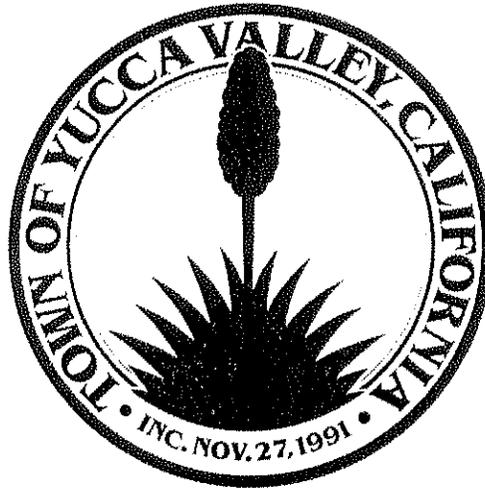


TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING



*The Mission of the Town of Yucca Valley is to
provide a government that is responsive to the needs and
concerns of its diverse citizenry and
ensures a safe and secure environment
while maintaining the highest quality of life*

TUESDAY
AUGUST 27, 2013
6:00 p.m.

YUCCA VALLEY COMMUNITY CENTER, YUCCA ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284

* * * *

PLANNING COMMISSION MEMBERS

*Tim Humphreville, Chairman
Vickie Bridenstine, Vice Chairman
Jeff Drozd, Commissioner
Warren Lavender, Commissioner
Steve Whitten, Commissioner*

AGENDA

MEETING OF THE TOWN OF YUCCA VALLEY PLANNING COMMISSION 6:00 P.M., TUESDAY, AUGUST 27, 2013

The Town of Yucca Valley complies with the Americans with Disabilities Act of 1990. If you require special assistance to attend or participate in this meeting, please call the Town Clerk's office at (760) 369-7209 at least 48 hours prior to the meeting.

If you wish to comment on any subject on the agenda, or any subject not on the agenda during public comments, please fill out a card and give it to the Planning Commission secretary. The Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.

CALL TO ORDER:

ROLL CALL: Vickie Bridenstine, Vice Chairman
Jeff Drozd, Commissioner
Tim Humphreville, Chairman
Warren Lavender, Commissioner
Steve Whitten, Commissioner

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Action: Move by _____ 2nd by _____ Voice Vote _____.

PUBLIC COMMENTS

In order to assist in the orderly and timely conduct of the meeting, the Planning Commission takes this time to consider your comments on items of concern, which are not on the agenda. When you are called to speak, please state your name and community of residence. Please limit your comments to three minutes or less. Inappropriate behavior, which disrupts or otherwise impedes the orderly conduct of the meeting, will result in forfeiture of your public comment privileges. The Planning Commission is prohibited by State law from taking action or discussing items not included on the printed agenda.

PUBLIC HEARING:

1. DEVELOPMENT CODE AMENDMENT, DCA 06-13, ARTICLE 4

Article 4 establishes procedures for processing applications including, but not limited to, General Plan Amendments, Conditional Use Permits, Site Plan Reviews and all other land use permits issued by the Town

RECOMMENDATION: That the Planning Commission:

- A. Finds that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town's Permitting Procedures regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 06-03 meets the exemption criteria which states "that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA"

- B. Recommends that the Town Council adopts the Ordinance, and 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

Action: Moved by _____ 2nd by _____ Voice Vote _____

DEPARTMENT REPORTS:

2. HOME OCCUPATION PERMITS

RECOMMENDATION: That the Planning Commission discuss and provide direction to staff regarding home occupation permit regulations.

3. WIND ENERGY CONVERSION SYSTEMS

RECOMMENDATION: That the Planning Commission discuss and provide direction to staff regarding wind energy conversion regulations.

4. UTILITY UNDERGROUNDING

RECOMMENDATION: That the Planning Commission discuss and provide direction to staff regarding utility undergrounding regulations.

CONSENT AGENDA:

5. MINUTES

A request that the Planning Commission approve as submitted the minutes of the meetings held on May 14, June 11, June 25 and July 09, 2013

All items listed on the consent agenda are considered to be routine matters and may be enacted by one motion and a second. There will be no separate discussion of the consent agenda items unless a member of the Planning Commission or Town Staff requests discussion on specific consent calendar items at the beginning of the discussion. Public requests to comment on consent calendar items should be filed with the Deputy Town Clerk before the consent agenda is called.

STAFF REPORTS AND COMMENTS:

FUTURE AGENDA ITEMS:

COMMISSIONER REPORTS AND REQUESTS:

Commissioner Drozd
Commissioner Lavender
Commissioner Whitten
Vice Chairman Bridenstine
Chairman Humphreville

ANNOUNCEMENTS:

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, September 10, 2013.

ADJOURN

PLANNING COMMISSION STAFF REPORT

To: Chairman & Planning Commission
From: Shane Stueckle, Deputy Town Manager
Date: August 21, 2013
For Council Meeting: August 27, 2013

Subject: Development Code Amendment, DCA-06-13
Draft Development Code Article 4
Permit Procedures

Prior Commission Review: The Planning Commission received a presentation on Article 4 at its meetings of April 9, 2013.

Recommendation: That the Planning Commission:

- A. Finds that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town's Permitting Procedures regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 06-03 meets the exemption criteria which states "that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA".

- B. Recommends that the Town Council adopts the Ordinance, and 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.

<input type="checkbox"/> Department Report	<input checked="" type="checkbox"/> Ordinance Action	<input type="checkbox"/> Resolution Action	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Consent	<input type="checkbox"/> Minute Action	<input type="checkbox"/> Receive and File	<input type="checkbox"/> Study Session

Executive Summary: As part of the Development Code Update project, the Planning Commission reviewed Article 4 at its meetings of April 9, 2013 and August 13, 2013.

Article 4 establishes procedures for processing applications including, but not limited to, General Plan Amendments, Development Code Amendments, Conditional Use Permits, Site Plan Reviews, and all other land use permits issued by the Town.

Order of Procedure:

- Request Staff Report
- Open the Public Hearing,
- Request Public Comment
- Close the Public Hearing
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Voice Vote)

Discussion: Article 4, Permit Procedures, establishes the review authority and permit processing procedures for the land use permits established in the Yucca Valley Development Code.

Eighteen Chapters are established within Article 4, and those Chapters are structured in the following manner:

Chapter 9.60	Permit Procedures	General Provisions
Chapter 9.61	Application Processing Procedures	
Chapter 9.62	Amendments to Development Code and Zone Changes	
Chapter 9.63	Conditional Use Permit	
Chapter 9.64	Development Agreements	
Chapter 9.65	General Plan Amendments	
Chapter 9.66	Land Use Compliance Review	
Chapter 9.67	Planned Development Permits	
Chapter 9.68	Site Plan and Design Review	
Chapter 9.69	Special Use Permits	
Chapter 9.70	Specific Plans	
Chapter 9.71	Temporary Special Events Permits	
Chapter 9.72	Temporary Use Permits	
Chapter 9.73	Variance Review	
Chapter 9.74	Reasonable Accommodation	
Chapter 9.75	Home Occupation Permits	
Chapter 9.76	Sign Permits	
Chapter 9.77	Native Plants	

Chapters for Home Occupation Permits, Sign Permits and Native Plant Permits will be returned to the Planning Commission following the Commission’s review of those regulations and standards in their entirety.

Chapter 9.60: Permit Procedures-General Provisions

Chapter 9.60 establishes the types of review procedures, including public hearings, staff review with notice, and staff review without notice. This Chapter also, as identified in Table 4.1, establishes the review authority for land use and zoning decisions.

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	Approve
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. 9.65	Recommend	Recommend	Decision
Home Occupation Permits	Ch.9.75	Decision	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
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
Surface Mining & Reclamation	Ch. 9.64.160 & 9.63	Recommend	Decision	Appeal
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
Native Plant Permits	Chapter 9.77	Decision	Appeal	Appeal

Sign Permits	Chapter 9.76	Decision	Appeal	Appeal
Reasonable Accommodations	Chapter 9.74	Decision	Appeal	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), except for those decisions addressed in Note (3).				
(3) The Commission may refer consideration of an appeal to the Council, except for those decisions involving only a Variance, determination as to the completeness of an application, the determination to approve or deny a Home Occupation Permit, an Accessory Wind Energy Permit, a Subdivision Sign Location Plan, or the requirement for preparation of an Environmental Impact Report (EIR). In these instances the Commission’s decision shall be the final and conclusive decision. The Council will not accept nor consider an appeal of these Commission decisions.				
(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 9.81(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]).				

Chapter 9.61: Application Processing Procedures

Chapter 9.61 establishes requirements for complete applications, application abandonment, processes and procedures for the Development Review Committee (DRC), environmental review, public hearing noticing requirements, and standards for formal communication with the applicant during the review and decision processes.

Chapter 9.62: Amendments to Development Code and Zone Changes

Chapter 9.62 establishes processes and review authority for review and action upon Development Code and Zone Changes. This includes who may initiate a request, as well as includes both map as well as text changes. Public hearings are required before both the Planning Commission and Town Council for Development Code amendments and Zone Changes.

Chapter 9.63: Conditional Use Permit

Chapter 6.63 establishes processes and review authority for Conditional Use Permits, as well as required findings and extensions of time. It should be noted that this Chapter establishes the process as well for Surface Mining and Reclamation Permits, which shall be processed through a Conditional Use Permit application.

**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

The Commission is the review authority for Conditional Use Permits. The Director is the review authority for projects that meet the criteria of Table 4.2, which are processed as Land Use Compliance Review applications.

**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	50%
10,001 +	2500 sq ft	50%

Chapter 9.64: Development Agreements

Chapter 9.64 establishes the processes and standard for entering into Development Agreements. Development agreements are commonly used for larger projects and provide assurances to the applicant/developer as well as to the local agency. Public hearings for development agreements are held by both the Planning Commission and Town Council,

and they are subject to annual review.

Chapter 9.65: General Plan Amendments

General Plan amendment processes are very straight forward. Public hearings must be held by both the Planning Commission and Town Council. Each General Plan Element may be amended four times annually, and amendments shall be processed concurrently.

Chapter 9.66: Land Use Compliance Review

Land Use Compliance review provides a mechanism for staff level review and approval of minor expansions to those uses which require Conditional Use Permit or Site Plan Review, in accordance with 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	50%
10,001 +	2500 sq ft	50%

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.

These expansions may be approved without the requirements for off-street improvements, on-site retention, assessment district formation, utility undergrounding and additional landscaping.

One proposed change to the existing Land Use Compliance Review standards is the following.

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

The Town's current regulations do not include this standard. This standard is recommended so that individual projects do not continually expand their projects without

appropriate review and development requirements.

Chapter 9.67: Planned Developments

Planned development permits provide flexibility in project design and may be used for obtaining project amenities that may not otherwise be available. These may include active or passive open space, enhanced infrastructure (flood control as one example), and preservation of hillsides, ridgelines, biological resources including habitat and wildlife corridors. The Planning Commission and Town Council review Planned Developments through the public hearing process. If the subdivision of land is proposed, the subdivision shall be processed concurrently with the Planned Development.

Chapter 9.68: Site Plan and Design Review

Site Plan and Design review is the continuation of the Town’s Site Plan Review procedures and standards. These are most commonly used for commercial development. The Planning Commission is the review authority and a public hearing is **not** required.

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

Similar to Conditional Use Permit uses that desire to expand, minor expansions may be approved by the Director in accordance with the following guidelines.

**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	50%
10,001 +	2500 sq ft	50%

Chapter 9.69: Special Use Permits

Special Use Permits are for the purpose of reviewing bed and breakfast lodging, animal keeping of densities greater than provided by the Development Code, for the keeping of exotic animals, private and small kennels, recycling facilities, large family day cares, and emergency homeless shelters. These permits are acted upon by the Director with notice. This Chapter outlines the required findings and investigations and reports that are necessary.

Chapter 9.70: Specific Plans

This Chapter continues with the Town's existing Specific Plan regulations. Specific plans, similar to Planned Developments, provide the opportunity for flexibility in development standards and site planning, while providing increased opportunity in community/neighborhood design. Specific plans must be reviewed through a public hearing and by both the Planning Commission and Town Council.

Chapter 9.71: Temporary Special Events

Temporary Special Events include church/tent revival meetings, circuses and carnivals, fairs, concerts, parades, exhibits, festivals, art shows, car shows, street fairs, farmers markets, and seasonal holiday sales including Christmas trees sales, pumpkin patches, etc. These permits are reviewed and acted upon by the Director.

Chapter 9.72: Temporary Use Permits

Temporary Use Permits include batch plants, off-site construction yards, temporary residential and non-residential quarters, temporary construction office quarters, temporary

real estate model homes or sales offices, and temporary on your lot building model home sales offices. As structured in the current Draft, these uses are approved by the Director. Staff is recommending that Batch Plants be reviewed and acted upon by the Planning Commission.

Chapter 9.73: Variance Review

Variations allow for deviation from set standards based upon specific findings prescribed by state law. The Planning Commission is the review authority for Variations, and the Planning Commission must hold a public hearing in the decision making process.

Chapter 9.74: Reasonable Accommodations:

The Planning Commission held a public hearing on May 7, 2013 and recommended the Town Council adopt the Reasonable Accommodations Ordinance. The Council has adopted the Ordinance. Chapter 9.78 places Reasonable Accommodations into the new Development Code, and no changes are proposed. A process to address development of housing for individuals with disabilities is mandated by state law. This Chapter provides the necessary process. Reasonable Accommodations are reviewed and acted upon by the Director.

The final three chapters, Signs, Home Occupation Permits, and Native Plants, will be brought forward following Planning Commission review of those complete ordinances, including development standards (Article 2 and Article 3).

Alternatives: The Planning Commission may elect to make recommended changes to the Article.

Fiscal impact: This Ordinance is included in the Town's contract for the Development Code Update project. No additional costs are incurred beyond existing contract services.

Attachments:

Article 4, Permit Processing

Article 4: Permit Procedures

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- 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	Approve
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	-
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*, except for those decisions addressed in Note (3).
- (3) The Commission may refer consideration of an appeal to the Council, except for those decisions involving only a Variance, determination as to the completeness of an application, the determination to approve or deny a Home Occupation Permit, an Accessory Wind Energy Permit, a Subdivision Sign Location Plan, or the requirement for preparation of an Environmental Impact Report (EIR). In these instances the Commission’s decision shall be the final and conclusive decision. The Council will not accept nor consider an appeal of these Commission decisions.
- (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, *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.

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	50%
10,001 +	2500 sq ft	50%

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	50%
10,001 +	2500 sq ft	50%

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

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	50%
10,001 +	2500 sq ft	50%

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.
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 or 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.

Chapter 9.75 Home Occupation Permits

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Chapter 9.76 Sign Permits

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Chapter 9.77 Native Plant Permits

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HOME OCCUPATION PERMIT

ORDINANCE NO. 178

AN ORDINANCE OF THE TOWN COUNCIL OF
THE TOWN OF YUCCA VALLEY, CALIFORNIA,
AMENDING TITLE 8, DIVISION 4, CHAPTER 6
SECTION 84.0615 OF THE SAN BERNARDINO
COUNTY CODE AS ADOPTED AND AMENDED BY
THE TOWN OF YUCCA VALLEY RELATING TO
HOME OCCUPATIONS (DCA-06-05)

The Town Council of the Town of Yucca Valley does ordain as follows:

SECTION 1. Development Code Amended.

1.1 Title 8, Division 4, Chapter 6 Section 84.0615 of the San Bernardino County Code as adopted and amended by the Town of Yucca Valley is hereby further amended to read in its entirety as follows:

"84.0615

Home Occupations

84.0615

(a) **PURPOSE AND INTENT:**

The purpose and intent of this Section is to establish regulations allowing for the operation of certain business activities in single and multi-family residential neighborhoods. The standards and requirements are intended to ensure that home based business operations do not alter the character of any residential neighborhood, or create impacts or activities that are not typically and commonly associated within residential neighborhoods. It is the intent of this Section to allow for commercial uses that are accessory and incidental to the primary purpose of residential homes, which is that of providing a habitable dwelling for the owner or occupant as the primary use of the residential dwelling unit. Home Occupation permits may be allowed in multi-family zoning and in multi-family units, including duplexes, tri-plexes, and apartment units.

(b) No person shall engage in a home occupation without first obtaining a special use permit from the Planning Division consistent with the requirements of this Chapter, unless otherwise exempt.

(c) The Director of the Community Development Department, or his designee, shall review all applications for a Home Occupation Permit to determine if the proposed use meets all of the standards of subsection 84.0615 (j). If all standards are met after complying with the notice provisions of this subsection, the Community Development Director shall make the following findings prior to issuance of the permit:

- (1) That the proposed use is not prohibited;
 - (2) That the proposed use will comply with all applicable standards;
 - (3) That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety, and general welfare;
 - (4) That the proposed use will be consistent with any applicable specific plan.
 - (5) That the proposed use will not alter the character of the neighborhood and will not induce physical or socioeconomic changes to the neighborhood that are inconsistent with the goals and objectives of the General Plan, and the development code, and that do not create characteristics more closely associated with commercial, office or industrial land use activities.
- (d) (1) In accordance with Section 83.010330 *Notice of Pending land Use Decision*, notice shall be given, except that 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.
- (2) Home Occupation Permits are subject to review by the Community Development Director annually, or as a result of any written complaint.
- (3) Telecommuting and internet or electronic based businesses, or other similar activities that are transparent inside the residential structure, and do not involve customer to site, employees, or any structural alteration are exempt from permitting requirements.
- (e) Subject to the authority and discretion of the Director, Home occupations that meet the following standards, after appropriate application and subject to a field investigation, may be permitted without notice or a hearing. Alternatively, the Director may schedule a hearing or forward the matter to the Planning Commission for action. The Director may establish any other special condition of approval for any Home Occupation Permit as necessary to carry out the intent of this subsection.
- (1) There is no visible or external evidence of the home occupation. The dwelling was not built, altered, furnished or decorated for the purpose of conducting the home occupation in such a manner as to change the residential character and appearance of the dwelling, or in such a manner as to cause the structure to be recognized as a place where a home occupation is conducted;

- (2) There are no displays, for sale, or advertising signs on the premises;
- (3) There are no signs other than one (1) unlighted identification sign containing the name and address of the owner attached to the building not exceeding two (2) square feet in area per street frontage;
- (4) All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs;
- (5) The home occupation does not encroach into any required parking, setback, or open space area;
- (6) Outside storage of stock, merchandise, scrap supplies, or other materials or equipment on the premises shall not be visible from surrounding properties or public rights of way. Any storage of hazardous, toxic, or combustible materials in amounts exceeding those typically found in residential uses shall be prohibited;
- (7) There is complete conformity with Fire, Building, Plumbing, Electrical, and Health Codes and all applicable State and Town laws and ordinances. Activities conducted and equipment or material used shall not change the fire safety or occupancy classification of the premises;
- (8) No pedestrian or vehicular traffic is generated in excess of that customarily associated with a residential use and the neighborhood in which it is located;
- (9) The Home Occupation has a current business registration certificate;
- (10) If the home occupation is to be conducted on rental property, the property owner's written authorization for the proposed use has been obtained prior to the submittal for a Home Occupation Permit;
- (11) The garage has not and shall not be altered externally;
- (12) The Home Occupation does not create or cause noise in excess of noise standards established for residential land use districts, dust, light, vibration, odor, gas, fumes, toxic or hazardous materials, smoke, glare, electrical interference, fluctuations in the line voltage outside the structure, or other hazards or nuisances;
- (13) There are no sales of products on the premises.
- (14) No customers or clientele may visit the residence.
- (15) All employees shall be members of the resident family and shall reside on the premises.
- (16) Up to twenty-five percent (25%) or two hundred fifty (250) square-feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the home occupation.
- (17) No employees and no vehicle parking, other than that normally associated with a single family residential structure, is provided.

- (f) Home occupation permit applications meeting the following standards shall be subject to notice and hearing. The Community Development Director is the review authority, and the Director may forward the application to the Planning Commission for consideration.
- (1) There may be sales of products on the premises.
 - (2) Customers may visit the residence and then only by appointment. This is restricted to a single appointment at a time. The monthly average of the total trip count for business activities shall not exceed 10 trips per day in all Land use Districts.
 - (3) All employees of the home occupation, except one (1), shall be members of the resident family and shall reside on the premises provided all the required findings can be made, in all RS land use districts. All employees of the home occupation, except two (2), shall be members of the resident family and shall reside on the premises provided all the required findings can be made in all RL land use districts. The applicant must demonstrate that the lot can accommodate the parking of all personal and employee vehicles on-site.
 - (4) Up to twenty-five percent (25%) or two hundred fifty (250) square-feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the home occupation in all RS land use districts. Up to thirty-five percent (35%) or five hundred (500) square-feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the use in all RL land use districts.
 - (5) Operating hours of a home occupation shall be between the hours of 7:00 a.m. and 8:00 p.m.
- (g) **Prohibited Home Occupations.** The following uses are not incidental to or compatible with residential activities and therefore shall not be allowed as home occupations:
- (1) Animal hospitals;
 - (2) Automotive and other vehicle repair (body or mechanical), upholstery, painting, or storage;
 - (3) Junk yards;
 - (4) Medical and dental offices, clinics, and laboratories;
 - (5) Mini-storage;
 - (6) Storage of equipment, materials, and other accessories to the construction trades;
 - (7) Welding and machining.
 - (8) Cabinet shop.

- (9) Uses which may include the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the Building, Fire Code, or adopted restrictions.
- (h) The Home Occupation Permit may be revoked by the Community Development Director if any one of the following findings can be made that there exists a violation of a condition; regulation or limitation of the permit and said violation is not corrected within ten (10) days after a notice of violation is served on the violator or after repeated violations. The permit shall not be revoked without notice of hearing ten days in advance of the hearing for consideration of permit revocation. The Director may schedule the revocation hearing for consideration by the Planning Commission.
- (1) That the permitted home occupation use has changed in kind, extent or intensity from the use which received an approved Home Occupation Permit;
 - (2) That the use has become detrimental to the public health, safety, welfare or traffic, or constitutes a nuisance;
 - (3) That the use for which the permit was granted has ceased or was suspended for six (6) or more consecutive calendar months;
 - (4) That the use is not being conducted in a manner consistent with applicable operating standards described in Section 84.0618 *Operating Standards*, of this Chapter;
 - (5) That the permit was obtained by misrepresentation or fraud;
 - (6) That one (1) or more of the conditions of the Home Occupation Permit have not been met;
 - (7) That the property owner or tenant fails to permit entry onto the premises to allow periodic inspections by representatives of the Town at any reasonable time;
 - (8) That the home occupation is in violation of any statute, law, ordinance, or regulation;
 - (9) That two (2) or more valid complaints from at least two (2) different parties have been filed against the home occupation within any six (6) month period, and it is found that the use is causing harm or unreasonable annoyance or is otherwise detrimental to other property or its use in the area.
 - (10) That the applicant has not obtained a current business registration certificate from the Town.
 - (11) That the proposed use altered the character of the neighborhood and/or induced physical or socioeconomic changes to the neighborhood that are not consistent with the goals and objectives of the General Plan, that are not consistent with the development code, and that create characteristics more closely associated with commercial, office or industrial land use activities.

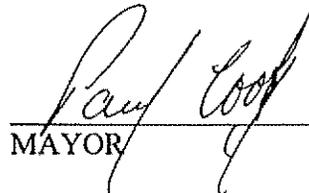
- (i) **Appeal.** Any affected person may appeal a decision of the Director of Community Development to the Planning Commission. Appeals shall be filed with the Community Development Department within ten (10) days following the date of the action appealed. Upon receipt of the notice of appeal, the Community Development Director shall schedule the matter on the agenda for the next possible regular Planning Commission meeting. The Planning Commission may affirm, revise or modify the action appealed from the Town staff. Any decision of the Planning Commission may be appealed to the Town Council within ten (10) days following the Commission action.
- (j) **General Standards.** All home occupations shall comply with all of the following operating standards at all times:
- (1) There shall be no visible or external evidence of the home occupation. No dwelling shall be built, altered, furnished or decorated for the purpose of conducting the home occupation in such a manner as to change the residential character and appearance of the dwelling, or in such a manner as to cause the structure to be recognized as a place where a home occupation is conducted;
 - (2) There shall be no displays, sale, or advertising signs on the premises;
 - (3) There shall be no signs other than one (1) unlighted identification sign containing the name and address of the owner attached to the building not exceeding two (2) square feet in area per street frontage;
 - (4) All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs;
 - (5) The home occupation shall not encroach into any required parking, setback, or open space area;
 - (6) There shall be no outside storage of stock, merchandise, scrap supplies, or other materials or equipment on the premises visible from surrounding properties or public rights of way. Any storage of hazardous, toxic, or combustible materials in amounts exceeding those typically found in residential uses shall be prohibited;
 - (7) There shall be complete conformity with Fire, Building, Plumbing, Electrical, and Health Codes and to all applicable State and Town laws and ordinances. Activities conducted and equipment or material used shall not change the fire safety or occupancy classification of the premises;
 - (8) No home occupation shall generate pedestrian or vehicular traffic in excess of that customarily associated with a residential use and the neighborhood in which it is located;
 - (9) No home occupation shall be initiated until a current business registration certificate is obtained;
 - (10) A Home Occupation Permit shall not be transferable;

- (11) If the home occupation is to be conducted on rental property, the property owner's written authorization for the proposed use shall be obtained prior to the submittal for a Home Occupation Permit;
- (12) The garage shall not be altered externally;
- (13) No use shall create or cause noise in excess of noise standards established for residential land use districts, dust, light, vibration, odor, gas, fumes, toxic or hazardous materials, smoke, glare, electrical interference, fluctuations in the line voltage outside the structure, or other hazards or nuisances;
- (14) The Director may establish any other special condition of approval for any Home Occupation Permit as necessary to carry out the intent of this Chapter.

SECTION 2. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

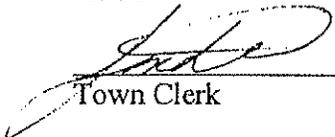
SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 5th day of January, 2006.



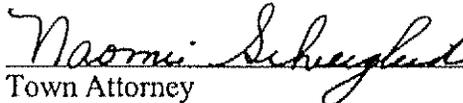
 MAYOR

ATTEST:



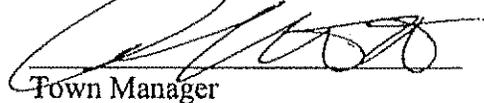
 Town Clerk

APPROVED AS TO FORM:



 Town Attorney

APPROVED AS TO CONTENT:



 Town Manager

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 178 as duly and regularly introduced at a meeting of the Town Council on the 8th day of December, 2005, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 5th day of January, 2006, by the following vote, to wit:

Ayes: Council Members Leone, Luckino, Mayes, Neeb and Mayor Cook

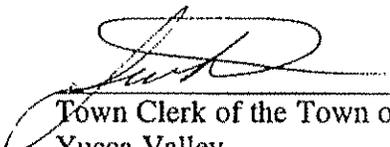
Noes: None

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 17th day of January, 2006.

(SEAL)



Town Clerk of the Town of
Yucca Valley

WIND ENERGY CONVERSION SYSTEMS

Commission Humphreville moved to approve the Home Occupation Permit, HOP 01-11 based upon the information contained within the staff report and findings. Commissioner Graham seconded. Motion carried unanimously on a voice vote.

DEPARTMENT REPORTS:

2. DISCUSSION ON THE REGULATION OF WIND ENERGY GENERATORS AND PRESENTATION OF A DRAFT ORDINANCE.

A request from staff that the Commission discuss and provide direction on regulations regarding wind energy generators

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Associate Planner Kirschmann presented the project discussion to the meeting. A PowerPoint presentation was projected on the screen during the discussion, a printed copy of which is preserved in the meeting file. At this time the Town has no regulations for the installation of renewable energy systems such as wind generators. The Town has recently received a number of inquiries for the installation of both roof mounted and freestanding wind generators, and since there are no regulations, staff is seeking feedback and direction on the draft regulations.

Deputy Town Manager Stueckle advised that there are examples of several of these generators between here and Apple Valley mounted on poles as high as 50 to 60 feet, noting if we have these on every parcel in Town it will have an impact.

Commissioner Alberg questioned the 2 acre lot size limitation and whether or not the units are loud. Planner Kirschmann advised the concern would be of height and the appearance of the systems on every residence in small lot areas. He noted the units are generally fairly quiet.

Commissioner Graham questioned how many inquiries the Town has had, expressed concern regarding the term "fall zone" noting there is no such requirement for cell towers or flag poles. He noted he feels it should be required that a Civil Engineer design the foundation and mounting. He also questioned the height restriction of 35'. Deputy Town Manager Stueckle advised there have been between 10-50 requests, and advised that engineering calculations would be necessary for both the roof and pole mounted systems, and the fall zone requirement is designed to insure that a pole mounted design would not fall on someone else's property. It is an additional safety element built into a number of ordinances in other jurisdictions. With regard to height, Planner Kirschmann advised that the Town's maximum height limitation is 35' and note that generally the poles are 33' plus the height of the blades would bring the height to 39' so the poles would have to be cut to accommodate the Town's requirement.

Commissioner Humphreville stated the footing should be engineered so that a fall zone isn't

necessary, and expressed concern about eliminating the ability of owners with smaller properties to install a system. He recommended looking at limiting the size and height of the system to the size of the property. He also questioned what the permit fee would be. Planner Kirschmann advised the fees would not be established in the ordinance, but determined by Building and Safety. Deputy Town Manager Stueckle advised the two types of fees would be WECS permit application and building permit based on valuation. Commissioner Humphreville recommended that there needs to be discussion regarding what is necessary to make the system useful, rather than talking about limiting height.

Chair Lombardo expressed concern about the number of units, noting he wants the systems to be effective and useful to those wanting to do it. The concern about overpopulation is understandable, however it is important to look at alternative energy forms and make them available for as many people as easily as possible. He is in favor of maybe allowing a larger quantity of them if appropriate, noting it should be based on lot size. The minimum lot size might be dropped so more people can participate, and the Commission should look at the possibility of allowing only roof mounted systems for smaller parcels. He also thinks that a fall zone may not be necessary if the foundation is well engineered.

Commissioner Graham expressed concern regarding the requirement to place the systems in the rear of the property noting there are many variables in the community and many lots don't have enough rear property area. He suggested requiring the rear half of the property and keep them out of the front setback. He also expressed concern about the recommendation for underground wiring, noting that is fine for pole mounted but there should be a variance for roof mounted units.

Commissioner Alberg shared the other Commissioners concern regarding lot size.

John Wright, and Andy Canada, Yucca Valley, distributed information regarding the units that will be retained in the file and answered questions of the Commissioners.

Larry Calendar, Yucca Valley, spoke in favor of allowing these systems on ½ acre or more lots.

Chair Lombardo requested Commissioner input regarding the impact of these units on the community.

Commissioner Alberg commented this is a green energy alternative and will be a benefit.

Commissioner Graham commented regarding the need to get as much public input as possible.

Commissioner Humphreville stated it is important to get plenty of public input noting the Commission can look at limiting the height of the structure on smaller lots but he would hate to limit it to people who have an acre or more.

Chair Lombardo commented there is consensus to receive more public input, lot size needs to be reviewed with the possibility of those with smaller lots having the option to install the units. With regard to allowing multiple units on one pole, the consensus was that multiple units may be ok especially if the lot size is bigger.

Deputy Town Manager Stueckle stated that, potentially Lancaster's ordinance provides for units on smaller residential lots.

Chair Lombardo questioned the ability of allowing a variance. Deputy Town Manager Stueckle advised that it is desirable to set standards by lot size etc., noting that ordinances call out precise measurements but they can be written with some flexibility. Commissioner consensus was to add flexibility in the language.

Dana Collins, Joshua Tree, expressed concern about the visual impact of allowing the units on smaller properties and the view shed on surrounding properties. She likes the 2 acre minimum lot size and the 110% setback.

Mary Ann Hill, Yucca Valley, expressed concern about the visual aspect on surrounding property, they should not be any more than 35' and the fall zone is very important.

Andy Canada, Yucca Valley, advised the units are designed to be small so they are not obtrusive.

Sarann Graham, Yucca Valley, commented there have been a lot of good points made tonight and the suggestions about getting public input would be recommended. She noted the number of units required to be useful changes the whole nature of the issue.

Commissioner Alberg advised he is looking forward to what staff brings back for review.

Chair Lombardo questioned if property owners have the ability to construct these units at this time. Planner Kirschmann advised there are several potential applications that may come in but there is the ability to apply for a conditional use permit.

Deputy Town Manager Stueckle have heard all commissions comments this evening in terms of way to look at standards will bring back and notice public hearing

3. CONTINUATION OF DISCUSSION OF REVISED TENTATIVE TRACT MAP APPLICATION AND FOLLOW UP TO COMMISSION QUESTIONS

A request from staff that the Commission receives and provides any additional feedback and comment on general timeframes for processing Tentative Tract Map applications and provide feedback and comment on the Standard Conditions of Approvals.

2. **CONTINUATION OF PUBLIC HEARING ON THE REGULATION OF WIND ENERGY CONVERSION SYSTEMS (WECS) AND PRESENTATION OF A DRAFT ORDINANCE.**

A request from staff that the Commission discuss and provide direction on regulations regarding wind energy conversion systems.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Associate Planner Kirschmann presented the project discussion to the meeting. A PowerPoint presentation was projected on the screen during the discussion, a printed copy of which is preserved in the meeting file. The draft ordinance requires a Land Use Compliance Application with 300' property owner notification. Roof mounted units are allowed on any residential lot, the maximum height is 35' from grade to the top of the WECS, but no higher above the roof line than is necessary for blade clearance, and a maximum of 5 turbines are allowed. Requirements for freestanding units are as follows: 20,000 square foot net; parcels zoned RS-2 or lower densities; allows units to be installed on lots zoned lower densities than RS-2, however all surrounding properties must meet the requirements to install WECS on their property; project will be conditioned that if the site or an abutting lot is subdivided, and no longer meets the requirements to have a WECS, the system will be removed; shall be located behind the front of the primary structure; shall meet setbacks as required by Land Use District, Tract Map, Specific Plan, Composite Development Plan, etc.; height not to exceed 52.5' unless a variance is approved; One WECS is allowed between 20,000 square feet net and 5 acres gross; the fall zone is removed. The noise requirements have been modified to be consistent with the Development Code and shall not exceed 55 dBs.

Deputy Town Manager Stueckle commented that in the single family residential district the maximum height for residential structures is 35' under the code, and accessory structures is a maximum of 20', so the commission will want to spend some time discussing the height between the standard maximum height of 35' and what is provided by this section.

Commissioner Bridenstine expressed concern regarding the total number of turbines allowed to be roof mounted, stating she thinks that 5 is going to be unsightly and seems excessive. She stated she didn't see where the Town would only allow one turbine per freestanding tower, or allow multiples as was just passed in the previous item. Deputy Town Manager Stueckle advised that currently the definition is one turbine with associated blades. Commissioner Bridenstine expressed concern about the noise level and questioned if a turbine at 60 dB's would have to be shut down. Deputy Town Manager Stueckle explained if there is some problem with the turbine staff will work to

get it resolved. Commissioner Bridenstine stated she has concerns with the fall zone and noted by putting the turbine towards the center of the property the noise abatement happens naturally, but if you allow the turbine to be within 5' of the property line she doesn't see how sound abatement could happen.

Commissioner Alberg commented regarding the removal of the fall zone. Associate Planner Kirschmann stated the industry standard is typically 100% of height. Commissioner Alberg questioned which land use district takes precedence, Land Use District, Tract Map, Specific Plan or Composite Development Plan. Associate Planner Kirschmann advised that existing code states any land use district is subject to a LUCR. Deputy Town Manager Stueckle explained the difference between each of the various uses. Commissioner Alberg stated that a 35' level cannot be put in town wide. Deputy Town Manager Stueckle recommended the Commission discuss 35' height vs. 52' height as the base code.

Commissioner Humphreville stated, when talking about height, consideration should be taken on property size, noting that 52' on 5 acres is not very intrusive, but on ½ acre it is. Commented he no longer feels that 5-6 of these turbines on the roof line is appropriate, and would rather see a 30' tower with one larger prop than several small units on a roof. He would also prefer just one pole. Regarding noise, the ordinance should be worded so that decibels are measured at the property line.

Chair Lombardo stated he feels a 35' height limit is practical and reasonable, but does not want to see a pole at 53'. He feels that setting standards on what we are willing to accept as far as height, power requirement, noise level etc., will cause the industry to start building toward those standards. He doesn't like the idea of 5 units on a roof line but understands the need for total wattage production necessary to make sense, and would rather see 5 on the roof than 3 poles, or more units on a pole than multiple poles. He also feels the Commission should look at power production, not the number of units, noting that there has to be a certain wattage to receive funding.

Chair Lombardo opened the public hearing

Andy Canada, Yucca Valley, commented that there is a need for multiple towers for about 5 turbines, noting there are hundreds of manufactures making units under 10 kw. The large turbines are very noisy and would probably not pass the decibel requirements.

Malinda Allen, Yucca Valley, commented the larger turbines that generate 10 kw requires a much taller pole and stronger winds. The power generated causes the meter to run backwards so you come out of the higher tiers.

Monty Finefrock, Yucca Valley, commented he has not been able to find any real good economic information on these units, and stated he is surprised they would be considered without a setback. In addition, 5 units on a roof line will not be maintenance free.

Charla Shamhart, Yucca Valley, encouraged the Commission not to lose sight of the fact that putting up a home has already made more of imprint than these would make, are questioned if there are any variances allowed on this ordinance.

Paula Finefrock, Yucca Valley, spoke in opposition noting that multiple units will be an eyesore cause noise issues.

Dave Ziegler, Yucca Valley, spoke in favor of allowing the windmills noting they will help people on fixed incomes.

Dana Collins, Joshua Tree, spoke in opposition stating that multiple units are going to affect noise levels.

Jim Zing, Yucca Valley, expressed concern regarding obstruction of the view shed.

Terry Courtney, Yucca Valley, commented regarding the need to do research regarding how much someone is going to save.

Nicholas Lombardo, Yucca Valley, spoke in favor of a lower number of units even if all it does is help pay the electric bill.

Ernie Goodlander, Yucca Valley, commented he is not a proponent of looking at windmills but it is progress.

Discussion ensued regarding rebates for a minimum of 10 kw systems.

Chair Lombardo commented that there is a lot of wind here and we are not densely populated so there is a need to allow them if practical.

Commissioner Bridenstine stated this is a great application for ½ acre lots or greater but not for the small or denser properties.

Upon discussion consensus was to allow a pole height of 25' on ½ acre lots, 30' on ¾ acres, 35' on 1-5 acre lots, and 52.5' maximum height on lots of 5 acres or more. The setback should be related to the height of the pole plus the extension of the unit on the

pole. Noise standard of 55 dB at property line is appropriate. It was suggested that one pole be allowed on a ½ acre lot, 1 pole and a couple of roof mounted units on a ¾ acre lot and a maximum of 2 poles should be allowed on an 1 or more. There should be no more than 12 kw generation allowed. There is a limit of 2 roof mounted units allowed.

With regard to allowance on lots smaller than ½ acre, Commissioner Bridenstine and Commissioner Humphreville agreed they should not be allowed. Chair Lombardo commented that those are the people who want the help on their bills. Commissioner Hildebrand questioned if approval can be left to staff for the smaller lots.

Commissioner Bridenstine commented the Commission is working on an ordinance that is basically the law for our Town and should do it as we see best for long term future of our Town.

Commissioner Alberg moved to recommend that the Town Council review the WECS Ordinance with the Planning Commission at their earliest convenience. Commissioner Humphreville seconded. Motion carried 5-0 on a voice vote.

DISCUSSION ITEM:

3. SELECTION OF PLANNING COMMISSION CHAIRMAN AND VICE-CHAIRMAN

Associate Planner Kirschmann advised that the Municipal Code and Commission rules of procedure require the members to annually select one of its members to serve as the Chairman and one as the Vice Chairman.

Deputy Town Manager Stueckle added that with all the changes that have been occurring on the Council and Commission there has not been a Vice Chair for quite some time.

Commissioner Humphreville moved to nominate Commissioner Lombardo to continue serving as Chair for the next 12 months. Commissioner Hildebrand seconded. Motion carried unanimously.

Commissioner Alberg moved to nominate Commissioner Humphreville as Vice Chair for the next 12 months. Commissioner Bridenstine seconded. Motion carried unanimously.

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
MAY 7, 2013**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00 p.m.

Deputy Town Clerk presented the Oath of Office to M.F. Warren Lavender.

Commissioners Present: Bridenstine, Drozd, Lavender, Whitten, and Humphreville.

The Pledge of Allegiance was led by Chair Humphreville.

APPROVAL OF AGENDA

Commissioner Whitten moved to change the order of the agenda, to move the department report after the public hearing. Motion died for a lack of second.

Bridenstine moved to approve the agenda. Chair Humphreville seconded. Motion carried 4-0-1 on a voice vote.

PUBLIC COMMENTS

None

DEPARTMENT REPORT:

1. DRAFT DEVELOPMENT CODE

Deputy Town Manager Shane Stueckle presented a staff report and PowerPoint presentation. At the request of the Planning Commission at a prior meeting, Article 3 of the Draft Development Code relating to sign regulations is being brought in front of the commission for separate review. Existing general allowances in the Sign Ordinance were explained. Stueckle explained areas for specific review including sign height, design merits, square footage for free standing signs and wall signage.

Deputy Town Manager Stueckle continued to explain that amortization schedules are commonly used to address non-conforming signs. Proposed modifications are amortized based on fair market value from the Date of Notice and a time schedule for compliance. Stueckle explained that temporary signs and how to regulate them, such as banners, flags, pennants, hulas, political, and temporary subdivision signs is also an area needing attention.

Jennifer Collins, Yucca Valley, introduced others present at the meeting and spoke of input received through the Yucca Valley Chamber of Commerce office. Collins explained that these suggestions were forwarded to the Planning Commission for consideration.

Fritz Koenig, Yucca Valley, presented a document to the Planning Commission and commented that the purpose of the Sign Ordinance does not include any reference to improving the economy. Mr. Koenig suggested creating a sign ordinance that is in relation to local resources, not compared to other larger cities.

Tom Huls, Yucca Valley, explained that his business, Big O Tires sets back off the highway, and the recent relaxation of the sign code has helped his business tremendously. The use of temporary signage when used responsibly by business owners is very helpful. The Sign Code itself was created for the big business entities, but not for the small businesses we have in Yucca Valley.

Commissioner Drozd asked if the sign square footage is measured on letter size or background. Engineering Technician, Diane Olsen responded that the measurement would be taken by squaring off the total area.

Commissioner Bridenstine agreed that signage is very important and should be easy to see and of appropriate size for traffic view. Signage should be in good taste and well kept, but not to be as harmonious as the current code limits. The community expects signage in a commercial district. Signage, including temporary signage should not be blocking line of sight for safety reasons. Agrees with Mr. Koenig's comment about including the purpose of regulating signage is to promote business.

Commissioner Whitten thanked those in attendance for coming out this evening and questioned how many suggestions provided by the Chamber of Commerce group was included in the draft document. Also agreeing with Koenig's statement recommending a purpose of a sign ordinance should be included. Commissioner Whitten commented on his observation of the current signage throughout the community. Need to give the small businesses a chance to compete with the larger businesses and spoke of the benefit of monument signage.

Commissioner Whitten continued to discuss temporary signage including political signage. Twirler type signs provide employment for the youth of the community and help businesses that set back away from the road. Whitten also spoke on the limits of mural type signage on the side of buildings.

Commissioner Lavender spoke in favor of taking a relaxed attitude toward sign regulations.

Chair Humphreville asked Huls, what specific temporary signage he used to promote his business and asked about typical amortization schedule limits. Stueckle responded that 20 years is usually the maximum, usually based on value. Olsen also explained the inclusion of the Design Merits Program and the Landmark Signage Program to take into account historical signage. Humphreville stated he would like to see the signs stay smaller, yet

appealing and more effective; would like to see the consultant's recommendation. Political signage should have limits on size and frequency.

Commissioner Bridenstine would like to see an amortization schedule included in the new sign regulations, including an incentive such as reduced fees to encourage sign owners to bring into compliance. Signs should not be higher than the roof lines.

Commissioner Drozd agreed with including an amortization schedule as a fair and consistent avenue to bring signs into compliance and also suggested using type of business ownership instead of square footage to regulate signage to help with the smaller, mom and pop type stores. Stueckle responded that one way to possibly address this is to regulate signage by the sign size itself, not by allowing signage size to be based on property or building size.

Commissioner Lavender questioned the use of frontage feet as a tool for regulation. The Ideal Mall property was given as an example of an area where a monument type sign addressing all occupants of that property consistently.

Deputy Town Manager Stueckle presented information on the draft development code section 3-19 regarding commercial solar and wind energy. With tax incentives in effect, property used for energy production limits the amount of property tax collected. Consensus was made among all commissioners present to not allow commercial solar or wind energy within Town limits.

Commissioner Lavender questioned the use of residential solar energy and the possibility of including provisions for home solar use. Stueckle responded that section 3-23, accessory energy systems provides guidelines for residential alternate energy use. Commission discussion continued, questioning the use of roof mount vs. pole mount systems, the need for roof designs of both commercial and residential buildings to accommodate solar panels, and the use of renewable energy parking lot and accessory lights. The use of solar energy when possible was encouraged by the commissioners.

Deputy Town Manager Stueckle recommended that this item be continued to the May 14, 2013 Planning Commission meeting for further discussion.

PUBLIC HEARINGS:



Planning Commission Meeting

June 28, 2011

Wind Energy Conversion
System (WEC)

Town of Yucca Valley



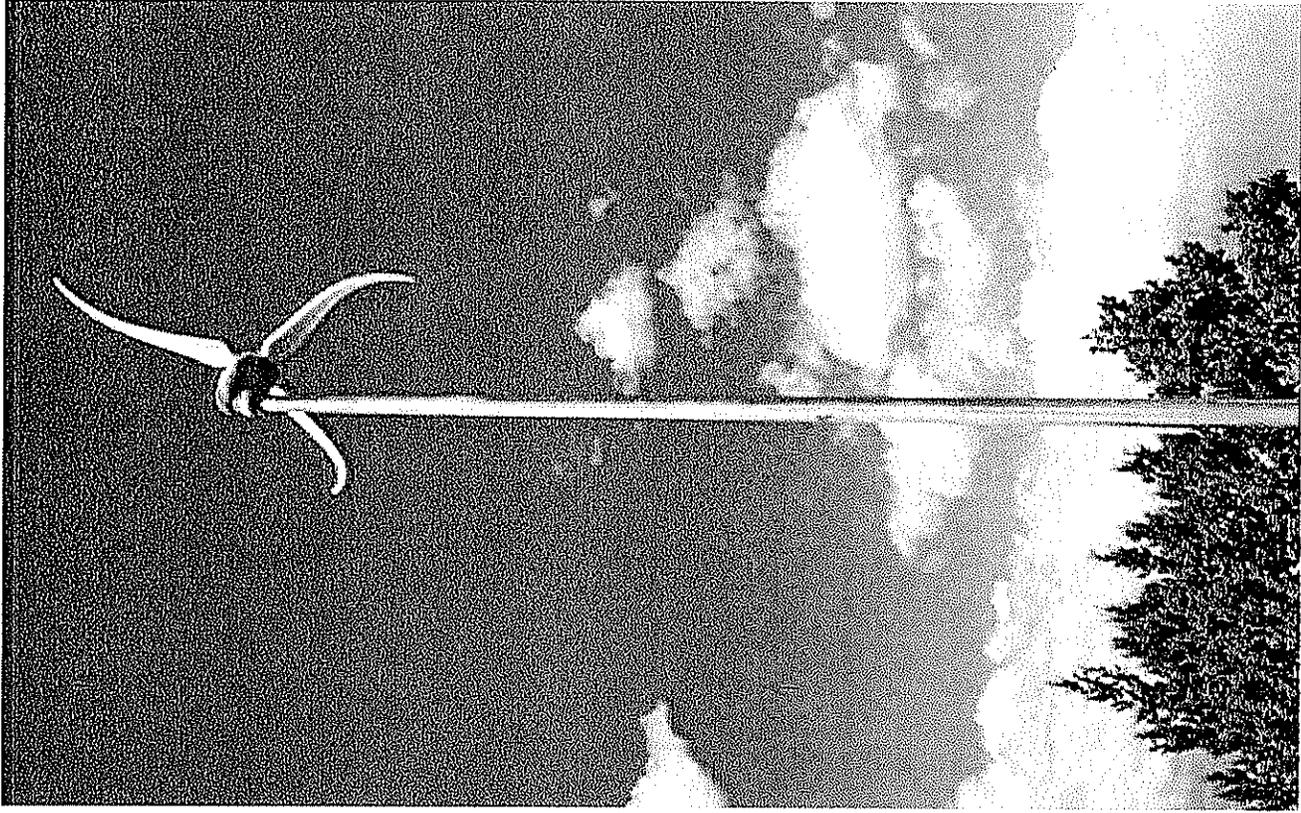
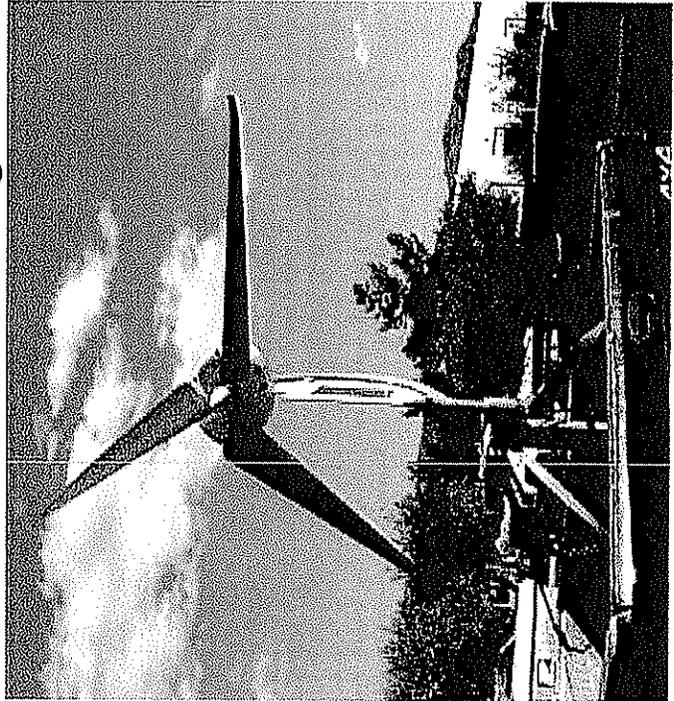
Background

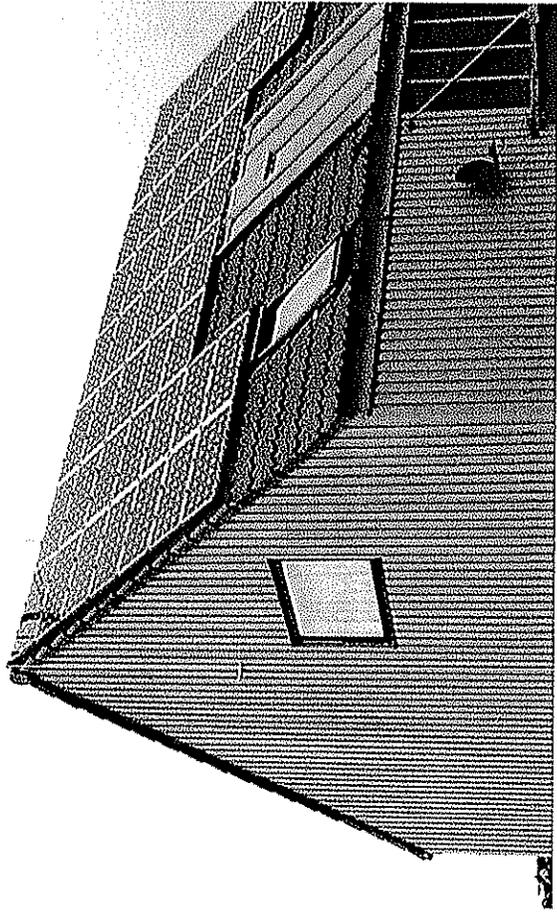
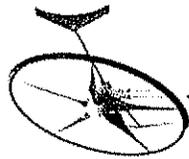
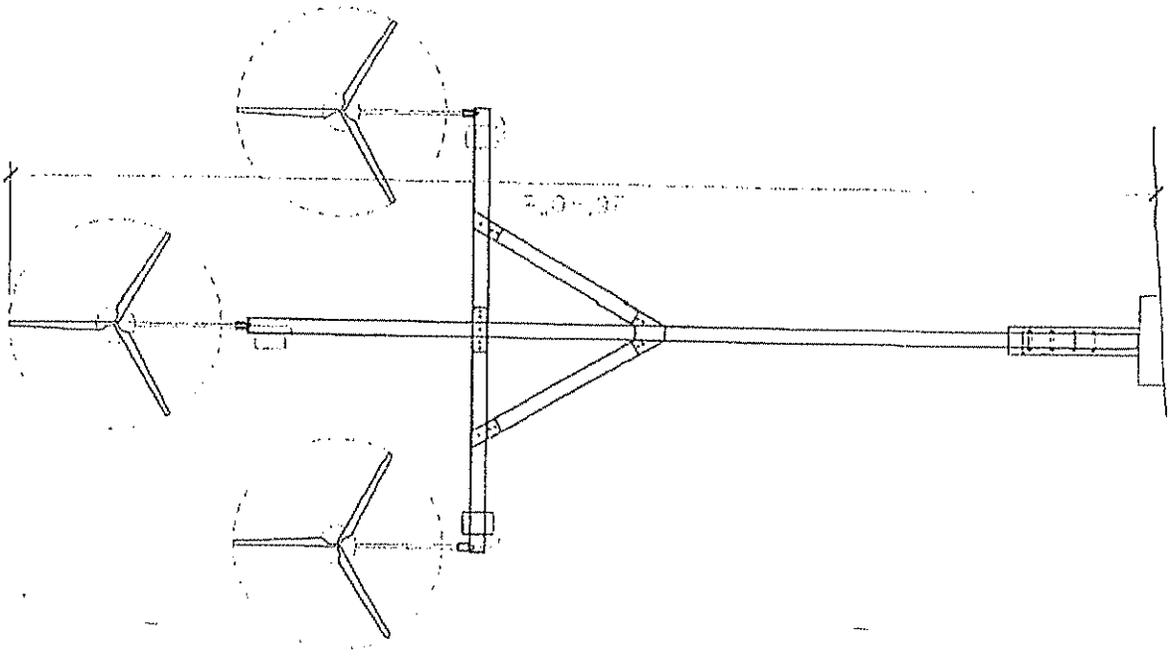
- Staff has received large number of inquiries in regards to the installation of Wind Energy Conversion Systems (WECS)
- No specific regulations exist in Development Code
- Currently, a Conditional Use Permit is required for installation

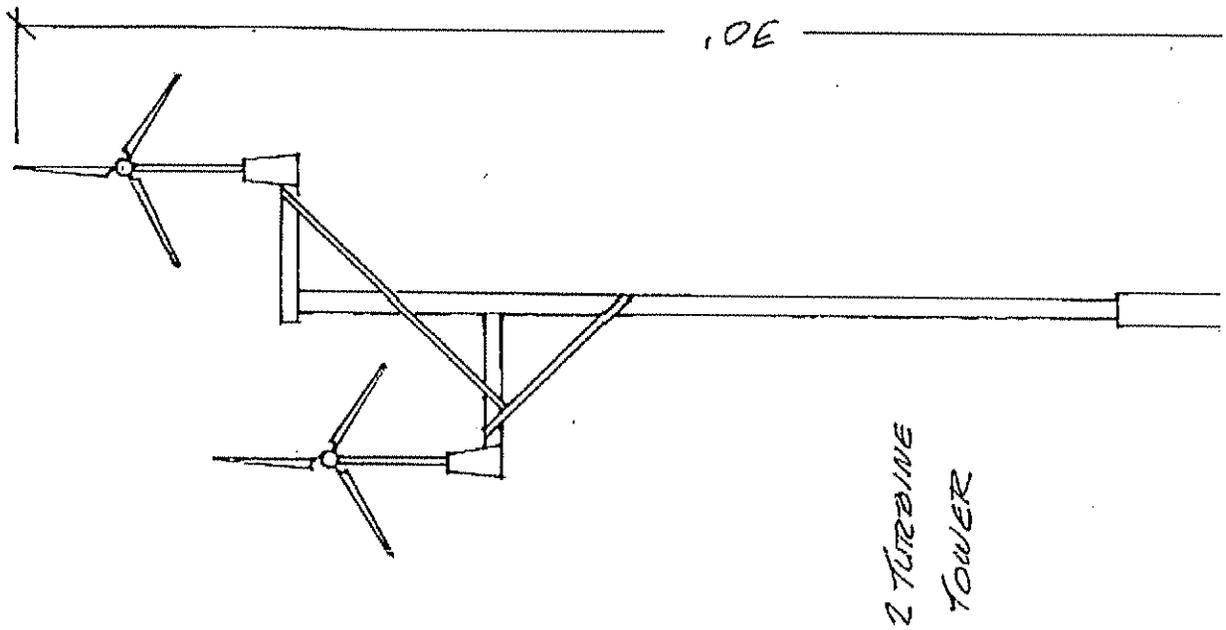
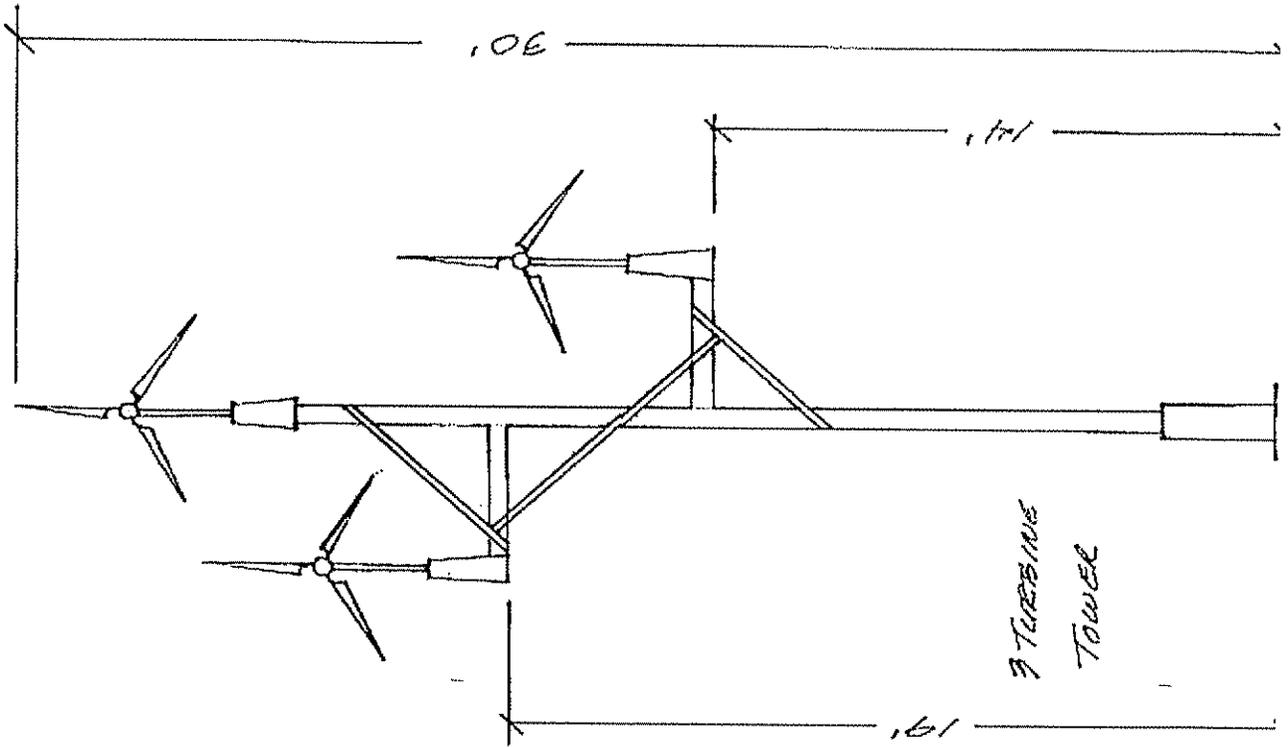


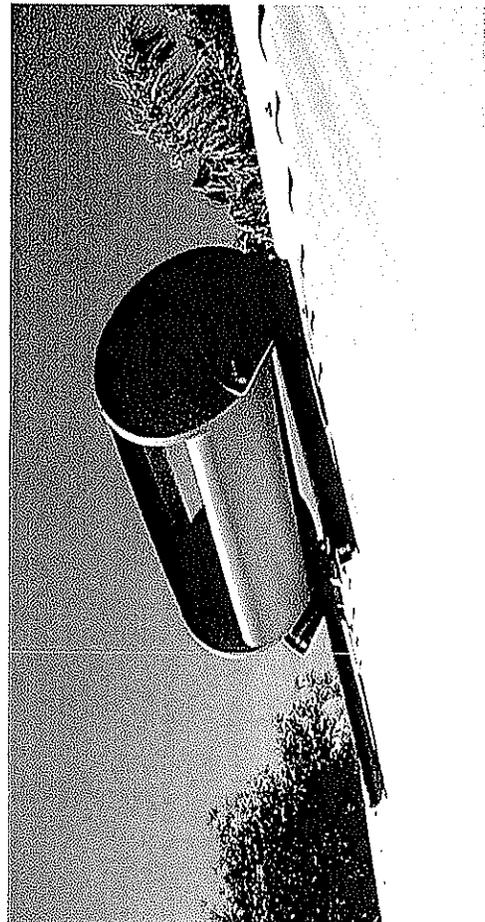
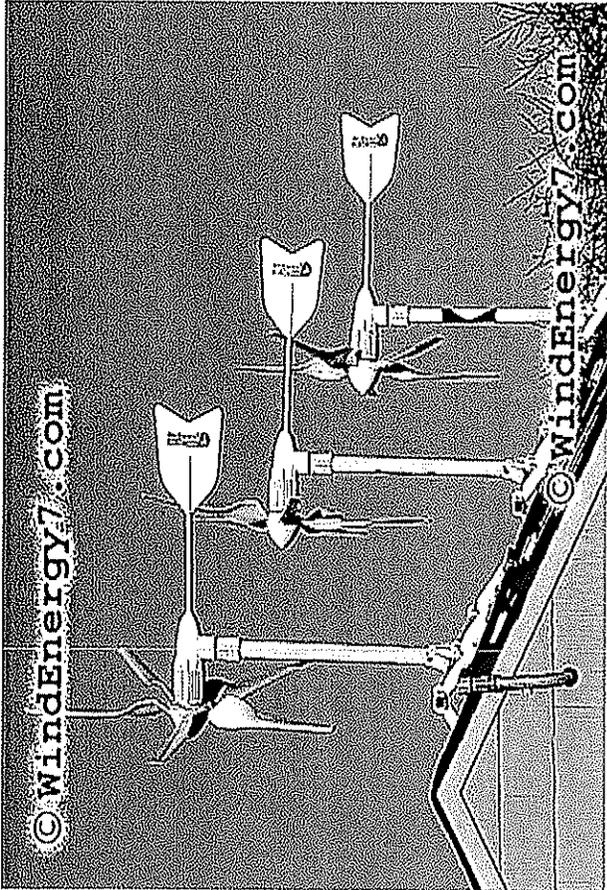
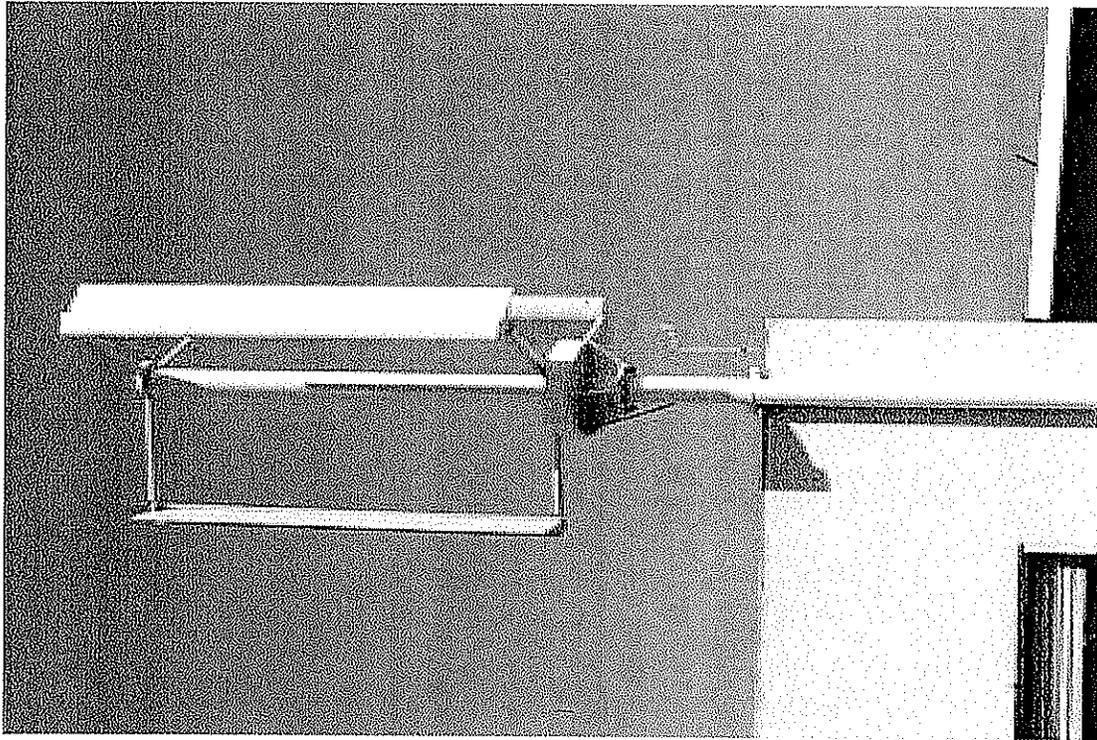
WECS

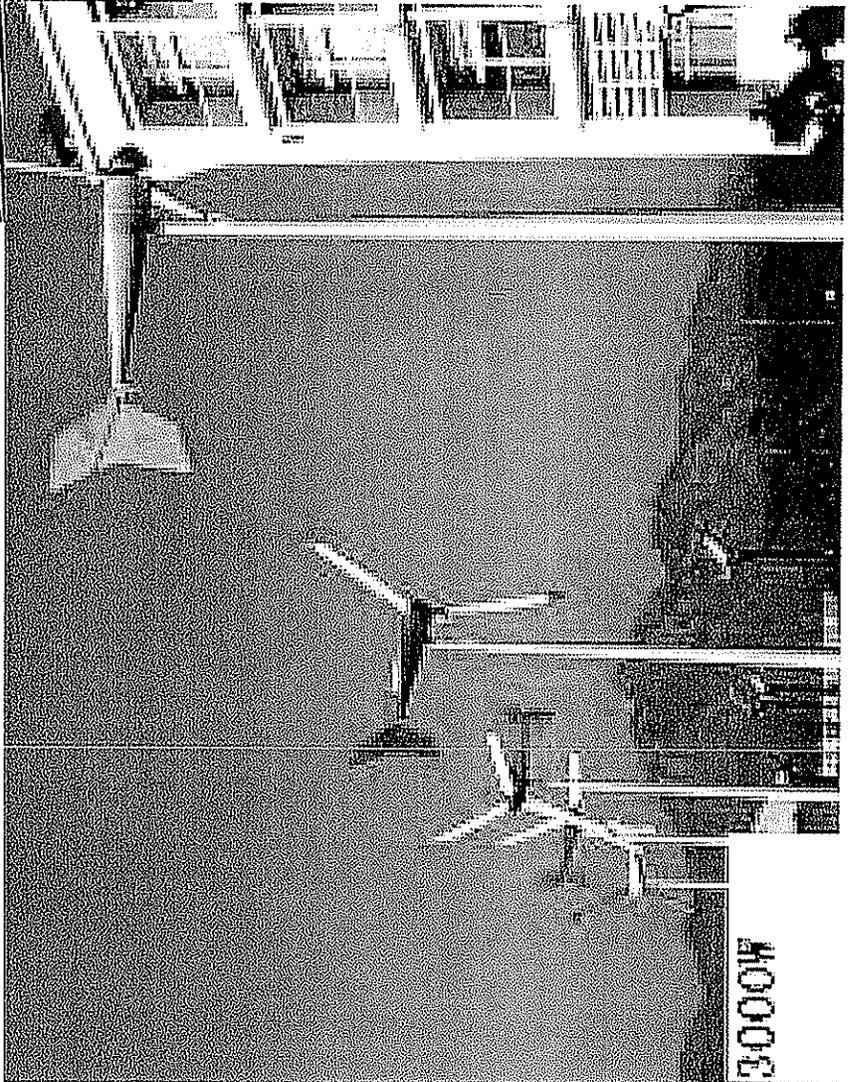
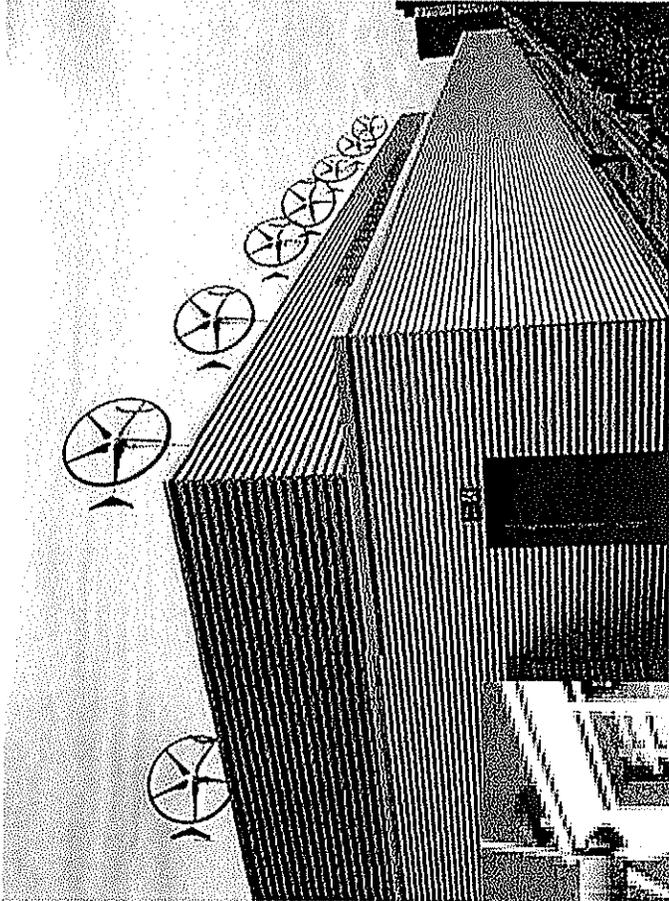
- Two main types:
 - Roof mounted
 - Freestanding

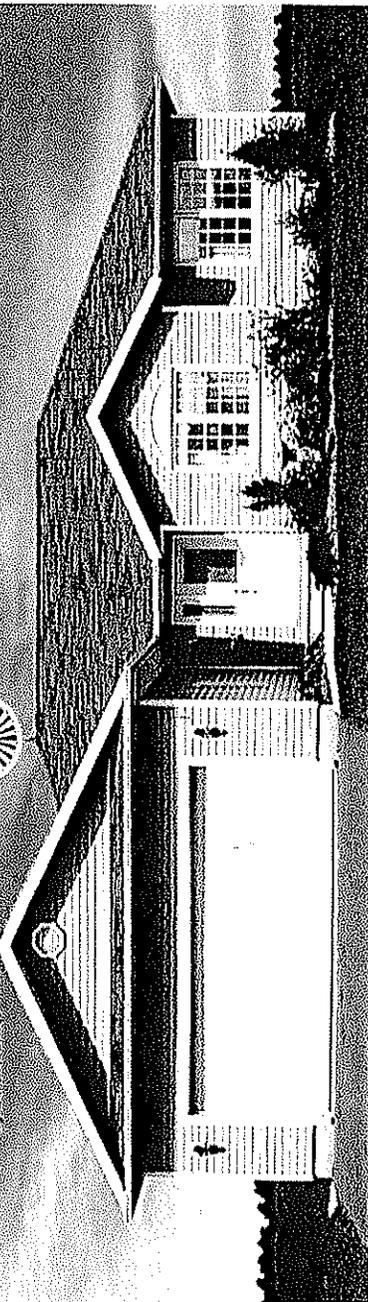






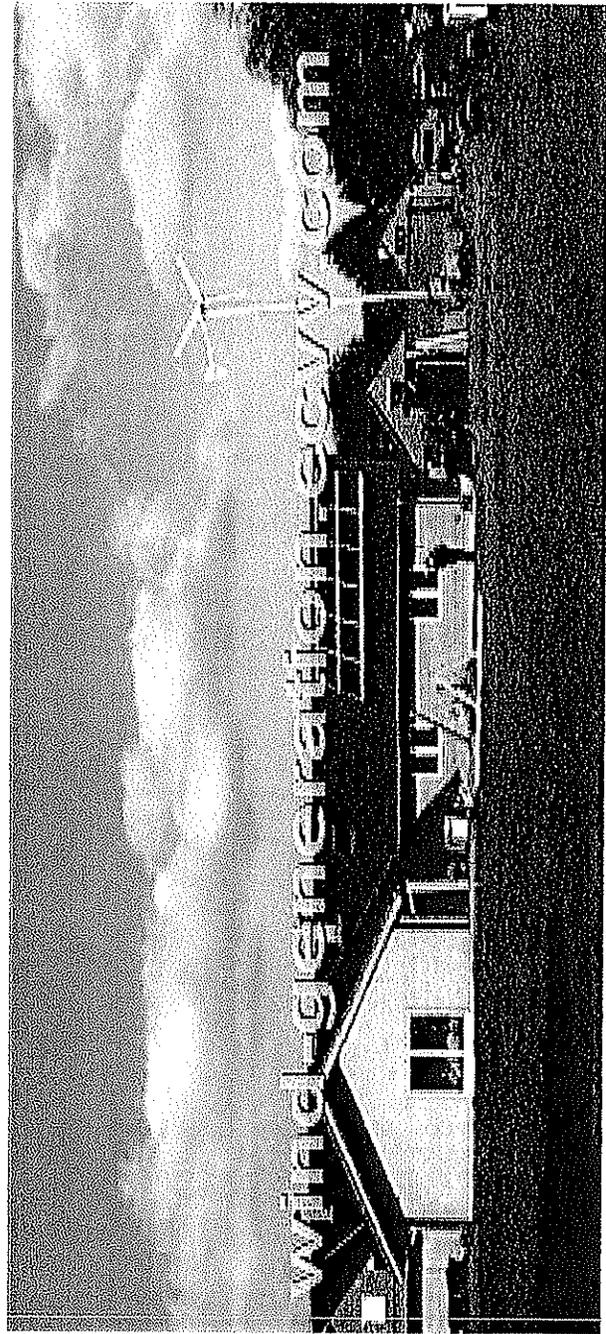
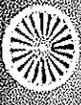




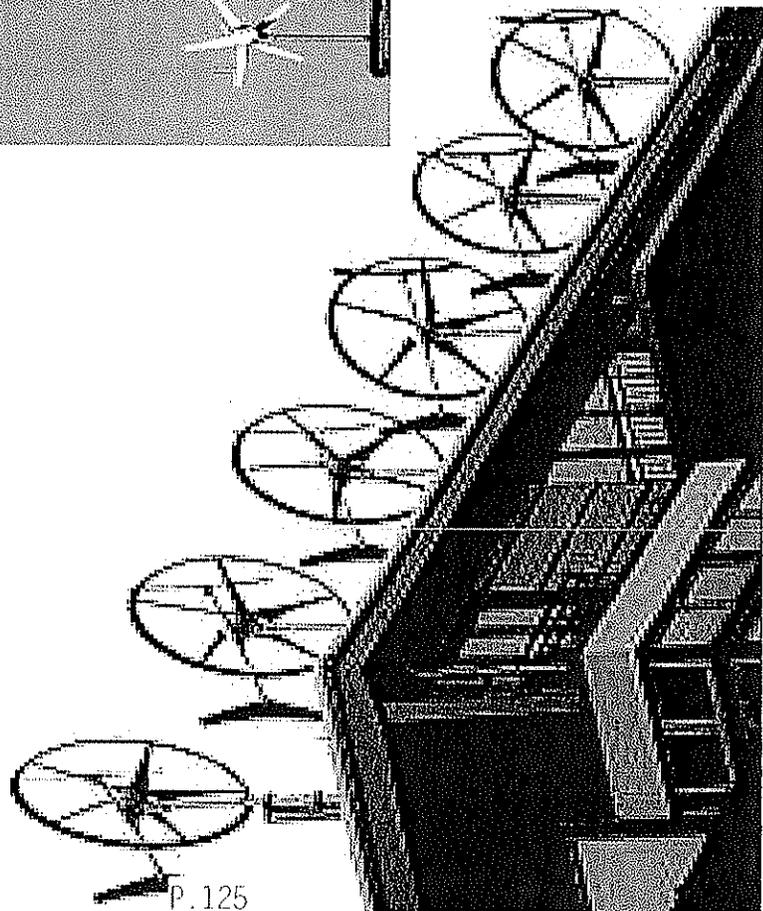
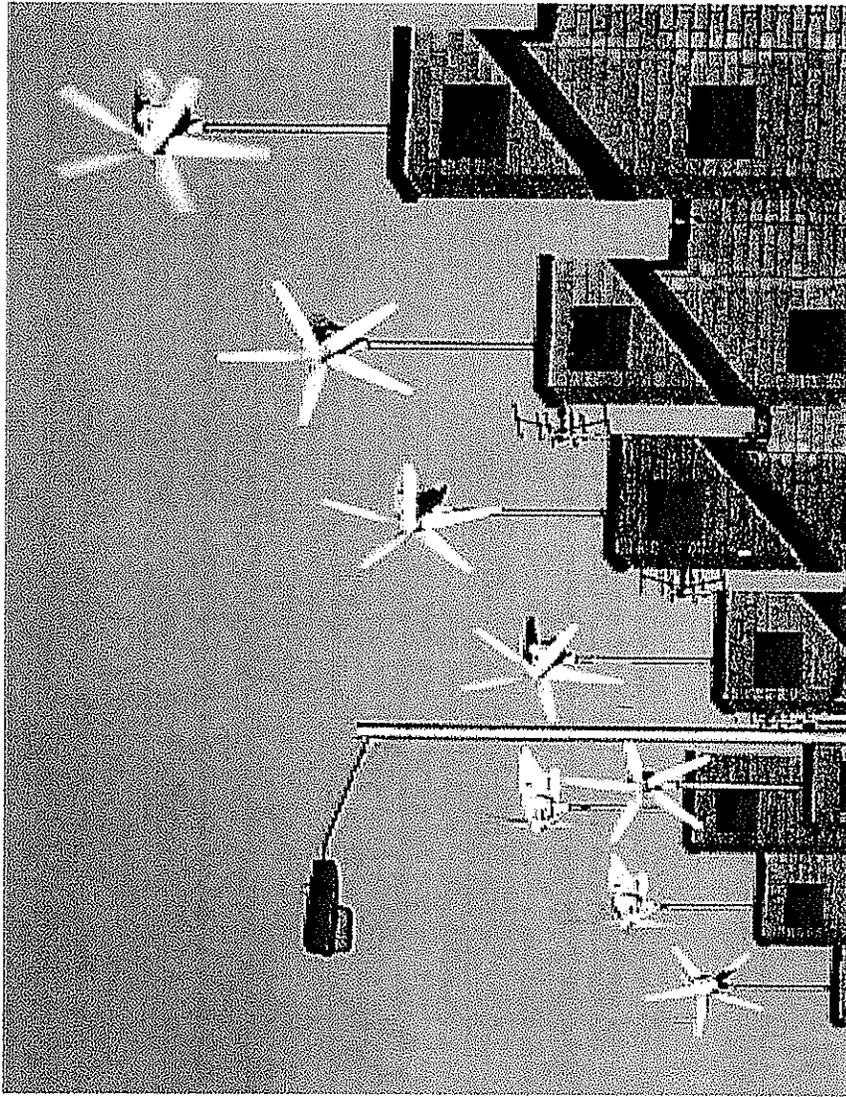


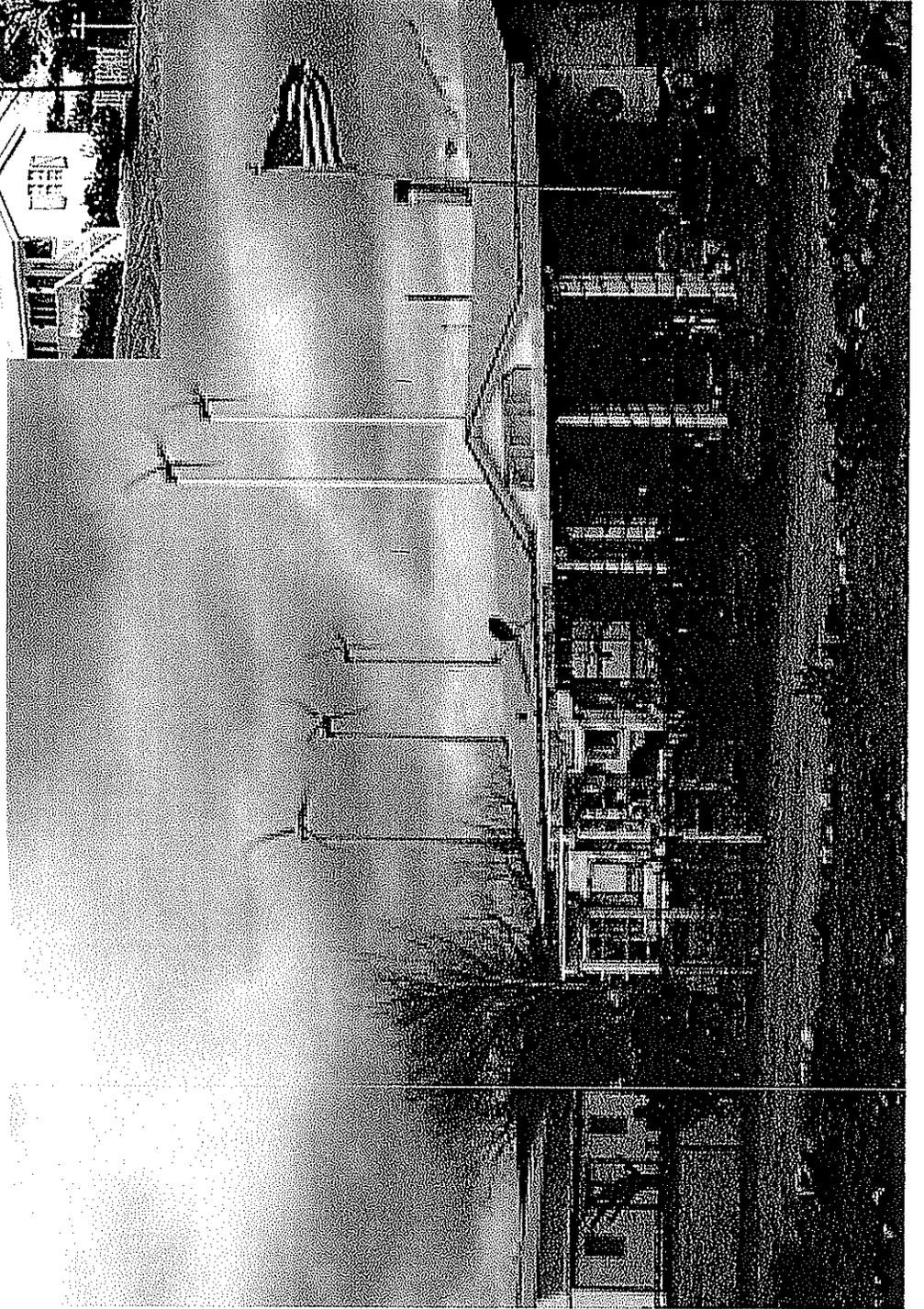
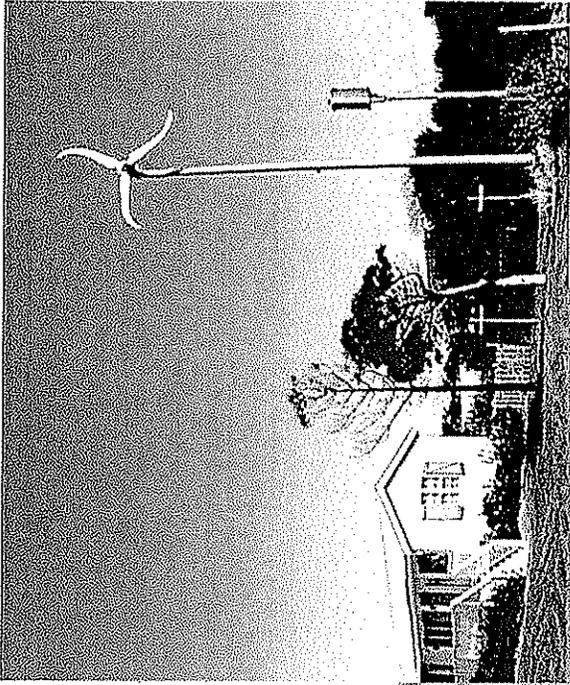
The Home Energy Solution
by EarthTronics

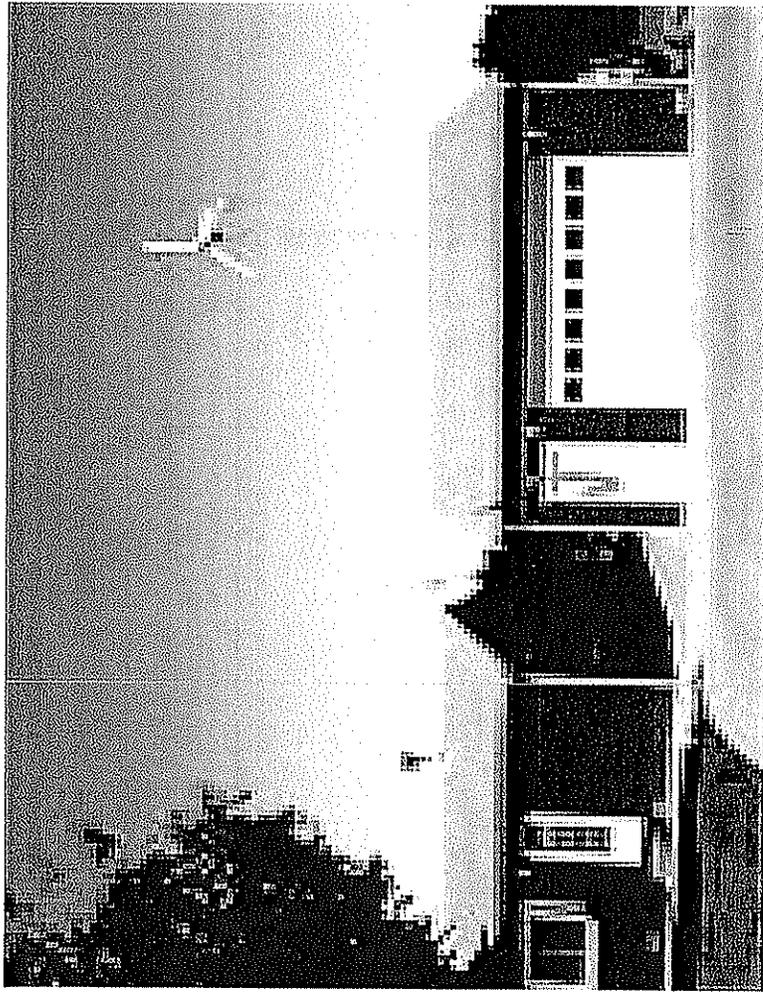
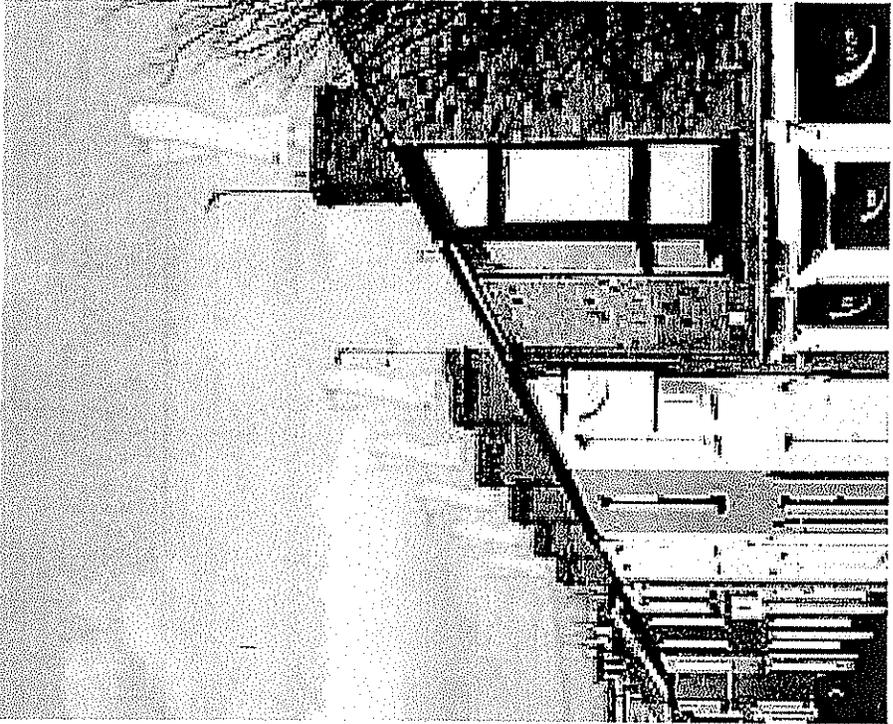
Bringing wind technology home.
Saving money and creating personal home energy is finally within reach.

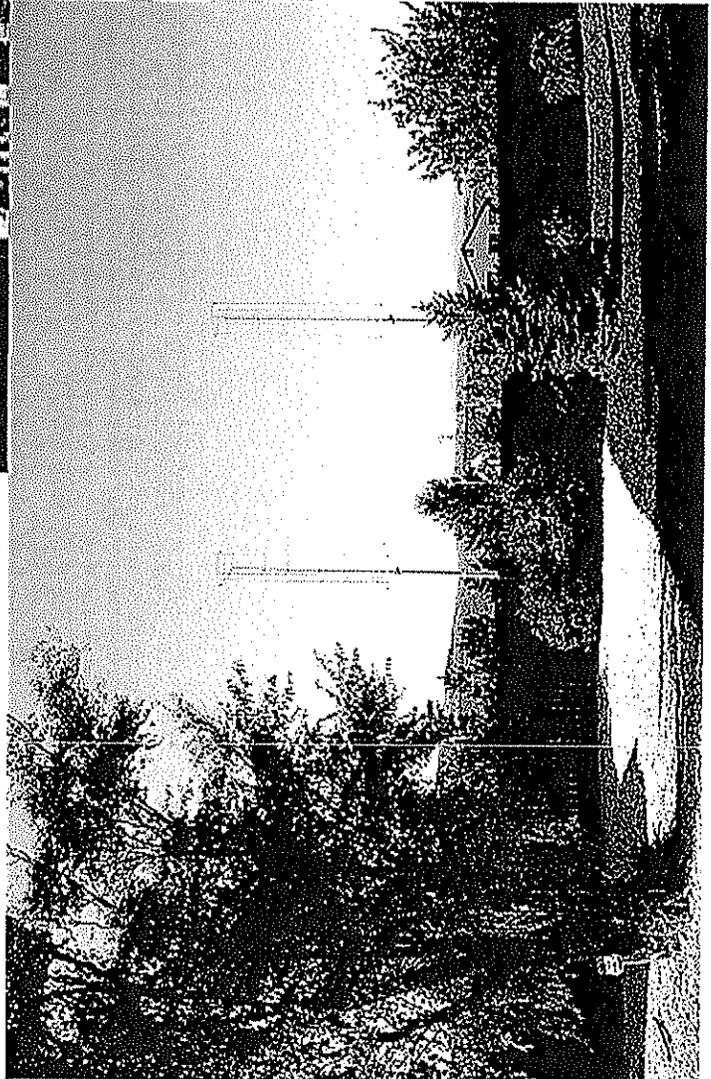
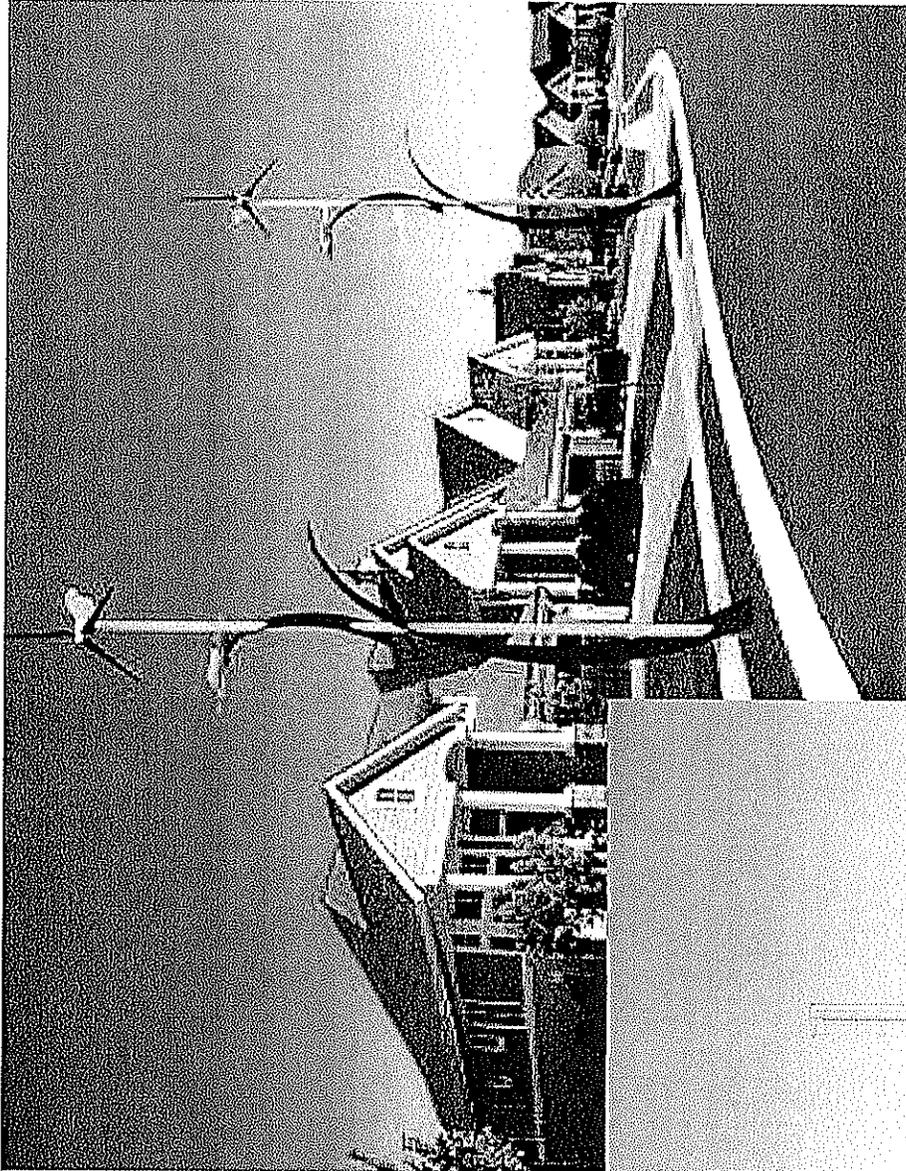


wind-generated-energy.com











Draft Ordinance

- A draft Ordinance has been prepared for Commission review and comment
- The Draft proposes standards for the installation of WECS



Draft Ordinance Requirements

- All WECS (roof and ground mounted) must be approved through a Land Use Compliance Review (LUCR)
- Planning Commission reviews all WECS
- Noticing of all properties within 1,000 feet required
- A minimum lot size of 2AC required for installation of any WECS



Draft Ordinance Requirements (cont.)

- Height shall conform to maximum height permitted for the zoning district (Residential 35')
- Must be located at the rear of the property and not in any setback or easement areas
- Fall zone of 110% of the height of the structure shall be provided (35' tower must be setback 38.5' from property line)



Draft Ordinance Requirements (cont.)

- Noise
 - 7AM to 10PM shall not exceed 50dBA at property line
 - 10PM to 7AM shall not exceed 40dBA at property line
 - Exception for extreme weather
- Maximum of 1 WECS per parcel



Recommendation:

- That the Planning Commission reviews the draft ordinance, accepts public testimony, and provides direction to staff.

UTILITY UNDERGROUNDING

ORDINANCE NO. 233

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 8, DIVISION 7, OF THE SAN BERNARDINO COUNTY DEVELOPMENT CODE AS ADOPTED AND AMENDED BY THE TOWN OF YUCCA VALLEY BY REPEALING AND REINACTING IN ITS ENTIRETY CHAPTER 11 RELATING TO UTILITY UNDERGROUNDING (DCA-02-11).

The Town Council of the Town of Yucca Valley, California, does ordain as follows:

SECTION 1. Code Amended

Title 8, Division 7, Chapter 11 of the San Bernardino County Development Code as adopted by the Town of Yucca Valley is hereby repealed and reenacted in its entirety to read as follows:

**"CHAPTER 11
UTILITY UNDERGROUNDING**

Sections	87.1110	Intent
	87.1120	Definitions
	87.1130	When Undergrounding Installation Required
	87.1140	Expansion
	87.1150	Exceptions
	87.1160	Refunding of Undergrounding Fees
	87.1170	Reviewing Authority
	87.1180	Waiver
	87.1190	Nonconforming

87.1110 Intent. It is the purpose and intent of this ordinance to serve the public health, safety and welfare by requiring the undergrounding of overhead utilities and to specifically achieve the following objectives:

- (a) Provide for the orderly construction of new underground facilities Town wide and the undergrounding of existing overhead lines in all land use districts to avoid or eliminate the over concentration of overhead facilities along the street and road ways and the service lines which extend from these distribution lines;
- (b) Eliminate potential hazards to life and property in the event of emergencies or disasters such as earthquakes, fires, floods, hazardous or toxic waste releases, and rains;
- (c) Facilitate the delivery of emergency services to persons and property located adjacent to the public right of way;
- (d) Improve or increase the utility of the public right of way for such public uses as pedestrian travel, ease of deliveries to adjacent property, and landscaping treatments;

- (e) Improve or increase the visibility of persons operating motor vehicles on public and private streets and thereby promote the safety of the pedestrian and vehicle operators.

87.1120 Definitions

- (a) **Service Line:** defined for the purposes of this chapter as those electrical, telephone, cable, or other utility conductors that extend from the Distribution Line to the building, structure, or improvement which consume or uses the utility service.
- (b) **Distribution Line:** defined for the purposes of this Chapter as those electrical utility conductors which are energized at 34,500 volts or less, telephone, cable, or other line that supply utility product to the Service Line.
- (c) **Transmission Line:** defined for the purposes of this Chapter as those electrical utility conductors which are energized above 34,500 volts, telephone, cable, or other line that supply utility product to the Distribution Line.
- (d) **Infill:** Construction of residential projects on existing lots of record.

87.1130 When Undergrounding Installation Required. The undergrounding of all such utility facilities shall be performed by the owner or developer of the property seeking its development or improvement, or any construction thereon, at the owner's or developer's sole expense. The owner or developer shall arrange for the placement of said utilities underground with the appropriate utility or communication company including the processing of any application, payment of any fees or expenses, the submission and approval of any plans and the coordination of said undergrounding with the Town Engineer. This requirement to underground shall not abrogate any rights offsets, or claims, which the owner or developer may have as to any utility or communication company.

No certificate of occupancy shall be issued for any property whose development or improvement requires the undergrounding of the utility facilities unless and until compliance with this Chapter shall have been accomplished to the satisfaction of the Town Engineer. Where an owner or developer has entered into a written agreement with the applicable utility company to underground utilities and has paid the required costs, a certificate of occupancy may be issued upon proof thereof.

Except as otherwise provided in this chapter, all new Service, Distribution, and Transmission lines shall be constructed underground.

- (a) **New In-fill Single Family and Multi-Family Residential Development**
 - 1. Existing overhead distribution lines shall be permitted to remain in place.
 - 2. New service lines shall be underground, except in those areas where seventy-five (75) percent of existing residential units within ½ mile of the proposed development site are constructed with overhead service lines.

New services lines shall be permitted to be installed above ground when these criteria are satisfied.

3. All Service and Distribution lines which are being relocated as a result of a project shall be allowed to remain overhead.
4. All new distribution lines which are designed to serve existing lots of record shall be placed underground.

(b) Commercial, Industrial, and Institutional Development Projects:

1. Existing overhead distribution lines shall be permitted to remain in place.
2. New service lines shall be underground, except in those areas where all abutting properties to the proposed development site are constructed with overhead service lines. New services lines shall be permitted to be installed above ground when these criteria are satisfied.
3. All new distribution lines which are designed to serve existing lots of record or proposed new lots created through the subdivision of land shall be placed underground.
4. All existing overhead distribution lines which are designed to serve existing lots of record proposed to be further subdivided may be permitted to remain in place subject to Planning Commission approval.

(c) Residential Tract Maps:

1. All new Service and Distribution lines that provide direct service to the property being developed shall be placed underground.
2. Existing Service and Distribution lines that are located within the boundaries being developed that provide direct service shall be placed underground.
3. Existing Service and Distribution lines between the street frontage property line and the centerline of the adjacent streets of the property being developed that provide direct service shall be placed underground.
4. Existing Service and Distribution lines located along or within 10 feet of the lot lines of the property being developed that provide direct service shall be placed underground.
5. Existing Service and Distribution lines being relocated as a result of a project shall be placed underground.
6. All existing overhead distribution lines which are designed to serve existing lots of record proposed to be further subdivided may be permitted to remain in place subject to Planning Commission approval.

(d) Residential Parcel Maps:

1. All new Service and Distribution lines that provide direct service to the property being developed shall be placed underground.
2. Existing Service and Distribution lines that are located within the boundaries being developed that provide direct service shall be placed underground.
3. All existing overhead distribution lines which are designed to serve existing lots of record proposed to be further subdivided may be permitted to remain in place subject to Planning Commission approval.

87.1140 Expansions & Alterations. When buildings or structures are enlarged, altered or expanded, those enlargements, alternations and expansions shall conform to the standards and requirements established by this Chapter for new construction.

87.1150 Exceptions. The following exceptions shall apply:

- (a) Utility facilities approved by Building & Safety Division which are to be installed and maintained for a period not to exceed thirty (30) days in order to provide emergency service. The Building Official may extend the period of time for which emergency service utilities may be allowed to remain in place;
- (b) Temporary utility facilities used, or to be used, in conjunction with construction projects with an active building permit;
- (c) Utility facilities are operated at voltage in excess of thirty-four thousand five hundred volts;
- (d) Equipment applicable to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes, meter cabinets and concealed ducts;
- (e) Wires and enclosures attached to the exterior walls of a building for the purpose of interconnecting communication functions within the building;
- (f) Utility facilities which are prohibited from being placed underground by rules and regulations of the Public Utility Commission.
- (g) Street construction and widening projects, street lights and traffic signal projects constructed by public agencies.
- (h) To the extent a utility company is required to perform maintenance, upgrade or redesign under the provisions of their franchise agreement.
- (i) Whenever the owner or developer of a subject property is required to underground existing distribution lines under this chapter but the distance over which the distribution line that is required to be placed underground is less than

two hundred (200) feet, the Town Engineer may allow the owner or developer to pay a fee to the Town that is equal to the unit cost of placing said distribution line underground multiplied by the distance over which the undergrounding is required, not to exceed two hundred feet, in lieu of such undergrounding. The unit price for undergrounding any existing distribution line shall be based upon the most recent unit price for undergrounding any distribution line over a distance of greater than thirteen hundred feet as established by the utility company that would otherwise be responsible for the undergrounding of said distribution lines. The owner or developer shall obtain a written statement of the unit price for undergrounding the existing distribution lines from the utility company servicing the subject property and submit it to the Town Engineer for determination of the amount of the in lieu fee.

- (j) Nonprofit agencies identified as institutional land use activities, subject to Planning Commission and Town Council approval.
- (k) Town and the Redevelopment Agency sponsored projects

87.1160 Refunding of Undergrounding Fees. The Town Council may approve the refunding of undergrounding fees paid when the following findings are made.

- (a) The undergrounding of existing overhead utility lines along the projects street frontages are not projected to be completed by the Town of Yucca Valley or Southern California Edison within a five year time period
- (b) The undergrounding of existing overhead utility lines along the projects property lines at this time would be the single property which provides for undergrounding of overhead utilities within 2,640 feet in either direction from side property lines.

87.1170 Reviewing Authority. Where the Town has authority to issue a permit for the development or improvement of any property within the Town, said official shall condition the permit upon the placement of specified utility facilities underground. For other development approvals, the Town shall recommend to the Planning Commission or the Town Council which utility facilities shall be placed underground and which utility facilities, developments or improvements are exempt from this chapter. Thereafter, the Planning Commission or Town Council shall determine which utility facilities shall be placed underground or exempted pursuant to this chapter.

87.1180 Waiver. The Planning Commission may waive the requirements of Section 87.1130 *Undergrounding of New Facilities* if the utility undergrounding is not feasible due to geologic, soil, topographic, or other physical conditions which would cause significant financial cost increases that make the project infeasible. The applicant shall provide to the Town technical reports and/or information, including but not limited to soils report, geotechnical report and cost comparison analysis illustrating the cost variation of undergrounding verses overhead for review. The Town shall review and forward a report to the Planning Commission for review.

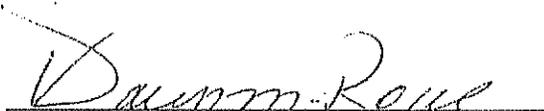
- (a) Any waiver of the requirements of this Chapter shall be based on the findings as follows:
1. That waiver will not adversely affect the public health and safety.
 2. That the improvement being waived is a necessary to allow the development of the surrounding area.
 3. That due to soils, geological, and topographic conditions, and the utility undergrounding requirement is economically infeasible.
 4. The Planning Commission shall consider requests for waiver for structures 3,500 square-feet or smaller in size.
- (b) Any decision of the Planning Commission pertaining to a request to waive the utility undergrounding requirement may be appealed to the Town Council.

87.1190 Nonconforming Structures. Existing buildings and structures which do not meet these regulations because of aboveground Service lines or Distribution lines shall be considered conforming.

SECTION 2: NOTICE OF ADOPTION: Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 3. EFFECTIVE DATE: This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this day of , 2012.



 MAYOR

ATTEST:

APPROVED AS TO FORM:



 TOWN CLERK



 TOWN ATTORNEY

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 233 as duly and regularly introduced at a meeting of the Town Council on the 20th day of December, 2011, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 17th day of January, 2012, by the following vote, to wit:

Ayes: Council Members Abel, Hagerman, Huntington, Lombardo and Mayor Rowe

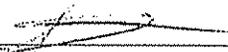
Noes: None

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 18th day of January, 2012.

(SEAL)



Town Clerk of the Town of
Yucca Valley

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
MAY 14, 2013**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00 p.m. All Commissioners were present.

The Pledge of Allegiance was led by Chair Humphreville.

APPROVAL OF AGENDA

Vice Chair Bridenstine moved to approve the agenda. Commissioner Whitten seconded. Motion carried 5-0-0-0 on a voice vote.

PUBLIC COMMENTS

None

PUBLIC HEARING

1. DEVELOPMENT CODE AMENDMENT, DCA 02-13 DENSITY BONUS

Deputy Town Manager Shane Stueckle presented a staff report and PowerPoint presentation explaining the State requires cities to establish density bonus and development incentive standards and regulation for projects of five (5) units or more which provide affordable housing units within the development. The Town is required to update its regulations for consistency with state law. Stueckle presented a summary of Senate Bill 1818.

The proposed Development Code amendment is to add Chapter 11, Division 7, Title 8 of the Town of Yucca Valley Municipal Code to establish density bonuses for affordable housing and other similar projects consistent with State law requirements.

Chair Humphreville opened public comment. With no one wishing to speak, the public comment period was closed.

Commissioner Whitten inquired about the inclusion of very low income standards according to the California Health & Safety Code into the density bonus.

Vice Chair Bridenstine commented on the income thresholds and suggested including how the thresholds are calculated.

Commissioner Whitten moved to find that the proposed ordinance is exempt from CEQA under Section 15061 (b) (3) and recommends that the Town Council adopt the Ordinance. Commissioner Drozd seconded. Motion carried 5-0-0-0 on a voice vote.

DEPARTMENT REPORT

2. DRAFT DEVELOPMENT CODE

Deputy Town Manager presented the staff report on Draft Development Code, Article 3 as an ongoing review of the Development Code Update project.

Chair Humpreville opened public comment. With no one wishing to speak, the public comment period was closed.

Commissioner Drozd spoke in favor of solar use in residential areas, yet voiced concern of the possible noise resulting from wind turbine use.

Chair Humphreville questioned if there were results from a recent study from other municipalities regarding lot sizes and approved alternative energy sources.

Deputy Town Manager Stueckle replied that staff would bring back information on noise levels emitted from the various types of wind turbines.

Commissioner Whitten commented on issues seen in other communities regarding the alternative energy systems, where easements were established to reduce the blockage of sun or wind by neighboring structures and suggested taking this option into consideration.

Vice Chair Bridenstine commented on limiting turbine tower heights and believes that prior Commission discussion stated 25-30 feet; views should not be obstructed.

Chair Humphreville questioned if any Title 24 regulations would hinder the use of alternative energy.

Commissioner Drozd expressed concern for regulating solar and wind technology with local contractors. Deputy Town Manager Stueckle replied that currently, as long as the contractor is in compliance with California Building Code, the permits are approved.

Commissioner Whitten asked about the regulatory process with self-install projects. Self-install should be included. Public information would assist in educating the public on the misconceptions of alternative energy.

Commissioner Lavender commented on CEC standards and wind turbine noise levels.

Deputy Town Manager Stueckle continued to explain proposed changes on pages within Article 3.

Chair Humphreville opened public comment on this section. With no one wishing to speak, the public comment period was closed.

Commissioner Whitten questioned page 3-92, paragraph 1 on how occupancy was authorized and does not believe that authorization, time limits or occupancy type is not explained very well in the document.

Planning Technician Diane Olsen explained the current approval process for a Special Event Permit. Discussion continued on the need for community events and a user-friendly process to encourage events in the area.

No action occurred on this item.

CONSENT AGENDA

Vice Chair Bridenstine moved to approve the minutes of the April 9, 2013 Planning Commission Meeting minutes. Commissioner Whitten seconded. Motion carried on a 5-0-0 voice vote.

STAFF REPORTS AND COMMENTS

Deputy Town Manager Stueckle announced that an HOP hearing is scheduled for the June 11, 2013 Planning Commission meeting and gave a brief update on local commercial construction projects.

COMMISSIONER REPORTS AND REQUESTS

Commissioner Drozd thanked staff.

Commissioner Lavender commented on Yucca Valley's new west-entrance sign.

Commissioner Whitten thanked staff for their work and questioned the condition of the grass at Essig Park.

Vice Chair Bridenstine also thanked staff for their work on the Draft Development Code.

Chair Humphreville commented he has been approached by local contractors looking for information on the new Affordable Senior Housing Project.

ANNOUNCEMENTS

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, June 11, 2013 at 6:00 p.m. in the Yucca Room of the Yucca Valley Community Center.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:00 p.m.

Respectfully submitted,

Lesley Copeland, CMC
Deputy Town Clerk

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
JUNE 11, 2013**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00 p.m. Commissioners Drozd, Lavender, Whitten and Chair Humphreville were present. Vice Chair Bridenstine was absent (excused).

The Pledge of Allegiance was led by Chair Humphreville.

APPROVAL OF AGENDA

Commissioner Whitten moved to approve the agenda. Commissioner Drozd seconded. Motion carried 4-0-1 on a voice vote.

PUBLIC COMMENTS

None

DEPARTMENT REPORTS

1. APPEAL, A 01-13 HUBBARD

Deputy Town Manager Shane Stueckle presenting the item explaining the appeal, filed by Frank Hubbard is of the director's decision for approval of Home Occupancy Permit, HOP 01-13, to assemble firearms that are purchased in kit form buy and sell firearms, and sell ammunition by appointment only from an existing single family residence.

An aerial view of the neighborhood was presented, along with a summary of the HOP 01-13 approval process. The HOP application was received on March 18, 2013. Director's approval was issued on April 26, 2013 as the HOP was consistent with provisions stated in the Town of Yucca Valley Ordinance No. 178. Deputy Town Manager Stueckle gave examples of similar approved HOP permits.

Chair Humphreville opened public comments.

Permit Applicant, Luke Mintz, Yucca Valley spoke against the appeal. Mintz explained the details of his business and the process he went through in researching the area before purchasing his home.

Frank Hubbard spoke in appeal of the approval of HOP 01-13 stating the concern for the opportunity for increased crime in the neighborhood and additional traffic.

Gail Kallgen, Nalim Mahara, Esther Shaw, Barry Shaw, Clay Donnell, Joel Resnick, Wesley Woods, Bill Osgood, Sigrid McAllister, Bonnie Brady, Margo Sturges, all of Yucca Valley

spoke in favor of the appeal.

Tom Fauls, Joshua Tree, urged the Planning Commission to table this issue for further study.

Permit Applicant, Luke Mintz, rebutted concerns raised in public comment stating information on registered gun owners is not available online. Firearms would be shipped, and does not anticipate buyers to be picking up at his location. Mintz stressed he takes the responsibility of a business owner seriously and has followed all the rules asked of him.

With no other members of the public wishing to speak, Chair Humphreville closed public comment.

Commissioner Lavender commented on gun statistics and is in favor of tabling the item and revisit the Town's ordinance.

Commissioner Drozd stated he understands the neighbor's concerns and is in favor of tabling the item for further research other city's experience in gun shop regulations.

Commissioner Whitten explained he respects the opinions of those who spoke and questioned Mintz on the process of customer background checks and required insurance when a business of this nature is located at his place of residence. Whitten stated he is also in favor of tabling the item pending further research.

Luke Mintz responded to the Commission's inquiries explaining insurance requirements, the state of the gun parts as they are shipped, and the direct shipment of ammunition from manufacturer to his customers. Mintz also stated that while on his premises, the guns will not be in complete working order.

Chair Humphreville stated that though he understands the neighbor's concerns, he doesn't believe that this type of business will affect the neighborhood as they fear. Humphreville continued to state that the item should be decided tonight and does not need to be tabled.

Deputy Town Manager Stueckle explained that the Town of Yucca Valley does not research or consider insurance requirements of HOP applicants, as these issues are outside of the domain of the Town. Stueckle stressed to the Commission, that this is strictly a land-use issue under Ordinance 178 and not a second amendment issue.

Commissioner Lavender moved to table Appeal A 01-13 Hubbard until the meeting of July 9, 2013 until Ordinance 178 could be reviewed. Commissioner Whitten seconded. Motion carried 4-0-1 on a voice vote.

2. CONDITIONAL USE PERMIT, CUP 03-11

**SPECIFIC PLAN, S 01-11
SENIOR AFFORDABLE HOUSING PROJECT
REVISED SITE PLAN
REVISED ELEVATION /ARCHITECTURAL APPROVAL
NATIVE PLANT PLAN APPROVAL
ASSIGNMENT OF TWO COMMISSIONERS TO THE SENIOR HOUSING SUB-COMMITTEE**

Deputy Town Manager Stueckle presented the staff report and visual presentation regarding the Yucca Valley Senior Affordable Housing Project. Stueckle gave a brief overview of the project, development goals, and regional housing needs. A revised site plan including proposed new elevations was shown. The Native Plant Plan states 59 viable native plants are recommended being transplanted and 7 plants are considered non-viable.

Byron Ely from National CORE gave a brief overview of funding sources and explained the updated construction design reducing construction costs. Though the updated design states a reduction of square footage, the difference is because of a more efficient use of common area space. There are no changes in amenities, unit sizes, balconies or common rooms.

Commissioner Whitten inquired about the noise from State Route 62. Ely explained that an acoustical study was conducted. Whitten continued by asking about public transportation, resident mobility concerns and crosswalk locations.

Chair Humphreville opened public comment.

Margo Sturges, Yucca Valley spoke in opposition of the proposed changes.

Bonnie Brady, Yucca Valley spoke in favor of the proposed changes and questioned the lack of solar technology at the project

With no other members of the public wishing to speak, Chair Humphreville closed public comment.

Town Manager Mark Nuaimi addressed the Commission and gave further clarification on the financing strategies and rising construction costs. Nuaimi continued to explain CORE has brought a viable option to continue the construction of 75 units.

Commissioner Drozd inquired about the construction process. Nuaimi explained because of

particular funding sources, the project must be completed by July 2014. CORE expects construction to start in early July 2013 and will move quickly forward from there.

Commissioner Lavender commented that the outside elevation plan looks too busy.

Commissioner Drozd stated Yucca Valley is in great need of affordable senior housing.

Commissioner Whitten inquired about the time commitment necessary for the necessary sub-committee.

Commissioner Whitten moved to:

1. Approve the revised site plan and building configuration.
2. Approve the revised elevations and architecture.
3. Approve the native plant plan application
4. Approve and authorizes further refinements of the project to occur through the senior housing sub-committee and staff, as appropriate.
5. Assign Commissioner Whitten and Drozd to the Town Council senior housing sub-committee.
6. Finds the above actions consistent with the General Plan, Development Code, Senior Housing Specific Plan and Commercial Design Guidelines, based upon the facts and records as submitted.

Commissioner Drozd seconded. Motion carried 4-0-1 on a voice vote.

3. TOWN OF YUCCA VALLEY 5-YEAR CAPITAL IMPROEMENT PROGRAM

Deputy Town Manager presented the staff report explaining that a Capital Improvement Program (CIP) is a planning tool for the expenditure of resources for public infrastructure. Government Code Section 65401 requires that public works capital improvement projects be reviewed by the Planning Commission for conformity with the General Plan and the policies outlined therein. A capital improvement program is a short-range, five-year plan, which identifies capital projects, provides a planning schedule, and identifies options for financing the program. The CIP document identifies the recommended allocation of the Town's limited resources for capital projects for fiscal years 2013-14 through 2017-18. Stueckle continued by explaining that the Planning Commission must find that the CIP is consistent with the policies outlined within the General Plan. Various revenue sources were presented, noting that all are not consistent from year to year, presenting a planning challenge.

Chair Humphreville opened public comment.

Margo Sturges, Yucca Valley referenced the recommended action and inquired as to how this project can be exempt from CEQA.

With no other members of the public wishing to speak, Chair Humphreville closed public comment.

Commissioner Lavender spoke on the need for sidewalks in residential neighborhoods.

Commissioner Whitten inquired on how the General Plan Update affects the CIP plan.

Commissioner Drozd commented favorably on the CIP document.

Deputy Town Manager Stueckle clarified that the item before the Commissioners is the CIP itself, not the specific projects which explains the CEQA exemption.

Chair Humphreville spoke on the many outside funding resources used to help bring these projects forward.

Town Manager Mark Nuaimi thanked Town staff for the tremendous workload they are managing.

Commissioner Drozd moved:

1. to find the project is exempt from CEQA in accordance with Section 15378 (b)(4) and Section 15061 (b)(3) of the California Environmental Quality Act Guidelines in that the Capital Improvement program is not a project nor is there possibility of a significant effect on the environment from the Program. Further, The CIP does not result in a commitment to any specific project; and
2. to recommend to the Town Council adoption of the 5-Year Capital Improvement Program for FY 2013/2014 through 2018/2019.

Commissioner Whitten seconded. Motion carried 4-0-1 on a voice vote.

STAFF REPORTS AND COMMENTS

Deputy Town Manager Stueckle presented a brief update on current commercial projects.

COMMISSIONER REPORTS AND REQUESTS

Commissioner Drozd thanked staff.

Commissioner Whitten thanked staff for their work and questioned the color of the recently painted old Rib Co. building.

Vice Chair Bridenstine also thanked staff for their work on the Draft Development Code.

Chair Humphreville expressed his appreciation of the hard work staff is doing.

ANNOUNCEMENTS

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, June 25, 2013 at 6:00 p.m. in the Yucca Room of the Yucca Valley Community Center.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Lesley Copeland, CMC
Town Clerk

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
JUNE 25, 2013**

Vice Chair Bridenstine called the regular meeting of the Yucca Valley Planning Commission to order at 6:00 p.m. Commissioners Drozd, Lavender (arrived at 6:07 pm) and Whitten were present. Chair Humphreville was absent (excused.)

The Pledge of Allegiance was led by Vice Chair Bridenstine.

APPROVAL OF AGENDA

Commissioner Whitten moved to approve the agenda. Commissioner Drozd seconded. Motion carried 3-2 on a voice vote with Commissioner Lavender and Chair Humphreville absent.

PUBLIC COMMENTS

None

PUBLIC HEARING

1. DEVELOPMENT CODE AMENDMENT, ARTICLE 6- SUBDIVISION REGULATIONS

Deputy Town Manager Shane Stueckle presented a staff report explaining as part of the Development Code Update project, the Planning Commission reviewed draft subdivision regulations at its meeting of April 9, 2013. Subdivision ordinance regulates the review and approval of tentative, final and parcel maps, as well as lot line adjustments, lot mergers, reversions to acreage, certificates of subdivision compliance and official maps. The Planning Commission's recommended changes to the document from the April 9, 2013 meeting were reviewed and noted in the new document as appropriate.

Vice Chair Bridenstine opened the public hearing. With no one wishing to speak on the item, the public hearing was closed.

Commissioner Lavender questioned the current calculations to determine necessary retention requirements.

Commissioner Whitten inquired about notification requirements and would like these to stay in the ordinance.

Commissioner Drozd asked about street lighting standards. Deputy Town Manager Stueckle stated that the current requirements were in need of updating. Applications will be considered on a case by case basis until this occurs.

Vice Chair Bridenstine commented on the State’s notification requirements. Bridenstine also questioned several statements within the document.

Whitten again asked about the notification process. Deputy Town Manager Stueckle explained that notification currently occurs to property owners within 300 feet from the property in question. If a change is recommended, Planning Commission dialog would need to occur before this item goes before Town Council. Stueckle explained that a graduated scale is community used. Town standards are 300 feet across the board, whether commercial, residential, small lot size, or large lot size.

Commissioner Whitten moved to:

- A. Find that the project is exempt from CEQA in accordance with Section 15378 (b)(4) and Section 15061 (b)(3) of the California Environmental Quality Act. The Ordinance is not a project nor is there possibility of a significant effect on the environment from adoption of the Ordinance.
- B. Recommend that the Town Council adopts the Ordinance, and repeals Chapter 4, Division of Land Procedures, from the Yucca Valley Development Code.

Commissioner Drozd seconded. Motion carried 4-0-1 on a voice vote.

CONSENT AGENDA

Meeting Minutes of April 23, 2013 and May 7, 2013

Commissioner Drozd moved to approve as submitted, the minutes of the Planning Commission minutes of April 23, 2013 and May 7, 2013. Commissioner Whitten seconded. Motion carried 4-0-1 on a voice vote.

STAFF REPORTS AND COMMENTS

Deputy Town Manager Stueckle announced future Planning Commission items, that the Super Wal Mart is close to completion, and pre-applications have been received for the front parcels of the Home Depot Center from Marshalls and PetCo.

COMMISSIONER REPORTS AND REQUESTS

Commissioner Drozd thanked staff.

Commissioner Lavender mentioned he liked the shorter meeting.

Commissioner Whitten thanked staff and mentioned he has been receiving inquiries about the cameras located on the new traffic signals.

Commissioner Bridenstine thanked staff and noted she is looking forward to finalizing the draft development code.

ANNOUNCEMENTS

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, July 9, 2013 at 6:00 p.m. in the Yucca Room of the Yucca Valley Community Center.

ADJOURNMENT

There being no further business, the meeting was adjourned at 6:45 p.m.

Respectfully submitted,

Lesley Copeland, CMC
Deputy Town Clerk

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
JULY 9, 2013**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00 p.m. All commissioners were present.

The Pledge of Allegiance was led by Chair Humphreville.

APPROVAL OF AGENDA

Commissioner Whitten moved to approve the agenda. Vice Chair seconded. Motion carried 5-0 on a voice vote.

PUBLIC COMMENTS

None

PUBLIC HEARING

1. CONDITIONAL USE PERMIT, CUP 01-13 PRESCOTT CENTER

Deputy Town Manager Shane Stueckle presented the staff report regarding Conditional Use Permit (CUP) 01-13, Tentative Parcel Map (TPM) 19436- Prescott Center. The site plan was displayed while Stueckle explained adjacent land uses which are general commercial except directly to the south. Southern adjacent land uses are single family residences and vacant residential lots. TPM 19436 proposes subdividing the 2.54 gross acres into three separate parcels as: Parcel 1- 26,336 square feet for a fast food restaurant, Parcel 2- 55,534 square feet for retail/service use, and Parcel 2- 23,661 square feet for retail/service use.

Deputy Town Manager Stueckle continued by presenting elevations and explained that the project may be constructed in three phases, with no limitation to the phasing plan. There are no regional or local flood control facilities affected by the project or proposed with the development. Masonry retaining and/or garden walls are proposed in several areas. The project is designated as General Commercial (C-G) and is intended to support and encourage the development of retail, service and professional service economic sector activities within the community. A total of 84 onsite parking spaces are proposed with drive aisles. Access is proposed from the site to SR 62, Prescott Avenue and Palisades Drive. The project applicant will be requesting authorization from Caltrans to construct a traffic signal at the intersection of SR 62 and Prescott Avenue, pursuant to the traffic study prepared for the project. All new utilities will be constructed below grade, and sewage disposal is proposed by connecting the buildings to an adjacent future public sewer system when available. An interim, private on-site conventional septic system or package treatment system is proposed until public sewers are available.

Bill Warner of Nolte Engineering, representing the applicant, spoke in favor of the project and explained the developer is also developing the Warren Vista Center and is supportive of the community.

Chair Humphreville opened public comments.

Jennifer Collins, Yucca Valley Chamber of Commerce spoke in favor of the project.

With no other members of the public wishing to speak, Chair Humphreville closed public comments.

Commissioner Drozd questioned if medians were anticipated on Prescott Ave.

Vice Chair Bridenstine explained that it is not necessary for her to recuse herself from the item since she has not worked for the applicant for a number of years, nor has she worked on this project in a professional role.

Commissioner Whitten questioned the need for another traffic signal. Deputy Town Manager Stueckle explained that the traffic signal and raised median placement is at the discretion of Caltrans. The Town is working to expand the current traffic synchronization project to include most signals along SR 62.

Commissioner Whitten inquired if the parcel division matches the phases. Bill Warner stated that the phases were less about parcel and was more related to the overall project development.

Vice Chair Bridenstine thanked the developer, Richard Gottlieb for his interest in the community.

Chair Humphreville inquired if there were any time limits in affect for the CUP.

Vice Chair Bridenstine moved to:

1. find that the project is exempt from CEQA under section 15332 Class 32, infill development, and;
2. approve Conditional Use Permit, CUP 1-13, based upon the findings and the Conditions of Approval, and;
3. approve Tentative Parcel Map TPM 19435 based upon the findings and the Conditions of Approval

Commissioner Whitten seconded. Motion carried 5-0 on a voice vote.

DEPARTMENT REPORT

2. APPEAL, A 01-13 HUBBARD

Deputy Town Manager Stueckle presented a brief overview of the item. Stueckle reported that the applicant of the Home Occupancy Permit, HOP 1-13 withdrew his application on June 26, 2013, vacating the Director's Approval. Appealable action no longer exists.

Chair Humphreville opened public comments.

Frank Hubbard, Yucca Valley thanked the commissioners for their attention to the matter and would like to learn of the comments that Commissioner Lavender received from his newspaper article.

Thomas Geiger, Yucca Valley spoke against the idea of allowing gun shops in residential areas.

With no other members of the public wishing to speak, Chair Humphreville closed public comment.

Commissioner Whitten asked about the contents of Mintz' letter as referred in the staff report.

Commissioner Lavender stated that though the application was withdrawn, the question of whether to allow gun shops in residential areas still needs to be answered. Lavender would like to see this item on a future agenda for review. Deputy Town Manager Stueckle explained that the portion of the Development Code Update containing these sections will be brought before the Planning Commission for review in the next 60-90 days.

Vice Chair Bridenstine inquired if the Town currently has gun retail businesses in residential areas and if have been any issues. Deputy Town Manager Stueckle replied that no complaints have been filed with the Town and no reports have been received by the Sheriff's Department.

Commissioner Whitten moved to receive the file the report. Vice Chair Bridenstine seconded. Motion carried 5-0 on a voice vote.

STAFF REPORTS AND COMMENTS

Deputy Town Manager Stueckle presented a brief update on current commercial projects and noted that the Planning Commission will be reviewing Pre-Applications in the near future.

FUTURE AGENDA ITEMS

Development Code Update- Articles 4 and 5

COMMISSIONER REPORTS AND REQUESTS

Commissioner Drozd thanked staff and commended Bill Warner with his assistance with the new project.

Commissioner Whitten inquired about the status of the old Wal Mart building and thanked Bill Warner. Whitten also questioned the activity at the corner of SR 62 and SR 247 and noted that people were violating the No Parking signs.

Vice Chair Bridenstine also thanked staff and was happy to see another commercial project starting

Chair Humphreville expressed his frustrations with Caltrans.

ANNOUNCEMENTS

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, July 23, 2013 at 6:00 p.m. in the Yucca Room of the Yucca Valley Community Center.

ADJOURNMENT

There being no further business, the meeting was adjourned at 6:53 p.m.

Respectfully submitted,

Lesley Copeland, CMC
Town Clerk