) recommendation for approval.

9.65.060 – Required Findings.

The Council shall make the following findings in adopting an amendment to the General Plan:

A. The proposed General Plan Amendment is consistent with the goals, policies and standards of the all elements of the General Plan and will further those goals, policies and standards;

B. The General Plan as amended will comprise an integrated, internally consistent and compatible statement of policies for the Town; and

C. The General Plan amendment furthers the public interest and promotes the general welfare of the Town by providing for logical pattern of land uses and clarifying various land use policies for the Town.

9.65.070 – Amendment Frequency.

Each mandatory element of the General Plan shall not be amended more than four (4) times in a calendar year. Each of the four allowed amendments may encompass a variety of different changes to the element, however they must be processed and reviewed concurrently.

9.65.080 – Consistency Zoning

When a General Plan amendment affects the land use designation of specific properties, those properties are required to be concurrently rezoned to a zoning district(s) as necessary to maintain consistency with the General Plan.

Chapter 9.66 Land Use Compliance Review

Sections:

9.66.010 – Applicability
9.66.020 – Minor Modification of Previously Approved Land Use Compliance Review
9.66.030 – Lapse of Permits/Permit Expiration
9.66.040 – Extension of Time
9.66.050 – Amendment
9.66.060 – Revocation
9.66.070 – Fees

9.66.010 – Applicability

A. A Land Use Compliance review is required for proposed expansions of existing developed properties pursuant to Table 4.4:

TABLE 4.4
LAND USE COMPLIANCE
EXPANSION THRESHOLDS

SQUARE FOOTAGE OF EXISTING BUILDING	MAXIMUM SQUARE FOOTAGE	MAXIMUM PERCENTAGE
up to 5,000	1250 sq ft	50%
5,001 – 10,000	2000 sq ft	40%
10,001 +	2500 sq ft	25%

Proposed total expansions through Land Use Compliance Review applications shall not exceed the maximum square footage threshold or exceed the maximum percentage threshold identified in table 4.4.

B. Expansions which exceed the thresholds specified in Table 4.4 shall follow the procedures in Chapter 9.63 *Conditional Use Permit Review Criteria* or Chapter 9.68 *Site Plan and Design Review Permit* as required by the specific Land Use District in which the property is located.

C. Projects are reviewed and acted upon by the Director and notice is not required.

D. Projects which fall within the thresholds of the Land Use Compliance Review shall comply with the following:

1. Commercial Design Guidelines

2. Outdoor Lighting regulations

3. Parking and screening requirements

4. Sign regulations

5. Dedication of easements for drainage facilities, streets, trails, avigation easements as required by this code and any adopted plans.

6. All other applicable Development Code regulations

E. Projects which fall within the thresholds of the Land Use Compliance Review shall not be required the following:

1. Half-width (½) street Improvements (curb, gutter, sidewalk, street lights, pavement) on all streets fronting the project

2. Onsite water retention of incremental increase

3. Improvements to drainage facilities, except as defined by the parameters of the Council policies regarding drainage facilities

4. Assessment Districts formation (including Landscape and Lighting, Street and Drainage and Public Safety)

5. Utility Undergrounding, pursuant to adopted standards

6. Additional Landscaping

9.66.020 – Minor Modification of Previously Approved Land Use Compliance Review

An approved Land Use Compliance Review may be modified upon the request of the property owner, or by the Town. Minor Modifications may be approved by the Director if it is determined that the changes would not affect the findings prescribed in Section 9.83.050, *Required Findings*, and that the subject of the proposed changes were not items of public controversy during the review and approval of the original permit; including modification of the phasing schedule for the project.

9.66.030 – Lapse of Permits/Permit Expiration

A. **Expiration.** Land Use Compliance Review approval shall expire three (3) years from the date the permit is approved unless it is otherwise conditioned or unless prior to the expiration of the three (3) years the following have occurred:

1. A building permit is issued and substantial construction is diligently pursued towards completion of the project which was the subject of the Land Use Compliance Review application. In addition, if after construction is commenced, work is discontinued for a period of two (2) years, then the Land Use Compliance Review shall become null and void; or

2. A certificate of occupancy is issued for the structure which was the subject of the Land Use Compliance Review.

B. **Phased Projects.** Projects may be built in phases if so approved by the Director or as modified by the Director

1. After a Land Use Compliance Review has been approved and the expansion project is constructed and has received a Certificate of Occupancy by the Building and Safety Division, a subsequent Land Use Compliance Review shall not be approved by the Town for a period of three (3) years. Should an additional expansion be necessary during the three (3) years following final inspection the applicant or project owner shall present to the Commission those circumstances, facts and issues for special consideration of additional construction within that 3 year time period. If not so approved by the Planning Commission the project will require a Conditional Use Permit or Site Plan and Design Review, consistent with the use classification charts for the appropriate land use district.

A maximum of two (2) LUCR applications may be approved for a site. Should additional expansions be necessary, the project shall reviewed through a Site Plan and Design Review or Conditional Use Permit as required by this Code.

9.66.040 – Extension of Time

The Director may grant a time extension not to exceed three (3) years. Applications shall be made on a form to be provided by the Planning Division. Prior to the granting of an extension, the Director shall review the previously approved project to ensure it is consistent with all current provisions of the General Plan, Development Code and other Town Ordinances. Based upon this review, additional Conditions of Approval may be imposed upon the project by the review authority when the Extension of Time is approved.

The Director may grant additional extensions of time provided that the project is consistent with the General Plan, Development Code, Master Plans and Specific Plans.

9.66.050 – Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.66.060 – Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.66.070 – Fees

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The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter

Chapter 9.67 Planned Development Permits

Sections:

9.67.010 – Purpose
9.67.020 – Planned Development Permits
9.67.030 – Required Findings
9.67.040 – Concurrent Subdivision Applications
9.67.050 – Development Plans
9.67.060 – Amendment
9.67.070 – Revocation
9.67.080 – Fees

9.67.010 – Purpose

The Planned Development process is intended to facilitate development of properties where greater flexibility in design is desired to provide a more efficient use of land than would be possible through strict application of land use district regulations. This process is also intended to serve as an alternative site planning process that encourages the more creative and imaginative planning, consistent with the density and intensity of uses allowed by the General Plan, within the framework of a single cohesive development plan .

9.67.020 – Planned Development Permits

The Commission shall review and the Council shall act upon all initial applications for preliminary development plans and significant revisions to previously approved preliminary development plans for Planned Developments. However, a recommendation for denial by the Commission shall terminate any application for a Planned Development, unless it is appealed in accordance with the provisions of this Title. The Commission shall review and act upon all applications for final development plans for Planned Developments. The Development Review Committee shall review all applications for preliminary or final development plans prior to their review by the Commission or Council.

9.67.030 – Required Findings

Prior to approving a request for a Planned Development, the reviewing authority shall find that all of the following are true:

A. The proposed development is consistent with the General Plan and any applicable plan.

B. The physical characteristics of the site have been adequately assessed and that the site for the proposed development is adequate in size and shape to accommodate said use and all yards, open spaces, setbacks, walls and fences, parking areas, loading areas, landscaping and other features.

C. The site for the proposed development has adequate access, meaning that the site design and development plan conditions consider the limitations of existing streets and highways and provide improvement to accommodate the anticipated requirements of the proposed development.

D. Adequate public services and facilities exist, or will be provided in accordance with the conditions of development plan approval, to serve the proposed development and that the approval of the proposed development will not result in a reduction of such public services to properties in the vicinity to be a detriment to the public health, safety and welfare.

E. The proposed development, as conditioned, will not have a substantial adverse effect on surrounding property or the permitted use thereof, and will be compatible with the existing and planned land use character of the surrounding area.

F. The improvements required per the conditions of development plan approval, and the manner of development adequately address all natural and manmade hazards associated with the proposed development and the project site including, but not limited to, flood, seismic, fire and slope hazards.

G. The proposed development carries out the intent of the Planned Development provisions by providing a more efficient use of the land and an excellence of design greater than that which would be achieved through the application of conventional development standards.

9.67.040 – Concurrent Subdivision Applications

Applications for a Planned Development shall not constitute an application for subdivision. If a subdivision of land is proposed in conjunction with a Planned Development project, separate application, review and findings shall be made in accordance with the provisions of this Code.

In the event a tentative subdivision map application is concurrently filed with a Planned Development application, expiration of an approved or conditionally approved Planned Development site plan shall terminate all proceedings of any associated land use application. No final subdivision map or parcel map of all or any portion of the real property included within such a Planned Development site plan shall be filed for record without first processing a new Planned Development site plan.

9.67.050 – Development Plans

A detailed site plan or development plan shall be submitted with all Planned Development proposals. All such development plans shall contain sufficient detail to depict the manner in which the proposed development complies with the provisions of this article and that of Division 8 of this Title.

Planned Development requests for mixed use projects or projects with more than five hundred (500) dwelling units may be submitted in two stages. The first stage shall be referred to as a Preliminary Development Plan and the second stage shall be referred to as a Final Development Plan. Preliminary Development Plans and Final Development Plans are defined as follows:

A. **Preliminary Development Plan.** A preliminary Development Plan (PDP) functions as a development suitability analysis and a comprehensive plan of the proposed developments. The PDP:

1. Identifies and quantifies the constraints and opportunities for development as follows:

    a. The physical characteristics of the site,

    b. Available public services and facilities,

    c. The capacity of the existing circulation system, and

    d. The existing and planned land use of adjacent properties

2. Establishes a list of specific limits, parameters and planning objectives to guide development based on the identified development constraints and opportunities.

3. Describes one or more potential development schemes derived from the limits, parameters and planning objectives controlling the development. Each proposed development scheme shall describe:

    a. Proposed land uses and approximate distribution of such land uses,

    b. Proposed density of residential uses,

    c. Estimated population,

    d. Estimated service demands,

    e. The anticipated impact on the existing circulation system,

    f. The anticipated impact on the adjacent properties,

    g. The relationship of the plan to the various elements of the General Plan, and

    h. The anticipated types of uses.

4. Sets forth in the form of a written text, maps and/or diagrams, a detailed plan of development based upon the application of the established limits, parameters and planning objectives controlling development. Said plan shall describe in detail the following:

    a. Proposed land uses and building types, the functional arrangement of such uses and building types and relationship to size, site grading, circulation, lighting, paving, parking, screening, setbacks, recreation and open space areas, and adjacent properties,

    b. How the established limits, parameters and planning objectives have been adhered to,

    c. The level of public services and facilities required by the proposed development and the program for providing, operating and maintaining such services and facilities,

    d. Access and circulation requirements,

e. Known man-made and natural hazards and methods for mitigation of such hazards,

f. Significant natural features and areas to be retained for common open space, and provisions for the preservation, conservation, utilization and maintenance of such areas, and

g. How the plan conforms to the objectives of the General Plan and the Planned Development provisions of this Code.

B. Final Development Plan. The Final Development Plan is a detailed site plan which sets forth the location and dimensions of all uses and structures in sufficient detail to permit recordation and preparation of construction drawings.

The Final Development Plan shall comply with all approved Preliminary Development Plans. If no such Preliminary Development Plan has been approved, the Final Development Plan shall also meet the requirements for Preliminary Development Plans for the project site.

C. Application Procedures for Phased Development:

1. An applicant may file the Preliminary with the Final Development Plan, with the consent of the Director.

2. An application for a Preliminary Development Plan shall encompass all the land included within the Planned Development. A Final Development Plan may be for a portion of the land included within the Planned Development or a phase thereof, provided that:

   a. Each phase shall function as a complete and separate development from the remaining phases, and

   b. Any densities proposed or open space areas provided within the subject phase shall not result from a transfer of density from adjoining phases.

D. Pre-application Conference. Prior to the formal submission of a Planned Development application, the applicant shall meet with the Development Review Committee in order to acquaint the applicant with the procedural requirements of the Planned Development provisions of this Code and to discuss the general acceptability of the plan and its compatibility with applicable policies, issues and development regulations. The pre-application conference shall be required for mixed use, phased development plans only.

E. Conformance of Plans. Each Final Development Plan shall substantially conform to the Preliminary Development Plan.

9.67.060 – Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.67.070 – Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.67.080 – Fees

The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter

Chapter 9.68 Site Plan and Design Review

Sections:

9.68.010 – Purpose and General Plan consistency
9.68.020 – Applicability
9.68.030 – Authority
9.68.040 – Application Submittal Requirements
9.68.050 – Application Fee
9.68.060 – Investigation and Report
9.68.070 – Action by review Authority
9.68.080 – Required Findings
9.68.090 – Minor Modification of Previously Approved Site Plan and Design Review
9.68.100 – Lapse of Permits/Permit Expiration
9.68.110 – Extension of Time
9.68.120 – Amendment
9.68.130 – Revocation
9.68.140 – Development of Property Before Final Decision

9.68.010 – Purpose and General Plan consistency

The Site Plan and Design Review procedure allows the Town to evaluate proposed development and determine its consistency with the General Plan, the Development Code and applicable Town ordinances. The Site Plan and Design Review procedure is intended to protect and enhance the visual appeal, environment, economic stability and property values of the Town's residential, commercial, and industrial areas through the application of the provisions of this Code and the General Plan. Review of such uses is necessary and specific conditions of approval may be necessary to ensure that the uses are developed, operated, and located properly with respect to their effects on surrounding properties and so that any and all potentially adverse impacts are mitigated, and to ensure the general health, safety and welfare of the community through implementation of the General Plan through this Chapter.

9.68.020 – Applicability

The provisions of this Article apply to:

A. All new construction which is listed in the use classification charts for the underlying land use districts that require a Site Plan and Design Review.

B. Expansions which exceed the thresholds of Table 4.5 and are permitted subject to a Site Plan and Design Review as specified in the use classification charts for the underlying land use district shall require a Site Plan and Design Review.

TABLE 4.5
SITE PLAN AND DESIGN REVIEW
EXPANSION THRESHOLDS

SQUARE FOOTAGE OF EXISTING BUILDING	MAXIMUM SQUARE FOOTAGE	MAXIMUM PERCENTAGE
up to 5,000	1250 sq ft	50%
5,001 – 10,000	2000 sq ft	40%
10,001 +	2500 sq ft	25%

C. Change in use of an existing building

D. Projects which fall within the thresholds of the Site Plan and Design Review shall comply with the General Plan, the Development Code and applicable Town Ordinances and regulations, including but not limited to:

1. Half-width (½) street Improvements (curb, gutter, sidewalk, street lights, and pavement) on all streets fronting the project except as defined by the parameters of the Council policies regarding Street Reconstruction.

2. Onsite water retention of the incremental increase

3. Dedication of easements for drainage facilities, streets, trails, avigation easements as required by this code and any adopted plans.

4. Improvements to drainage facilities except as defined by the parameters of the Council policies regarding drainage facilities.

5. Assessment Districts Formation (including Landscape and Lighting, Street and Drainage Community Facilities District and Public Safety)

6. Utility Undergrounding, pursuant to adopted standards

7. Landscaping and Landscaping Plan regulations (greater than 500 square feet of landscape area require approval by Hi Desert Water District)

8. Commercial Design Guidelines

9. Outdoor Lighting regulations

10 Parking and screening requirements

11. Sign regulations

12. All other Development Code regulations

E. Expansions which fall within the thresholds specified in Table 4.5 shall be processed as a Land Use Compliance Review, pursuant to Chapter 9.66.

9.68.030 – Authority

A. Level of Review:

TABLE 4.6
SITE PLAN AND DESIGN REVIEW
LEVEL OF REVIEW

APPLICABILITY	LEVEL OF REVIEW	NOTICE REQUIREMENTS
New structures, including accessory structures and uses;	Commission	None
Expansion of an existing structure in conformance with Table 4.5;	Director	None
Expansion of an existing structure which exceeds the standards as established in Table 4;	Commission	None
Conversion of an existing structure (i.e. change in use);	Commission	None
Construction or conversion of a structure(s) to allow a mixed-use development.	Commission	None

Where the review for Site Plan and Design Review Permits is not specified, the Director shall determine the appropriate review authority.

B. Referral to Next Higher Review Authority. . The Commission may refer an application for a Site Plan and Design Review Permit to the Council based upon the following criteria:

1. Impact upon public services and facilities greater than typical for the type of project proposed;

2. Impact upon surrounding properties greater than typical for the type of project proposed;

3. Floor or site square footage greater than typically found in the type of project;

4. Intensity of use greater than typically found in the type of projects;

5. Operating Characteristics not typical of the type of project proposed.

6. Other factors including but not limited to public opposition to development of the project.

7. The need for Commission and or Council interpretation of the General Plan and/or Development Code as related to the project.

C. General Authority. The Commission is authorized to approve, approve with conditions, or deny applications for Site Plan and Design Review Permits in compliance with the procedures established in this Section. In approving an application for a Site Plan and Design Review Permit, the Commission may impose conditions to ensure compliance with this Code. Conditions may include, but shall not be limited to:

1. Requirements for special structure setbacks;

2. Open spaces;

3. Buffers:

4. Fences;

5. Walls and screening;

6. Requirements for the installation and maintenance of landscaping and erosion control measures;

7. Control of street improvements, other public infrastructure and related dedications;

8. Control of vehicular ingress and egress;

9. Control of traffic circulation;

10. Control of signs;

11. Control of hours of operation;

12. Control of potential nuisances;

13. Establishing standards for maintenance of buildings and grounds;

14. Establishment of development schedules and development standards;

15. Control of periodic review;

16. Control of architectural and/or building design

17. Any other conditions as may be deemed necessary to ensure the compatibility with surrounding uses, to preserve the public health, safety and welfare, and to enable the Commission to make the findings required by Section 9.68.080, *Required Findings.*

D. **Performance Guarantee.** In order to ensure implementation of conditions attached to a Site Plan and Design Review, the applicant may be required to furnish a surety in a form of an instrument of credit, money or surety bond in the amount fixed by the authority granting or modifying the Site Plan and Design Review Permit.

E. **Providing Required Improvements**. Whenever a Site Plan and Design Review is approved or modified subject to the condition that specified public improvements shall be installed by the applicant to meet Town standards and be accepted by the Town, the applicant may be required to execute an agreement approved by the Town to make such improvements prior to the time/construction events specified in the Site Plan and Design Review Permit.

F. **Conditions Declared Void.** Whenever any final judgment of a court of competent jurisdiction declares one or more of the conditions of a Site Plan and Design Review to be unconstitutional or

invalid, such decision shall not affect the validity of the approval as a whole, or any portion thereof other than the section so declared.

G. **Violation of Condition.** Whenever a Site Plan and Design Review Permit is approved or modified by the Commission subject to a condition(s), non-compliance with such conditions shall constitute a violation of this Code. Conditions which are not observed or which are violated may be enforced as provided in Chapter 9.82 or said Site Plan and Design Review Permit may be revoked or modified under Chapter 9.83, *Permit Amendments* and Chapter 9.84, *Permit Revocation*.

9.68.040 – Application Submittal Requirements

Applications for Site Plan and Design Review Permits shall be filed on a form prescribed by the Planning Division and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Commission to make the required findings.

9.68.050 – Application Fee

The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter.

9.68.060 – Investigation and Report

The Director shall cause an analysis of each application for a Site Plan and Design Review to be made. The level of detail of the analysis shall be appropriate to the type of project proposed and the needs of the Commission. The analysis shall examine the application's consistency with the content, intent and purpose of the General Plan, the Development Code, and any other applicable Town standards or policies. To insure effective implementation of General Plan policies and the provisions of this Code, applications may be reviewed by the Development Review Committee prior to consideration by the Commission. As a result of the analysis, the Director shall cause a report to be completed which shall include a listing of proposed conditions necessary to guarantee the public health, safety and welfare, should the proposed project be approved.

9.68.070 – Action by review Authority

Commission Action. Pursuant to Section 9.68.030, *Authority*, the Commission shall review each application for a Site Plan and Design Review. The applicant shall be provided with a copy of the Planning Division's report regarding the application prior to the Commission's consideration. The Commission shall approve, deny, or conditionally approve applications for Site Plan and Design Review. Decisions by the Commission shall be final unless appealed as provided in Chapter 9.81, *Appeals*.

9.68.080 – Required Findings

Before approving a Site Plan and Design Review Permit, the Commission shall find that the circumstances established below apply;

A. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of the land use district in which the site is located, and the development policies and standards of the Town;

B. That the location, size, design and architectural design features of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;

C. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of the development between adjacent land uses;

D. That the building site and architectural design is accomplished in an energy efficient manner;

E. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures.

F. That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

G. That the amount, location, and design of open space and landscaping conforms to the requirements of the Development Code, enhances the visual appeal and is compatible with the design and functions of the structure(s), site and surrounding area;

H. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;

I. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to be installed at the appropriate time to serve the project as they are needed;

J. That access to the site and circulation on and off-site is required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;

K. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;

L. That traffic improvements and/or mitigation measures have been applied or required in a manner adequate to maintain a Level of Service C or better on arterial roads, where applicable, and are consistent with the Circulation Element of the Town General Plan;

M. That there will not be significant harmful effects upon environmental quality and natural resources including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;

N. That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;

O. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity or be contrary to the adopted General Plan;

P. That the proposed development will comply with each of the applicable provisions of this code, and applicable Town policies; except approved variances.

9.68.090 – Minor Modification of Previously Approved Site Plan and Design Review

An approved Site Plan and Design Review Permit may be modified upon the request of the property owner, or by the Town. Minor Modifications may be approved by Director if it is determined that the changes would not affect the findings prescribed in Section 9.68.080, *Required Findings*, and that the subject of the proposed changes were not items of public controversy during the review and approval of the original permit; including modifications to phasing schedules for the project.

9.68.100 – Lapse of Permits/Permit Expiration

A. **Expiration.** A Site Plan and Design Review Permit approval shall expire three (3) years from the date the permit is approved unless it is otherwise conditioned or unless prior to the expiration of the three (3) years the following have occurred:

1. A building permit is issued and substantial construction is diligently pursued towards completion of the project which was the subject of the Site Plan and Design Review Permit application. After construction is commenced, if work is discontinued for a period of two (2) years, the Site Plan and Design Review Permit requires review and reauthorization by the Commission; or

2. A certificate of occupancy is issued for the structure which was the subject of the Site Plan and Design Review Permit application.

B. **Phased Projects.** Projects may be built in phases if so approved by the Commission or Director pursuant to Section 9.68.090 *Minor Modifications of Previously Approved Site Plan and Design Review*.

9.68.110 – Extension of Time

The Commission may grant extensions not to exceed three (3) years. Applications shall be made on a form to be provided by the Planning Division. Prior to the granting of an extension, the Planning Division shall review the previously approved project to ensure it is consistent with all current General Plan, Development Code and other Town Ordinances and that the findings for approval of a Site Plan and Design Review Permit in compliance with Section 9.68.080, *Required Findings*, can be made. Based upon this review, additional Conditions of Approval may be imposed upon the project by the review authority when the Extension of Time is approved.

2. The Commission may grant additional extensions of time provided that the project is consistent with the General Plan, Development Code, Master Plans and Specific Plans..

9.68.120 – Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.68.130 – Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.68.140 – Development of Property Before Final Decision

A building permit shall not be issued for, and no person shall commence to use, any structure until that structure and its accompanying development has received a Site Plan and Design Review in compliance with the provisions of this Chapter. In addition, no other permits shall be issued for any use or structure requiring a Site Plan and Design Review unless and until the Site Plan and Design Review has been approved.

Chapter 9.69 Special Use Permits

Sections:

9.69.010 – Purpose
9.69.020 – Applicability
9.69.030 – Procedures
9.69.040 – Application Submittal Requirements
9.69.050 – Application Fee
9.69.060 – Investigation and Report
9.69.070 – Required Findings
9.69.080 – Development of Property Before Final Decision

9.69.010 – Purpose

The Special Use Permit Review procedure allows the Town to evaluate proposed development and determine its consistency with the General Plan, the Development Code and applicable Town ordinances. The Special Use Permit Review procedure is intended to protect and enhance the visual appeal, environment, economic stability and property values of the Town's residential, commercial, and industrial areas through the application of the provisions of this Code and the General Plan. Review of such uses is necessary and specific conditions of approval may be necessary to ensure that the uses are developed, operated and located properly with respect to their effects on surrounding properties and so that any and all potentially adverse impacts are mitigated, and to ensure the general health, safety and welfare of the community through implementation of the General Plan through this Chapter. The Special Use Permit Review process is intended to preserve the Town of Yucca Valley's unique character and to implement the General Plan by creating a built environment that is consistent and compatible with the desert environment.

9.69.020 – Applicability

The provisions of the Chapter are applicable to:

A. All uses which are listed in the Permitted Land Use and Permit Requirements Tables for the underlying land use districts that require a Special Use Permit Review, including, but not limited to:

1. Bed and Breakfast Lodging

2. Animal Keeping, Breeding/Raising of densities greater than those specified by Section 9.08.020.

3. Exotic Animals

4. Private Kennels/Small Animals

5. Recycling Facilities

6. Large Family Day Care

7. Emergency Homeless Shelters

9.69.030 – Procedures

A. Director shall review and act upon requests for Special Use Permits subject to the findings and conditions for each use type as cited within the section of the Code that provides for said use.

B. Procedure: Staff Review With Notice.
Reviewing Authority: Director

C. When necessary, the Director may hold an advertised meeting to consider evidence and take testimony prior to acting upon an application for a Special Use Permit.

D. In approving an application for a Special Use Permit, the Director may impose conditions to ensure compliance with this Code.

E. Revocation of a Special Use Permit. Noncompliance with the conditions set forth in approving the permit shall be grounds for the reviewing authority to cancel and void any Special Use Permit. The reviewing authority shall give notice of such an action to the permittee. The permittee may appeal such a decision by filing an appeal as allowed and specified in Chapter 9.81, *Appeals*.

9.69.040 – Application Submittal Requirements

Applications for Special Use permits shall be filed on a form prescribed by the Planning Division and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Director to make the required findings.

9.69.050 – Application Fee

The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter.

9.69.060 – Investigation and Report

The Director shall cause an analysis of each application for a Special Use Permit to be made. The level of detail of the analysis shall be appropriate to the type of project proposed and the needs of the Planning Division. The analysis shall examine the application's consistency with the content, intent and purpose of the General Plan, the Development Code, and any other applicable Town standards or policies. As a result of the analysis, the Planning Division may include a listing of proposed conditions necessary to guarantee the public health, safety and welfare, should the proposed project be approved.

9.69.070 – Required Findings

Before approving a Special Use Permit, the Director shall find that the circumstances established below apply:

A. That the location, size, design, density and intensity of the proposed use is consistent with the General Plan, the purpose of the land use district in which the site is located, and the development policies and standards of the Town;

B. That the location, size, design and architectural design features of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;

C. That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

D. That quality in architectural design is maintained in order to enhance the visual desert environment of the Town and to protect the economic value of existing structures;

E. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to be installed at the appropriate time to serve the project as they are needed;

F. That access to the site and circulation on and off-site is required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;

G. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;

H. That there will not be significant harmful effects upon environmental quality and natural resources including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;

I. That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;

J. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be considered to be detrimental to the public health, safety and welfare of the community or be materially injurious to properties and/or improvements within the immediate vicinity or be contrary to the General Plan; and

K. That the proposed development will comply with each of the applicable provisions of the Development Code and applicable Town policies, except approved variances.

9.69.080 – Development of Property Before Final Decision

A building permit shall not be issued for, and no person shall commence to use, any structure until that structure and its accompanying development has received a Special Use Permit in compliance with the provisions of this Chapter. In addition, no other permits shall be issued for any use or structure requiring a Special Use Permit unless and until the Special Use Permit has been approved.

Chapter 9.70 Specific Plans

Sections:

9.70.010 – Purpose
9.70.020 – General Plan Consistency
9.70.030 – General Provisions for A Specific Plan District
9.70.040 – Application Procedure
9.70.050 – Required Findings
9.70.060 – Specific Plan Approval, Denial and Modifications
9.70.070 – Approval by Ordinance
9.70.080 – Dedication and Maintenance of Open Space
9.70.090 – Fees for Subsequent Development Approvals
9.70.100 – Specific Plan Consistency
9.70.110 – Environmental Exemption for Subsequent Development
9.70.120 – Specific Plan Amendment
9.70.130 – Specific Plan Revocation

9.70.010 – Purpose

The purpose of these Specific Plan provisions is:

A. To establish procedures for adoption, maintenance and administration of Specific Plans as allowed in accordance with the provisions of Sections 65450, et seq., of the California Government Code and as may be required for the systematic execution of the General Plan;

B. To provide a planning framework to guide future public and private developments and to promote flexibility while insuring economic viability and coherent community design;

C. To encourage the planned development of discrete neighborhoods and to permit comprehensive site and infrastructure planning and building design;

D. To encourage creative approaches to the use of land, through variation in the positioning of buildings and the appropriate mixing of land uses, activities and dwelling types;

E. To promote and create public and private open space as an integral part of land development design;

F. To reduce, through clustering and master planning, the amounts of public and private improvements normally required by developments;

G. To maximize the choice in types of housing and living environments available to Town residents; and

H. To allow for the non-sequential development of more remote areas in Yucca Valley provided community facilities, services, and infrastructure are supplied.

9.70.020 – General Plan Consistency

The General Plan provides for the adoption of Specific Plans in the Town where remoteness, environmental constraints or unique land use concerns require specific land use and/or design controls. All Specific Plans shall be consistent with the provisions of the adopted General Plan. Any proposed Specific Plan which is not consistent with the existing adopted General Plan designation may only be adopted concurrent with the adoption of the appropriate amendments to the General Plan necessary to maintain consistency.

9.70.030 – General Provisions for a Specific Plan District

The following provisions shall apply to the designation of a Specific Plan District. All other applicable provisions of the Town Development Code shall also apply. Where conflicts in regulations occur, the regulations specified in this Article shall supersede and apply.

A. Upon approval of a Specific Plan, the Specific Plan zoning designation shall be applied to the Zoning District Map for the properties included in the Specific Plan.

B. Specific Plan districts may provide innovative design and development standards that may vary from adopted Town standards and between Specific Plan Districts.

C. Specific Plans may combine several land uses in the development plan as long as the uses are consistent with the Land Use designations and goals and policies of the General Plan. Mixed uses may include any combination of residential, commercial, industrial, open space, and agricultural uses, and may occur among or within buildings as long as the uses are not incompatible with each other and with existing and potential uses surrounding the Specific Plan zone. The Commercial Mixed Use General Plan Land Use designation allows for a mix of commercial, office, and high density residential uses. Other mixes of land uses may require appropriate amendments to the General Plan necessary to maintain consistency.

D. Standards for building coverage, height, orientation, as well as light and air, sign placement and design, site planning, street furniture placement and design, setback requirements, open spaces, off-street parking, screening for Specific Plan uses, and other specified standards, shall be governed by the development standards set forth in the Specific Plan and other applicable codes and ordinances. Standards in an adopted Specific Plan may supersede the same or similar standards in other Town codes and ordinances. Where no standards are provided in a Specific Plan, adopted Town codes and standards shall apply.

E. The Specific Plan shall contain criteria providing for any required public and/or private open space and performance standards for the improvement and maintenance of such open space.

F. In accordance with Town ordinances, all electrical and telephone facilities, fire alarm conduits, street light wiring, cable television, and other wiring, conduits or facilities shall be placed underground. Underground electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities.

9.70.040 – Application Procedure

A. **General Requirements for a Specific Plan Proposal.** Property that is held in single or multiple ownership may be considered for a Specific Plan. The Town, property owner(s), or owner's representative, may initiate the Specific Plan.

B. **Pre-Submittal and Preparation of Specific Plans.** A pre-submittal application and a draft Specific Plan shall be submitted to the Planning Division before filing a formal Specific Plan application. A pre-application conference with the Planning Division is required prior to the filing of the formal Specific Plan application.

C. **Draft Specific Plan.** A draft Specific Plan application shall contain text and diagrams which include all of the elements outlined in State Government Code Sections 65451 and 65452. In addition, Specific Plans shall include an inventory of natural resources that are deemed to be significant to the project area and environmentally sensitive habitat areas, an analysis of existing infrastructure, and a proposal for detailed land uses, regulations, conditions, and programs as are necessary or convenient for the systematic implementation of the General Plan and its various elements as may be appropriate. The Town's Planning Division shall make available detailed guidelines for the preparation of Specific Plans. Specifically, a draft Specific Plan shall include the following information:

1. A survey of the property, showing existing features including trees, structures, fences and walls, streets, easements, utility lines, land uses, existing zoning, and existing ownership;

2. An illustrative plan and conceptual site plan of the development of the entire Specific Plan area delineated on one or more maps showing:

    a. Project land use, densities, existing and proposed streets, public use areas (schools, parks, fire stations, etc.), and open space and major landscape features;

    b. General Plan Land Use and Zoning designations,

    c. Where appropriate, a slope analysis, including the number of acres in each slope category.

3. A general outline of the Specific Plan text describing the goals, objectives, and policies/concept; a tabulation of the land area to be devoted to various uses, including open space; a calculation of the overall density and the average densities per net residential acre of the various residential areas; and a summary of development standards for residential, commercial and/or industrial uses when those uses are proposed;

4. The text shall include development standards to be implemented as performance standards for the Specific Plan, including:

    a. A statement proposing the method of maintaining common open areas and facilities;

    b. A description of the proposed grading program including a topographic map showing areas of major grading;

c. Identification of proposed future ownership and maintenance of streets, driveways, sidewalks, pedestrian ways and open space areas;

d. A brief discussion of the project as it relates to each of the General Plan elements, including Land Use, Circulation, Housing, Open Space/Conservation, Noise, and Safety.

e. Proposed standards for height, open space, building intensity and public improvements.

f. A statement and detailed description for the method of financing for the installation of any public infrastructure.

5. After reviewing the draft Specific Plan, the Director shall furnish the applicant with written comments regarding the review conference(s), including appropriate recommendations to inform and assist the applicant prior to preparing the final Specific Plan.

D. **Final Specific Plan.** The final Specific Plan shall contain the information contained in the draft Specific Plan and other additional information as determined to be necessary by the Director, Commission, or Council. This additional information may include, but shall not be limited to, the following:

1. Copies of legal documents required for dedication or reservation of public or private open space, for the creation of homeowners' associations for open space maintenance, or for the creation of financing districts;

2. A fiscal impact analysis as may be required by the Director,

3. A market study discussing the viability of the proposed project as may be required by the Director.

9.70.050 – Required Findings

Before taking any action to approve a Specific Plan, the Planning Commission and Council shall find that the proposed Specific Plan conforms to the following criteria:

A. The proposed Specific Plan meets all of the following content criteria:

1. Specifies through text and/or diagrams, the distribution, location, and extent of the uses of land, including open space, within the area covered by the plan;

2. Specifies through text and/or diagrams, the proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan;

3. Specifies through text and/or diagrams, the standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;

4. Specifies a program of implementation measures including regulation, programs, public works projects, and financing measures necessary to carry out Findings (A)(1), (A)(2) and (A)(3) above;

5. Includes a statement of the relationship of the Specific Plan to the General Plan, Development Code, and any other applicable plan or ordinance;

6. Addresses any other subjects which are necessary for implementation of the General Plan.

B. The location and design of the proposed development will be consistent with the goals and policies of the General Plan and with any other applicable plan or policies adopted by the Town and with any other applicable provisions of the Development Code.

C. The proposed location will allow the development to be well integrated with or adequately buffered from its surroundings, whichever may be appropriate.

D. All vehicular traffic generated by the development, either in phased increments or at full build-out, will be accommodated safely and without causing significantly increased congestion upon adjoining streets.

E. The final Specific Plan will identify a methodology to allow land uses to be adequately serviced by existing or proposed public facilities and services. In appropriate circumstances, and as provided elsewhere by this Development Code, the Town may require that suitable areas be reserved for uses such as schools, parks and pedestrian ways; public open spaces may be dedicated or reserved by private covenant for the common use of residents, establishments or operations in the development.

F. In accordance with the requirements of the *California Environmental Quality Act* (CEQA), environmental impacts have been reduced to a level of non-significance; or in the case where such impacts remain, a statement of overriding considerations must be adopted to justify the merits of project implementation after certification of the Environmental Impact Report.

G. The proposed Specific Plan shall contribute to a balance of land uses so that local residents may work and shop in the community in which they live.

H. The proposed Specific Plan will not be detrimental to the public health, safety, or welfare of the Town.

9.70.060 – Specific Plan Approval, Denial and Modifications

A. Upon receipt in proper form of a Specific Plan application, or direction of the Council, and following Planning Division review as provided for in this Chapter, public hearings shall be set before the Commission and Council.

B. The Commission may recommend to the Council approval or denial of a proposed Specific Plan, or may recommend approval subject to specified modifications or conditions.

C. The Council may approve, approve with modifications or conditions, or deny the final Specific Plan provided that, in overruling a Commission recommendation for denial, the Council shall make the findings listed in Section 9.70.050, *Required Findings*.

D. Minor changes to an approved final Specific Plan may be made by the Director, provided that such changes are non-significant and consistent with all of the purposes and character of the approved final Specific Plan. Minor changes shall not include:

1. Changes in the densities established in the approved final Specific Plan;

2. Changes to the boundaries of the subject property, or any use as shown on the approved final Specific Plan;

3. Substantial changes in the locations or amounts of land devoted to specific land uses.

E. All modifications or amendments to an approved final Specific Plan, other than minor changes as provided for in Subsection 9.70.060(D) above, shall be processed as a Specific Plan amendment and shall be subject to all Specific Plan procedures.

9.70.070 – Approval by Ordinance

Approval of the final Specific Plan and the establishment of Specific Plan (SP) zoning shall be by ordinance. Approval of zoning to the SP district shall include, but not be limited to, the following stipulations:

A. Unless otherwise specified in the final Specific Plan, the regulations provided in the Town Development Code shall apply. Approval of the Specific Plan shall not be interpreted as waiving compliance with other provisions of the Town Development Code, except in those instances where the Specific Plan expressly regulates a use.

B. The approved final Specific Plan shall be filed in the office of the Town Clerk and in the office of the Director.

C. No building within the boundaries of an approved Specific Plan shall be constructed, maintained or used other than for the purpose specified in the approved final Specific Plan.

9.70.080 – Dedication and Maintenance of Open Space

A. The Commission and Council, based upon a recommendation from the Yucca Valley Parks, Recreation and Cultural Commission, may as a condition of approval, require that suitable areas for parks be dedicated or in-lieu fees be paid as determined for the entire Specific Plan area, and in compliance with applicable ordinances and requirements.

B. The Commission and Council, based upon a recommendation from the Morongo Unified School District, may as a condition of approval, require that land for schools and other public uses be

reserved for public use, or be reserved for the owners and residents in the development by deed restrictions.

C. Whenever group or common open space is provided, whether required or not, the Commission and Council shall, as a condition of approval, require that some provision be made for applicable perpetual maintenance of such open space.

D. The form of any instrument used to assure open space maintenance shall be approved by the Town Attorney and Director as to form and content. Agreements and covenants running with the land shall include provisions for charges to be levied for carrying out the specified functions and administrative expenses of such perpetual maintenance. The Town may be party in interest in any such development for purposes of enforcing the provisions of this Chapter, including bringing of any enforcement actions deemed appropriate by the Town.

E. To assure that open space is provided within Specific Plan areas, public and open space sites shall be dedicated in advance of development (prior to the issuance of building permits) whenever such dedication is so required, even in those cases when a subdivision map is not required. Other appropriate dedications for street, utility and flood control rights-of-way and for easements and other public purposes may also be required before the issuance of the first building permit, or when otherwise determined to be appropriate by the Council.

9.70.090 – Fees for Subsequent Development Approvals

A. Specific Plan Fees
The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter

B. Fees for Subsequent Development Approvals
When the Town prepares a Specific Plan for an area, the Council may establish a special fee upon applicants seeking approval of development projects which are located within said Specific Plan area. The fees shall be sufficient, in the aggregate, to recover the costs of preparation, adoption, and administration of the Specific Plan. The fees to each applicant shall be a prorated amount in accordance with the applicant's relative benefit derived from the plan.

9.70.100 – Specific Plan Consistency

No land use application may be approved, no public works projects may be approved, and no land use designation within an adopted Specific Plan may be amended unless it is consistent with the adopted Specific Plan.

9.70.110 – Environmental Exemption for Subsequent Development

If a Specific Plan is prepared and receives approval of a Program EIR, then all subsequent development within the boundaries of the Specific Plan are exempt from further environmental review, unless otherwise required by the California Environmental Quality Act.

9.70.120 – Specific Plan Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.70.130 – Specific Plan Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

Chapter 9.71 Temporary Special Event Permit

Sections:

9.71.010 – Purpose
9.71.020 – Applicability
9.71.030 – Permit Required
9.71.040 – Application Submittal Requirements
9.71.050 – Procedures
9.71.060 – Insurance Requirements
9.71.070 – Rules and Regulations
9.71.080 – Appeals
9.71.090 – Referral by the Director
9.71.100 – Permits/Licenses Nontransferable
9.71.110 – Posting
9.71.120 – Requests for Law Enforcement Services at Special Events
9.71.130 – Temporary Special Event Amendment
9.71.140 – Temporary Special Event Revocation

9.71.010 – Purpose

This Chapter provides development processes for temporary special events to ensure that basic health, safety, and community welfare standards are met, while approving suitable temporary special events with the minimum necessary conditions or limitations consistent with the temporary nature of the activity. A Temporary Special Event Permit allows short-term activities that might not meet the normal development or use standards of the applicable zoning district, but may be considered acceptable because of their temporary nature. These activities are regulated to avoid incompatibility between the proposed activity and surrounding areas.

9.71.020 – Applicability

The provisions of this Chapter are applicable to:

B. All uses which are listed in the Permitted Land Use and Permit Requirements Tables for the underlying land use districts that require a Temporary Special Event Permit, including, but not limited to:

1. Church, tent revival meetings

2. Circus and carnivals

3. Fairs, concerts, parades, exhibits, festivals, art shows, car shows, street fairs, or similar events

4. Farmers market

5. Season holiday sales facilities including Christmas Tree lots, pumpkin patch, etc.

9.71.030 – Permit Required

Except as otherwise provided by the Town of Yucca Valley or state law, no person or entity shall operate, maintain, conduct, advertise, or provide admission for any temporary special event within the Town of Yucca Valley without possessing an unexpired, unsuspended and unrevoked permit from the Planning Division for each such temporary special event.

A. Procedure: Staff Review without Notice
B. Review Authority: Director

9.71.040 – Application Submittal Requirements

A. Applications for Temporary Special Event Permits shall be filed on a form prescribed by the Director and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Director to make the required findings.

B. The application processing fees shall be set from time to time by resolution of the Council. In addition, the applicant shall reimburse the Town for the actual cost of providing any necessary personnel, including but not limited to, police and fire personnel to the applicant for the purpose of assisting in the event.

C. To ensure clean up and restoration of the site, an applicant may be required to post a deposit at the time the application is submitted. Upon the completion of the event and inspection of the site by the Town, the deposit may be returned to the application if the cleanup and restoration of the site has been determined by the Town to be sufficient.

9.71.050 – Procedures

D. Upon the receipt of a completed application and all related fees, the following will occur:

1. The processing of a complete Temporary Special Event Permit application will generally vary depending on the complexity. If such activities interfere with traffic or involves potential public safety hazards, an application may take more than ten working days to allow for inter-departmental or agency notification.

2. Each application for a Temporary Special Event Permit shall be analyzed at staff level to assure that the application is consistent with this Chapter and any other applicable Town standards or policies. If such activities interfere with traffic or involve potential public safety hazards the application shall be forwarded to the appropriate agencies for comment.

3. At the completion of the Planning Section's review, a permit may be issued by the Director including a listing of conditions necessary to assure the preservation of public health, safety and welfare.

9.71.060 – Insurance Requirements

A. Before any permit is issued for a church tent revival meeting, circus, large concert, parade, carnival, fair, exhibit, festival, art show, car show, street fair, farmers, market or similar type of event, , the applicant shall provide the Town with evidence of a policy of liability insurance issued by an admitted insurer in an amount of not less than $1,000,000. This policy shall meet all requirements of the Town of Yucca Valley, including listing the Town as additionally insured on the endorsement.

B. The applicant shall enter into a hold harmless and indemnification agreement provided by the Town prior to the issuance of any permit.

9.71.070 – Rules and Regulations

A. **Change of Date.** Upon the request of the applicant, the issuing authority shall have the power, upon a showing of good cause, to change the date for which the permit has been issued provided established limitations are complied with in respect to time and location.

B. **Conditions of Approvals.** The conditions of approval shall be based upon the following criteria:

1. The health, safety, and welfare of all persons;

2. Avoidance of undue disruption of all vehicle and pedestrian circulation within the affected area;

3. The safety of property within the Town;

4. Compliance with all other applicable agency regulations;

5. If an event is held within a parking area, the event shall not substantially alter the existing circulation pattern of the site or impact traffic movement with adjacent or surrounding public roadways.

6. The event shall not obstruct any existing handicap accessible parking space. Sidewalks shall be maintained at a minimum width of 4 feet to provide for handicap access.

7. Where an activity takes places within an unimproved (dirt) area, some form of dust control will need to be provided as approved by the Town.

8. The event is limited to a duration that is no more than the maximum allowed duration (see Table 3-24), or as determined appropriate by the review authority.

9. The site is physically adequate for the type, density, and intensity of use being proposed, including provision of services (e.g. sanitation and water), public access, and the absence of physical constraints.

10. The design, location, size, and operating characteristics of the proposed use are compatible with the existing land uses on-site and in the vicinity of the subject property.

11. The temporary use or activity will be removed and the site restored as necessary to ensure that no changes to the site will limit the range of possible future land uses otherwise allowed by this Title.

12. Adequate temporary parking will be provided in order to accommodate the vehicle traffic generated by the temporary use or special event either on-site or at alternate locations acceptable to the review authority.

13. The applicant provides appropriate sanitary and medical facilities, security and safety measures, and solid waste collection and disposal to the satisfaction of the Director.

14. The use or event will comply with all applicable provision of local, State and Federal laws or regulations.

15. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat.

16. Temporary Signs. One temporary sign per street frontage is allowed as part of the Special Event Permit. For additional signage, see Section 9.36.100, *Temporary Signs* regarding temporary sign standards.

17. Special Event Monitoring and Security.

    a. The Director or the Commission, as a condition of approval, may require monitoring of the special event by appropriate Town Departments and/or third parties. Such monitoring shall be at the expense of the applicant, with any associated payment required in full at least 15 days prior the first day of the subject event.

    b. Facility use deposits will be considered on a case-by-case basis to evaluate potential damage to Town streets, parks, or other public property. The Town shall evaluate the potential for damage and may require a cash bond or other guarantee for removal of the temporary use, cleanup, repair and restoration of the activity site within seven days of the conclusion of the special event. Said guarantee shall be in an amount which is sufficient to cover the estimated costs of administration, steam cleaning, sidewalk repair, storm drain cleanout, and other associated cleanup or repair operations. All facility use deposits shall be at the expense of the applicant, with any associated payment required in full at least 15 days prior the first day of the subject event.

18. Consumption of Alcoholic Beverages at Special Events.

    a. Verification of permits from the State Department of Alcoholic Beverage Control is required for the temporary service or sale of alcoholic beverages at a special event. Such verification shall be provided by the applicant at least 15 days prior the first day of the subject event.

b. All other requirements of the Town of Yucca Valley and the State Department of Alcoholic Beverage Control regarding the selling and consumption of alcohol must be met to the satisfaction of the Director.

19. Any other pertinent factors affecting the operation of the temporary special event, at the discretion of the Director, will be addressed to ensure the orderly and efficient operation of the proposed use or event, in compliance with the intent and purpose of this Chapter.

C. **Additional Regulations.** From time to time, the Director may recommend, as deemed necessary, rules and regulations to implement the provisions of this section. Such rules and regulations shall have the force of law and failure to comply shall be considered a violation of the provisions of this section. The rules and regulations to be adopted shall be implemented with the following intent:

1. Maintain the health and safety of persons and property within the Town.

2. Avoid undue disruption of persons and traffic within the affected areas of Town.

9.71.080 – Appeals

Any person aggrieved or affected by a decision of the Director in denying a Temporary Special Event Permit may appeal to the Commission in writing within ten days after notice of the decision is given.

Any person aggrieved or affected by a decision of the Commission in denying a Temporary Special Event Permit may appeal to the Council in writing within ten calendar days after notice of the decision is given. The decision of the Council shall be final.

9.71.090 – Referral by the Director

If in the judgment of the Director, a proposed temporary special event may have a substantial adverse impact on public health, safety or welfare, the Director may elect not to approve a Temporary Special Event Permit and may refer the application for disposition by the Commission at its next regularly scheduled meeting.

9.71.100 – Permits/Licenses Nontransferable

Any permit issued pursuant to this chapter is not transferable to any other person, organization or place.

9.71.110 – Posting

Every permit required by these regulations shall be conspicuously posted upon the premises of the temporary special event.

9.71.120 – Requests for Law Enforcement Services at Special Events

Any person or entity required to obtain a permit in accordance with the provisions of this chapter may request law enforcement services to preserve the peace at special events. Such application shall be made to the Sheriff's Department and shall be in writing, stating the name and address of the applicant, the

place where the special event is to be held, the estimated number of persons to be present and the purpose of the special event. Upon receipt of said application, the Sheriff's Department shall determine whether law enforcement services are necessary to preserve the peace, and if the Sheriff's Department so determines, and if the services will not reduce the normal and regular on-going service that the Town would otherwise provide, the Sheriff's Department shall contract with the applicant to provide the services at an amount to include all costs.

The Town may require as a Condition of Approval the Applicant to obtain law enforcement services at the event.

9.71.130 – Temporary Special Event Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.71.140 – Temporary Special Event Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

Chapter 9.72 Temporary Use Permits

Sections:

9.72.010 – Purpose
9.72.020 – Applicability
9.72.030 – Procedures
9.72.040 – Application
9.72.050 – Required Findings
9.72.060 – Conditions of Approval
9.72.070 – Use of Property Before Final Decision
9.72.080 – Temporary Use Amendment
9.72.090 – Temporary Use Revocation

9.72.010 – Purpose

This Chapter is intended to establish regulations and procedures for the review of temporary accessory uses and for temporary uses related to current and ongoing construction activities that are not otherwise permitted or regulated in this Development Code in order to minimize any adverse effects on surrounding properties and infrastructure or on the public health, safety and welfare.

9.72.020 – Applicability

The provisions of this Chapter are applicable to:

C. All uses which are listed in the Permitted Land Use and Permit Requirements Tables for the underlying land use districts that require a Temporary Use Permit, including, but not limited to:

1.. Construction Yards-Off Site

2.. Temporary Residential Quarters

3Temporary Non-Residential Quarters

4. Temporary Construction Office Quarters

5. Temporary Real Estate Model Home/Sales Office

6. Temporary On your Lot Builder Model Home/Sales Office

9.72.030 – Procedures

A. The Director shall review and act upon all requests for Temporary Use Permits (TUP) or extensions thereof, subject to the findings and conditions specified for each use by the section of this Code that provides for said use.

B. The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter

C. Temporary Use Permits shall be first issued for a period of time not to exceed twelve (12) months. Extensions to such permits may be granted for additional periods of time, each of which shall not exceed twelve (12) months. A Temporary Use Permit that is extended shall comply with the provisions, procedures, findings and conditions specified by this Code.

1. A Temporary Use Permit shall not be extended by any reviewing authority for any period of time to exceed five (5) years after the date the Temporary Use Permit was first issued, unless acted upon by the Planning Commission. The Planning Commission retains the authority to grant Temporary Use Permit extensions beyond five (5) years.

2. Director may approve such permits or extensions of such permits for shorter periods of time and/or subject to conditions, where required by this chapter or where it is determined reasonable and necessary to do so.

3. Prior to issuing a Temporary Use Permit extension or renewal for the last allowed period of time (normally between the fourth and fifth year), the permittee shall submit and obtain approval by the Director of a plan of action to either remove or replace the subject temporary use with a legally established use.

4. A temporary use structure which does not have a valid and current permit is hereby declared to be a public nuisance, subject to the enforcement provisions of this Code and other applicable laws.

5. A change of ownership or operator of a use or structure subject to a Temporary Use Permit or change of structure or modification of the structure or use allowed on a parcel subject to a Temporary Use Permit shall not affect the time periods established by this chapter to allow such temporary uses or structures.

6. When the last period of time allowed by this Chapter has lapsed, the Temporary Use Permit and any extensions thereof shall be considered void. A temporary use or structure that was allowed on a subject parcel previously by a Temporary Use Permit may not be reinstated by a new Temporary Use Permit for any time period beyond the final period of time that would have been allowed by the original Temporary Use Permit.

D. Procedure: Planning Division Review Without Notice
Reviewing Authority: Director

E. Cancellation of a Temporary Use Permit. Noncompliance with the conditions set forth in approving the permit shall be grounds for the reviewing authority to cancel and void any Temporary Use

Permit. The reviewing authority shall give notice of such an action to the permittee. The permittee may appeal such a decision by filing an appeal as allowed and specified in this Chapter.

F. Performance Bond. The Director may require cash deposit or other surety to defray the costs of cleanup of a site in the event the applicant fails to leave the property in a presentable and satisfactory condition, or to guarantee removal and/or reconversion of any temporary use to a permanent use allowed in the zoning district in which it is located.

9.72.040 – Application

A. Applications for Temporary Use Permits shall be filed on a form prescribed by the Director and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Director to make the required findings.

B. To ensure clean up and restoration of the site, an applicant may be required to post a deposit at the time the application is submitted. Upon the completion of the event and inspection of the site by the Town, the deposit may be returned to the application if the cleanup and restoration of the site has been determined by the Town to be sufficient

9.72.050 – Required Findings

The Director may approve, modify or conditionally approve a Temporary Use Permit application only when the following findings can be made:

A. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger or otherwise constitute a risk to the public health, safety or welfare;

B. The proposed site 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 site;

C. The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use will or could reasonably be expected to generate; and

D. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the Director.

9.72.060 – Conditions of Approval

A. Authority. In approving an application for a Temporary Use Permit, the Director may impose conditions deemed necessary to ensure that the permit will be in accordance with the findings required by Section 9.72.050 above. These conditions may involve any pertinent factors affecting the operation of such temporary event or use, and may include, but shall not be limited to:

1. Provision for temporary parking facilities, including vehicular ingress and egress;

2. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;

3. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;

4. Provision for sanitary and medical facilities;

5. Provision for solid, hazardous and toxic waste collections and disposal;

6. Provision for security and safety measures;

7. Regulation of signs;

8. Submission of a performance bond or other surety device, satisfactory to the Director, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time and that the property will be restored to its former condition;

9. A requirement that the approval of the requested Temporary Use Permit is contingent upon compliance with applicable provisions of the Town Municipal Code; and

10. Any other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accordance with the intent and purpose of this Chapter.

9.72.070 – Use of Property Before Final Decision

Uses requiring a Temporary Use Permit shall not commence, and building permits shall not be issued for any structure accompanying such use until such use has received a Temporary Use Permit in compliance with the provisions of this Chapter. Permits shall not be issued unless and until the applicable use and/or structure has been approved and that approval has become final.

9.72.080 – Temporary Use Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.72.090 – Temporary Use Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

Chapter 9.73 Variance Review

Sections:

9.73.010 – Procedures
9.73.020 – Variance Amendment
9.73.030 – Variance Revocation

9.73.010 – Procedures

A. Provisions for Variances (exceptions to standards) set forth in this code are established to insure that any property, because of special circumstances, such as size, shape, topography, location, or surroundings, shall be accorded privileges commonly enjoyed by the other properties in the same vicinity, pursuant to Government Code Section 65906.

B. The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter

C. Procedure: Public Hearing
Reviewing Authority: Commission

D. A public hearing is required to consider evidence and take testimony prior to acting upon a request for variances and establish any necessary conditions of approval.

E. Prior to approving a request for a variance, the reviewing authority shall find that the following are true:

1. The granting of such variance will not be materially detrimental to other properties or land uses in the area and will not subsequently interfere with the present or future ability to use solar energy systems.

2. There are exceptional or extraordinary circumstances or conditions applicable to the property or to an intended use that do not apply to other properties in the same district or vicinity.

3. The strict application of the land use district deprives such property of privileges enjoyed by other properties in the vicinity or in the same land use district.

4. The granting of the variance is compatible with the objectives, policies, general land uses and programs in the General Plan the Development Code and any applicable plan or other ordinance.

9.73.020 – Variance Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.73.030 – Variance Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

Chapter 9.74 Reasonable Accommodations

Sections:

9.74.010 – Purpose
9.74.020 – Applicability
9.74.030 – Review Authority
9.74.040 – Definitions
9.74.050 – Notice of Availability
9.74.060 – Application
9.74.070 – Decision
9.74.080 – Required Findings
9.74.090 – Expiration, Time Extension, Violation, Discontinuance
9.74.100 – Amendments
9.74.110 – Appeals

9.74.010 - Purpose

In accordance with federal and state fair housing laws, it is the purpose of this Chapter to provide reasonable accommodations in the Town's zoning and land use regulations, policies and procedures when needed to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities.

9.74.020 - Applicability

Reasonable accommodation in the land use and zoning context means providing flexibility in the application of land use regulations, policies and procedures or waiving certain requirements for individuals with disabilities or developers of housing for people with disabilities, when necessary to eliminate barriers to housing opportunities.

9.74.030 - Review Authority

The Community Development Director (Director) is hereby designated to approve, conditionally approve, or deny all applications for a reasonable accommodation, except as prescribed under Section 83.030930 (C) Applications below.

9.74.040 - Definitions

A. Disability. An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.

B. Reasonable Accommodation. Reasonable accommodation in the land use and zoning context means providing flexibility in the application of land use and zoning regulations, policies, practices and procedures, or waiving certain requirements to individuals with disabilities or developers of housing for people with disabilities when it is necessary to eliminate barriers to housing opportunities.

9.74.050 - Notice to the Public of Availability of Process

Notice of the availability of reasonable accommodation shall be prominently displayed in the public areas of the Community Development Dept., advising the public of the availability of the procedure for eligible individuals. Town employees shall direct individuals to the display whenever they are requested to do so or reasonably believe that individuals with disabilities or their representatives may be entitled to a reasonable accommodation.

9.74.060 - Application

A. Applicant. A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a disability. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability.

B. Application. An application for a reasonable accommodation from a regulation, policy or procedure shall be made on a form provided by the Town. No fee shall be required for a request for reasonable accommodation, but if the project requires another discretionary permit, then the prescribed fee shall be paid for all other discretionary permits.

C. Other Discretionary Permits. If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval, then the applicant may file the request for reasonable accommodation together with the application for other discretionary permit or approval. The processing procedures of the discretionary permit shall govern the joint processing of both the reasonable accommodation and the discretionary permit.

D. Required Submittals. An application for reasonable accommodation shall include the following:

1. Request shall be made on a form provided by the Town and shall include the following information:

   a. Name and address of the individual(s) requesting reasonable accommodation.
   b. Name and address of the property owner.
   c. Address of the property for which accommodation is requested

2. Documentation that the applicant is:

   a. An individual with a disability,
   b. Applying on behalf of one or more individuals with a disability, or
   c. A developer or provider of housing for one for more individuals with a disability.

3. Identification of the specific exception or modification to the regulation, policy or procedure requested by the applicant.

4. Documentation that the specific exception or modification requested by the applicant is necessary to provide one or more individuals with a disability equal access to housing.

5. Any other information that the Director reasonably concludes is necessary to determine whether the findings required by Section 9.74.080 can be made so long as any request for information regarding the disability of the individuals benefitted complies with Fair Housing Law protections and the privacy rights of the individuals affected.

9.74.070 - Decision

A. Requests for reasonable accommodation shall be reviewed by the Director using the criteria set for in Section 9.74.080 *Findings*.

B. The Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either approve, conditionally approve or deny a request in accordance with the required findings

C. If necessary to reach a determination on the request for reasonable accommodation, the Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

D. The Town may consider, but is not limited to the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability with equal access to housing:

1. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.

2. Whether the individual(s) with a disability will be denied equal access to the housing of their choice absent the accommodation.

3. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of particularities of the relevant market and market participants.

4. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.

E. The Town may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the Town's zoning program.

1. Whether the requested accommodation would fundamentally alter the character of the neighborhood.

2. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.

3. Whether granting the requested accommodation would substantially undermine any express purpose of the Town's General Plan or any applicable Specific Plan.

4. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

F. Rules While Decision is Pending. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

G. Effective Date. No reasonable accommodation shall become effective until the decision to grant such accommodation shall have become final by reason of the expiration of time to make an appeal. In the event an appeal is filed, the reasonable accommodation shall not become final unless and until a decision is made by the Planning Commission on such appeal.

9.74.080 – Required Findings

The written decision to approve, conditionally approve or deny a request for reasonable accommodation shall be based on the following findings, all of which are required for approval:

A. The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.

B. The requested accommodation is necessary to provide one or more individuals with a disability an equal access to housing.

C. The requested accommodation will not impose an undue financial or administrative burden on the Town.

D. The requested accommodation will not result in fundamental alteration of the Towns zoning program.

E. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

In making these findings, the Director may approve alternative reasonable accommodations which provide an equivalent level of benefit to the applicant.

9.74.090 - Expiration, Time Extension, Violation, Discontinuance

A. Expiration. Any reasonable accommodation approved in accordance with this Chapter shall expire within twenty-four (24) months from the effective date of approval or at an alternative time specified as a condition of approval unless:

1. A building permit has been issued and construction has commenced,
2. A certificate of occupancy has been issued,
3. The use is established, or
4. A time extension has been granted.

B. Time Extension. The Director may approve a time extension for a reasonable extension for good cause for a period or periods not to exceed three years from the effective date of approval. An application for a time extension shall be made in writing to the Director no less than thirty (30) days or more than ninety (90) days prior to the expiration date. Notice of the Directors decision on a time extension shall be sent to the applicant. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process

C. Violation of Terms. Any reasonable accommodation approved in accordance with this code may be revoked if any of the conditions or terms of such reasonable accommodation are violated or if any law or ordinance is violated in connection herewith.

D. Discontinuance. A reasonable accommodation approval shall lapse if discontinued for a period of one hundred eighty (180) consecutive days. If the disabled person initially occupying a residence for whom a reasonable accommodation was made vacates the structure, the reasonable accommodation shall remain in effect only if the Director determines that:

1. The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code, and
2. The accommodation is necessary to give another disabled individual an equal opportunity to occupy the dwelling

The Director may request the applicant or his or her successor-in-interest to the property to provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within ten (10) days of the date of a request by the Director shall constitute grounds for discontinuance by the Town of a previously approved reasonable accommodation.

9.74.100 - Amendments

A request for changes in conditions of approval of a reasonable accommodation, or a change to plans that would affect a condition of approval shall be treated as a new application. The Director may waive the requirement for a new application if the changes are minor, do not involve substantial alterations or addition to the plans or the conditions of approval, and are consistent with the intent of the original approval.

9.74.110 - Appeals

A. Within thirty (30) days of the date of the Directors written decision, an applicant may appeal an adverse decision. Appeals shall be made in writing.

B. If an individual needs assistance in filing an appeal on an adverse decision, the Town will provide assistance to ensure that the appeals process is accessible.

C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by the applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

D. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

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Section 2: Repeal of County Code as Adopted and Amended by the Town: The Town Council hereby repeals Sections 83.010105 thru 83.0103.15, Sections 83.010325 thru 83.010335, Section 83.010505, Sections 83.020105 thru 83.020210, Sections 83.030805 thru 83.030855, Sections 83.030145 thru 83.030175, Sections 83.030205 thru 83.030230, Sections 83.030310 thru 83.030325, Section 83.030405, Section 83.030505, Section 83.030605 Sections 83.030705 thru 83.030765, Sections 83.030905 thru 83.030955 of Division 3 of Title 8 from the Yucca Valley Development Code and Sections 41.151 thru 41.1569 from Chapter 15, Division 1 Title 4 of the Yucca Valley Municipal Code.

Section 3. Severability: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 4. Certification; Publication: The Town Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the Town of Yucca Valley, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the Town Clerk in accordance with Government Code § 36933.

Section 5. Effective Date: This Ordinance shall become effective thirty (30) days from its adoption.

APPROVED AND ADOPTED this 15th day of October, 2013.

MAYOR

APPROVED AS TO FORM:

TOWN ATTORNEY

ATTEST:

TOWN CLERK

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Lesley R. Copeland, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 243 as duly and regularly introduced at a meeting of the Town Council on the 17th day of September, 2013, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 15th day of October, 2013, by the following vote, to wit:

Ayes:	Council Members Huntington, Leone, Lombardo, Rowe and Mayor Abel
Noes:	None
Abstain:	None
Absent:	None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Yucca Valley, California, this 16th day of October, 2013.

Town Clerk of the Town of
Yucca Valley