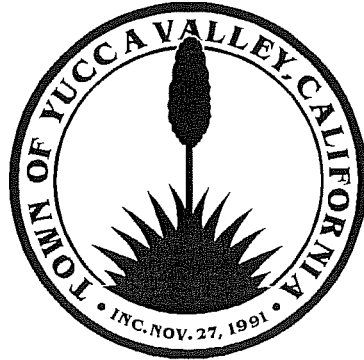


**TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING**



*The Mission of the Town of Yucca Valley is to
provide a government that is responsive to its citizens
to ensure a safe and secure environment
while maintaining the highest quality of life.*

**TOWN COUNCIL: 6:00 p.m.
TUESDAY, OCTOBER 15, 2013
YUCCA VALLEY COMMUNITY CENTER
YUCCA ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284**

* * * *

TOWN COUNCIL
*Merl Abel, Mayor
Robert Lombardo, Mayor Pro Tem Member
George Huntington, Council Member
Robert Leone, Council Member
Dawn Rowe, Council Member*

* * * *

**TOWN ADMINISTRATIVE OFFICE:
760-369-7207
www.yucca-valley.org**

**AGENDA
MEETING OF THE
TOWN OF YUCCA VALLEY COUNCIL
TUESDAY OCTOBER 15, 2013
6:00 P.M.**

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.

An agenda packet for the meeting is available for public view in the Town Hall lobby and on the Town's website, www.yucca-valley.org, prior to the Council meeting. Any materials submitted to the Agency after distribution of the agenda packet will be available for public review in the Town Clerk's Office during normal business hours and will be available for review at the Town Council meeting. Such documents are also available on the Town's website subject to staff's ability to post the documents before the meeting. For more information on an agenda item or the agenda process, please contact the Town Clerk's office at 760-369-7209 ext. 226.

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 Town Clerk. The Mayor/Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.

(WHERE APPROPRIATE OR DEEMED NECESSARY, ACTION MAY BE TAKEN ON ANY ITEM LISTED IN THE AGENDA)

OPENING CEREMONIES

CALL TO ORDER

ROLL CALL: Council Members Huntington, Leone, Lombardo, Rowe, and Mayor Abel.

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATION

1-1 1. Fire Prevention Week Proclamation

AGENCY REPORTS

Hi Desert Water District

2. Monthly Water / Wastewater Report

APPROVAL OF AGENDA

Action: Move _____ 2nd _____ Vote _____

CONSENT AGENDA

3. Waive further reading of all ordinances (if any in the agenda) and read by title only.

Recommendation: Waive further reading of all ordinances and read by title only.

- 2-170 4. Development Code Amendment, DCA-06-13; Draft Development Code Article 4; Permit Procedures

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

Recommendation: Adopt the Ordinance, and repeal 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.

- 171-181 5. Measure I Five-Year Plan 2013/2014 to 2017/2018; Resolution No. Measure I Plan; Measure I Expenditure Strategy

- 182-185 6. Pit Bull & Pit Bull Type Dogs- Mandatory Spay and Neuter- Ordinance No.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY CALIFORNIA, ADDING TO TITLE 10 CHAPTER 10.02 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE RELATING TO ANIMAL CONTROL BY ADDING SECTIONS 10.02.175 AUTHORIZING MANDATORY SPAYING AND NEUTERING OF PIT BULLS

Recommendation: Adopt the Ordinance, establishing mandatory spay and neuter regulations for pit bulls and pit bull type dogs.

- 186-221 7. Third Amendment to the Subdivision Improvement Agreement
Reduction of Bond Obligations
Tract Map 16587 - Located at the northeast corner of Acoma Trail and Zuni Trail

Recommendation: Approve the third amendment to the Subdivision Improvement Agreement, extending the period of time for completion of improvements an additional twenty-four (24) months through November 22, 2015, authorizing release of the Performance and Labor/Material Bonds, and accepting the Irrevocable Standby letters of Credit for the remaining public improvements.

- 222-224 8. AB 1234 Reporting Requirements

Recommendation: Receive and file the AB1234 Reporting Requirement Schedule for the month of September 2013

- 225-232 9. Warrant Register

Recommendation: Ratify the Payroll Registers total of \$142,906.84 for checks dated September 27, 2013; Ratify the Warrant Registers total of \$474,209.65 for checks dated October 3, 2013

All items listed on the consent calendar are considered to be routine matters or are considered formal documents covering previous Town Council instruction. The items listed on the consent calendar may be enacted by one motion and a second. There will be no separate discussion of the consent calendar items unless a member of the Town Council or Town Staff requests discussion on specific consent calendar items at the beginning of the meeting. Public requests to comment on consent calendar items should be filed with the Town Clerk/Deputy Town Clerk before the consent calendar is called.

Recommendation: Adopt Consent Agenda (items 3-6)

Action: Move _____ 2nd _____ Vote _____

DEPARTMENT REPORTS

- 233-236 10. Recreation Program Review – Summer 2013
Program Offerings Review – Winter 2013-14

Recommendation:

- A. Receive and file the Recreation Program Review for the summer 2013 period;
- B. Review and approve the winter 2013-14 programs and events to be organized and conducted by the Community Services Department

Action: Move _____ 2nd _____ Vote _____

- 237-244 11. Affordable Healthcare Act Impact Update

Recommendation: Receive and file the review of the Affordable Healthcare Act impact on the Town’s employee benefit program

Action: Move _____ 2nd _____ Vote _____

- 245-246 12. Community Center Playground Improvement – Town Project No. 8961 Notice of Completion; JMJ Construction, Inc. Winchester, CA.

Recommendation: Accept the project as substantially complete; authorize staff to file the Notice of Completion; Authorize the reduction of the Faithful Performance Bond to 10% and; Direct staff to retain the labor and Material Bond for six (6) months for Project No. 8961

Action: Move _____ 2nd _____ Vote _____

FUTURE AGENDA ITEMS

PUBLIC COMMENTS

In order to assist in the orderly and timely conduct of the meeting, the Council takes this time to consider your comments on items of concern which are on the Closed Session or not on the agenda. When you are called to speak, please state your name and community of residence. Notify the Mayor if you wish to be on or off the camera. Please limit your comments to three (3) minutes or less. Inappropriate behavior which disrupts, disturbs or otherwise impedes the orderly conduct of the meeting will result in forfeiture of your public comment privileges. The

Town Council is prohibited by State law from taking action or discussing items not included on the printed agenda.

STAFF REPORTS AND COMMENTS

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

13. Council Member Leone
14. Council Member Rowe
15. Council Member Huntington
16. Mayor Pro Tem Lombardo
17. Mayor Abel

ANNOUNCEMENTS

Time, date and place for the next Town Council meeting.

6:00 p.m., Tuesday, November 5, 2013, Yucca Valley Community Center Yucca Room

ADJOURNMENT

Yucca Valley Town Council

Meeting Procedures

The Ralph M. Brown Act is the state law which guarantees the public's right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Town of Yucca Valley Town Council in accordance with the Brown Act, Government Code 54950 et seq., and shall apply at all meetings of the Yucca Valley Town Council, Commissions and Committees.

Agendas - All agendas are posted at Town Hall, 57090 Twentynine Palms Highway, Yucca Valley, at least 72 hours in advance of the meeting. Staff reports related to agenda items may be reviewed at the Town Hall offices located at 57090 Twentynine Palms Highway, Yucca Valley.

Agenda Actions - Items listed on both the "Consent Calendar" and "Items for Discussion" contain suggested actions. The Town Council will generally consider items in the order listed on the agenda. However, items may be considered in any order. Under certain circumstances new agenda items can be added and action taken by two-thirds vote of the Town Council.

Closed Session Agenda Items - Consideration of closed session items, *excludes* members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the Mayor will announce the subject matter of the closed session. If final action is taken in closed session, the Mayor shall report the action to the public at the conclusion of the closed session.

Public Testimony on any Item - Members of the public are afforded an opportunity to speak on any listed item. Individuals wishing to address the Town Council should complete a "Request to Speak" form, provided at the rear of the meeting room, and present it to the Town Clerk prior to the Council's consideration of the item. A "Request to Speak" form must be completed for *each* item when an individual wishes to speak. When recognized by the Mayor, speakers should be prepared to step forward and announce their name and address for the record. In the interest of facilitating the business of the Council, speakers are limited to up to three (3) minutes on each item. Additionally, a twelve (12) minute limitation is established for the total amount of time any one individual may address the Council at any one meeting. The Mayor or a majority of the Council may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. Consent Calendar items can be pulled at Council member request and will be brought up individually at the specified time in the agenda allowing further public comment on those items.

Agenda Times - The Council is concerned that discussion takes place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

Public Comment - At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject with Council's authority. *Matters raised under "Public Comment" may not be acted upon at that meeting. The time limits established in Rule #4 still apply.*

Disruptive Conduct - If any meeting of the Council is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the Mayor may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive conduct includes addressing the Council without first being recognized, not addressing the subject before the Council, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, or otherwise preventing the Council from conducting its meeting in an orderly manner. *Please be aware that a NO SMOKING policy has been established for all Town of Yucca Valley meetings. Your cooperation is appreciated!*

ACRONYM LIST

ADA	Americans with Disabilities Act
CAFR	Comprehensive Annual Financial Report
CALTRANS	California Department of Transportation
CEQA	California Environmental Quality Act
CCA	Community Center Authority
CDBG	Community Development Block Grant
CHP	California Highway Patrol
CIP	Capital Improvement Program
CMAQ	Congestion Mitigation and Air Quality
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COP	Certificates of Participation
CPI	Consumer Price Index
ED	Economic Development
EIR	Environmental Impact Report (pursuant to CEQA)
GAAP	Generally Accepted Accounting Procedures
GASB	Governmental Accounting Standards Board
IEEP	Inland Empire Economic Partnership
IIPP	Injury and Illness Prevention Plan
IRC	Internal Revenue Code
LAIF	Local Agency Investment Fund
LLEBG	Local Law Enforcement Block Grant
LTF	Local Transportation Fund
MBTA	Morongo Basin Transit Authority
MBYSA	Morongo Basin Youth Soccer Association
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
MUSD	Morongo Unified School District
PARSAC	Public Agency Risk Sharing Authority of California
PERS	California Public Employees Retirement System
PPA	Prior Period Adjustment
PVEA	Petroleum Violation Escrow Account
RDA	Redevelopment Agency
RSA	Regional Statistical Area
RTP	Regional Transportation Plan
SANBAG	San Bernardino Associated Governments
SCAG	Southern California Association of Governments
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TEA-21	Transportation Enhancement Act for the 21 st Century
TOT	Transient Occupancy Tax

COUNCIL COMMITTEE MEETING TIMES

<u>COMMITTEE</u>	<u>REPRESENTATIVE</u>	<u>TIMES</u>	<u>LOCATION</u>
SANBAG	HUNTINGTON ROWE (ALT)	9:30am 1st Wed	San Bernardino
MEASURE I	HUNTINGTON ROWE (ALT)	9:00 a.m. 3rd Fri.	Apple Valley
DESERT SOLID WASTE JPA	HUNTINGTON LOMBARDO (ALT)	10:00am 2nd Thurs Feb, May, Aug, Nov	Victorville
SOLID WASTE ADVISORY TASK FORCE	HUNTINGTON	2 times per year	Victorville
LEAGUE OF CALIFORNIA CITIES DESERT/MOUNTAIN DIVISION	LOMBARDO ROWE (ALT)	10:00am. 4th Fri quarterly	Various Locations
MORONGO BASIN TRANSIT AUTHORITY	ABEL HUNTINGTON ROWE (ALT)	5:00 pm 4th Thurs	Joshua Tree
MOJAVE AIR QUALITY DISTRICT	ABEL ROWE (ALT)	10:00am 4th Mon	Victorville
LEAGUE OF CALIFORNIA CITIES LEGISLATIVE DELEGATE	MAYOR		
LEGISLATIVE TEAM	HUNTINGTON ROWE	Proposed for Council Member to work with Town Manager meeting with legislators when necessary.	
FLOOD CONTROL ZONE 6	MAYOR		
CITY/COUNTY ANIMAL SERVICES JPA	HUNTINGTON LOMBARDO	12:00 p.m. last Thurs.	Yucca Valley
SPORTS COUNCIL	HUNTINGTON	March, June, Sept., Oct.	Yucca Valley
SBCO HOMELESS PARTNERSHIP AND INTERAGENCY COUNCIL ON HOMELESSNESS	LEONE LOMBARDO (ALT)	9:00 a.m. 4 th Wed	San Bernardino

AD HOC COMMITTEES

SENIOR HOUSING	HUNTINGTON ROWE
SEWER FINANCING	ROWE LEONE
COUNCIL RULES & PROCEDURES	HUNTINGTON LOMBARDO
MORONGO UNIFIED SCHOOL DISTRICT	ROWE
AUDIT	
BREHM PARK	ABEL LOMBARDO
COUNTY BUDGET COMMITTEE	ROWE HUNTINGTON
SUBDIVISION COMMITTEE	HUNTINGTON LEONE

Town of Yucca Valley Proclamation

WHEREAS, the **Town of Yucca Valley** is committed to ensuring the safety and security of all those living in and visiting our **Town**; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, home fires killed more than 2,500 people in the United States in 2011, according to the latest research from the nonprofit National Fire Protection Association (NFPA), and fire departments in the United States responded to more than 370,000 home fires; and

WHEREAS, cooking is the leading cause of home fires and home fire injuries; and

WHEREAS, U.S. Fire Departments respond to an estimated average of 156,000 cooking related fires annually; and

WHEREAS, two of every five home fires start in the kitchen; and

WHEREAS, unattended cooking was a factor in 34% of reported home cooking fires

WHEREAS, clothing was the item first ignited in less than 1% of home cooking fires, but these incidents accounted for 16% of the cooking fire deaths.

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half; and

WHEREAS, **Yucca Valley's** first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, **Yucca Valley** residents are responsive to public education measures and are able to take personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, the 2013 Fire Prevention Week theme, "Prevent Kitchen Fires!" effectively serves to remind us to develop and practice a home fire escape plans during Fire Prevention Week and year-round.

THEREFORE, **We, Town Council of Yucca Valley** do hereby proclaim October 6-12, 2013, as Fire Prevention Week throughout this **Town**, and **We** urge all the people of **Yucca Valley** to always practice kitchen safety, and to support the many public safety activities and efforts of **Yucca Valley's** fire and emergency services.

Dated this 15th day of October, 2013

MAYOR

ORDINANCE NO .

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

The Yucca Valley Town Council ordains as follows.

Section 1:

Article 4:
Permit Procedures

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Chapter 9.60 Permit Procedures – General Provisions

Sections:

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

9.60.010 – Purpose

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

9.60.020 – Types of Procedures

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

Public Hearing

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

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

Staff Review with Notice

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

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

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

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

Staff Review without Notice

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

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

9.60.030 – Review Authority for Land Use and Zoning Decisions

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

TABLE 4.1 REVIEW AUTHORITY				
Type of Entitlement or Decision	Applicable Code Section	Director (1) (2)	Planning Commission⁽³⁾	Town Council (4)
Amendments to Development Code or Zone Change	Ch. 9.62	Recommend(5)	Recommend	Decision
Land use Compliance Review	Ch. 9.66	Decision	Appeal	Appeal
Conditional Use Permits	Ch. 9.63	Recommend	Decision	Appeal
Development Agreements and Amendments	Ch. 9.64	Recommend	Recommend	Decision
General Plan Amendments	Ch. 9.66	Recommend	Recommend	Decision
Home Occupation Permits	Ch. 9.08.050	Decision	Appeal	Appeal
Interpretations	Section 9.02.010	Decision	Appeal	Appeal
Planned Development Permits	Ch. 9.67	Recommend	Recommend	Decision
Minor Revisions to Approved Actions	Varies	Decision	Appeal	Appeal
Native Plant Permits	Ch. 9.77	Decision	Appeal	Appeal
Sign Permits	Ch. 9.76	Decision	Appeal	Appeal
Site Plan and Design Review	Ch. 9.68	Recommend	Decision	Appeal
Special Use Permits	Ch. 9.69	Decision	Appeal	Appeal
Specific Plans and Amendments	Ch. 9.70	Recommend	Recommend	Decision

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

Table 4.1 Notes:

- (1) The Director may defer action and refer any permit or approval application to the Commission for final determination.
- (2) All decisions of the Director are appealable to Commission, and then to the Council, in compliance with Chapter 9.81, *Appeals*.
- (3) The Commission may refer consideration of an appeal to the Council.
- (4) All decisions of the Council are final.
- (5) "Recommend" means that the review authority makes a recommendation to a higher review authority; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier review authority, in compliance with Chapter 9.8, *Appeals*.
- (6) Concurrent processing. Multiple applications for the same project shall be processed concurrently, and shall be reviewed, and approved or disapproved by the highest review authority designated by this Development Code for any of the required applications (e.g., a project with applications for both a Zoning Map amendment and a Conditional Use Permit shall have both applications decided by the Council, instead of the Commission acting on the Conditional Use Permit as otherwise provided by Table 4.1 [Review Authority]).

9.60.040 – Referral to Next Higher Review Authority.

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

1. Impact upon public services and facilities greater than typical for the type of project proposed;
2. Impact upon surrounding properties greater than typical for the type of project proposed;
3. Floor or site square footage greater than typically found in the type of project;
4. Intensity of use greater than typically found in the type of projects;
5. Operating characteristics not typical of the type of project proposed;
6. Other factors including but not limited to public opposition to development of the project;
7. The need for Town interpretation of the General Plan and/or Development Code as related to the project.

Chapter 9.61 Application Processing Procedures

Sections:

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

9.61.010 – Purpose

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

9.61.020 – Applications for Land Use Decisions

- A. **Complete Application Required.** Any application for a permit or entitlement pursuant to this Code must be accepted as complete for processing in order to initiate the official review process. All required materials, information and fees as required by the Director shall be provided by the applicant before the application is deemed complete for processing.
- B. **Determination of Completeness.** The Director shall determine in writing the completeness of the application and transmit this determination to the applicant within the time limits and in a form and content to be consistent with the types of project applications established by applicable state law and Town regulations.
- C. **Time Period for Determining Completeness.** The statutory time period of thirty (30) days established by state law for determining completeness shall begin the day the application is made and date stamped. Formal processing of any application pursuant to this Code shall commence upon the date the application is accepted as complete, as provided in the state law regarding review and approval of development projects.
- D. **Abandonment of Application**
 - 1. An application for permits or approvals issued in compliance with the Development Code shall be deemed to have been abandoned when information and/or fees have been requested to complete the application and this information and/or fees have not been received by the Planning Division within ninety (90) calendar days.

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

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

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

9.61.030 – Development Review Committee

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

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

9.61.040 – Environmental Review

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

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

9.61.050 – Multiple Permit Applications

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

9.61.060 – Pre-Application Review

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

9.61.070 – Notice of Pending Land Use Decisions

- A. Public hearing or staff review with notice procedures.** Upon receipt of a request for a land use decision that utilizes the public hearing or staff review with notice procedures, the applicable review authority shall give notice specifying the time and place for the decision at least 10 calendar days before the date of the scheduled land use approval/denial by the following applicable methods:
1. Notice shall be published once in a newspaper of general circulation in the respective community of the proposal for the following land use decisions using the public hearing procedure:
 - a. Amendments to the text of the General Plan or a Specific Plan.
 - b. Development Code amendments.
 - c. General Plan map amendments.
 - d. Subdivisions, where a tentative and final map are required.
 - e. Conditional Use Permit and amendments
 - f. Specific Plan and amendments
 - g. Planned Development and amendments
 - h. Variance
 2. Notice shall be given by first class mail to any person who has filed a written request for a specific application.
 3. Notice shall be given by first class mail or delivery to all surrounding property owners within 300 feet of the exterior boundaries of the subject site for land use decisions using the public hearing or staff review with notice procedures. Director shall have the discretion to extend the notification radius depending upon project characteristics.

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4. Notice shall also be given, as required by Government Code Section 66451.3, in the case of a conversion of residential real property to a community apartment project, condominium project, or stock cooperative.
 5. Notice may be given in any other manner as is deemed necessary or desirable by the Director.
- B. One-eighth page optional notice.** A one-eighth page legal display advertisement in a newspaper of general circulation may be substituted for individual property owner notice whenever the individual notice would require notification of more than 1,000 property owners.
- C. Ownership and addresses of properties.** Ownership and addresses of contiguous and surrounding properties shall be determined from the latest equalized tax assessment role or from other records of the County Assessor or County Tax Collector, whichever contains more recent information.
- D. Continued hearings.** During the public hearing, items that are continued by the review authority to a specific date shall not be re-noticed unless specifically requested by the review authority.

9.61.080 – Conditions of Approval

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

9.61.090 – Post-Decision Notice

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

Chapter 9.62 Amendments to Development Code and Zone Changes

Sections:

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

9.62.010 – Purpose

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

9.62.020 – Initiation

- A. **Procedure.** A Development Code amendment may be initiated by an amendment application by one (1) or more property owners affected by the proposed amendment or by the Council.
1. If the Council initiates a change or addition to the Development Code, it may direct staff to process the amendment.
 2. If the Commission wishes to initiate an amendment, it shall be referred to the Council for concurrence to initiate an amendment. The Council may then direct staff to process the amendment.
 3. If the Director wishes to initiate an amendment, it shall be referred to the Commission for review and referral to Council
- B. **Fees.** Application for an amendment to the provisions of this Development Code made by one (1) or more property owners affected by the proposed amendment shall be accompanied by a fee established by resolution of the Council and shall include submittal requirements as prescribed by the Director.

9.62.030 – Public Hearing and Notice

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

9.62.040 – Commission Action

- A. **Public Hearing Required.** The Commission shall hold a public hearing after giving notice as required by Chapter 9.85, *Public Hearings and Notice*.
- B. **Commission Recommendation.** The Commission shall make a written recommendation whether to approve, approve in modified form, or deny the proposed amendment.

9.62.050 – Council Action

- A. **Council Options.** Upon receipt of the Commission's recommendation, the Council may approve, approve with modifications, or disapprove the proposed amendment based upon the findings contained in Section 9.62.060, *Required Findings*.
- B. **Amendment to be made by Ordinance.** Amendments to this Development Code shall be made by ordinance.
- C. **Public Hearing by Council.** Upon receipt of a Commission recommendation, the Council shall hold a public hearing and notices shall be mailed as set forth in Chapter 9.85, *Public Hearings and Notice*. Notices shall also be given to the applicant, the Commission and, if applicable, the appellant. The Director shall submit a report and meeting minutes of the Commission's recommendation to the Council setting forth the reasons for action taken by the Commission.
- D. **Council Modifications to Proposed Amendment.** Any significant modification of an amendment to the zoning provisions of this Code made by the Council (i.e.: changes involving density, intensity, or standards), which (modification) was not previously considered by the Commission during its hearing, shall be referred to the Commission for report and recommendation. The Commission is not required to hold a hearing on such modification, and their failure to respond to a Council referral within forty-five (45) days shall constitute their (the Commission's) recommendation for approval.

9.62.060 – Required Findings

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

- A. The proposed amendment is consistent with the General Plan; and
- B. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Chapter 9.63 Conditional Use Permit

Sections:

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

9.63.010 – Purpose and General Plan Consistency

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

9.63.020 – Applicability

- A. All new construction which is listed in the use classification charts for the underlying land use districts that require a Conditional Use Permit Review.
- B. Expansions which exceed the thresholds of Table 4.2 and are permitted subject to a Conditional Use Permit Review as specified in the use classification charts for the underlying land use district shall require a Conditional Use Permit.

TABLE 4.2
CONDITIONAL USE PERMIT
EXPANSION THRESHOLDS

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

C. Change in use of an existing structure

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

1. Half-width (½) street Improvements (curb, gutter, sidewalk, street lights, and pavement) on all streets fronting the project, except as defined by the parameters of the Council policies regarding Street Reconstruction
2. Onsite water retention of incremental increase
3. Dedication of easements for drainage facilities, streets, trails, avigation easements as required by this code and any adopted plans
4. Improvements to drainage facilities except as defined by the parameters of the Council policies regarding drainage facilities
5. Assessment Districts formation (including Landscape and Lighting, Street and Drainage, Community Facility District, and Public Safety)
6. Utility Undergrounding, pursuant to adopted standards
7. Landscaping and Landscaping Plan regulations (greater than 500 square feet of landscape area requires approval by Hi Desert Water District)
8. Commercial Design Guidelines
9. Outdoor Lighting regulations
10. Parking and screening requirements
11. Sign regulations
12. All other Development Code regulations
13. California Environmental Quality Act (CEQA) and any required mitigation measures

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

9.63.030 – Authority

A. Level of Review:

TABLE 4.3
CONDITIONAL USE PERMIT
LEVEL OF REVIEW

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

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

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

1. Impact upon public services and facilities greater than typical for the type of project proposed;
2. Impact upon surrounding properties greater than typical for the type of project proposed;
3. Floor or site square footage greater than typically found in the type of project;
4. Intensity of use greater than typically found in the type of projects;
5. Operating characteristics not typical of the type of project proposed.
6. Other factors including but not limited to public opposition to development of the project.
7. The need for Council interpretation of the General Plan and/or Development Code as related to the project.

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

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

1. Requirements for special structure setbacks;
2. Open spaces;
3. Buffers;
4. Fences;
5. Walls and screening;
6. Requirements for the installation and maintenance of landscaping and erosion control measures;
7. Control of street improvements, other public infrastructure and related dedications;
8. Control of vehicular ingress and egress;
9. Control of traffic circulation;
10. Control of signs;
11. Control of hours of operation;
12. Control of potential nuisances;
13. Establishing standards for maintenance of buildings and grounds;
14. Establishing development schedules and development standards;
15. Control of periodic review;
16. Control of architectural and/or building design;
17. Any other conditions as may be deemed necessary to ensure the compatibility with surrounding uses, to preserve the public health, safety and welfare, and to enable the Commission to make the findings required by Section 9.63.080, *Required Findings*.

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

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

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

- F. **Conditions Declared Void.** Whenever any final judgment of a court of competent jurisdiction declares one or more of the conditions of a Conditional Use Permit to be unconstitutional or invalid, such decision shall not affect the validity of the approval as a whole, or any portion thereof other than the section so declared
- G. **Violation of Condition.** Whenever a Conditional Use Permit is approved or modified by the Commission subject to a condition(s), non-compliance with such condition(s) shall constitute a violation of this Code. Conditions which are not observed or which are violated may be enforced as provided in Chapter 9.82, *Enforcement and Violations* or said Conditional Use Permit may be revoked or modified under Chapter 9.83, *Permit Amendments* and 9.84, *Permit Revocations*.

9.63.040 – Application Submittal Requirements

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

9.63.050 – Application Fee

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

9.63.060 – Investigation and Report

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

9.63.070 – Action by Review Authority

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

9.63.080 – Required Findings

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

- A. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of the land use district in which the site is located, and the development policies and standards of the Town;
- B. That the location, size, design and architectural design features of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;
- C. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of the development between adjacent land uses;
- D. That the building site and architectural design is accomplished in an energy efficient manner;
- E. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible and consistent with the adjacent and neighboring structures;
- F. That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;
- G. That the amount, location, and design of open space and landscaping conforms to the requirements of the Development Code, enhances the visual appeal and is compatible with the design and functions of the structure(s), site and surrounding area;
- H. That quality in architectural design is maintained in order to enhance the visual desert environment of the Town and to protect the economic value of existing structures;
- I. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to be installed at the appropriate time to serve the project as they are needed;
- J. That access to the site and circulation on and off-site is required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;
- K. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;
- L. That traffic improvements and/or mitigation measures have been applied or required in a manner adequate to maintain a Level of Service C or better on arterial roads, where applicable, and are consistent with the Circulation Element of the Town General Plan;
- M. That there will not be significant harmful effects upon environmental quality and natural resources including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;

- N. That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;
- O. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be considered to be detrimental to the public health, safety and welfare of the community or be materially injurious to properties and/or improvements within the immediate vicinity or be contrary to the General Plan; and
- P. That the proposed development will comply with each of the applicable provisions of the Development Code and applicable Town policies, except approved variances.

9.63.090 – Minor Modifications of Previously Approved Conditional Use Permit

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

9.63.100 – Lapse of Permits/Permit Expiration

- A. **Expiration.** A Conditional Use Permit approval shall expire three (3) years from the date the permit is approved unless it is otherwise conditioned or unless prior to the expiration of the three (3) years the following have occurred:
 - 1. A building permit is issued and substantial construction is diligently pursued towards completion of the project which was the subject of the Conditional Use Permit application. After construction is commenced, if work is discontinued for a period of two (2) years, the Conditional Use Permit shall require review and reauthorization by the Commission; or
 - 2. A certificate of occupancy is issued for the structure which was the subject of the Conditional Use Permit application.
- B. **Phased Projects.** Projects may be built in phases if so approved by the Commission or Director pursuant to Section 9.63.090, *Minor Modifications of Previously Approved CUP*.

9.63.110 – Extension of Time

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

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

9.63.120 – CUP Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.63.130 – CUP Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.63.140 – Development of Property Before Final Decision

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

9.63.150 – Alteration to Nonconforming Use

A. Procedure:	Administrative Review
Reviewing Authority:	Director

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

- B.** An existing nonconforming use may be altered to accommodate a new structure or accessory use, except where it is an existing nonconforming use of land with no structure thereon.
- C. Findings.** Before any modification in a nonconforming use may be granted, it shall be found that all of the following conditions shall exist in reference to the alteration being considered:
1. The remaining normal life of the existing nonconforming use shall be determined pursuant to provisions specified in this Code prior to consideration of the proposed alteration if in a residential district.
 2. The proposed alteration shall not prolong the normal life of the existing nonconforming use.

3. The alteration of the existing nonconforming use shall not be detrimental to nor prevent the attainment of objectives, policies, general land use and programs specified in the Town General Plan.
4. The granting of permission to alter the nonconforming use shall not be substantially detrimental to the public health, safety or welfare, or injurious to the property or improvements in the vicinity and district in which the use is located.
5. The alteration shall not change the primary use of the land nor increase the intensity of that use.
6. The existing nonconforming use shall comply with all other existing regulations.
7. Any alteration required by governmental or court action shall be exempt from these conditions.

9.63.160 – Surface Mining and Reclamation

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

Chapter 9.64 Development Agreements

Sections:

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

9.64.010 – Purpose, Authority and Findings

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

- A. **Assurances to the applicant.** A development agreement is intended to provide assurance to the applicant that an approved project may proceed subject to the policies, regulations, rules, and conditions of approval applicable to the project at the time of approval, regardless of any changes to town policies, regulations, and rules after project approval.
- B. **Assurances to the Town.** In return, the Town is provided assurance that the project would further important town goals and policies which have been officially recognized by the Council, and provide the Town with significant, tangible benefits beyond those that may be required by the Town through normal project conditions of approval.

9.64.020 – Qualifications of Applicant

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

9.64.030 – Application Submittal Requirements

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

9.64.040 – Application Fee

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

9.64.050 – Investigation and Report

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

9.64.060 – Action by Review Authorities

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

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

1. Consistent with the objectives, policies, land uses and programs specified in the General Plan and any applicable specific plan;
2. Compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located; and
3. Beneficial to the public health, safety, and welfare.

C. Decision of the Council

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

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

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

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

9.64.070 – Amendment or Cancellation of Development Agreements

- A. Either party (or successors in interest thereof) may initiate an amendment to, or cancellation in whole or in part of, a previously executed development agreement.
- B. The procedure for initiating and adopting an amendment to, or a cancellation in whole or in part of, the development agreement is the same as the procedure for entering into the original agreement.
- C. A development agreement, after notice and public hearing, may be amended or canceled in whole or in part by mutual consent of the parties to the development agreement or their successors in interest.
- D. Amendment of a development agreement is a legislative act and must be approved by ordinance, which ordinance is subject to referendum.

9.64.080 – Recordation

- A. The applicant shall present to the Director the written consent to the development agreement of all parties having record ownership interest in the real property which is the subject of the development agreement, prior to the approval of the agreement by the Council.
- B. No later than ten (10) days after the Council approves the development agreement, the Town Clerk shall record with the County Recorder a copy of the development agreement which shall describe the land subject thereto.
- C. If the parties to the agreement (or their successors in interest) amend or cancel the agreement as provided in California Government Code Section 65868, or if the Council terminates, or modifies the agreement as provided in Government Code Section 65865.1, the Town Clerk shall record the appropriate document with the County Recorder in the manner prescribed by State law.

9.64.090 – Periodic Review

- A. The Town shall review the development agreement every twelve (12) months from the date the agreement is entered into through a public hearing by the Commission and Council.
- B. The Director shall initiate the review proceeding by giving notice as provided by Chapter 9.85, *Public Notices and Hearings*, that the Town intends to undertake a periodic review of the development agreement and shall prepare a staff report and recommendation.
- C. The Director shall determine whether the property owner has demonstrated good faith compliance with the terms and conditions of the development agreement.
- D. If the Director finds and determines on the basis of substantial evidence that the property owner has complied in good faith with all terms and conditions of the agreement during the period of review, the review for that period is concluded.
- E. If the Director finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with any one or more of the terms or conditions of the development agreement during the period under review:
 - 1. The Town may initiate proceedings to modify or terminate the agreement or undertake other enforcement action as deemed appropriate;
- F. Such periodic review will end when all the terms and conditions have been completed as found and determine necessary by the Commission and Council after public hearings.

9.64.100 – Modification, Termination or Suspension

- A. A development agreement or portions thereof may be modified or terminated upon a finding of noncompliance under subsection 9.64.100, *Modification, Termination and Suspension*. In the event that State or Federal laws enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, such provisions of the agreements shall be modified or suspended as deemed necessary by the Council, on a recommendation by the Commission, to enforce compliance by the property owner with such subsequently enacted State or Federal laws or regulations. If such proceedings are initiated, notice shall be given as prescribed by this Code and applicable State law.
- B. At the time and place set for the public hearing on modification, suspension or termination of the development agreement, the property owner and the public shall be given an opportunity to be heard. The finding of noncompliance under subsection 9.64.060(C), *Decision of the Town Council*, shall be deemed final and not subject to reconsideration at this hearing. The issue at this hearing shall be whether termination, suspension or modification is warranted, and if so, in what respects. The Council may impose those conditions to the action it takes as it deems to be in the best interest of the Town.

Chapter 9.65 General Plan Amendments

Sections:

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

9.65.010 – Purpose

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

9.65.020 – Initiation

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

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

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

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

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

9.65.030 – Notification Procedures

A. Public Hearing Notice.

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

B. Other Agency Notice.

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

9.65.040 – Commission Action

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

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

9.65.050 – Council Action

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

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

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

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

9.65.060 – Required Findings.

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

- A. The proposed General Plan Amendment is consistent with the goals, policies and standards of the all elements of the General Plan and will further those goals, policies and standards;
- B. The General Plan as amended will comprise an integrated, internally consistent and compatible statement of policies for the Town; and
- C. The General Plan amendment furthers the public interest and promotes the general welfare of the Town by providing for logical pattern of land uses and clarifying various land use policies for the Town.

9.65.070 – Amendment Frequency.

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

9.65.080 – Consistency Zoning

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

Chapter 9.66 Land Use Compliance Review

Sections:

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

9.66.010 – Applicability

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

TABLE 4.4
LAND USE COMPLIANCE
EXPANSION THRESHOLDS

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

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

- B. Expansions which exceed the thresholds specified in Table 4.4 shall follow the procedures in Chapter 9.63 *Conditional Use Permit Review Criteria* or Chapter 9.68 *Site Plan and Design Review Permit* as required by the specific Land Use District in which the property is located.
- C. Projects are reviewed and acted upon by the Director and notice is not required.
- D. Projects which fall within the thresholds of the Land Use Compliance Review shall comply with the following:
1. Commercial Design Guidelines
 2. Outdoor Lighting regulations
 3. Parking and screening requirements

4. Sign regulations
 5. Dedication of easements for drainage facilities, streets, trails, avigation easements as required by this code and any adopted plans.
 6. All other applicable Development Code regulations
- E.** Projects which fall within the thresholds of the Land Use Compliance Review shall not be required the following:
1. Half-width (½) street Improvements (curb, gutter, sidewalk, street lights, pavement) on all streets fronting the project
 2. Onsite water retention of incremental increase
 3. Improvements to drainage facilities, except as defined by the parameters of the Council policies regarding drainage facilities
 4. Assessment Districts formation (including Landscape and Lighting, Street and Drainage and Public Safety)
 5. Utility Undergrounding, pursuant to adopted standards
 6. Additional Landscaping

9.66.020 – Minor Modification of Previously Approved Land Use Compliance Review

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

9.66.030 – Lapse of Permits/Permit Expiration

- A. Expiration.** Land Use Compliance Review approval shall expire three (3) years from the date the permit is approved unless it is otherwise conditioned or unless prior to the expiration of the three (3) years the following have occurred:
1. A building permit is issued and substantial construction is diligently pursued towards completion of the project which was the subject of the Land Use Compliance Review application. In addition, if after construction is commenced, work is discontinued for a period of two (2) years, then the Land Use Compliance Review shall become null and void; or
 2. A certificate of occupancy is issued for the structure which was the subject of the Land Use Compliance Review.

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

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

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

9.66.040 – Extension of Time

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

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

9.66.050 – Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.66.060 – Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.66.070 – Fees

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

Chapter 9.67 Planned Development Permits

Sections:

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

9.67.010 – Purpose

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

9.67.020 – Planned Development Permits

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

9.67.030 – Required Findings

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

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

- C. The site for the proposed development has adequate access, meaning that the site design and development plan conditions consider the limitations of existing streets and highways and provide improvement to accommodate the anticipated requirements of the proposed development.
- D. Adequate public services and facilities exist, or will be provided in accordance with the conditions of development plan approval, to serve the proposed development and that the approval of the proposed development will not result in a reduction of such public services to properties in the vicinity to be a detriment to the public health, safety and welfare.
- E. The proposed development, as conditioned, will not have a substantial adverse effect on surrounding property or the permitted use thereof, and will be compatible with the existing and planned land use character of the surrounding area.
- F. The improvements required per the conditions of development plan approval, and the manner of development adequately address all natural and manmade hazards associated with the proposed development and the project site including, but not limited to, flood, seismic, fire and slope hazards.
- G. The proposed development carries out the intent of the Planned Development provisions by providing a more efficient use of the land and an excellence of design greater than that which would be achieved through the application of conventional development standards.

9.67.040 – Concurrent Subdivision Applications

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

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

9.67.050 – Development Plans

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

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

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

1. Identifies and quantifies the constraints and opportunities for development as follows:
 - a. The physical characteristics of the site,
 - b. Available public services and facilities,
 - c. The capacity of the existing circulation system, and
 - d. The existing and planned land use of adjacent properties
2. Establishes a list of specific limits, parameters and planning objectives to guide development based on the identified development constraints and opportunities.
3. Describes one or more potential development schemes derived from the limits, parameters and planning objectives controlling the development. Each proposed development scheme shall describe:
 - a. Proposed land uses and approximate distribution of such land uses,
 - b. Proposed density of residential uses,
 - c. Estimated population,
 - d. Estimated service demands,
 - e. The anticipated impact on the existing circulation system,
 - f. The anticipated impact on the adjacent properties,
 - g. The relationship of the plan to the various elements of the General Plan, and
 - h. The anticipated types of uses.
4. Sets forth in the form of a written text, maps and/or diagrams, a detailed plan of development based upon the application of the established limits, parameters and planning objectives controlling development. Said plan shall describe in detail the following:
 - a. Proposed land uses and building types, the functional arrangement of such uses and building types and relationship to size, site grading, circulation, lighting, paving, parking, screening, setbacks, recreation and open space areas, and adjacent properties,
 - b. How the established limits, parameters and planning objectives have been adhered to,
 - c. The level of public services and facilities required by the proposed development and the program for providing, operating and maintaining such services and facilities,
 - d. Access and circulation requirements,

- e. Known man-made and natural hazards and methods for mitigation of such hazards,
- f. Significant natural features and areas to be retained for common open space, and provisions for the preservation, conservation, utilization and maintenance of such areas, and
- g. How the plan conforms to the objectives of the General Plan and the Planned Development provisions of this Code.

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

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

C. Application Procedures for Phased Development:

- 1. An applicant may file the Preliminary with the Final Development Plan, with the consent of the Director.
- 2. An application for a Preliminary Development Plan shall encompass all the land included within the Planned Development. A Final Development Plan may be for a portion of the land included within the Planned Development or a phase thereof, provided that:
 - a. Each phase shall function as a complete and separate development from the remaining phases, and
 - b. Any densities proposed or open space areas provided within the subject phase shall not result from a transfer of density from adjoining phases.

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

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

9.67.060 – Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.67.070 – Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.67.080 – Fees

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

Chapter 9.68 Site Plan and Design Review

Sections:

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

9.68.010 – Purpose and General Plan consistency

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

9.68.020 – Applicability

The provisions of this Article apply to:

- A. All new construction which is listed in the use classification charts for the underlying land use districts that require a Site Plan and Design Review.
- B. Expansions which exceed the thresholds of Table 4.5 and are permitted subject to a Site Plan and Design Review as specified in the use classification charts for the underlying land use district shall require a Site Plan and Design Review.

TABLE 4.5
SITE PLAN AND DESIGN REVIEW
EXPANSION THRESHOLDS

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

C. Change in use of an existing building

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

1. Half-width (½) street Improvements (curb, gutter, sidewalk, street lights, and pavement) on all streets fronting the project except as defined by the parameters of the Council policies regarding Street Reconstruction.
2. Onsite water retention of the incremental increase
3. Dedication of easements for drainage facilities, streets, trails, aviation easements as required by this code and any adopted plans.
4. Improvements to drainage facilities except as defined by the parameters of the Council policies regarding drainage facilities.
5. Assessment Districts Formation (including Landscape and Lighting, Street and Drainage Community Facilities District and Public Safety)
6. Utility Undergrounding, pursuant to adopted standards
7. Landscaping and Landscaping Plan regulations (greater than 500 square feet of landscape area require approval by Hi Desert Water District)
8. Commercial Design Guidelines
9. Outdoor Lighting regulations
10. Parking and screening requirements
11. Sign regulations
12. All other Development Code regulations

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

9.68.030 – Authority

A. Level of Review:

TABLE 4.6
SITE PLAN AND DESIGN REVIEW
LEVEL OF REVIEW

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

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

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

1. Impact upon public services and facilities greater than typical for the type of project proposed;
2. Impact upon surrounding properties greater than typical for the type of project proposed;
3. Floor or site square footage greater than typically found in the type of project;
4. Intensity of use greater than typically found in the type of projects;
5. Operating Characteristics not typical of the type of project proposed.
6. Other factors including but not limited to public opposition to development of the project.
7. The need for Commission and or Council interpretation of the General Plan and/or Development Code as related to the project.

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

1. Requirements for special structure setbacks;

2. Open spaces;
3. Buffers;
4. Fences;
5. Walls and screening;
6. Requirements for the installation and maintenance of landscaping and erosion control measures;
7. Control of street improvements, other public infrastructure and related dedications;
8. Control of vehicular ingress and egress;
9. Control of traffic circulation;
10. Control of signs;
11. Control of hours of operation;
12. Control of potential nuisances;
13. Establishing standards for maintenance of buildings and grounds;
14. Establishment of development schedules and development standards;
15. Control of periodic review;
16. Control of architectural and/or building design
17. Any other conditions as may be deemed necessary to ensure the compatibility with surrounding uses, to preserve the public health, safety and welfare, and to enable the Commission to make the findings required by Section 9.68.080, *Required Findings*.

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

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

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

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

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

9.68.040 – Application Submittal Requirements

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

9.68.050 – Application Fee

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

9.68.060 – Investigation and Report

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

9.68.070 – Action by review Authority

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

9.68.080 – Required Findings

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

- A. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of the land use district in which the site is located, and the development policies and standards of the Town;
- B. That the location, size, design and architectural design features of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;
- C. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of the development between adjacent land uses;
- D. That the building site and architectural design is accomplished in an energy efficient manner;
- E. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures.
- F. That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;
- G. That the amount, location, and design of open space and landscaping conforms to the requirements of the Development Code, enhances the visual appeal and is compatible with the design and functions of the structure(s), site and surrounding area;
- H. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;
- I. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to be installed at the appropriate time to serve the project as they are needed;
- J. That access to the site and circulation on and off-site is required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;
- K. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;
- L. That traffic improvements and/or mitigation measures have been applied or required in a manner adequate to maintain a Level of Service C or better on arterial roads, where applicable, and are consistent with the Circulation Element of the Town General Plan;
- M. That there will not be significant harmful effects upon environmental quality and natural resources including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;
- N. That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;

- O. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity or be contrary to the adopted General Plan;
- P. That the proposed development will comply with each of the applicable provisions of this code, and applicable Town policies; except approved variances.

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

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

9.68.100 – Lapse of Permits/Permit Expiration

- A. **Expiration.** A Site Plan and Design Review Permit approval shall expire three (3) years from the date the permit is approved unless it is otherwise conditioned or unless prior to the expiration of the three (3) years the following have occurred:
 1. A building permit is issued and substantial construction is diligently pursued towards completion of the project which was the subject of the Site Plan and Design Review Permit application. After construction is commenced, if work is discontinued for a period of two (2) years, the Site Plan and Design Review Permit requires review and reauthorization by the Commission; or
 2. A certificate of occupancy is issued for the structure which was the subject of the Site Plan and Design Review Permit application.
- B. **Phased Projects.** Projects may be built in phases if so approved by the Commission or Director pursuant to Section 9.68.090 *Minor Modifications of Previously Approved Site Plan and Design Review*.

9.68.110 – Extension of Time

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

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

9.68.120 – Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.68.130 – Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.68.140 – Development of Property Before Final Decision

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

Chapter 9.69 Special Use Permits

Sections:

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

9.69.010 – Purpose

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

9.69.020 – Applicability

The provisions of the Chapter are applicable to:

- A. All uses which are listed in the Permitted Land Use and Permit Requirements Tables for the underlying land use districts that require a Special Use Permit Review, including, but not limited to:
 - 1. Bed and Breakfast Lodging
 - 2. Animal Keeping, Breeding/Raising of densities greater than those specified by Section 9.08.020.
 - 3. Exotic Animals
 - 4. Private Kennels/Small Animals

5. Recycling Facilities
6. Large Family Day Care
7. Emergency Homeless Shelters

9.69.030 – Procedures

- A. Director shall review and act upon requests for Special Use Permits subject to the findings and conditions for each use type as cited within the section of the Code that provides for said use.
- B. Procedure: Staff Review With Notice.
Reviewing Authority: Director
- C. When necessary, the Director may hold an advertised meeting to consider evidence and take testimony prior to acting upon an application for a Special Use Permit.
- D. In approving an application for a Special Use Permit, the Director may impose conditions to ensure compliance with this Code.
- E. Revocation of a Special Use Permit. Noncompliance with the conditions set forth in approving the permit shall be grounds for the reviewing authority to cancel and void any Special Use Permit. The reviewing authority shall give notice of such an action to the permittee. The permittee may appeal such a decision by filing an appeal as allowed and specified in Chapter 9.81, *Appeals*.

9.69.040 – Application Submittal Requirements

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

9.69.050 – Application Fee

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

9.69.060 – Investigation and Report

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

9.69.070 – Required Findings

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

- A. That the location, size, design, density and intensity of the proposed use is consistent with the General Plan, the purpose of the land use district in which the site is located, and the development policies and standards of the Town;
- B. That the location, size, design and architectural design features of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;
- C. That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;
- D. That quality in architectural design is maintained in order to enhance the visual desert environment of the Town and to protect the economic value of existing structures;
- E. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to be installed at the appropriate time to serve the project as they are needed;
- F. That access to the site and circulation on and off-site is required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;
- G. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;
- H. That there will not be significant harmful effects upon environmental quality and natural resources including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;
- I. That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;
- J. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be considered to be detrimental to the public health, safety and welfare of the community or be materially injurious to properties and/or improvements within the immediate vicinity or be contrary to the General Plan; and
- K. That the proposed development will comply with each of the applicable provisions of the Development Code and applicable Town policies, except approved variances.

9.69.080 – Development of Property Before Final Decision

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

Chapter 9.70 Specific Plans

Sections:

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

9.70.010 – Purpose

The purpose of these Specific Plan provisions is:

- A. To establish procedures for adoption, maintenance and administration of Specific Plans as allowed in accordance with the provisions of Sections 65450, et seq., of the California Government Code and as may be required for the systematic execution of the General Plan;
- B. To provide a planning framework to guide future public and private developments and to promote flexibility while insuring economic viability and coherent community design;
- C. To encourage the planned development of discrete neighborhoods and to permit comprehensive site and infrastructure planning and building design;
- D. To encourage creative approaches to the use of land, through variation in the positioning of buildings and the appropriate mixing of land uses, activities and dwelling types;
- E. To promote and create public and private open space as an integral part of land development design;
- F. To reduce, through clustering and master planning, the amounts of public and private improvements normally required by developments;
- G. To maximize the choice in types of housing and living environments available to Town residents; and

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

9.70.020 – General Plan Consistency

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

9.70.030 – General Provisions for a Specific Plan District

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

- A. Upon approval of a Specific Plan, the Specific Plan zoning designation shall be applied to the Zoning District Map for the properties included in the Specific Plan.
- B. Specific Plan districts may provide innovative design and development standards that may vary from adopted Town standards and between Specific Plan Districts.
- C. Specific Plans may combine several land uses in the development plan as long as the uses are consistent with the Land Use designations and goals and policies of the General Plan. Mixed uses may include any combination of residential, commercial, industrial, open space, and agricultural uses, and may occur among or within buildings as long as the uses are not incompatible with each other and with existing and potential uses surrounding the Specific Plan zone. The Commercial Mixed Use General Plan Land Use designation allows for a mix of commercial, office, and high density residential uses. Other mixes of land uses may require appropriate amendments to the General Plan necessary to maintain consistency.
- D. Standards for building coverage, height, orientation, as well as light and air, sign placement and design, site planning, street furniture placement and design, setback requirements, open spaces, off-street parking, screening for Specific Plan uses, and other specified standards, shall be governed by the development standards set forth in the Specific Plan and other applicable codes and ordinances. Standards in an adopted Specific Plan may supersede the same or similar standards in other Town codes and ordinances. Where no standards are provided in a Specific Plan, adopted Town codes and standards shall apply.
- E. The Specific Plan shall contain criteria providing for any required public and/or private open space and performance standards for the improvement and maintenance of such open space.
- F. In accordance with Town ordinances, all electrical and telephone facilities, fire alarm conduits, street light wiring, cable television, and other wiring, conduits or facilities shall be placed underground. Underground electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities.

9.70.040 – Application Procedure

- A. General Requirements for a Specific Plan Proposal.** Property that is held in single or multiple ownership may be considered for a Specific Plan. The Town, property owner(s), or owner's representative, may initiate the Specific Plan.
- B. Pre-Submittal and Preparation of Specific Plans.** A pre-submittal application and a draft Specific Plan shall be submitted to the Planning Division before filing a formal Specific Plan application. A pre-application conference with the Planning Division is required prior to the filing of the formal Specific Plan application.
- C. Draft Specific Plan.** A draft Specific Plan application shall contain text and diagrams which include all of the elements outlined in State Government Code Sections 65451 and 65452. In addition, Specific Plans shall include an inventory of natural resources that are deemed to be significant to the project area and environmentally sensitive habitat areas, an analysis of existing infrastructure, and a proposal for detailed land uses, regulations, conditions, and programs as are necessary or convenient for the systematic implementation of the General Plan and its various elements as may be appropriate. The Town's Planning Division shall make available detailed guidelines for the preparation of Specific Plans. Specifically, a draft Specific Plan shall include the following information:
1. A survey of the property, showing existing features including trees, structures, fences and walls, streets, easements, utility lines, land uses, existing zoning, and existing ownership;
 2. An illustrative plan and conceptual site plan of the development of the entire Specific Plan area delineated on one or more maps showing:
 - a. Project land use, densities, existing and proposed streets, public use areas (schools, parks, fire stations, etc.), and open space and major landscape features;
 - b. General Plan Land Use and Zoning designations,
 - c. Where appropriate, a slope analysis, including the number of acres in each slope category.
 3. A general outline of the Specific Plan text describing the goals, objectives, and policies/concept; a tabulation of the land area to be devoted to various uses, including open space; a calculation of the overall density and the average densities per net residential acre of the various residential areas; and a summary of development standards for residential, commercial and/or industrial uses when those uses are proposed;
 4. The text shall include development standards to be implemented as performance standards for the Specific Plan, including:
 - a. A statement proposing the method of maintaining common open areas and facilities;
 - b. A description of the proposed grading program including a topographic map showing areas of major grading;

- c. Identification of proposed future ownership and maintenance of streets, driveways, sidewalks, pedestrian ways and open space areas;
 - d. A brief discussion of the project as it relates to each of the General Plan elements, including Land Use, Circulation, Housing, Open Space/Conservation, Noise, and Safety.
 - e. Proposed standards for height, open space, building intensity and public improvements.
 - f. A statement and detailed description for the method of financing for the installation of any public infrastructure.
5. After reviewing the draft Specific Plan, the Director shall furnish the applicant with written comments regarding the review conference(s), including appropriate recommendations to inform and assist the applicant prior to preparing the final Specific Plan.

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

- 1. Copies of legal documents required for dedication or reservation of public or private open space, for the creation of homeowners' associations for open space maintenance, or for the creation of financing districts;
- 2. A fiscal impact analysis as may be required by the Director,
- 3. A market study discussing the viability of the proposed project as may be required by the Director.

9.70.050 – Required Findings

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

- A. The proposed Specific Plan meets all of the following content criteria:
 - 1. Specifies through text and/or diagrams, the distribution, location, and extent of the uses of land, including open space, within the area covered by the plan;
 - 2. Specifies through text and/or diagrams, the proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan;

3. Specifies through text and/or diagrams, the standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;
 4. Specifies a program of implementation measures including regulation, programs, public works projects, and financing measures necessary to carry out Findings (A)(1), (A)(2) and (A)(3) above;
 5. Includes a statement of the relationship of the Specific Plan to the General Plan, Development Code, and any other applicable plan or ordinance;
 6. Addresses any other subjects which are necessary for implementation of the General Plan.
- B. The location and design of the proposed development will be consistent with the goals and policies of the General Plan and with any other applicable plan or policies adopted by the Town and with any other applicable provisions of the Development Code.
 - C. The proposed location will allow the development to be well integrated with or adequately buffered from its surroundings, whichever may be appropriate.
 - D. All vehicular traffic generated by the development, either in phased increments or at full build-out, will be accommodated safely and without causing significantly increased congestion upon adjoining streets.
 - E. The final Specific Plan will identify a methodology to allow land uses to be adequately serviced by existing or proposed public facilities and services. In appropriate circumstances, and as provided elsewhere by this Development Code, the Town may require that suitable areas be reserved for uses such as schools, parks and pedestrian ways; public open spaces may be dedicated or reserved by private covenant for the common use of residents, establishments or operations in the development.
 - F. In accordance with the requirements of the *California Environmental Quality Act* (CEQA), environmental impacts have been reduced to a level of non-significance; or in the case where such impacts remain, a statement of overriding considerations must be adopted to justify the merits of project implementation after certification of the Environmental Impact Report.
 - G. The proposed Specific Plan shall contribute to a balance of land uses so that local residents may work and shop in the community in which they live.
 - H. The proposed Specific Plan will not be detrimental to the public health, safety, or welfare of the Town.

9.70.060 – Specific Plan Approval, Denial and Modifications

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

- B. The Commission may recommend to the Council approval or denial of a proposed Specific Plan, or may recommend approval subject to specified modifications or conditions.
- C. The Council may approve, approve with modifications or conditions, or deny the final Specific Plan provided that, in overruling a Commission recommendation for denial, the Council shall make the findings listed in Section 9.70.050, *Required Findings*.
- D. Minor changes to an approved final Specific Plan may be made by the Director, provided that such changes are non-significant and consistent with all of the purposes and character of the approved final Specific Plan. Minor changes shall not include:
 1. Changes in the densities established in the approved final Specific Plan;
 2. Changes to the boundaries of the subject property, or any use as shown on the approved final Specific Plan;
 3. Substantial changes in the locations or amounts of land devoted to specific land uses.
- E. All modifications or amendments to an approved final Specific Plan, other than minor changes as provided for in Subsection 9.70.060(D) above, shall be processed as a Specific Plan amendment and shall be subject to all Specific Plan procedures.

9.70.070 – Approval by Ordinance

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

- A. Unless otherwise specified in the final Specific Plan, the regulations provided in the Town Development Code shall apply. Approval of the Specific Plan shall not be interpreted as waiving compliance with other provisions of the Town Development Code, except in those instances where the Specific Plan expressly regulates a use.
- B. The approved final Specific Plan shall be filed in the office of the Town Clerk and in the office of the Director.
- C. No building within the boundaries of an approved Specific Plan shall be constructed, maintained or used other than for the purpose specified in the approved final Specific Plan.

9.70.080 – Dedication and Maintenance of Open Space

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

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

- C. Whenever group or common open space is provided, whether required or not, the Commission and Council shall, as a condition of approval, require that some provision be made for applicable perpetual maintenance of such open space.
- D. The form of any instrument used to assure open space maintenance shall be approved by the Town Attorney and Director as to form and content. Agreements and covenants running with the land shall include provisions for charges to be levied for carrying out the specified functions and administrative expenses of such perpetual maintenance. The Town may be party in interest in any such development for purposes of enforcing the provisions of this Chapter, including bringing of any enforcement actions deemed appropriate by the Town.
- E. To assure that open space is provided within Specific Plan areas, public and open space sites shall be dedicated in advance of development (prior to the issuance of building permits) whenever such dedication is so required, even in those cases when a subdivision map is not required. Other appropriate dedications for street, utility and flood control rights-of-way and for easements and other public purposes may also be required before the issuance of the first building permit, or when otherwise determined to be appropriate by the Council.

9.70.090 – Fees for Subsequent Development Approvals

- A. **Specific Plan Fees**
The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter
- B. **Fees for Subsequent Development Approvals**
When the Town prepares a Specific Plan for an area, the Council may establish a special fee upon applicants seeking approval of development projects which are located within said Specific Plan area. The fees shall be sufficient, in the aggregate, to recover the costs of preparation, adoption, and administration of the Specific Plan. The fees to each applicant shall be a prorated amount in accordance with the applicant's relative benefit derived from the plan.

9.70.100 – Specific Plan Consistency

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

9.70.110 – Environmental Exemption for Subsequent Development

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

9.70.120 – Specific Plan Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.70.130 – Specific Plan Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

Chapter 9.71 Temporary Special Event Permit

Sections:

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

9.71.010 – Purpose

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

9.71.020 – Applicability

The provisions of this Chapter are applicable to:

- B. All uses which are listed in the Permitted Land Use and Permit Requirements Tables for the underlying land use districts that require a Temporary Special Event Permit, including, but not limited to:
 - 1. Church, tent revival meetings
 - 2. Circus and carnivals
 - 3. Fairs, concerts, parades, exhibits, festivals, art shows, car shows, street fairs, or similar events

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

9.71.030 – Permit Required

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

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

9.71.040 – Application Submittal Requirements

- A. Applications for Temporary Special Event Permits shall be filed on a form prescribed by the Director and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Director to make the required findings.
- B. The application processing fees shall be set from time to time by resolution of the Council. In addition, the applicant shall reimburse the Town for the actual cost of providing any necessary personnel, including but not limited to, police and fire personnel to the applicant for the purpose of assisting in the event.
- C. To ensure clean up and restoration of the site, an applicant may be required to post a deposit at the time the application is submitted. Upon the completion of the event and inspection of the site by the Town, the deposit may be returned to the application if the cleanup and restoration of the site has been determined by the Town to be sufficient.

9.71.050 – Procedures

- D. Upon the receipt of a completed application and all related fees, the following will occur:
1. The processing of a complete Temporary Special Event Permit application will generally vary depending on the complexity. If such activities interfere with traffic or involves potential public safety hazards, an application may take more than ten working days to allow for inter-departmental or agency notification.
 2. Each application for a Temporary Special Event Permit shall be analyzed at staff level to assure that the application is consistent with this Chapter and any other applicable Town standards or policies. If such activities interfere with traffic or involve potential public safety hazards the application shall be forwarded to the appropriate agencies for comment.
 3. At the completion of the Planning Section's review, a permit may be issued by the Director including a listing of conditions necessary to assure the preservation of public health, safety and welfare.

9.71.060 – Insurance Requirements

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

9.71.070 – Rules and Regulations

- A. **Change of Date.** Upon the request of the applicant, the issuing authority shall have the power, upon a showing of good cause, to change the date for which the permit has been issued provided established limitations are complied with in respect to time and location.
- B. **Conditions of Approvals.** The conditions of approval shall be based upon the following criteria:
 - 1. The health, safety, and welfare of all persons;
 - 2. Avoidance of undue disruption of all vehicle and pedestrian circulation within the affected area;
 - 3. The safety of property within the Town;
 - 4. Compliance with all other applicable agency regulations;
 - 5. If an event is held within a parking area, the event shall not substantially alter the existing circulation pattern of the site or impact traffic movement with adjacent or surrounding public roadways.
 - 6. The event shall not obstruct any existing handicap accessible parking space. Sidewalks shall be maintained at a minimum width of 4 feet to provide for handicap access.
 - 7. Where an activity takes places within an unimproved (dirt) area, some form of dust control will need to be provided as approved by the Town.
 - 8. The event is limited to a duration that is no more than the maximum allowed duration (see Table 3-24), or as determined appropriate by the review authority.
 - 9. The site is physically adequate for the type, density, and intensity of use being proposed, including provision of services (e.g. sanitation and water), public access, and the absence of physical constraints.
 - 10. The design, location, size, and operating characteristics of the proposed use are compatible with the existing land uses on-site and in the vicinity of the subject property.

11. The temporary use or activity will be removed and the site restored as necessary to ensure that no changes to the site will limit the range of possible future land uses otherwise allowed by this Title.
12. Adequate temporary parking will be provided in order to accommodate the vehicle traffic generated by the temporary use or special event either on-site or at alternate locations acceptable to the review authority.
13. The applicant provides appropriate sanitary and medical facilities, security and safety measures, and solid waste collection and disposal to the satisfaction of the Director.
14. The use or event will comply with all applicable provision of local, State and Federal laws or regulations.
15. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat.
16. Temporary Signs. One temporary sign per street frontage is allowed as part of the Special Event Permit. For additional signage, see Section 9.36.100, *Temporary Signs* regarding temporary sign standards.
17. Special Event Monitoring and Security.
 - a. The Director or the Commission, as a condition of approval, may require monitoring of the special event by appropriate Town Departments and/or third parties. Such monitoring shall be at the expense of the applicant, with any associated payment required in full at least 15 days prior the first day of the subject event.
 - b. Facility use deposits will be considered on a case-by-case basis to evaluate potential damage to Town streets, parks, or other public property. The Town shall evaluate the potential for damage and may require a cash bond or other guarantee for removal of the temporary use, cleanup, repair and restoration of the activity site within seven days of the conclusion of the special event. Said guarantee shall be in an amount which is sufficient to cover the estimated costs of administration, steam cleaning, sidewalk repair, storm drain cleanout, and other associated cleanup or repair operations. All facility use deposits shall be at the expense of the applicant, with any associated payment required in full at least 15 days prior the first day of the subject event.
18. Consumption of Alcoholic Beverages at Special Events.
 - a. Verification of permits from the State Department of Alcoholic Beverage Control is required for the temporary service or sale of alcoholic beverages at a special event. Such verification shall be provided by the applicant at least 15 days prior the first day of the subject event.

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

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

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

1. Maintain the health and safety of persons and property within the Town.
2. Avoid undue disruption of persons and traffic within the affected areas of Town.

9.71.080 – Appeals

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

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

9.71.090 – Referral by the Director

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

9.71.100 – Permits/Licenses Nontransferable

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

9.71.110 – Posting

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

9.71.120 – Requests for Law Enforcement Services at Special Events

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

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

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

9.71.130 – Temporary Special Event Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.71.140 – Temporary Special Event Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

Chapter 9.72 Temporary Use Permits

Sections:

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

9.72.010 – Purpose

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

9.72.020 – Applicability

The provisions of this Chapter are applicable to:

- C. All uses which are listed in the Permitted Land Use and Permit Requirements Tables for the underlying land use districts that require a Temporary Use Permit, including, but not limited to:
 - 1.. Construction Yards-Off Site
 - 2.. Temporary Residential Quarters
 - 3Temporary Non-Residential Quarters
 - 4. Temporary Construction Office Quarters
 - 5. Temporary Real Estate Model Home/Sales Office
 - 6. Temporary On your Lot Builder Model Home/Sales Office

9.72.030 – Procedures

- A. The Director shall review and act upon all requests for Temporary Use Permits (TUP) or extensions thereof, subject to the findings and conditions specified for each use by the section of this Code that provides for said use.
- B. The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter
- C. Temporary Use Permits shall be first issued for a period of time not to exceed twelve (12) months. Extensions to such permits may be granted for additional periods of time, each of which shall not exceed twelve (12) months. A Temporary Use Permit that is extended shall comply with the provisions, procedures, findings and conditions specified by this Code.
1. A Temporary Use Permit shall not be extended by any reviewing authority for any period of time to exceed five (5) years after the date the Temporary Use Permit was first issued, unless acted upon by the Planning Commission. The Planning Commission retains the authority to grant Temporary Use Permit extensions beyond five (5) years.
 2. Director may approve such permits or extensions of such permits for shorter periods of time and/or subject to conditions, where required by this chapter or where it is determined reasonable and necessary to do so.
 3. Prior to issuing a Temporary Use Permit extension or renewal for the last allowed period of time (normally between the fourth and fifth year), the permittee shall submit and obtain approval by the Director of a plan of action to either remove or replace the subject temporary use with a legally established use.
 4. A temporary use structure which does not have a valid and current permit is hereby declared to be a public nuisance, subject to the enforcement provisions of this Code and other applicable laws.
 5. A change of ownership or operator of a use or structure subject to a Temporary Use Permit or change of structure or modification of the structure or use allowed on a parcel subject to a Temporary Use Permit shall not affect the time periods established by this chapter to allow such temporary uses or structures.
 6. When the last period of time allowed by this Chapter has lapsed, the Temporary Use Permit and any extensions thereof shall be considered void. A temporary use or structure that was allowed on a subject parcel previously by a Temporary Use Permit may not be reinstated by a new Temporary Use Permit for any time period beyond the final period of time that would have been allowed by the original Temporary Use Permit.

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

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

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

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

9.72.040 – Application

- A. Applications for Temporary Use Permits shall be filed on a form prescribed by the Director and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Director to make the required findings.
- B. To ensure clean up and restoration of the site, an applicant may be required to post a deposit at the time the application is submitted. Upon the completion of the event and inspection of the site by the Town, the deposit may be returned to the application if the cleanup and restoration of the site has been determined by the Town to be sufficient

9.72.050 – Required Findings

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

- A. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger or otherwise constitute a risk to the public health, safety or welfare;
- B. The proposed site is adequate in size and shape to accommodate the temporary use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the site;
- C. The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use will or could reasonably be expected to generate; and
- D. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the Director.

9.72.060 – Conditions of Approval

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

1. Provision for temporary parking facilities, including vehicular ingress and egress;
2. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
3. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
4. Provision for sanitary and medical facilities;
5. Provision for solid, hazardous and toxic waste collections and disposal;
6. Provision for security and safety measures;
7. Regulation of signs;
8. Submission of a performance bond or other surety device, satisfactory to the Director, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time and that the property will be restored to its former condition;
9. A requirement that the approval of the requested Temporary Use Permit is contingent upon compliance with applicable provisions of the Town Municipal Code; and
10. Any other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accordance with the intent and purpose of this Chapter.

9.72.070 – Use of Property Before Final Decision

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

9.72.080 – Temporary Use Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.72.090 – Temporary Use Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

Chapter 9.73 Variance Review

Sections:

- 9.73.010 – Procedures
- 9.73.020 – Variance Amendment
- 9.73.030 – Variance Revocation

9.73.010 – Procedures

- A. Provisions for Variances (exceptions to standards) set forth in this code are established to insure that any property, because of special circumstances, such as size, shape, topography, location, or surroundings, shall be accorded privileges commonly enjoyed by the other properties in the same vicinity, pursuant to Government Code Section 65906.
- B. The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter
- C. Procedure: Public Hearing
Reviewing Authority: Commission
- D. A public hearing is required to consider evidence and take testimony prior to acting upon a request for variances and establish any necessary conditions of approval.
- E. Prior to approving a request for a variance, the reviewing authority shall find that the following are true:
 - 1. The granting of such variance will not be materially detrimental to other properties or land uses in the area and will not subsequently interfere with the present or future ability to use solar energy systems.
 - 2. There are exceptional or extraordinary circumstances or conditions applicable to the property or to an intended use that do not apply to other properties in the same district or vicinity.
 - 3. The strict application of the land use district deprives such property of privileges enjoyed by other properties in the vicinity or in the same land use district.
 - 4. The granting of the variance is compatible with the objectives, policies, general land uses and programs in the General Plan the Development Code and any applicable plan or other ordinance.

9.73.020 – Variance Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.73.030 – Variance Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

Chapter 9.74 Reasonable Accommodations

Sections:

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

9.74.010 - Purpose

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

9.74.020 - Applicability

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

9.74.030 - Review Authority

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

9.74.040 - Definitions

- A. Disability. An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.
- B. Reasonable Accommodation. Reasonable accommodation in the land use and zoning context means providing flexibility in the application of land use and zoning regulations, policies, practices and procedures, or waiving certain requirements to individuals with disabilities or developers of housing for people with disabilities when it is necessary to eliminate barriers to housing opportunities.

9.74.050 - Notice to the Public of Availability of Process

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

9.74.060 - Application

- A. Applicant. A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a disability. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability.
- B. Application. An application for a reasonable accommodation from a regulation, policy or procedure shall be made on a form provided by the Town. No fee shall be required for a request for reasonable accommodation, but if the project requires another discretionary permit, then the prescribed fee shall be paid for all other discretionary permits.
- C. Other Discretionary Permits. If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval, then the applicant may file the request for reasonable accommodation together with the application for other discretionary permit or approval. The processing procedures of the discretionary permit shall govern the joint processing of both the reasonable accommodation and the discretionary permit.
- D. Required Submittals. An application for reasonable accommodation shall include the following:
 - 1. Request shall be made on a form provided by the Town and shall include the following information:
 - a. Name and address of the individual(s) requesting reasonable accommodation.
 - b. Name and address of the property owner.
 - c. Address of the property for which accommodation is requested
 - 2. Documentation that the applicant is:
 - a. An individual with a disability,
 - b. Applying on behalf of one or more individuals with a disability, or
 - c. A developer or provider of housing for one for more individuals with a disability.
 - 3. Identification of the specific exception or modification to the regulation, policy or procedure requested by the applicant.

4. Documentation that the specific exception or modification requested by the applicant is necessary to provide one or more individuals with a disability equal access to housing.
5. Any other information that the Director reasonably concludes is necessary to determine whether the findings required by Section 9.74.080 can be made so long as any request for information regarding the disability of the individuals benefitted complies with Fair Housing Law protections and the privacy rights of the individuals affected.

9.74.070 - Decision

- A. Requests for reasonable accommodation shall be reviewed by the Director using the criteria set for in Section 9.74.080 *Findings*.
- B. The Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either approve, conditionally approve or deny a request in accordance with the required findings
- C. If necessary to reach a determination on the request for reasonable accommodation, the Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.
- D. The Town may consider, but is not limited to the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability with equal access to housing:
 1. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.
 2. Whether the individual(s) with a disability will be denied equal access to the housing of their choice absent the accommodation.
 3. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of particularities of the relevant market and market participants.
 4. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.
- E. The Town may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the Town's zoning program.
 1. Whether the requested accommodation would fundamentally alter the character of the neighborhood.

2. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.
 3. Whether granting the requested accommodation would substantially undermine any express purpose of the Town's General Plan or any applicable Specific Plan.
 4. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.
- F. Rules While Decision is Pending. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
- G. Effective Date. No reasonable accommodation shall become effective until the decision to grant such accommodation shall have become final by reason of the expiration of time to make an appeal. In the event an appeal is filed, the reasonable accommodation shall not become final unless and until a decision is made by the Planning Commission on such appeal.

9.74.080 – Required Findings

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

- A. The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.
- B. The requested accommodation is necessary to provide one or more individuals with a disability an equal access to housing.
- C. The requested accommodation will not impose an undue financial or administrative burden on the Town.
- D. The requested accommodation will not result in fundamental alteration of the Towns zoning program.
- E. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

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

9.74.090 - Expiration, Time Extension, Violation, Discontinuance

- A. Expiration. Any reasonable accommodation approved in accordance with this Chapter shall expire within twenty-four (24) months from the effective date of approval or at an alternative time specified as a condition of approval unless:
 - 1. A building permit has been issued and construction has commenced,
 - 2. A certificate of occupancy has been issued,
 - 3. The use is established, or
 - 4. A time extension has been granted.

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

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

- D. Discontinuance. A reasonable accommodation approval shall lapse if discontinued for a period of one hundred eighty (180) consecutive days. If the disabled person initially occupying a residence for whom a reasonable accommodation was made vacates the structure, the reasonable accommodation shall remain in effect only if the Director determines that:
 - 1. The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code, and
 - 2. The accommodation is necessary to give another disabled individual an equal opportunity to occupy the dwelling

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

9.74.100 - Amendments

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

9.74.110 - Appeals

- A. Within thirty (30) days of the date of the Directors written decision, an applicant may appeal an adverse decision. Appeals shall be made in writing.
- B. If an individual needs assistance in filing an appeal on an adverse decision, the Town will provide assistance to ensure that the appeals process is accessible.
- C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by the applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

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

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

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

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

APPROVED AND ADOPTED this ____ day of _____, 2013.

MAYOR

ATTEST:

TOWN CLERK

SEPARATOR
PAGE

ORDINANCE NO. .

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

The Yucca Valley Town Council ordains as follows.

Section 1:

**Article 4:
Permit Procedures**

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Chapter 9.60 Permit Procedures – General Provisions

Sections:

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

9.60.010 – Purpose

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

9.60.020 – Types of Procedures

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

Public Hearing

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

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

Staff Review with Notice

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

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

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

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

Staff Review without Notice

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

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

9.60.030 – Review Authority for Land Use and Zoning Decisions

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

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	<u>Decision</u> 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	<u>Appeal-</u>
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.

TRACK CHANGES

Chapter 9.61 Application Processing Procedures

Sections:

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

9.61.010 – Purpose

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

9.61.020 – Applications for Land Use Decisions

- A. **Complete Application Required.** Any application for a permit or entitlement pursuant to this Code must be accepted as complete for processing in order to initiate the official review process. All required materials, information and fees as required by the Director shall be provided by the applicant before the application is deemed complete for processing.
- B. **Determination of Completeness.** The Director shall determine in writing the completeness of the application and transmit this determination to the applicant within the time limits and in a form and content to be consistent with the types of project applications established by applicable state law and Town regulations.
- C. **Time Period for Determining Completeness.** The statutory time period of thirty (30) days established by state law for determining completeness shall begin the day the application is made and date stamped. Formal processing of any application pursuant to this Code shall commence upon the date the application is accepted as complete, as provided in the state law regarding review and approval of development projects.
- D. **Abandonment of Application**
 - 1. An application for permits or approvals issued in compliance with the Development Code shall be deemed to have been abandoned when information and/or fees have been requested to complete the application and this information and/or fees have not been received by the Planning Division within ninety (90) calendar days.

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

- E. **Additional Information.** Notwithstanding any procedures established in this section for determination of completeness, the Director may request the applicant to submit additional information in the course of processing the application if such information could not be anticipated as part of the original application. Such a request to clarify, amplify, correct or otherwise supplement submitted information shall not invalidate the original determination that the application was complete at the time the determination was originally made. The Director may request any additional information needed to prepare adequate environmental documentation in compliance with the California Environmental Quality Act (CEQA) and applicable guidelines.
- F. **New Application Following Denial.** Following the denial of an application for any land use or policy application, no application for the same or substantially the same use or project as determined by the Director shall be filed within one year from the effective date of the denial. This provision shall not apply in the case of an application that is denied without prejudice or where otherwise permitted to be filed by a vote of at least 2/3 of the approving authority.

9.61.030 – Development Review Committee

- A. **Evaluation of proposals by the Development Review Committee (DRC).** Development review procedures include evaluation of proposals at a scheduled meeting of the DRC.
- B. **Consideration of design and proposed conditions.** The DRC meeting allows informal discussions between the applicant, Town staff, and others regarding the design and proposed conditions for a given proposal.

9.61.040 – Environmental Review

- A. **Applications subject to CEQA.** All land use applications that are subject to the California Environmental Quality Act (CEQA) shall be reviewed by the Department in compliance with the Town's environmental review guidelines.
- B. **Environmental findings required.** Before taking an action to approve a land use application that is subject to CEQA, the Town shall make one or more environmental findings. The environmental finding(s) is required in addition to the findings specified in this Development Code for each application type.

9.61.050 – Multiple Permit Applications

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

9.61.060 – Pre-Application Review

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

9.61.070 – Notice of Pending Land Use Decisions

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

1. Notice shall be published once in a newspaper of general circulation in the respective community of the proposal for the following land use decisions using the public hearing procedure:
 - a. Amendments to the text of the General Plan or a Specific Plan.
 - b. Development Code amendments.
 - c. General Plan map amendments.
 - d. Subdivisions, where a tentative and final map are required.
 - e. Conditional Use Permit and amendments
 - f. Specific Plan and amendments
 - g. Planned Development and amendments
 - h. Variance
2. Notice shall be given by first class mail to any person who has filed a written request for a specific application.
3. Notice shall be given by first class mail or delivery to all surrounding property owners within 300 feet of the exterior boundaries of the subject site for land use decisions using the public hearing or staff review with notice procedures. Director shall have the discretion to extend the notification radius depending upon project characteristics.

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4. Notice shall also be given, as required by Government Code Section 66451.3, in the case of a conversion of residential real property to a community apartment project, condominium project, or stock cooperative.
 5. Notice may be given in any other manner as is deemed necessary or desirable by the Director.
- B. One-eighth page optional notice.** A one-eighth page legal display advertisement in a newspaper of general circulation may be substituted for individual property owner notice whenever the individual notice would require notification of more than 1,000 property owners.
- C. Ownership and addresses of properties.** Ownership and addresses of contiguous and surrounding properties shall be determined from the latest equalized tax assessment role or from other records of the County Assessor or County Tax Collector, whichever contains more recent information.
- D. Continued hearings.** During the public hearing, items that are continued by the review authority to a specific date shall not be re-noticed unless specifically requested by the review authority.

9.61.080 – Conditions of Approval

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

9.61.090 – Post-Decision Notice

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

Chapter 9.62 Amendments to Development Code and Zone Changes

Sections:

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

9.62.010 – Purpose

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

9.62.020 – Initiation

- A. Procedure.** A Development Code amendment may be initiated by an amendment application by one (1) or more property owners affected by the proposed amendment or by the Council.
1. If the Council initiates a change or addition to the Development Code, it may direct staff to process the amendment.
 2. If the Commission wishes to initiate an amendment, it shall be referred to the Council for concurrence to initiate an amendment. The Council may then direct staff to process the amendment.
 3. If the Director wishes to initiate an amendment, it shall be referred to the Commission for review and referral to Council
- B. Fees.** Application for an amendment to the provisions of this Development Code made by one (1) or more property owners affected by the proposed amendment shall be accompanied by a fee established by resolution of the Council and shall include submittal requirements as prescribed by the Director.

9.62.030 – Public Hearing and Notice

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

9.62.040 – Commission Action

- A. **Public Hearing Required.** The Commission shall hold a public hearing after giving notice as required by Chapter 9.85, *Public Hearings and Notice*.
- B. **Commission Recommendation.** The Commission shall make a written recommendation whether to approve, approve in modified form, or deny the proposed amendment.

9.62.050 – Council Action

- A. **Council Options.** Upon receipt of the Commission's recommendation, the Council may approve, approve with modifications, or disapprove the proposed amendment based upon the findings contained in Section 9.62.060, *Required Findings*.
- B. **Amendment to be made by Ordinance.** Amendments to this Development Code shall be made by ordinance.
- C. **Public Hearing by Council.** Upon receipt of a Commission recommendation, the Council shall hold a public hearing and notices shall be mailed as set forth in Chapter 9.85, *Public Hearings and Notice*. Notices shall also be given to the applicant, the Commission and, if applicable, the appellant. The Director shall submit a report and meeting minutes of the Commission's recommendation to the Council setting forth the reasons for action taken by the Commission.
- D. **Council Modifications to Proposed Amendment.** Any significant modification of an amendment to the zoning provisions of this Code made by the Council (i.e.: changes involving density, intensity, or standards), which (modification) was not previously considered by the Commission during its hearing, shall be referred to the Commission for report and recommendation. The Commission is not required to hold a hearing on such modification, and their failure to respond to a Council referral within forty-five (45) days shall constitute their (the Commission's) recommendation for approval.

9.62.060 – Required Findings

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

- A. The proposed amendment is consistent with the General Plan; and
- B. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Chapter 9.63 Conditional Use Permit

Sections:

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

9.63.010 – Purpose and General Plan Consistency

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

9.63.020 – Applicability

- A. All new construction which is listed in the use classification charts for the underlying land use districts that require a Conditional Use Permit Review.
- B. Expansions which exceed the thresholds of Table 4.2 and are permitted subject to a Conditional Use Permit Review as specified in the use classification charts for the underlying land use district shall require a Conditional Use Permit.

TABLE 4.2
CONDITIONAL USE PERMIT
EXPANSION THRESHOLDS

SQUARE FOOTAGE OF EXISTING BUILDING	MAXIMUM SQUARE FOOTAGE	MAXIMUM PERCENTAGE
up to 5,000	1250 sq ft	50%
5,001 – 10,000	2000 sq ft	40% 50%
10,001 +	2500 sq ft	25% 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 form, or deny the proposed amendment. A recommendation for approval shall be made by an affirmative vote of not less than a majority of the total membership of the Commission.

9.65.050 – Council Action

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

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

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

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

9.65.060 – Required Findings.

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

- A. The proposed General Plan Amendment is consistent with the goals, policies and standards of the all elements of the General Plan and will further those goals, policies and standards;
- B. The General Plan as amended will comprise an integrated, internally consistent and compatible statement of policies for the Town; and
- C. The General Plan amendment furthers the public interest and promotes the general welfare of the Town by providing for logical pattern of land uses and clarifying various land use policies for the Town.

9.65.070 – Amendment Frequency.

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

9.65.080 – Consistency Zoning

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

Chapter 9.66 Land Use Compliance Review

Sections:

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

9.66.010 – Applicability

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

TABLE 4.4
LAND USE COMPLIANCE
EXPANSION THRESHOLDS

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

sign regulations

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

All other applicable Development Code regulations

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

6.020 – Minor Modification of Previously Approved Land Use Compliance Review

approved Land Use Compliance Review may be modified upon the request of the property owner, or 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 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.

6.030 – Lapse of Permits/Permit Expiration

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 the Director

1. After a Land Use Compliance Review has been approved and the project constructed and has received a Certificate of Occupancy by the Building and Planning Division, a subsequent Land Use Compliance Review shall not be approved by the Commission for a period of three (3) years. Should an additional expansion be necessary during that 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 be 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

TRACK CHANGES

Chapter 9.68 Site Plan and Design Review

Sections:

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

9.68.010 – Purpose and General Plan consistency

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

9.68.020 – Applicability

The provisions of this Article apply to:

- A. All new construction which is listed in the use classification charts for the underlying land use districts that require a Site Plan and Design Review.
- B. Expansions which exceed the thresholds of Table 4.5 and are permitted subject to a Site Plan and Design Review as specified in the use classification charts for the underlying land use district shall require a Site Plan and Design Review.

TABLE 4.5
SITE PLAN AND DESIGN REVIEW
EXPANSION THRESHOLDS

SQUARE FOOTAGE OF EXISTING BUILDING	MAXIMUM SQUARE FOOTAGE	MAXIMUM PERCENTAGE
up to 5,000	1250 sq ft	50%
5,001 – 10,000	2000 sq ft	40% 50%
10,001 +	2500 sq ft	25% 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 (1/2) 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, aviation 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.

TRACK CHANGES

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.

TRACK CHANGES

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.

TRACK CHANGES

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.

TRACK CHANGES

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
 - 3. Temporary Non-Residential Quarters
 - 4. Temporary Construction Office Quarters
 - 5. Temporary Real Estate Model Home/Sales Office
 - 6. Temporary On your Lot Builder Model Home/Sales Office

9.72.030 – Procedures

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

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

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

1. A Temporary Use Permit shall not be extended by any reviewing authority for any period of time to exceed five (5) years after the date the Temporary Use Permit was first issued, unless acted upon by the Planning Commission. - The Planning Commission retains the authority to grant Temporary Use Permit extensions beyond five (5) years.
2. Director may approve such permits or extensions of such permits for shorter periods of time and/or subject to conditions, where required by this chapter or where it is determined reasonable and necessary to do so.
3. Prior to issuing a Temporary Use Permit extension or renewal for the last allowed period of time (normally between the fourth and fifth year), the permittee shall submit and obtain approval by the Director of a plan of action to either remove or replace the subject temporary use with a legally established use.
4. A temporary use structure which does not have a valid and current permit is hereby declared to be a public nuisance, subject to the enforcement provisions of this Code and other applicable laws.
5. A change of ownership or operator of a use or structure subject to a Temporary Use Permit or change of structure or modification of the structure or use allowed on a parcel subject to a Temporary Use Permit shall not affect the time periods established by this chapter to allow such temporary uses or structures.
6. When the last period of time allowed by this Chapter has lapsed, the Temporary Use Permit and any extensions thereof shall be considered void. A temporary use or structure that was allowed on a subject parcel previously by a Temporary Use Permit may not be reinstated by a new Temporary Use Permit for any time period beyond the final period of time that would have been allowed by the original Temporary Use Permit.

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

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

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

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

9.72.040 – Application

- A. Applications for Temporary Use Permits shall be filed on a form prescribed by the Director and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Director to make the required findings.
- B. To ensure clean up and restoration of the site, an applicant may be required to post a deposit at the time the application is submitted. Upon the completion of the event and inspection of the site by the Town, the deposit may be returned to the application if the cleanup and restoration of the site has been determined by the Town to be sufficient

9.72.050 – Required Findings

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

- A. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger or otherwise constitute a risk to the public health, safety or welfare;
- B. The proposed site is adequate in size and shape to accommodate the temporary use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the site;
- C. The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use will or could reasonably be expected to generate; and
- D. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the Director.

9.72.060 – Conditions of Approval

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

1. Provision for temporary parking facilities, including vehicular ingress and egress;
2. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
3. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
4. Provision for sanitary and medical facilities;
5. Provision for solid, hazardous and toxic waste collections and disposal;
6. Provision for security and safety measures;
7. Regulation of signs;
8. Submission of a performance bond or other surety device, satisfactory to the Director, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time and that the property will be restored to its former condition;
9. A requirement that the approval of the requested Temporary Use Permit is contingent upon compliance with applicable provisions of the Town Municipal Code; and
10. Any other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accordance with the intent and purpose of this Chapter.

9.72.070 – Use of Property Before Final Decision

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

9.72.080 – Temporary Use Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.72.090 – Temporary Use Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

Chapter 9.73 Variance Review

Sections:

- 9.73.010 – Procedures
- 9.73.020 – Variance Amendment
- 9.73.030 – Variance Revocation

9.73.010 – Procedures

- A. Provisions for Variances (exceptions to standards) set forth in this code are established to insure that any property, because of special circumstances, such as size, shape, topography, location, or surroundings, shall be accorded privileges commonly enjoyed by the other properties in the same vicinity, pursuant to Government Code Section 65906.
- B. The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter
- C. Procedure: Public Hearing
Reviewing Authority: Commission
- D. A public hearing is required to consider evidence and take testimony prior to acting upon a request for variances and establish any necessary conditions of approval.
- E. Prior to approving a request for a variance, the reviewing authority shall find that the following are true:
 - 1. The granting of such variance will not be materially detrimental to other properties or land uses in the area and will not subsequently interfere with the present or future ability to use solar energy systems.
 - 2. There are exceptional or extraordinary circumstances or conditions applicable to the property or to an intended use that do not apply to other properties in the same district or vicinity.
 - 3. The strict application of the land use district deprives such property of privileges enjoyed by other properties in the vicinity or in the same land use district.
 - 4. The granting of the variance is compatible with the objectives, policies, general land uses and programs in the General Plan the Development Code and any applicable plan or other ordinance.

9.73.020 – Variance Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.73.030 – Variance Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

TRACK CHANGES

Chapter 9.74 Reasonable Accommodations

Sections:

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

9.74.010 - Purpose

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

9.74.020 - Applicability

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

9.74.030 - Review Authority

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

9.74.040 - Definitions

- A. Disability. An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.
- B. Reasonable Accommodation. Reasonable accommodation in the land use and zoning context means providing flexibility in the application of land use and zoning regulations, policies, practices and procedures, or waiving certain requirements to individuals with disabilities or developers of housing for people with disabilities when it is necessary to eliminate barriers to housing opportunities.

9.74.050 - Notice to the Public of Availability of Process

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

9.74.060 - Application

- A. Applicant. A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a disability. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability.
- B. Application. An application for a reasonable accommodation from a regulation, policy or procedure shall be made on a form provided by the Town. No fee shall be required for a request for reasonable accommodation, but if the project requires another discretionary permit, then the prescribed fee shall be paid for all other discretionary permits.
- C. Other Discretionary Permits. If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval, then the applicant may file the request for reasonable accommodation together with the application for other discretionary permit or approval. The processing procedures of the discretionary permit shall govern the joint processing of both the reasonable accommodation and the discretionary permit.
- D. Required Submittals. An application for reasonable accommodation shall include the following:
 1. Request shall be made on a form provided by the Town and shall include the following information:
 - a. Name and address of the individual(s) requesting reasonable accommodation.
 - b. Name and address of the property owner.
 - c. Address of the property for which accommodation is requested
 2. Documentation that the applicant is:
 - a. An individual with a disability,
 - b. Applying on behalf of one or more individuals with a disability, or
 - c. A developer or provider of housing for one for more individuals with a disability.
 3. Identification of the specific exception or modification to the regulation, policy or procedure requested by the applicant.

4. Documentation that the specific exception or modification requested by the applicant is necessary to provide one or more individuals with a disability equal access to housing.
5. Any other information that the Director reasonably concludes is necessary to determine whether the findings required by Section 9.74.080 can be made so long as any request for information regarding the disability of the individuals benefitted complies with Fair Housing Law protections and the privacy rights of the individuals affected.

9.74.070 - Decision

- A. Requests for reasonable accommodation shall be reviewed by the Director using the criteria set for in Section 9.74.080 *Findings*.
- B. The Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either approve, conditionally approve or deny a request in accordance with the required findings
- C. If necessary to reach a determination on the request for reasonable accommodation, the Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.
- D. The Town may consider, but is not limited to the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability with equal access to housing:
 1. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.
 2. Whether the individual(s) with a disability will be denied equal access to the housing of their choice absent the accommodation.
 3. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of particularities of the relevant market and market participants.
 4. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.
- E. The Town may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the Town's zoning program.
 1. Whether the requested accommodation would fundamentally alter the character of the neighborhood.

2. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.
 3. Whether granting the requested accommodation would substantially undermine any express purpose of the Town's General Plan or any applicable Specific Plan.
 4. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.
- F. Rules While Decision is Pending. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
- G. Effective Date. No reasonable accommodation shall become effective until the decision to grant such accommodation shall have become final by reason of the expiration of time to make an appeal. In the event an appeal is filed, the reasonable accommodation shall not become final unless and until a decision is made by the Planning Commission on such appeal.

9.74.080 – Required Findings

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

- A. The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.
- B. The requested accommodation is necessary to provide one or more individuals with a disability an equal access to housing.
- C. The requested accommodation will not impose an undue financial or administrative burden on the Town.
- D. The requested accommodation will not result in fundamental alteration of the Towns zoning program.
- E. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

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

9.74.090 - Expiration, Time Extension, Violation, Discontinuance

- A. Expiration. Any reasonable accommodation approved in accordance with this Chapter shall expire within twenty-four (24) months from the effective date of approval or at an alternative time specified as a condition of approval unless:
1. A building permit has been issued and construction has commenced,
 2. A certificate of occupancy has been issued,
 3. The use is established, or
 4. A time extension has been granted.
- B. Time Extension. The Director may approve a time extension for a reasonable extension for good cause for a period or periods not to exceed three years from the effective date of approval. An application for a time extension shall be made in writing to the Director no less than thirty (30) days or more than ninety (90) days prior to the expiration date. Notice of the Director's 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.

TRACK CHANGES

Chapter 9.75 Home Occupation Permits

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Chapter 9.77 Native Plant Permits

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TRACK CHANGES

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

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

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

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

APPROVED AND ADOPTED this ____ day of _____, 2013.

MAYOR

ATTEST:

TOWN CLERK

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Shane Stueckle, Deputy Town Manager
Alex Qishta, Project Engineer
Date: October 11, 2013
For Council Meeting: October 15, 2013
Subject: Resolution No. 13- Measure I Plan
Measure I Five-Year Plan 2013/2014 to 2017/2018
Measure I Expenditure Strategy

Prior Council Review: There has been no prior Town Council review of the recommended action.

Recommendation: That the Town Council adopts the Resolution for the annual Measure I, Five-Year Capital Improvement Plan and Expenditure Strategy for Fiscal Years 2013/2014 to 2017/2018 under Measure I 2010-2040.

Executive Summary: The Town is required to adopt a Measure I Plan annually to identify projects, the estimated Measure I expenditures on those projects, and a brief project description to be undertaken in each year.

This is an administrative requirement of both the original and subsequent voter approved Measures.


Order of Procedure:

- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Roll Call Vote, Consent Agenda)

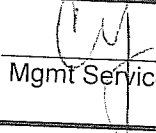
Discussion: Jurisdictions receiving program revenues from the Local Streets Program must annually adopt by action of the Council a Five-Year Plan, which outlines the specific projects upon which those funds shall be expended.

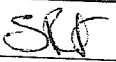
Measure I 2010-2040 has a modified formula of funding for the program, compared to Measure I 1990-2010.

Reviewed By:


Town Manager

Town Attorney


Mgmt Services


Dept Head

Department Report
 Consent

Ordinance Action
 Minute Action

Resolution Action
 Receive and File

Public Hearing
 Study Session

Under the new measure, seventy percent of revenue collected shall be apportioned for local street projects (with 2% reserved in a special account to be expended on Project Development and Traffic Management Systems), 25% for new Measure I Major Local Highways Program (MLH), and 5% for Senior and Disabled Transit Service. For this reason, a decrease in revenue going to the Local Street Program, starting in FY 2010/2011 reflects the new funding distribution approved by the voters in Measure I 2010-2040.

The regional funds, defined as 25% of total revenues, are held and allocated by SANBAG, and may only be expended (in the case of the Morongo Basin) on the state highways and major transportation links that aid regional mobility. SANBAG holds final authority over the approval of individual projects that these funds may be expended on.

There are extensive roadway improvement needs throughout the community which far exceed the available funds for construction or reconstruction of roadways. There are approximately 168 centerline miles of roadways within the Town's Maintained Roadway System. Most of the roadways are not improved to their ultimate widths. Additionally, many of the roadways are extremely aged and distressed as a result of having not been adequately maintained over their life span by the County. Current estimates indicate that in excess of an approximately \$15 million investment in reconstruction and rehabilitation would be necessary in order to bring all existing roadways within the maintained system up to acceptable standards. With approximately \$630,000 in Measure I roadway improvement revenues for FY 2013/2104, the Town does not have the financial ability to address all the roadway improvement needs of the existing Roadway System. Nor does the Town have sufficient existing revenue sources to add new roadways into the Maintained System.

Since incorporation, the Town has placed a high priority on completion and rehabilitation of the backbone major arterial system and on traffic safety improvements. Prioritization of local roadway funds has been directed toward high traffic volume roadways and those roadways providing access to community areas with higher population density.

The Town utilizes a Pavement Management System (PMS) as a guide in determining cost effective maintenance treatments, budget planning and project identification. The rationale behind the PMS is to get all pavement segments to the condition where preventative maintenance is the primary strategy being applied on a 5 to 7 year interval basis. In simple terms, it costs 1/5 to 1/10 the cost to effectively maintain a roadway segment compared to complete reconstruction costs after the pavement is 80% deteriorated and allowed to lapse into the poor and failed condition, then followed by the rehabilitation cycle.

Alternatives: Staff recommends no alternative actions. Plan consistency with expenditures is required for Measure I compliance review.

Fiscal impact: Adoption of the Measure I Resolution will have no financial impacts and will allow the Town to access the Measure I funds. According to SANBAG, the available Measure I funds for FY 2013/14 and the projected funds for the next four fiscal years are as follows:

<u>FY 2013/14</u>	<u>FY 2014/15</u>	<u>FY 2015/16</u>	<u>FY 2016/17</u>	<u>FY 2017/18</u>
\$628,806	\$643,269	\$658,064	\$673,199	\$688,652

Attachments: Resolution No. 13-
Expenditure Strategy
Measure I 2012/13 through 2016/2017 Transportation Project List

RESOLUTION NO 13-

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,
CALIFORNIA, ADOPTING THE FIVE-YEAR MEASURE I
CAPITAL IMPROVEMENT PROGRAM
FOR FISCAL YEARS 2013/2014 TO 2017/2018.**

WHEREAS, San Bernardino County voters approved passage of Measure I 1990-2010 in November 1989 and renewed as Measure I 2010-2040 in November 2004 authorizing San Bernardino Associated Governments, acting as the San Bernardino County Transportation Authority, to impose a one-half of one percent retail transactions and use tax applicable in the incorporated and unincorporated territory of the County of San Bernardino; and

WHEREAS, Revenue from the tax can only be used for transportation improvement and traffic management programs authorized in the Expenditure Plans set forth in Ordinance No. 89-1 of the Authority; and

WHEREAS, Expenditure Plans of the Ordinance require each local jurisdiction receiving revenue from the tax to expend those funds pursuant to a Capital Improvement Program adopted by resolution of the local jurisdiction; and

WHEREAS, Expenditure Plans of the Ordinance also require that each local jurisdiction annually adopt and update its Capital Improvement Plan; and

WHEREAS, the Five-year Transportation Project List, attached hereto as "Attachment A", and this reference made a part hereof, has been prepared for the Town of Yucca Valley; and

WHEREAS, the Town's Measure I Expenditure Strategy is attached hereto as "Attachment B".

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY
DOES RESOLVE AS FOLLOWS.**

Section 1. That the Five-Year Transportation Project List is hereby adopted, for fiscal years 2013/2014 to 2017/2018.

Section 2. That the Town Council adopts the Measure I Expenditure Strategy for Fiscal Year 2013/2014.

Section 3. That the Town Clerk of the Town of Yucca Valley is hereby directed to forward a copy of this Resolution to the San Bernardino Associated Governments.

PASSED, APPROVED AND ADOPTED THIS 15th day of October, 2013.

MAYOR

ATTEST:

TOWN CLERK

**TOWN OF YUCCA VALLEY
MEASURE I EXPENDITURE STRATEGY
FY 2013/2014**

Elderly/Handicapped Fund: All revenue in the Elderly and Handicapped fund is expended by the Morongo Basin Transit Authority for necessary programs.

Local Street Program (LSP): Measure I Local Streets revenues are allocated to a number of projects, including reconstruction/rehabilitation/maintenance and engineering/design of arterials and residential roads, annual studies and/or reports such as pavement management program updates, traffic census reports, and similar activities.

Major Local Highways Program (MLH): Measure I Major Local Highway revenues are managed by SANBAG. By September 30th of each year, the Town shall submit a written request to SANBAG specifying the scope of the project(s), the requested amount and other fund sources required to fully fund the project(s).

**TOWN OF YUCCA VALLEY
MEASURE I FIVE YEAR PLAN 2013/14 TO 2017/18**

YEAR	STREET & LIMITS	IMPROVEMENT	COST EST.
2013/2014	524 -UNRESTRICTED LOCAL STREET PROJECTS (68%)		
	SANBAG - STP		5,000
	Traffic Surveys & Warrant Studies	Speed Surveys & Traffic Studies	10,000
	Annual Traffic Census	Traffic Count Analysis	6,000
	SHOPP - Minor A/Caltrans	Project Application through Caltrans	5,000
	Congestion Management Plan (CMP)	Planning & Analysis	3,500
	Utilities-Street Lights	Street Lights	50,000
		TOTAL PROGRAMS	79,500
	Carmelita Cir: Santa Barbara Dr/Carmelita Cir	Slurry	37,783
	Carmelita Wy: Cul-de-sac/Carmelita Circle	Slurry	5,425
	Carmelita Ct: Cul-de-sac/Carmelita Circle	Slurry	4,522
	Carmelita Pl: Cul-de-sac/Carmelita Circle	Slurry	4,848
	Palomar Ave: Yucca Tr/Juarez Dr	Cape	158,839
	Palomar Ave: Juarez Dr/Joshua Ln.	Slurry	20,416
	Paxton Rd: SR247/Avalon	Slurry	41,649
	Paxton Ct: Paxton/End	Slurry	1,499
	Sunnyslope Dr: PiTown/SR247	Slurry	49,987
	Sunnyslope Dr: Airway/Hilton	Slurry	16,551
	Sunnyslope Dr: Hanford/Avalon	Slurry	11,541
	Sunnyslope Dr: W End/LaContenta	Cape	11,848
		TOTAL SLURRY/CAPE PROJECT	364,908
	Natoma: Del Monte/East End	Overlay	30,000
	Free Gold: Amador/West End	Overlay	30,000
	Desert Gold: Amador/Grand	Overlay	40,000
	Apache: SR62/Sante Fe	Overlay	13,800
	Yuma: Cibola/Church	Overlay	30,000
	Pueblo: Condalia/Valley Vista	Overlay	45,000
	Deer: SR62/Pueblo	Overlay	50,000
	Lucerne Vista: Onaga/Pueblo	Overlay	50,000
		TOTAL OVERLAY PROJECT	288,800
	Signal Maintenance Contract	Maintenance	50,000
	SR62: LaHonda/Dumosa (SLPP Match)	Construction	170,000
		TOTAL OTHER PROJECTS	220,000
	TOTAL MEASURE I UNRESTRICTED PROJECTS		953,208
2013/2014	522-MEASURE I MAJOR ARTERIAL PROJECTS (1990-2010 Measure I)		
	SR62: LaHonda/Dumosa	Construction	517,600
	SR62: Apache/Palm (SLPP Match)	Construction	613,120
	TOTAL MEASURE I ARTERIALS (1990-2010 MEASURE I)		1,130,720

**TOWN OF YUCCA VALLEY
MEASURE I FIVE YEAR PLAN 2013/14 TO 2017/18**

YEAR	STREET & LIMITS	IMPROVEMENT	COST EST.
2014/2015	524 -UNRESTRICTED LOCAL STREET PROJECTS (68%)		
	SANBAG - STP		5,000
	Traffic Surveys & Warrant Studies	Speed Surveys & Traffic Studies	10,000
	Annual Traffic Census	Traffic Count Analysis	6,000
	SHOPP - Minor A/Caltrans	Project Application through Caltrans	5,000
	Congestion Management Plan (CMP)	Planning & Analysis	3,500
	Utilities	Street Lights	50,000
		TOTAL PROGRAMS	79,500
	Joshua Lane: Joshua Drive - San Marino Dr	Cape	367,907
	Joshua Drive: Church St. - Joshua Lane	Cape	112,724
		TOTAL SLURRY/CAPE PROJECT	480,631
		TOTAL	560,131

**TOWN OF YUCCA VALLEY
MEASURE I FIVE YEAR PLAN 2013/14 TO 2017/18**

YEAR	STREET & LIMITS	IMPROVEMENT	COST EST.
2015/2016	524 -UNRESTRICTED LOCAL STREET PROJECTS (68%)		
	SANBAG - STP		5,000
	Traffic Surveys & Warrant Studies	Speed Surveys & Traffic Studies	10,000
	Annual Traffic Census	Traffic Count Analysis	6,000
	SHOPP - Minor A/Caltrans	Project Application through Caltrans	5,000
	Congestion Management Plan (CMP)	Planning & Analysis	3,500
	Utilities	Street Lights	50,000
		TOTAL PROGRAMS	79,500
	Airway Ave: Paxton/Red Bluff	Slurry	11,584
	Airway Ct: Arway Ave/End	Slurry	1,033
	Avila Rd: Castro/Farello	Slurry	1,780
	Avila Rd: Farello/Cul-de-sac	Cape	12,738
	Bandera Rd: San Juan/End	Slurry	12,018
	Buena Suerte Ct: Buena Suerta Rd/End	Cape	4,250
	Buena Suerte Ln: Buena Suerte Rd/End	Cape	5,282
	Buena Suerte Rd: SR247E/Bandera	Slurry	11,513
	Buena Suerte Rd: SR247W/End	Cape	62,755
	Castro Rd: Avila/Cul-de-sac	Slurry	4,307
	Del Rio Way: Buena Suerte/End	Slurry	1277
	El Cortez Rd: Buena Suerte/SR247	Slurry	1,666
	Farello Ct: Farello Rd/End	Cape	7,357
	Farello Rd: Plaza Del Amigo/SR247	Cape	63,096
	247OH: Buena Suerte/End	Cape	6,221
	Imperial Rd: Paxton/Palo Alto	Slurry	7,452
	Juarez Ct: Farello/Cul-de-sa	Cape	5,450
	Mandarin Rd: Bandera/End	Slurry	5,439
	Montecello Ct: Montecello Rd/End	Cape	2,918
	Montecello Ln: Montecello Rd/End	Cape	5,486
	Montecello Rd: Panchita/Cul-de-sac	Cape	23,520
	Murrietta Ave: Paxton/Cul-de-sac	Slurry	8,430
	Palo Alto Ave: Paxton/Cul-de-sac	Slurry	8,010
	Panchita Rd: Farello/Montecello	Cape	50,194
	Plaza Del Amigo Rd: Buena Suerta/End	Slurry	7,655
	Red Bluff Ave: Paxton/Buenta Suerte	Slurry	10,369
	Rome Ct: Paxton/Cul-de-sac	Slurry	2,136
	San Juan Rd: SR247/End	Slurry	4,354
	San Rafael Ct: San Rafeal Rd/End	Cape	5,296
	San Rafael Rd: Plaza Del Amigo/End	Cape	18,018
		TOTAL SLURRY/CAPE PROJECT	371,604
		TOTAL	451,104

**TOWN OF YUCCA VALLEY
MEASURE I FIVE YEAR PLAN 2013/14 TO 2017/18**

YEAR	STREET & LIMITS	IMPROVEMENT	COST EST.
2016/2017	524 -UNRESTRICTED LOCAL STREET PROJECTS (68%)		
	SANBAG - STP		5,000
	Traffic Surveys & Warrant Studies	Speed Surveys & Traffic Studies	10,000
	Annual Traffic Census	Traffic Count Analysis	6,000
	SHOPP - Minor A/Caltrans	Project Application through Caltrans	5,000
	Congestion Management Plan (CMP)	Planning & Analysis	3,500
	Utilities	Street Lights	50,000
		TOTAL PROGRAMS	79,500
	Anaconda Dr: Grand/Sage	Slurry	4,740
	Bonanza Dr: Grand/Sage	Slurry	6,851
	Carlyle Dr: Grand/Sage	Slurry	5,116
	Desert Gold Dr: Grand/Sage	Slurry	5,865
	El Dorado Dr: Grand/Sage	Slurry	5,865
	Free Gold Dr: Grand/Sage	Slurry	5,870
	Grand Ave: Kismet/Joshua Dr.	Slurry	27,036
	Hidden Gold: Grand/Sage	Slurry	7,875
	Ivanhoe Dr: Grand/Sage	Slurry	7,193
	Java Dr: Grand/Kismet	Slurry	4,477
	Kismet Dr: Grand/Sage	Slurry	7,952
	La Cadena Dr: Amador/Gold	Slurry	3,442
	La Cadena Dr: Kismet/Sage	Slurry	3,706
	Sage Ave: S.End/Joshua Dr.	Slurry	1,326
	Sage Ct: Sage Ave/End	Slurry	26,608
		TOTAL SLURRY/CAPE PROJECT	123,922
		TOTAL	203,422

**TOWN OF YUCCA VALLEY
MEASURE I FIVE YEAR PLAN 2013/14 TO 2017/18**

YEAR	STREET & LIMITS	IMPROVEMENT	COST EST.
2017/2018	524 -UNRESTRICTED LOCAL STREET PROJECTS (68%)		
	SANBAG - STP		5,000
	Traffic Surveys & Warrant Studies	Speed Surveys & Traffic Studies	10,000
	Annual Traffic Census	Traffic Count Analysis	6,000
	SHOPP - Minor A/Caltrans	Project Application through Caltrans	5,000
	Congestion Management Plan (CMP)	Planning & Analysis	3,500
	Utilities	Street Lights	50,000
		TOTAL PROGRAMS	79,500
	Aberdeen Dr: OWS/Sage	Cape	68,959
	Skyline Ranch Rd: Malin Way/OWS	Slurry	30,515
	Yucca Trail: Sage/La Contenta	Cape	328,678
		TOTAL SLURRY/CAPE PROJECT	428,152
		TOTAL	507,652

ORDINANCE NO.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY CALIFORNIA, ADDING TO TITLE 10 CHAPTER 10.02 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE RELATING TO ANIMAL CONTROL BY ADDING SECTIONS 10.02.175 AUTHORIZING MANDATORY SPAYING AND NEUTERING OF PIT BULLS

WHEREAS, California Health and Safety Code Section 122330 finds uncontrolled and irresponsible breeding of animals contributes to pet overpopulation, inhumane treatment of animals, mass euthanasia at local shelters and escalating costs for animal care and control. This irresponsible breeding also contributes to the production of defective animals that present a public safety risk; and

WHEREAS, California Health and Safety Code Section 122331 allows Cities and Counties to enact breed specific ordinances pertaining only to mandatory spaying or neutering programs and breeding requirements, providing that no specific dog breed, or mixed dog breed shall be declared potentially dangerous or vicious under those ordinances; and

WHEREAS, Pit bulls and pit bull type dogs are one of the most common dogs impounded at the Yucca Valley Animal Shelter and are the number one type of breed of dog euthanized at animal shelters throughout San Bernardino County. Adoption rates for pit bulls and pit bull type dogs is very low.

WHEREAS, 2012 statistics show in the Town of Yucca Valley, pit bull breeds and mixes make up to 33% of the dogs brought to the Yucca Valley Animal Shelter, 48% of the dog bites, and 74% of the dangerous dog cases.

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

SECTION 1: The following Section 10.02.175 shall be added to Chapter 10.02 of the Yucca Valley Municipal Code to read as follows:

Section 10.02.175

A. Purpose and Intent

Pit Bull breeds and Pit Bull mixes constitute a majority of unadopted dogs held in animal shelters [in the Town of Yucca Valley?]. It is the purpose and intent of this Code section that no person shall own or keep a Pit Bull (as defined below) over the age of four months which has not been spayed or neutered, except as identified in Subpart E of this Section 10.02.175.

B. Definitions

For purposes of this section, “Pit Bull” is defined as any Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains, as an element of its breeding, any of these breeds so as to be identifiable as partially of the breed of Staffordshire Bull Terrier or American Pit Bull Terrier or American Staffordshire Terrier, any dog displaying the physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics that conform to the standards established by the American Kennel Club (“AKC”) or United Kennel Club (“UKC”) for any of the above breeds.

C. Determination of the Breed

1. If an owner, guardian or keeper is unsure as to whether or not his/her unspayed and/or unneutered dog is a pit bull, she/he may make an appointment with their veterinarian to determine as to whether or not the dog is a pit bull, as defined in this chapter. Proof of determined breed(s) shall be provided to Town of Yucca Valley Animal Care and Control Services and will be kept on file with the licensing record.

2. If an owner, guardian or keeper is unsure as to whether or not his/her unspayed and/or unneutered dog is a pit bull and does not wish to use a veterinarian to determine as to whether or not the dog is a pit bull then he/she may make an appointment with Animal Care and Control Services at which a staff member shall make a determination as to whether or not the dog is a pit bull. If the dog owner, guardian or keeper wishes to appeal the determination the dog is a pit bull, within five business days of the staff member’s determination he/she may request a hearing before the Animal Care and Control Manager or his/her designee. The hearing shall be no more than 30 days after the Manager receives the request. The hearing may be informal and the rules of evidence are not strictly observed. The decision of the Manager or his/her designee is final.

D. Mandatory Spaying and Neutering of Pit Bulls and Pit Bull Types

Pursuant to California Health and Safety Code 122331, no person shall own or keep a Pit Bull or Pit Bull type dog, as defined in this Chapter, over the age of four months which has not been spayed or neutered. This spay/neuter requirement does not apply to that class of Pit Bulls identified in Subpart E of this Section 10.02.175.

E. Exceptions

The following Pit Bulls are exempt from the spay/neuter requirement set forth in Subpart D of this Section 10.02.175: (i) a purebred Staffordshire Bull Terrier, purebred American Pit Bull Terrier or purebred American Staffordshire Terrier, recognized by, and registered with, the American Kennel Club (AKC), United Kennel Club (UKC) for which proof of registration shall be provided to Town of Yucca Valley Animal Care and Control Services; (ii) a dog used by a law enforcement agency for law enforcement purposes; (iii) a qualified service or assistance dog as defined in Food and Agriculture Code Section

30850; or (iv) a dog which is unable to be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to age or infirmity in which the owner or keeper of such dog provides to the Animal Control Officer written confirmation of the condition from a licensed veterinarian.

F. Enforcement & Penalties

In accordance with Section 836.5 of the California Penal Code, the civil and criminal provisions of this Section may be enforced by those persons or agencies designated by municipal authority. Violations of this Chapter may also be punishable in accordance with Chapter 1.02, Sections 1.02.010 through 1.01.090 of this Code. It shall be a violation of this Chapter to interfere with the Animal Control Officer in the performance of his/her duties.

G. Reporting Requirements

As required by California Health & Safety Code Section 122331(b), the Animal Control Officer shall measure the effect of this Section 10.02.175 by compiling statistical information on dog bites. The information shall, at a minimum, identify dog bites by severity, the breed of the dog involved, whether the dog was altered, and whether the breed of dog was subject to the spay/neuter program established hereby. These statistics shall be submitted quarterly to the State Public Health Veterinarian.”

SECTION 2: SEVERABILITY. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Ordinance which shall be given effect without the invalid provisions or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 3: 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 4: EFFECTIVE DATE. The 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 _____ day of _____ 2013.

MAYOR

ATTEST:

APPROVED AS TO FORM:

TOWN CLERK

TOWN ATTORNEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Shane Stueckle, Deputy Town Manager
Alex Qishta, Project Engineer
Date: October 8, 2013
For Council Meeting: October 15, 2013

Subject: Third Amendment to the Subdivision Improvement Agreement
Reduction of Bond Obligations
Tract Map 16587
Located at the northeast corner of Acoma Trail and Zuni Trail

Prior Council Review: The Town Council previously approved the final map, performance and labor/material bonds, subdivision improvement agreement, and two amendments to the subdivision agreement for extensions of time in which to complete improvements.

Recommendation: That the Town Council approves the attached 3rd Amendment to the Subdivision Improvement Agreement, extending the period of time for completion of improvements an additional twenty-four (24) months through November 22, 2015, authorizing release of the Performance and Labor/Material Bonds, and accepting the Irrevocable Standby Letters of Credit for the remaining public improvements.

Executive Summary: The Subdivision Improvement Agreement was approved with the final subdivision map of TM 16587. The project has been under construction but the down turn in the economy affected project financing. The applicant seeks an extension of time in which to complete improvements as well as a reduction of the original bonds to an amount equal to the remaining improvements.

Order of Procedure:

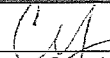
Request Staff Report
Request Public Comment
Council Discussion/Questions of Staff
Motion/Second
Discussion on Motion
Call the Question (Roll Call Vote, Consent Agenda)

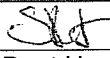
Discussion: The Subdivision Improvement Agreement provides that public improvements be constructed by November 22, 2013, and that the time for completion of the public improvements may be extended where deemed necessary by the Town. The amendment would provide the owner an additional twenty-four (24) months through November 22, 2015, to construct the remaining public improvements.

Reviewed By:


Town Manager

Town Attorney


Mgmt Services


Dept Head

Department Report
 Consent

Ordinance Action
 Minute Action

P.186

Resolution Action
 Receive and File

Public Hearing
 Study Session

The Town requires surety to guarantee the construction of specific improvements within subdivisions. The owner has requested a reduction of the original bond obligations to an amount equal to the remaining improvements. The original estimated cost for construction of the public improvements for the Subdivision was \$1,179,148.00. The completed improvements are estimated at \$967,963.00, and the estimated cost of remaining improvements is \$211,185.00.

The owner has bid the remaining improvements, and a contractor has been selected to finish the project. The reduction of bond obligations will provide the owner with the opportunity to move forward with the completion of these public improvements.

The owner will be required to furnish an Irrevocable Standby Letter of Credit for \$211,185.00, an amount equal to 100% of the estimated remaining construction cost of the Improvements as security guaranteeing the faithful performance of Improvements as set forth in the Agreement.

The owner will also be required to furnish an Irrevocable Standby Letter of Credit for \$105,592.50, an amount equal to 50% of the estimated remaining construction cost of the Improvements as security guaranteeing the payment of all persons performing labor and furnishing materials in connection with the Agreement.

Alternatives: No alternative action is recommended.

Fiscal impact: No fiscal impact resulting from the amendment is identified.

Attachments: Subdivision Improvement Agreement
First Amendment to the Subdivision Improvement Agreement
Second Amendment to the Subdivision Improvement Agreement
Letter requesting the bond reduction
Irrevocable Standby Letter of Credit

Exhibit A

Recorded In Official Records, County of San Bernardino



LARRY WALKER
Auditor/Controller - Recorder

688 Fidelity/Riverside

3/09/2007
2:45 PM
BGJ

Recording Requested By:
Fidelity National Title
Builder Services Division

When Recorded, Mail to:
The Town of Yucca Valley
Community Development/Public Works Dep...
58928 Business Center Drive
Yucca Valley, CA 92284
Attn: Duane H. Gasaway,
Senior Project Manager

Doc#: 2007-0152170



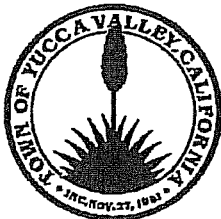
Titles: 1 Pages: 31

Fees	98.00
Taxes	0.00
Other	1.00
PAID	99.00

(the space above for Recorders use only)

SUBDIVISION IMPROVEMENT AGREEMENT

This page added to provide adequate space for recording information
(\$3.00 Additional Recording Fee Applies)



Town of Yucca Valley
Community Development/Public Works Department
58928 Business Center Drive, Yucca Valley, California 92284
Phone: 760-369-6575 Fax: 760-228-0084

SUBDIVISION IMPROVEMENT AGREEMENT

This Subdivision Improvement Agreement ("Agreement") is entered into by and between the Town of Yucca Valley, a municipal corporation ("Town") on the one hand, and Mesquite 55 LP, a limited partnership and Drake Construction, LLC, a limited liability company ("Subdivider") on the other hand, and is effective this 22nd day of November, 2006. Town and Subdivider hereby acknowledge and agree the following:

1. The Town of Yucca Valley Planning Commission, on May 4, 2004, granted conditional approval to a certain tentative subdivision as laid out and delineated on Tract Map No. 16587 ("Map"). Subdivider seeks approval and recordation of Final Map, which consists of 55 residential lots and Lot A devoted to a drainage retention basin and areas devoted to streets and drainage.
2. Subdivider, pursuant to the Conditions of Final Approval of the Map ("Conditions"), must complete various improvements ("Improvements"), as described in Section 2 below, and post certain security for the completion thereof.
3. This Agreement is executed pursuant to California Government Code 66410, et seq. and applicable ordinances of the Town in order to provide further for the manner in which Improvements shall be constructed and completed.

NOW, THEREFORE, and in consideration of the approval of the Map, and in order to ensure satisfactory performance by Subdivider of Subdivider's obligations under the Conditions, the Subdivision Map Act, and applicable ordinances of the Town, the parties hereto, for themselves, their successors, and assigns, hereby agree as follows:

Section 1. Incorporation by Reference

The Development Agreement between Subdivider and Town, if applicable, the Conditions (attached hereto as Exhibit "A") and all plans as listed in Section 2 below are incorporated herein by reference.

Section 2. Construction of Improvements

- (a) Subdivider shall construct to the approval of the Town, and as provided for in the Conditions, the Improvements as shown on the following described Plans ("Plans"):

▶ The Street Improvement Plan designed by Warner Engineering and approved and signed by the Town Engineer and filed with the Town of Yucca Valley Community Development/Public Works Department.

Description of Improvements:

Acoma Trail – Installation of curb, gutter and sidewalk based on a 40 foot half-width section per Town Standard.

Church Street and Zuni Trail – Installation of curb, gutter and sidewalk based on a 30 foot half-width section per Town Standard. Paving for Church Street shall extend north to existing paving.

Mountain View and all interior streets - Installation of curb, gutter and sidewalk based on a 60 foot full-width per Town Standard.

▶ The Irrigation & Landscaping Plans prepared by RHA Landscape Architects Planners, Inc. and approved by and on file in the Town of Yucca Valley, Community Development/Public Works Department.

Description of Improvements: Landscaping and irrigation adjacent to portions of Acoma Trail, Mountain View Trail, Zuni Trail and the detention basin and other irrigation and landscape areas as shown on the approved plan.

▶ The Grading Plans designed by Warner Engineering and approved and signed by the Town Engineer and filed with the Town of Yucca Valley Community Development/Public Works Department.

Description of Improvements: The rough and precise grading of the residential lots, drainage retention basin, improvements and grading of applicable flood control improvements pursuant to Conditions of Approval 10(a), 10(b) and 10(c) and grading of the streets shown on the approved Street Improvement Plan in Section 2(a) above.

(b) Survey Monumentation

- (1) Subdivider shall place survey monumentation as described on the Map.
- (2) Subdivider shall replace or repair all survey monumentation that is destroyed or damaged as a result of Subdivider's activities. Any such repair or replacement shall be to the satisfaction and subject to the approval of the Town.

Section 3. Modification of Plans

Subdivider agrees that if during the construction of the Improvements it is determined by the Town that revisions to the Plans are necessary in the interest of the public, Subdivider will undertake such design and construction changes required by the Town. Said changes, if any shall be confined to the premises owned by Subdivider.

Section 4. Security

- (a) Faithful Performance – Pursuant to California Government Code 66499 and the Town's Development Code, Section 83.041125 Subdivider shall, concurrently with the execution hereof, furnish a surety bond or cash deposit in an amount equal to one hundred percent (100%) of the estimated construction cost of the Improvements as security guaranteeing the faithful performance of the Improvements and this Agreement.

Estimated construction cost approved by Town is One Million One Hundred Seventy Nine Thousand One Hundred Forty Eight Dollars (\$1,179,148.00).

The Performance Bond amount is One Million One Hundred Seventy Nine Thousand One Hundred Forty Eight Dollars (\$1,179,148.00). A copy of said bond is attached hereto as Exhibit B.

- (b) Labor & Materials (Payment) Bond – Pursuant to California Government Code 66499 and the Town's Development Code, Section 83.041125 Subdivider shall, concurrently with the execution hereof, furnish a surety

bond or cash deposit in an amount equal to fifty percent (50%) of the estimated construction cost of the Improvements as security guaranteeing the payment of all persons performing labor and furnishing materials in connection with this Agreement.

The Labor & Materials (Payment) Bond amount is Five Hundred Eighty Nine Thousand Five Hundred Seventy Four Dollars (\$589,574.00). A copy of said bond is attached hereto as Exhibit C.

- (c) Guarantee / Warranty Bond – Pursuant to Government Code 66499 and the Town's Development Code, Section 83.041125 Town shall withhold from the bond or cash deposit Two Hundred Ninety Four Thousand Seven Hundred Eighty Seven Dollars (\$294,787.00), an amount equal to twenty five percent (25%) of the estimated construction cost of the Improvements, for the guarantee and warranty of the work for a period of one year following the completion and acceptance thereof against any defective work or labor performed, or defective materials furnished by the Subdivider in connection with this Agreement.
- (d) Pursuant to Government Code 66499.9, any liability upon the security given for faithful performance of any act or agreement shall be limited to:
 - (1) The performance of the work covered by the Agreement or the performance of the required act.
 - (2) The performance of any changes or alterations in such work provided that all changes or alterations do not exceed ten percent (10%) of the original estimated cost of the Improvement.
 - (3) The guarantee and warranty of the work for a period of one year following completion and acceptance thereof against any defective work or labor done or defective materials furnished in the performance of the Agreement or the performance of the act.
 - (4) Costs and reasonable expenses and fees, including reasonable attorneys' fees.
- (e) The surety on each bond and the form thereof shall be satisfactory to the Town. The surety shall be furnished by a surety company authorized to write the same in the State of California and that is approved and accepted by the Town.

Section 5. Inspections

At least fifteen (15) calendar days prior to the commencement of any work hereunder Subdivider shall notify the Town in writing of the fixed start date of construction so that the Town shall be able to provide inspection services. Subdivider shall at all times maintain proper facilities and provide safe access to all parts of the work site(s) for Town inspections, including any workshops or plants where work related to the Improvements is being conducted.

Section 6. Timing of Performance

Subdivider agrees to perform and complete all improvements within twenty-four (24) months from the date of this Agreement. It is further agreed by and between the Subdivider and the Town that in the event it is deemed necessary by the Town to extend the time of completion of the Improvements, said extension may be granted by the Town, and shall in no way affect the validity of this Agreement or release of the surety(ies) on any bond attached hereto or the financial institution guaranteeing the same. Subdivider further agrees to maintain the security described in Sections 4(a), 4(b), and 4(c) above in full force and effect during the terms of this Agreement including any extensions of time as may be granted.

Section 7. Work Performance

- (a) Subdivider shall construct, at Subdivider's own expense, all of the Improvements in a good and workmanlike manner, and furnish all required materials incident thereto in accordance with the Plans and to the satisfaction of the Town, including any changes required by the Town, which in the Town's opinion are necessary to complete the Improvements.
- (b) All work shall be conducted and completed in accordance with the Plans and federal, state, county and Town codes, laws, ordinances, and regulations. For any Improvements partially completed prior to this Agreement, Subdivider agrees to complete the Improvements in accordance with this Agreement.
- (c) Neither Subdivider, nor any of Subdivider's agents, or contractors in connection with Subdivider's obligations under this Agreement are, or shall be considered to be, agents of Town.

Section 8. Indemnity

- (a) Subdivider hereby agrees to save harmless and indemnify, including without limitation, Town's defense costs (including reasonable attorney's fees), from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of any injuries or damages sustained by any person or property resulting or arising, or alleged to have resulted or arisen, from Subdivider or Subdivider's contractors, subcontractors, agents, or employees activities, omissions or operations pursuant to this Agreement. Should Town be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, Subdivider will defend Town, (at Town's request and with counsel satisfactory to Town) and will indemnify Town for any judgment rendered against it or any sums paid out in settlement or otherwise.
- (b) Subdivider shall defend, indemnify, and hold harmless the Town and its elective and appointive boards, officials, officers, agents, independent contractors, employees and volunteers from any claim, action, or proceeding to review, set aside, void, or annul an approval of the Town concerning the Map and acts made in respect thereof, provided any such action is brought within the time period provided for in California Government Code 66499.37.
- (c) Town shall promptly notify the Subdivider of any claim, action, or proceeding, and cooperate fully in the defense of any claim, action or proceeding.
- (d) It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

Section 9. Permits and Requisite Fees

- (a) Before proceeding with any work hereunder, Subdivider shall, at Subdivider's expense, obtain all necessary permits and licenses for the construction of the Improvements, give all necessary notices, and pay all fees and taxes required by law.
- (b) Subdivider agrees to procure, at its expense, any necessary permits for Improvements outside the Town's jurisdiction.

Section 10. On-Site Supervision

Subdivider shall designate an on-site supervisor, satisfactory to the Town, who shall be on the work site(s) at all times during the construction of the Improvements, and who has the authority to act on behalf of the Subdivider when communicating with Town staff.

Section 11. Law to Govern: Venue

The law of the State of California shall govern this Agreement. In the event of litigation between the parties, the action must be filed in the San Bernardino County Superior Court-Joshua Tree District.

Section 12. Compliance with Law

Subdivider shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local governments.

Section 13. Waiver

Waiver by Town or Subdivider of any breach of any of the provisions of the Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of the same or any other provision of this Agreement. Acceptance by Town of any work by Subdivider shall not be a waiver of any of the provisions of this Agreement.

Section 14. Notices

- (a) All notices to Town shall be sent to the following address:

Shane R. Stueckle
Deputy Town Manager
Town of Yucca Valley
58928 Business Center Drive
Yucca Valley, CA 92284

- (b) All notices to Subdivider shall be sent to the following address:

Mr. Scott Woodside
Drake Construction LLC
41391 Kalmia Street, #210
Murrietta, CA 92562

- (c) All notices herein required shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, postage prepaid.
- (d) If one party provides written notice to the other party of a change of address, all further notices to such party shall be addressed and transmitted to the new address.
- (e) Any notice so given shall be deemed effective on the date of actual delivery.

Section 15. Noncompliance

If Town determines that Subdivider is in violation of any federal, state, county or Town laws, ordinances, rules, regulations, and requirements, and/or the terms and provisions of this Agreement, it may issue a cease and desist order, stop work order, or other action the Town deems necessary.

Section 16. Notice of Breach and/or Default

The Town may serve written notice upon Subdivider and surety of breach of this Agreement or of any portion thereof, and default of Subdivider for any of the following circumstances:

- (a) Subdivider refuses or fails to complete the Improvements as required in Section 2 above.
- (b) Subdivider should be adjudged bankrupt.
- (c) Subdivider should make a general assignment for the benefit of Subdivider's creditors.
- (d) A receiver should be appointed in the event of Subdivider's insolvency.
- (e) Subdivider or any of Subdivider's contractors, subcontractors, agents, or employees should materially violate any of the provisions of this Agreement and not cure the violation within a reasonable time.

Section 17. Performance by Surety or Town

- (a) In the event of a material breach and/or default by Subdivider, Subdivider's surety shall have the duty to take over and complete the Improvements.

- (b) If the surety, within a reasonable time after receiving notice of Subdivider's default does not provide Town written notice to take over the performance of this Agreement or if the surety does not commence performance thereof within the time specified in such notice to Town, Town may take over the construction of the Improvements and prosecute the same to completion by contract or by any method Town may deem advisable, on behalf and at the expense of Subdivider and Subdivider's surety shall be liable to Town for any excess cost or damages incurred by Town thereby. In such event, Town, without liability for so doing, may take possession of and utilize, to complete the Improvements, such materials, appliances, and other property belonging to Subdivider as may be on the work site(s) and necessary therefor.

Section 18. Successors in Interest

This Agreement shall run with the land and shall be binding on the Subdivider, its successor and assigns.

Section 19. Effective Date

This Agreement shall be effective as of the date and year first above written.

Section 20. Amendment of Agreement

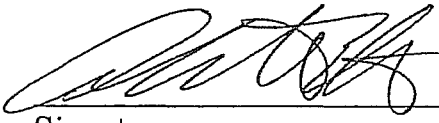
This Agreement may only be amended by mutual consent of the original parties or their successors in interest, provided that any such amendment is executed in writing by the parties to be bound thereby. Copies of any such amendments shall be sent to surety(ies).

Section 21. Execution.

By signing this Agreement, the person signing states that he or she is authorized to enter into contracts on behalf of Subdivider. The undersigned, on behalf of Subdivider, binds Subdivider, its partners, successors, executors, administrators, and assigns with respect to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Subdivision Improvements Agreement as of the date first written above.

"TOWN OF YUCCA VALLEY"

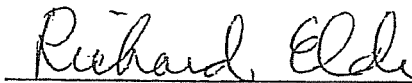
 1/5/07
Signature Date


Andrew J. Takata
Print Name

Town Manager
Title

"SUBDIVIDER"

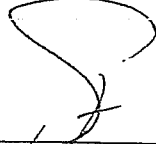
Mesquite 55 L.P.
By: Drake Construction, LLC

 1-12-07
By: Richard Elder, Manager Date

 1-12-07
By: Scott Woodside, Manager Date

Drake Construction, LLC

 1-12-07
By: Richard Elder, Manager Date

 1-12-07
By: Scott Woodside, Manager Date

(Note: Subdivider's signature(s) must be acknowledged before a Notary Public)

TOWN OF YUCCA VALLEY
FAITHFUL PERFORMANCE BOND

Bond Number: 726718S

Premium: \$28,300.00 / two years (renewable annually thereafter)

WHEREAS, the TOWN OF YUCCA VALLEY, State of California, and Mesquite 55, L.P., hereinafter referred to as "Principal", have entered into or are about to enter into an agreement whereby Principal agrees to install and complete certain designated public improvements as set forth in said agreement dated November 15, 2006, and identified as Agreement for Construction of offsite improvements which is hereby referred to and made a part hereof; and

WHEREAS, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement and to guarantee the work for a period of one year;

NOW, THEREFORE, we, the Principal and Developers Surety and Indemnity Company, whose principal place of business is Irvine, California, a corporation organized and doing business under and by virtue of the laws of the State of Iowa, and duly licensed by the State of California for the purpose of making, guaranteeing or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as Surety, are held and firmly bound unto the Town of Yucca Valley in the penal sum of One Million One Hundred Seventy Nine Thousand One Hundred Forty Eight Dollars (\$1,179,148.00) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his, their, its heirs, executors, administrators, successors, or assigns, shall in all things stand to or abide by, and well and truly keep and perform the covenants, conditions, and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Town of Yucca Valley, its officers, agents, and employees as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The Surety and Principal further agree that in the event the work and improvements are not completed within the time allowed by said agreement or any extensions thereof as may be granted the Town of Yucca Valley, they shall be jointly and severally liable to the Town of Yucca Valley for any and all costs incurred by the Town in completing the required improvements, including any administrative expenses and attorney's fees incurred in obtaining completion of required improvements or any such

*Town of Yucca Valley-Contract Documents and Specifications
Offsite Improvements – TR 16587*

TOWN OF YUCCA VALLEY
FAITHFUL PERFORMANCE BOND

fees and expenses incurred in processing any action for damages or for any other remedies by law.

As part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the Town of Yucca Valley in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety and Principal further agree that twenty-five percent (25%) of the face amount of this bond will remain in effect and continue after completion and acceptance of the work and improvements by the Town of Yucca Valley for one year from the date of acceptance to guarantee said improvements against any defective work or labor done, or defective materials furnished, in performance of the contract with the Town of Yucca Valley.

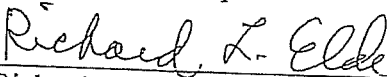
The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications. Surety further stipulates and agrees that the provisions of Section 2845 of the Civil Code are not a condition precedent to Surety's obligations hereunder and are hereby waived by Surety.

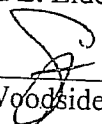
IN WITNESS WHEREOF, said Principal and said Surety have caused this performance bond to be duly executed this 8th day of February, 2007.

Principal

Mesquite 55, L.P.


By: Drake Construction, LLC,
its general partner


Richard L. Elder, manager


Scott Woodside, manager

Surety

Developers Surety and Indemnity
Company


Jennifer Tesoriero, attorney-in-fact

**POWER OF ATTORNEY FOR
DEVELOPERS SURETY AND INDEMNITY COMPANY
INDEMNITY COMPANY OF CALIFORNIA
PO BOX 19725, IRVINE, CA 92623 (949) 263-3300**

KNOW ALL MEN BY THESE PRESENTS, that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, do each, hereby make, constitute and appoint:

Jennifer Tesoriero, Kevin R. Brooks, William M. Summers, jointly or severally


as their true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporations, as sureties, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporations could do, but reserving to each of said corporations full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

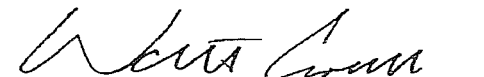
This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolutions adopted by the respective Board of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, effective as of November 1, 2000:

RESOLVED, that the Chairman of the Board, the President and any Vice President of the corporation be, and that each of them hereby is, authorized to execute Powers of Attorney, qualifying the attorney(s) named in the Powers of Attorney to execute, on behalf of the corporations, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of the corporations be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporation when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA have severally caused these presents to be signed by their respective Executive Vice President and attested by their respective Secretary this 1st day of December, 2005.

By: 
David H. Rhodes, Executive Vice-President

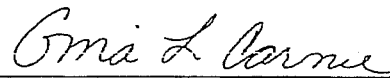
By: 
Walter A. Crowell, Secretary



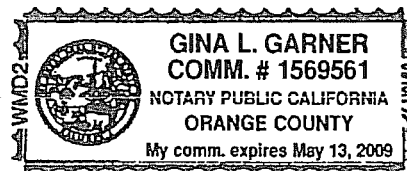
STATE OF CALIFORNIA]
COUNTY OF ORANGE]

On December 1, 2005 before me, Gina L. Garner, (here insert name and title of the officer), personally appeared David H. Rhodes and Walter A. Crowell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature 


(SEAL)



CERTIFICATE

The undersigned, as Assistant Secretary, of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked, and furthermore, that the provisions of the resolutions of the respective Boards of Directors of said corporations set forth in the Power of Attorney, are in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, the 8th day of February, 2007.

By: 
Albert Hillebrand, Assistant Secretary

ACKNOWLEDGMENT

State of California

County of Los Angeles

On February 8, 2007 before me, Robin Ballard, Notary Public
(here insert name and title of the officer)

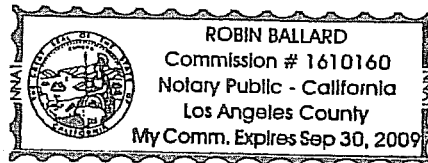
personally appeared Jennifer Tesoriero

personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Robin Ballard



(Seal)

TOWN OF YUCCA VALLEY
LABOR AND MATERIAL BOND

Bond Number: 726718S

Premium: Included in the cost of performance

LABOR AND MATERIAL BOND

WHEREAS, the TOWN OF YUCCA VALLEY, State of California, and Mesquite 55, L.P., hereafter referred to as "Principal", have entered into or are about to enter into an agreement whereby Principal agrees to install and complete certain designated public improvements as set forth in said agreement dated November 15, 2006, and identified as Agreement for Construction of offsite improvements which is hereby referred to and made a part hereof; and

WHEREAS, Under the terms of the agreement, the said Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the Town of Yucca Valley to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

NOW, THEREFORE, the Principal and Developers Surety and Indemnity Company whose principal place of business is Irvine, California, and duly licensed by the State of California for the purpose of making, guaranteeing or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as Surety, are held and firmly bound unto the Town of Yucca Valley and all contractors, subcontractors, laborers, material men and other persons employed in the performance of the aforesaid agreement and referred to in aforesaid Civil Code in the sum of Five Hundred Eighty Nine Thousand Five Hundred Seventy Four Dollars (\$589,574.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred the Town of Yucca Valley in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 15 (commencing with Sections 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

TOWN OF YUCCA VALLEY
LABOR AND MATERIAL BOND

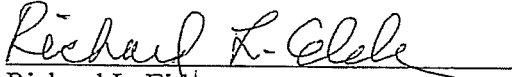
The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or the work to be performed there under or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, alteration or addition to the terms of the agreement or to the work or to the specifications. Surety further stipulates and agrees that the provisions of Section 2845 of the Civil Code are not a condition precedent to Surety's obligations hereunder and are hereby waived by Surety.

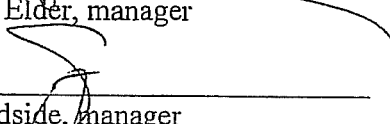
IN WITNESS WHEREOF, said Principal and said Surety have caused this performance bond to be duly executed this 8th day of February, 2007.

Principal

Mesquite 55, L.P.


By: Drake Construction, LLC,
its general partner


Richard L. Elder, manager


Scott Woodside, manager

Surety

Developers Surety and Indemnity
Company


Jennifer Tesoriero, attorney-in-fact

**POWER OF ATTORNEY FOR
DEVELOPERS SURETY AND INDEMNITY COMPANY
INDEMNITY COMPANY OF CALIFORNIA**

PO BOX 19725, IRVINE, CA 92623 (949) 263-3300

KNOW ALL MEN BY THESE PRESENTS, that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, do each, hereby make, constitute and appoint:

Jennifer Tesoriero, Kevin R. Brooks, William M. Summers, jointly or severally


as their true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporations, as sureties, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporations could do, but reserving to each of said corporations full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.


This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolutions adopted by the respective Board of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, effective as of November 1, 2000:

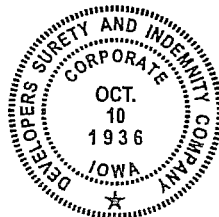
RESOLVED, that the Chairman of the Board, the President and any Vice President of the corporation be, and that each of them hereby is, authorized to execute Powers of Attorney, qualifying the attorney(s) named in the Powers of Attorney to execute, on behalf of the corporations, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of the corporations be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporation when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA have severally caused these presents to be signed by their respective Executive Vice President and attested by their respective Secretary this 1st day of December, 2005.

By: 
David H. Rhodes, Executive Vice-President

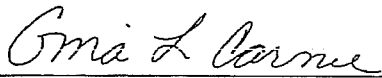
By: 
Walter A. Crowell, Secretary



STATE OF CALIFORNIA]
COUNTY OF ORANGE

On December 1, 2005 before me, Gina L. Garner, (here insert name and title of the officer), personally appeared David H. Rhodes and Walter A. Crowell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature 


(SEAL)



CERTIFICATE

The undersigned, as Assistant Secretary, of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked, and furthermore, that the provisions of the resolutions of the respective Boards of Directors of said corporations set forth in the Power of Attorney, are in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, the 8th day of February, 2007.

By: 
Albert Hillebrand, Assistant Secretary

ACKNOWLEDGMENT

State of California

County of Los Angeles

On February 8, 2007 before me, Robin Ballard, Notary Public,
(here insert name and title of the officer)

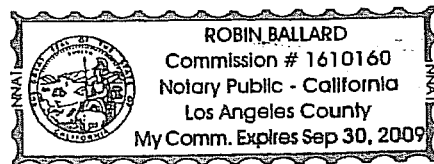
personally appeared Jennifer Tesoriero

personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Robin Ballard



(Seal)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California)

County of Riverside)

On 9th February 2007 before me, Elisa L. Napolitano, a Notary Public
(here insert name and title of the officer)

personally appeared Scott Woodside

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Elisa L. Napolitano
Signature of Notary Public



(Seal)

ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

(Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other _____

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

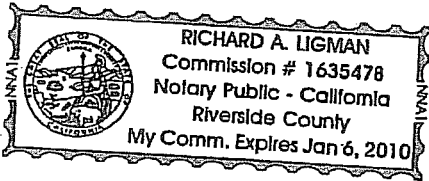
State of California

County of Riverside } ss.

On February 12, 2007 before me, Richard A. Ligman, Notary Public
Date Name and Title of Officer (e.g., Jane Doe, Notary Public)
personally appeared Richard L. Elder
Name(s) of Signer(s)

personally known to me

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Labour and Material Bond

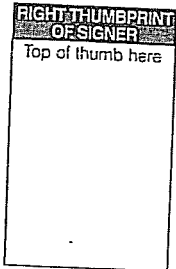
Document Date: 2/18/07 Number of Pages: 2

Signer(s) Other Than Named Above: W/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: Richard L. Elder

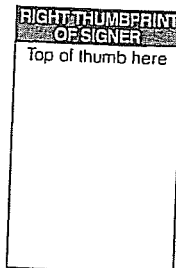
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT
BETWEEN THE TOWN OF YUCCA VALLEY AND MESQUITE 55 L.P. AND
DRAKE CONSTRUCTION LLC EXTENDING THE TIME OF COMPLETION OF
THE IMPROVEMENTS TO FORTY-EIGHT MONTHS FROM THE DATE OF THE
AGREEMENT

The Subdivision Improvement Agreement dated November 22, 2006 is hereby amended
in the following respects only:

Section 6. Timing of Performance: is amended to read in its entirety as
follows:

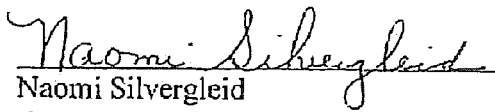
“Section 6. Timing of Performance

Subdivider agrees to perform and complete all improvements within forty-eight
(48) months from the date of this Agreement and through November 22, 2010. It
is further agreed by and between the Subdivider and the Town that in the event it
is deemed necessary by the Town to extend the time of completion of the
Improvements, said extension may be granted by the Town, and shall in no way
affect the validity of this Agreement or release of the surety(ies) on any bond
attached hereto or the financial institution guaranteeing the same. Subdivider
further agrees to maintain and provide proof of extensions of the security
described in Sections 4(a), 4(b), and 4(c) above in full force and effect during the
term of this Agreement including any extensions of time as may be granted.”

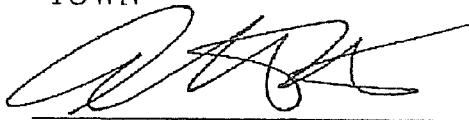
Except as amended, all of the terms and conditions of the original Agreement are
incorporated as though fully set forth herein.

Dated: November 14, 2008

Approved as to Form:


Naomi Silvergleid
Town Attorney

“TOWN”



Andrew J. Takata
Town Manager

"SUBDIVIDER"

Mesquite 55 L.P.

By: Drake Construction, LLC

Richard Elder 11-21-08
By: Richard Elder, Manager Date

Drake Construction, LLC

Richard Elder 11-21-08
By: Richard Elder, Manager Date

(Note: Subdivider's Signature(s) must be acknowledged before a Notary Public)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Riverside

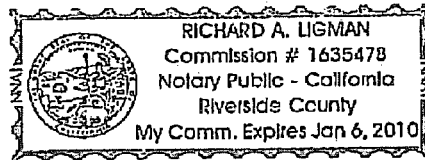
On 11/21/08 before me, RICHARD A. LIGMAN, Notary Public
Insert name and title of officer here

personally appeared RICHARD ELDER

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



[Signature]
Signature of Notary Public

(Notary Seal)

INFORMATION BELOW IS RECOMMENDED BUT NOT REQUIRED

TITLE/DESCRIPTION OF THE ATTACHED DOCUMENT

Subdivision Improvement Agreement

DOCUMENT DATE 11/14/08 NUMBER OF PAGES 3

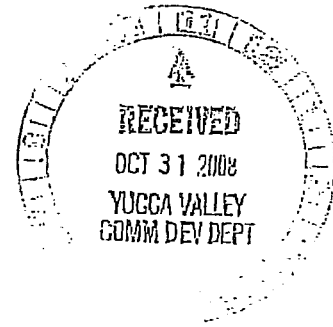
Additional Information

CAPACITY CLAIMED BY SIGNER

- Individual(s) Partner(s) Attorney-in-Fact Trustee(s)
 Corporate Officer Other

10-30-08

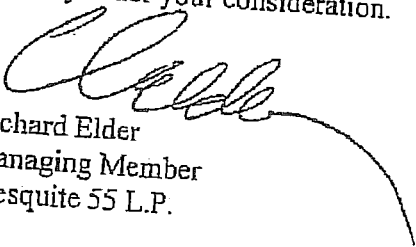
To: The Town of Yucca Valley
57090 29 Palms Highway
Yucca Valley, CA. 92284
ATTN: Duane Gasaway
Senior Project Manager



From: Mesquite 55 L.P.
68845 Perez Road H-30
Cathedral City, CA. 92234
Joe Morreale
Director of Operations

Mr. Gasaway,

Due to the current housing crisis, the Mesquite Project has had delays in its ability to complete the subdivision improvement agreement with the Town of Yucca Valley. As we are coming up on the expiration of our agreement, Mesquite 55 L.P. would like to apply for an extension pursuant to Section 6 of our agreement. Mesquite is currently advanced to 80% complete, with the Acoma and Church Street improvements 100%. The interior streets are 100% based, with 75% of the streets base paved. Finish cap of the streets is yet to be done. Mesquite 55 has every intention of maintaining the security portion of our agreement. Thank you for your consideration.


Richard Elder
Managing Member
Mesquite 55 L.P.

SECOND AMENDMENT TO THE SUBDIVISION IMPROVEMENT
AGREEMENT BETWEEN THE TOWN OF YUCCA VALLEY AND MESQUITE 55
L.P. AND DRAKE CONSTRUCTION LLC EXTENDING THE TIME OF
COMPLETION OF THE IMPROVEMENTS TO THIRTY-SIX MONTHS FROM THE
DATE OF THE AGREEMENT

The Subdivision Improvement Agreement dated November 22, 2006 is hereby amended in the following respects only:

Section 6. Timing of Performance: is amended to read in its entirety as follows:


“Section 6. Timing of Performance

Subdivider agrees to perform and complete all improvements within thirty-six (36) months from the date of this Agreement and through November 22, 2013. It is further agreed by and between the Subdivider and the Town that in the event it is deemed necessary by the Town to extend the time of completion of the Improvements, said extension may be granted by the Town, and shall in no way affect the validity of this Agreement or release of the surety(ies) on any bond attached hereto or the financial institution guaranteeing the same. Subdivider further agrees to maintain and provide proof of extensions of the security described in Sections 4(a), 4(b), and 4(c) above in full force and effect during the term of this Agreement including any extensions of time as may be granted.”

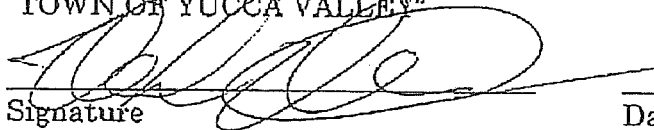
Except as amended, all of the terms and conditions of the original Agreement are incorporated as though fully set forth herein

Dated: August 7, 2012

Approved as to Form:


LONA LAYMAN
Town Attorney

"TOWN OF YUCCA VALLEY"

 _____
Signature Date 9/27/12

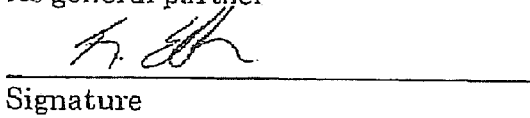
Mark Nuaimi _____
Name Town Manager
Title

"SUBDIVIDER"

Mesquite 55 L.P.

By: Drake Construction, LLC

Its general partner

 _____
Signature Date 7-26-12

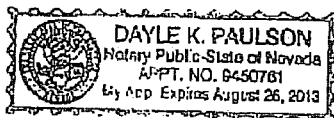
Kevin Eldon _____
Name Member
Title

(Note: Subdivider's signature(s) must be acknowledged before a Notary Public)

All notices to Subdivider shall be sent to the following address:

STATE OF NEVADA)
) SS.
COUNTY OF CLARK)

This instrument was acknowledged before me this 26th day of July, 2012 by Kevin R. Elder, the Manager of Drake Construction, LLC, the general partner of Mesquite 55, L.P.



Dayle K. Paulson

Notary Public

My commission expires:
August 26, 2013

THIRD AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT BETWEEN THE TOWN OF YUCCA VALLEY AND MESQUITE 55 L.P. EXTENDING THE TIME OF COMPLETION OF THE IMPROVEMENTS TO TWENTY-FOUR MONTHS (24), RELEASE OF FAITHFUL PERFORMANCE BOND AND LABOR/MATERIAL BOND, AND ACCEPT THE IRREVOCABLE STANDBY LETTERS OF CREDIT AS SECURITIES FOR THE REMAINING COST OF IMPROVEMENTS AND LABOR AND MATERIALS IN CONNECTION WITH THE AGREEMENT.

The Subdivision Improvement Agreement dated November 22, 2006 is hereby amended in the following respects only:

Section 4. Security: is amended to read in its entirety as follows:

“Section 4. Security

- (a) Faithful Performance Bond – Pursuant to California Government Code 66499 and the Town’s Development Code, Section 83.041125 Subdivider shall, concurrently with the execution hereof, furnish an Irrevocable Letter of Credit in an amount equal to one hundred percent (100%) of the estimated remaining construction cost of the Improvements as security guaranteeing the faithful performance of the Improvements and this Agreement.

Estimated remaining construction cost approved by Town is Two Hundred Eleven Thousand One Hundred Eighty Five Dollars and 00/100 (\$211,185.00).

The amount of the Irrevocable Letter of Credit is Two Hundred Eleven Thousand One Hundred Eighty Five Dollars and 00/100 (\$211,185.00) and said Irrevocable Letter of Credit is attached hereto as **Exhibit B**.

- (b) Labor & Materials (Payment) Bond – Pursuant to California Government Code 66499 and the Town’s Development Code, Section 83.041125 Subdivider shall, concurrently with the execution hereof, furnish an Irrevocable Letter of Credit in an amount equal to fifty percent (50%) of the estimated remaining construction cost of the Improvements as security guaranteeing the payment of all persons performing labor and furnishing materials in connection with this Agreement.

The amount of the Irrevocable Letter of Credit is One Hundred Five Thousand Five Hundred Ninety Two Dollars and 50/100 (\$105,592.50) and said Irrevocable Letter of Credit is attached hereto as **Exhibit C**.

- (c) Guarantee/Warranty Bond – Pursuant to Government Code 66499 and the Town’s Development Code, Section 83.041125 Town shall withhold from the Bond or cash deposit Two Hundred Ninety Four Thousand Seven Hundred Eighty Seven Dollars (\$294,787.00), an amount equal to twenty five percent (25%) of the estimated construction cost of the Improvements, for the guarantee and warranty of the work for a period of one year following the completion and acceptance thereof against any defective work or labor performed, or defective materials furnished by the Subdivider in connection with this Agreement.”

- (d) Pursuant to Government Code 66499.9, any liability upon the security given for faithful performance of any act or agreement shall be limited to:
- (1) The performance of the work covered by the Agreement or the performance of the required act.
 - (2) The performance of any changes or alterations in such work provided that all changes or alterations do not exceed ten percent (10%) of the original estimated cost of the Improvements.
 - (3) The guarantee and warranty of the work for a period of one year following completion and acceptance thereof against any defective work or labor done or defective materials furnished in the performance of the Agreement or the performance of the act.
 - (4) Costs and reasonable expenses and fees, including reasonable attorneys' fees.
- (e) The surety on each bond and the form thereof shall be satisfactory to the Town. The surety shall be furnished by a surety company authorized to write the same in the State of California and that is approved and accepted by the Town.”

Section 6. Timing of Performance: is amended to read in its entirety as follows:

“Section 6. Timing of Performance

Subdivider agrees to perform and complete all improvements within twenty-four (24) Months through November 22, 2015. It is further agreed by and between the Subdivider and the Town that in the event it is deemed necessary by the Town to extend the time of completion of the Improvements, said extension may be granted by the Town, and shall in no way affect the validity of this Agreement or release of the financial institution guaranteeing the same. Subdivider further agrees to maintain and provide proof of extensions of the security described in Sections 4(a), 4(b), and 4(c) above in full force and effect during the terms of this Agreement including any extensions of time as may be granted.”

Except as amended, all of the terms and conditions of the original Agreement are incorporated as though fully set forth herein.

Dated: October 15, 2013

Approved as to Form:

LONA N. LAYMON, TOWN ATTORNEY

“TOWN OF YUCCA VALLEY”

SHANE R. STUECKLE, ACTING TOWN MANAGER

“SUBDIVIDER”
MESQUITE 55 L.P.

SIGNATURE

DATE

NAME

TITLE

(NOTE: Subdivider’s Signature(s) must be acknowledged before a Notary Public)

All notices to Subdivider shall be sent to the following address:



Exhibit B

U.S. BANK NATIONAL ASSOCIATION
 INTERNATIONAL DEPARTMENT
 111 S.W. FIFTH AVE., SUITE 500, PD-OR-T5CE
 PORTLAND, OREGON 97204 U.S.A.
 TEL: (503) 275-6059, Toll Free: (866) 359-2503
 SWIFT: USBKUS44PDX FAX: (503)275-5132

SEPTEMBER 18, 2013

IRREVOCABLE STANDBY LETTER OF CREDIT

BENEFICIARY: TOWN OF YUCCA VALLEY ENGINEERING/PUBLIC WORKS MONTEREY BUSINESS CENTER 58928 BUSINESS CENTER DRIVE YUCCA VALLEY, CA 92284	APPLICANT: MESQUITE 55, LP 9970 W. CHEYENNE AVE. LAS VEGAS, NV 89129
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LETTER OF CREDIT NUMBER: SLCPPDX06069
 EXPIRY DATE: SEPTEMBER 7, 2014
 AT: ISSUING BANK'S INTERNATIONAL BANKING COUNTERS
 LOCATED AT ADDRESS INDICATED ABOVE.

AMOUNT: NOT EXCEEDING US\$211,185.00 ✓
 (TWO HUNDRED ELEVEN THOUSAND ONE HUNDRED EIGHTY-FIVE AND NO/100
 U.S. DOLLARS)

RE: THIS LETTER OF CREDIT IS BEING ISSUED IN CONNECTION WITH THE OBLIGATION
 OF MESQUITE 55, LP FOR OFF SITE IMPROVEMENTS FOR PROPERTY LOCATED AT
 ACOMA TRAIL AND MOUNTAIN VIEW TRAIL KNOWN AS TRACT MAP NO. 16587 AND
 REFERENCED AS THE MESQUITE 55 SUBDIVISION.

WE HEREBY ISSUE THIS IRREVOCABLE STANDBY LETTER OF CREDIT AVAILABLE BY
 PAYMENT BY DRAFT(S) DRAWN AT SIGHT ON U.S. BANK NATIONAL ASSOCIATION AND
 ACCOMPANIED BY THE FOLLOWING DOCUMENT:

A STATEMENT ISSUED AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE
 BENEFICIARY CERTIFYING AS FOLLOWS:
 "I THE UNDERSIGNED, DULY AUTHORIZED SIGNER FOR THE TOWN OF YUCCA VALLEY,
 HEREBY CERTIFY THAT MESQUITE 55, LP HAS FAILED TO COMPLY WITH THE CONDITIONS
 OF OFF SITE IMPROVEMENTS OF THE MESQUITE 55 SUBDIVISION IMPROVEMENT
 AGREEMENT, BY AND BETWEEN TOWN OF YUCCA VALLEY AND MESQUITE 55, LP AFTER
 FIFTEEN (15) DAYS WRITTEN NOTICE TO MESQUITE 55, LP DEMANDING COMPLIANCE WITH
 THE CONDITIONS OF SAID OFF SITE IMPROVEMENTS OF THE MESQUITE 55 SUBDIVISION
 IMPROVEMENT AGREEMENT, OR, THE TOWN OF YUCCA VALLEY HAS RECEIVED NOTICE
 THAT THE LETTER OF CREDIT WILL NOT BE RENEWED.



SPECIAL CONDITIONS:

THE ORIGINAL OF THIS LETTER OF CREDIT MUST ACCOMPANY THE DRAWING.

THIS LETTER OF CREDIT INITIALLY EXPIRES ON SEPTEMBER 7, 2014.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE CONSIDERED AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE YEAR FROM THE PRESENT OR ANY FUTURE EXPIRATION DATE UNLESS WE NOTIFY YOU IN WRITING BY COURIER AT LEAST ONE HUNDRED TWENTY (120) DAYS PRIOR TO ANY SUCH EXPIRATION DATE THAT THIS LETTER OF CREDIT WILL NOT BE RENEWED. UPON RECEIPT OF SUCH NOTICE, YOU MAY DRAW ON THIS LETTER OF CREDIT BY PRESENTATION OF THE DOCUMENTS MENTIONED HEREIN.

IF THIS LETTER OF CREDIT IS LOST OR DESTROYED, U.S. BANK NATIONAL ASSOCIATION SHALL ISSUE A DUPLICATE COPY OF THE ORIGINAL LETTER OF CREDIT TO THE TOWN OF YUCCA VALLEY UPON OUR RECEIPT OF ATTACHED EXHIBIT A (LOST LETTER OF CREDIT INDEMNITY) ALONG WITH YOUR CHECK FOR US\$85.00.

ALL BANKING CHARGES OTHER THAN THOSE OF THE ISSUING BANK ARE FOR ACCOUNT OF THE BENEFICIARY.

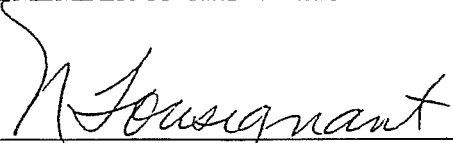
PURSUANT TO U.S. LAW, WE ARE REQUIRED TO OBTAIN, VERIFY AND RECORD INFORMATION THAT IDENTIFIES PARTIES TO THE TRANSACTION AND WE ARE PROHIBITED FROM ISSUING, TRANSFERRING, ACCEPTING, OR EFFECTING PAYMENT TO ANY PARTY OR ENTITY IDENTIFIED BY THE U.S. DEPT OF TREASURY INCLUDING ANY OFFICE AND BUREAU THEREOF OR SUBJECT TO THE DENIAL OF EXPORT PRIVILEGES BY THE U.S. DEPT OF COMMERCE.

DRAFTS DRAWN UNDER THIS CREDIT MUST BEAR THE CLAUSE: "DRAWN UNDER U.S. BANK NATIONAL ASSOCIATION IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER SLCPPDX06069."

THIS CREDIT IS SUBJECT TO "THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS" (2007 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600.

WE HEREBY ENGAGE WITH YOU THAT DRAFT(S) DRAWN AND/OR DOCUMENTS PRESENTED AND NEGOTIATED UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION TO US.

U.S. BANK NATIONAL ASSOCIATION
A MEMBER OF THE FEDERAL RESERVE SYSTEM



STANDBY LETTERS OF CREDIT

NANCY R. TOUSIGNANT
ASSISTANT VICE PRESIDENT

THIS PAGE 2 FORMS AN INTEGRAL PART OF CREDIT SLCPPDX06069



EXHIBIT A

LOST LETTER OF CREDIT INDEMNITY

DATE:

TO: U.S. BANK NATIONAL ASSOCIATION
INTERNATIONAL BANKING DEPT.
111 S.W. FIFTH AVE., SUITE 500
PORTLAND, OR 97204

ATTN: LETTER OF CREDIT DEPT.

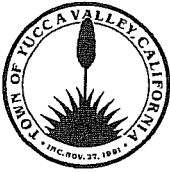
Please be advised that we, the undersigned, are agent for the beneficiary and legal owner for Letter of Credit No. SLCPDX06069 issued by the following bank: U.S. Bank National Association for the amount of US\$ _____ on the date of _____.

We hereby certify that the original letter of credit instrument has been lost, destroyed or stolen and that we are requesting ___1) the original letter of credit be replaced with a duplicate, or, ___2) there is no need for a replacement letter of credit and we the beneficiary release you (U.S. Bank National Association) from any remaining liability held under your issued credit as of the date of this letter's signing.

We as agent for the beneficiary for the letter of credit, our respective heirs, legal representatives, successors and assigns agree to hold you free and harmless from any and all actions and suits, losses, damages, costs, charges and counsel fees (including fees incurred in trial and appellate courts), payments, expenses and liabilities whatsoever which you may sustain or incur as a result of the original letter of credit being lost, stolen or destroyed. This indemnity request covers your actions for either number 1, 2 or both from above. We warrant also to return directly to you the original letter of credit if recovered and to deem this returned instrument null and void.

Beneficiary's Authorized Signature

Signature verified by Bank or
Notary Public



TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Director of Administrative Services
Sharon Cisneros, Senior Accountant
Date: October 7, 2013
For Council Meeting: October 15, 2013
Subject: AB1234 Reporting Requirements

Prior Council Review: Current reimbursement policy for Council members and Redevelopment Agency members reviewed and approved by Council August 2006.

Recommendation: Receive and file the AB1234 Reporting Requirement Schedule for the month of September 2013.

Order of Procedure:

- Request Staff Report
- Request Public Comment
- Council Discussion / Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Roll Call Vote, Consent Agenda)

Discussion: AB1234 requires members of a legislative body to report on "meetings" attended at public expense at the next meeting of the legislative body. "Meetings" for purpose of this section are tied to the Brown Act meaning of the term: *any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.* Qualifying expenses include reimbursement to the member related to meals, lodging, and travel.

An example of when a report is required is when a Town Council member represents his or her agency on a joint powers agency board and the Town pays for the official's expenses in serving in that representative capacity. Additionally, in the spirit of AB1234, the Yucca Valley Town Council also reports all travel related to conference and training attended at public expense.

Reviewed By:


Town Manager

Town Attorney


Admin Services


Finance

Department Report Ordinance Action Resolution Action Public Hearing
 Consent Minute Action Receive and File Study Session

Although the AB1234 report can be either written or oral, this report must be made at the next meeting of the legislative body that paid for its member to attend the meeting.

Alternatives: None.

Fiscal impact: There is no anticipated financial impact associated with the recommended approval of AB1234 reporting requirements.

Attachments: AB1234 Reporting Requirement Schedule

Town of Yucca Valley

Councilmember AB1234 Meetings Schedule Month of September 2013

<u>Date of Travel</u>	<u>Organization</u>	<u>Description</u>	<u>Location</u>
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Mayor Abel

No Reportable Meetings

Mayor Pro Tem Lombardo

No Reportable Meetings

Councilmember Huntington

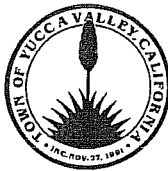
No Reportable Meetings

Councilmember Rowe

No Reportable Meetings

Councilmember Leone

No Reportable Meetings



TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Administrative Services Director
Date: October 8, 2013
Council Meeting: October 15, 2013
Subject: Warrant Register

Recommendation:

Ratify the Payroll Registers total of \$ 142,906.84, for checks dated September 27, 2013.

Ratify the Warrant Registers total of \$ 474,209.65 for checks dated October 3, 2013.

Order of Procedure:

Department Report
Request Staff Report
Request Public Comment
Council Discussion
Motion/Second
Discussion on Motion
Call the Question (Roll Call Vote, Consent Agenda Item)

Attachments:


Payroll Register No. 12 dated September 27, 2013 total of \$ 142,906.84


Warrant Register No. 19 dated October 3, 2013 total of \$ 474,209.65

Reviewed By:


Town Manager

Town Attorney


Admin. Services


Finance

Department Report
 Consent

Ordinance Action
 Minute Action

Resolution Action
 Receive and File

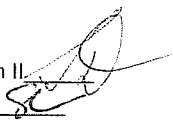

Public Hearing
 Study Item

WARRANT REGISTER # 19
CHECK DATE - OCTOBER 3, 2013

FUND DISTRIBUTION BREAKDOWN

Checks # 43447 to # 43541 are valid

GENERAL FUND # 001	\$436,300.95
CENTRAL SUPPLIES FUND # 100	1,022.35
CUP DEPOSITS FUND # 200	4,844.87
COPS LLESA FUND # 511	102.84
AB2928 ST CONTRUCTION FUND # 513	2,325.76
GAS TAX FUND # 515	12,078.62
MEASURE I Major Arterial Fund # 522	14,079.53
PUBLIC LANDS FEDERAL GRANT FUND # 527	385.33
SAFE ROUTES TO SCHOOLS FUND # 530	1,423.00
CMAQ FUND # 542	54.31
CDBG FUND # 560	430.23
CAPITAL PROJECTS RESERVE FUND # 800	1,161.86
GRAND TOTAL	<u><u>\$474,209.65</u></u>

Prepared by Shirlene Doten, Accounting Technician II. 
Reviewed by Sharon Cisneros, Senior Accountant 
Approved by Curtis Yakimow, Administrative Services Director _____

Town of Yucca Valley

Warrant Register

October 3, 2013

Fund	Check #	Vendor	Description	Amount
001	GENERAL FUND			
	43447	Navitas Lease Corp.	Shelter Phone Equip.	\$ 1,157.48
	43448	A A Equipment	Vehicle Maintenance	254.43
	43449	Aleshire & Wynder, LLC	08/13 Professional Svs.	28,871.32
	43450	Ruth Alkire	Contract Instructor	75.60
	43451	Alsco/American Linen, Inc.	Operating Supplies	216.66
	43452	Janet Anderson	COBRA Liability	975.25
	43453	Arrowhead Mountain Water	Water Service	6.47
	43454	AT & T Mobility	Cell Phone Service	301.95
	43455	Cheyenne Bonnell	Contract Instructor	75.60
	43456	Carol Boyer	Contract Instructor	79.80
	43457	Builders Supply-Yucca Valley	Maintenance Supplies	251.93
	43458	National Institute of Business	Subscription Renewal	89.00
	43459	C & S Electric	Maintenance Supplies	140.79
	43460	CACEO	Membership Dues	60.00
	43461	Chevron & Texaco Card Services	Vehicle Fuel	118.99
	43462	Janine Cleveland	COBRA Liability	104.90
	43463	Companion Animal Clinic	Veterinary Services	511.83
	43464	Corelogics Information Solutions	Property Information	150.00
	43465	Robert Cox	Contract Instructor	40.60
	43466	Data Ticket	07/13 Citation Processing	361.00
	43467	Desert Pacific Exterminators, LLC	Shelter Exterminator Svs.	49.00
	43468	Desert Green Landscape	Code Enforcement Svs.	565.00
	43469	Desert Images Office Equipment	Printer Toner	98.19
	43470	Candy Drake	COBRA Liability	437.66
	43471	Susan Earnest	Program Supplies	174.57
	43472	Employment Development Dept.	4-06/13 Unemployment Ins.	9,646.00
	43473	FedEx	Delivery Service	22.68
	43474	Catherine Fletcher	Contract Instructor	46.20
	43476	Golden State Overnight	Delivery Service	38.32
	43477	Graphic Penguin	Web Site Maintenance	580.00
	43478	Joy Groves	Contract Instructor	357.00
	43479	Hajoca Corporation	Plumbing Supplies	92.63
	43480	Harrison Air Conditioning	Compressor Replacement	2,965.00
	43482	Totalfunds by Hasler	Postage	1,400.00
	43483	Hi-Desert Glass	Community Center Doors	733.24
	43484	Hi-Desert Water	Water Service	304.05
	43485	Hi-Desert Publishing	Notices & Printing	2,661.24
	43486	Susan Jordan	Contract Instructor	203.00
	43487	Heather Kaczmarczk	Contract Instructor	931.00
	43488	Robert Kirschmann	COBRA Liability	1,557.95
	43489	Knorr Systems, Inc.	YVHS Pool Maintenance	152.08

Town of Yucca Valley

Warrant Register

October 3, 2013

Fund	Check #	Vendor	Description	Amount
	43490	Legacy Office Products	Printing Expense	240.12
	43491	David Luse	Contract Instructor	33.60
	43493	Morongo Basin Tennis Assoc.	Community Partnership	1,500.00
	43494	Most Dependable Fountains, Inc.	Facilities Maintenance	88.60
	43495	Morongo Unified School District	Fleet Vehicle Fuel	3,786.91
	43496	Nichols Consulting	SB 90/State Report	1,200.00
	43497	NRO Engineering	Engineering Services	460.00
	43498	Sierra Oakes	Contract Instructor	26.60
	43499	Oasis Office Supply, Inc.	Office Supplies	773.78
	43500	Carl Otteson	Testing Service	180.00
	43502	Public Agency Retirement Service	Professional Services	300.00
	43503	PARSAC	FY 12/13 Insurance Adj.	6,647.00
	43504	Pro Security	Security Monitoring	379.16
	43505	Pro Video	Town Council Taping	200.00
	43507	Quick Scores	Program Expense	132.00
	43508	Steven Renegar	Contract Instructor	84.00
	43509	Lynne Richardson	COBRA Liability	501.21
	43511	Linda Sande	Contract Instructor	73.50
	43512	SBCO - Information Services	08/13 Radio Access	2,058.11
	43513	SBCO Sheriff's Dept	10/13 Professional Svs.	293,590.00
	43514	Office of the County Recorder	Pendency Filing Fees	42.00
	43515	Office of the County Recorder	Filing Fee	21.00
	43517	Office of the County Recorder	Filing Fee	27.00
	43518	Office of the County Recorder	Filing Fee	63.00
	43519	Office of the County Recorder	Filing Fee	27.00
	43520	SCE	Electric Service	2,177.25
	43521	Beverly Schmuckle	Contract Instructor	58.80
	43522	So. Cal. Gas Co.	Natural Gas Service	417.60
	43523	Southwest Networks, Inc.	Technology Exp. - Shelter	54,360.13
	43524	Stater Bros	Museum Program Expense	446.34
	43525	The Sun Runner	Museum Advertising	100.00
	43526	TFI Resources, Inc.	Temporary Employment	1,255.32
	43527	That Shirt Place	Program Expense	435.52
	43528	Time Warner Cable	Internet & Cable Service	464.62
	43529	Trophy Express	Recreation Staff Clothing	32.30
	43530	Vagabond Welding Supply	YVHS Pool Maintenance	82.08
	43531	VCA Yucca Valley Animal Hospital	Veterinary Services	474.00
	43532	Verizon	Phone Service	3,932.57
	43534	Valley Independent	Brochure Printing Expense	247.84
	43535	Walmart Community	Program Supplies	1,238.31
	43537	Woods Auto Repair	Fleet Vehicle Maintenance	85.00
	43538	Guy Wulf	Sports Referee	820.00

Town of Yucca Valley

Warrant Register

October 3, 2013

Fund	Check #	Vendor	Description	Amount
	43539	Elizabeth (Betty) Wulf	Contract Instructor	71.40
	43540	Yucca Valley Quick Lube, LLC	Fleet Vehicle Maintenance	293.77
	43541	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance	15.10
Total 001 GENERAL FUND				\$ 436,300.95
100 INTERNAL SERVICE FUND				
	43475	GE Capital Corporation	Copier Lease	\$ 413.08
	43492	Mail Finance	Postage Meter Lease	609.27
Total 100 INTERNAL SERVICE FUND				\$ 1,022.35
200 DEPOSITS FUND				
	43473	FedEx	Delivery Service	\$ 28.87
	43516	Office of the County Recorder	Filing Fee	66.00
	43497	NRO Engineering	Engineering Services	4,750.00
Total 200 DEPOSITS FUND				\$ 4,844.87
511 COPS-LLESA FUND				
	43469	Desert Images Office Equipment	Sheriff's Office Toner	\$ 64.83
	43533	Verizon Wireless	Sheriff's Office Phone Svs.	38.01
Total 511 COPS-LLESA FUND				\$ 102.84
513 AB2928-TCRP FUND				
	43473	FedEx	Delivery Service	\$ 125.76
	43501	Overland Pacific & Cutler, Inc.	TCRP ROW Phase 3 Svs.	2,200.00
Total 513 AB2928-TCRP FUND				\$ 2,325.76
515 GAS TAX				
	43451	AlSCO/American Linen, Inc.	Streets Uniform Service	\$ 49.50
	43506	Quality Street Services, Inc.	Sweeping/Storm Service	11,940.00
	43541	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance	89.12
Total 515 GAS TAX FUND				\$ 12,078.62
522 MEASURE I MAJOR ARTERIAL FUND				
	43536	Albert A. Webb Assoc.	Signal Light Design	\$ 14,079.53
Total 522 MEASURE I MAJOR ARTERIAL FUND				\$ 14,079.53
527 PUBLIC LANDS FEDERAL GRANT FUND				
	43473	FedEx	Delivery Service	\$ 385.33
Total 527 PUBLIC LANDS FEDERAL GRANT FUND				\$ 385.33

Town of Yucca Valley

Warrant Register

October 3, 2013

Fund	Check #	Vendor	Description	Amount
530 SAFE ROUTES TO SCHOOLS FUND				
	43510	Safety Depot	Safe Routes Program	\$ 1,423.00
Total 530	SAFE ROUTES TO SCHOOLS FUND			\$ 1,423.00
542 CMAQ FUND				
	43473	FedEx	Delivery Service	\$ 54.31
Total 542	CMAQ FUND			\$ 54.31
560 CDBG FUND				
	43490	Legacy Office Products	Office Supplies	\$ 430.23
Total 560	CDBG FUND			\$ 430.23
800 CAPITAL PROJECTS RESERVE FUND				
	43484	Hi-Desert Water	Water Service	\$ 14.36
	43497	NRO Engineering	Engineering Services	1,147.50
Total 800	CAPITAL PROJECTS RESERVE FUND			\$ 1,161.86
***	Report Total			\$ 474,209.65

TOWN OF YUCCA VALLEY
PAYROLL REGISTER # 12
CHECK DATE - September 27, 2013

Fund Distribution Breakdown

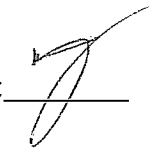
Fund Distribution

General Fund	\$132,438.95
Gas Tax Fund	10,467.89
Successor Agency	<u>0.00</u> **

Grand Total Payroll


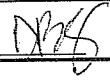
\$142,906.84

****This is not an obligation of the Town of Yucca Valley.**

Prepared by P/R & Financial Specialist: 

Reviewed by H/R & Risk Mgr.: 

Town of Yucca Valley
Payroll Net Pay & Net Liability Breakdown
Pay Period 12 - Paid 09/27/2013
(September 07, 2013 - September 20, 2013)
Checks: 4757 - 4762

	Employee	Employer	Total
<u>Net Employee Pay</u>			
Payroll Checks	\$3,480.81		\$3,480.81
Direct Deposit	73,024.76	-	73,024.76
Sub-total	76,505.57		76,505.57
<u>Employee Tax Withholding</u>			
Federal	12,540.49		12,540.49
Medicare	1,459.40	1,459.35	2,918.75
SDI - EE	-	-	-
State	4,449.84		4,449.84
Sub-total	18,449.73	1,459.35	19,909.08
<u>Employee Benefit & Other Withholding</u>			
Misc. Payroll Adjustment Credit's	-	-	-
Deferred Compensation	3,118.48	2,354.60	5,473.08
PERS Survivor Benefit	44.00		44.00
Health Café Plan	1,693.81	12,054.77	13,748.58
American Fidelity Pre-Tax	77.94		77.94
American Fidelity After-Tax	97.40		97.40
American Fidelity-FSA	627.86		627.86
PERS EE - Contribution 6.25 %	160.97		160.97
PERS EE - Contribution 7%	941.01		941.01
PERS EE - Contribution 8%	4,685.32		4,685.32
PERS Retirement - Employer 6.25 %	-	160.97	160.97
PERS Retirement - Employer 7.846 %	-	1,082.02	1,082.02
PERS Retirement - Employer 18.586 %	-	11,426.20	11,426.20
Wage Garnishment - Employee	75.00		75.00
Life & Disability Insurance		768.43	768.43
Other Post Employee Benefit's		2,318.56	2,318.56
Unemployment Insurance		1,462.38	1,462.38
Workers' Compensation		3,342.47	3,342.47
Sub-total	11,521.79	34,970.40	46,492.19
Gross Payroll	\$106,477.09	\$36,429.75	\$142,906.84
Prepared by P/R & Financial Specialist:  Reviewed by H/R & Risk Mgr.: 			

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Director of Administrative Services
Sue Earnest, Recreation Supervisor
Date: October 11, 2013
For Council Meeting: October 15, 2013

Subject: Recreation Program Review – Summer 2013
Program Offerings Review– Winter 2013-14

Prior Council Review: None

Recommendation: That the Town Council:

- Receive and file the Recreation Program Review for the summer 2013 period.
- Review and approve the winter 2013 – 14 programs and events to be organized and conducted by the Community Services Department.

Order of Procedure:

- Request Staff Report
- Request Public Comment
- Council Discussion / Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question

Discussion:

Town staff will give a verbal presentation recapping the summer 2013 activities as offered and coordinated by the Town’s Recreation Department. The presentation will include a review of the major programs offered, participation statistics, cost highlights, and other data as appropriate.

The programming staff of both the Hi Desert Nature Museum and the Recreation division of the Community Services Department has developed a schedule of programs and events that will be offered in the winter of 2013 – 14 (December, January, and February). These activities will be printed in the Experience Yucca Valley winter activity guide that is scheduled for distribution throughout the community in early November.

The Parks, Recreation and Cultural Commission reviewed and forwarded a recommendation for approval of the list of program offerings at their October 8th meeting.

Alternatives: None recommended.

Reviewed By:


Town Manager

Town Attorney


Mgmt Services


Dept Head

Department Report Ordinance Action Resolution Action Public Hearing
 Consent Minute Action Receive and File Study Session

Fiscal impact: Current schedule of winter 2013-14 activities is accommodated by the FY 2013-14 adopted budget.

Attachments: Community Services winter 2013 – 14 program summary

Community Services Department Planned Recreation Programs - Winter 2013-14

Special Events

Holiday Events

Saturday, December 07, 2013	Holiday Craft Faire	vendors: \$25 per table
Saturday, December 07, 2013	Santa Visits	no charge
Saturday, December 07, 2013	Tree Lighting Ceremony	no charge
November 12 - December 17	Letters to Santa	no charge
Saturday, February 09, 2013	Kids' Valentines Dance	\$3.00 per person

Fitness Fun Runs

Friday, February 22, 2013	Healthy Hearts 5k Run and Health Walk	\$20, \$18
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Senior Dances

Saturday, January 04, 2014	Dance for Seniors & Adults	\$3, \$5
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Youth Programs

Classes

Beginning Guitar	14 & older, Tuesday evenings	\$40/6 weeks
Belly dance	10 & older, Wednesday evenings	\$40/6 weeks
Gymnastics (Beginning)	6 & older, Monday afternoons	\$35/4 weeks
Gymnastics (Beg. Rhythmic)	6 & older, Monday afternoons	\$35/4 weeks
Gymnastics (Intermediate)	10 & older, Monday afternoons	\$35/4 weeks
Kinder Gym	3-5 year olds, Monday afternoons	\$25/4 weeks
Mommy, Daddy & Me	2-5 year olds, Monday mornings	\$2/session

Paradise Park After School Program

Ages 5 -16, Monday through Thursday beginning Sept 3rd, 3-6 pm	no charge
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Youth Basketball League

Ages 6-14, Weeknight practices, Saturday Games; December through early March.	\$60 per child
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Adults & Seniors

Enrichment Classes

Beginning Guitar	14 & older, Tuesday evenings	\$40/6 weeks
Belly dance	10 & older, Wednesday evenings	\$40/6 weeks
Yucca Valley Bridge Club	18 & older, Friday afternoons	\$2 per session
Dog Obedience	18 & older, Friday evenings	\$135/6 weeks
Pinochle	18 & older, Friday afternoons	\$2 per session
Knit & Crochet	18 & older, Thursday mornings	\$2 per session
Stretch N Tone	18 & older, Monday thru Friday mornings	\$2 per session
Table Tennis	18 & older, Wednesday afternoons	\$2 per session
Tai Chi Chuan	All ages, Wednesday evenings	\$30 per month
Thursday Bridge	18 & older, Thursday afternoons	\$2 per session
Open Art Studio Workshop	18 & older, Thursday mornings	\$2 per session
Walking Club	18 & older, ongoing	\$15 one-time fee
Line Dancing (Instructional)	18 & older, Thurs afternoons	\$3 per session
Western Line Dancing (Social)	18 & older, Mon evenings	\$2 per session
Woodcarving	16 & older, Tuesday evenings	\$2 per session
Wii for Seniors	Wednesday afternoons & Thursday mornings	no charge
* Memoir Writing Class	TBD	\$40/6 weeks
Rose Pruning Workshop	Saturday, January 11, 11am-1pm	no charge
Tree Trimming Workshop	Saturday, January 25, 11am-1pm	no charge
* Self Defense Workshop	Saturday, 9am-12pm	\$20

Seniors & Adult Trips

December	Winter Trip - Destination TBD	TBD
February	Winter Trip - Destination TBD	TBD

* New

Hi Desert Nature Museum

Exhibits and Events

Holiday Events

Wednesday, December 11, 2013 Saturday, December 14, 2013	Adult Holiday Crafts Winter Kids Crafts	\$5/person \$2/person
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Exhibits

Exhibit #1 September - January Exhibit #2 January - April	Water in the Desert Reduce Reuse Recycle	no charge
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Science Saturdays

Saturday, January 11, 2014 Saturday, January 25, 2014 Saturday, February 8, 2014 Saturday, February 22, 2014	Plate Tectonics Paleontology Spiders Astronomy	no charge no charge no charge no charge
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MBHS Presents

Wednesday, December 11, 2013 Wednesday, January 8, 2014 Wednesday, March 12, 2014 Wednesday, April 9, 2014	Drum Making and Drum Medic Homesteading in the Basin Pottery Desert Tortoises	\$5 donation \$5 donation \$5 donation \$5 donation
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Winter Lecture Series

Thursdays, January - April	Noon lectures once a month Butterflies Desert Blooms	no charge
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TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council

From: Curtis Yakimow, Director of Administrative Services
Debra Breidenbach-Sterling, Human Resources Manager

Date: October 10, 2013

For Council Meeting: October 15, 2013

Subject: Affordable Healthcare Act Impact Update

Prior Council Review: None

Recommendation: Receive and file the review of the Affordable Healthcare Act impact on the Town's employee benefit program.

Order of Procedure:



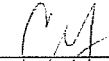
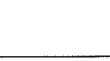
- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Voice Vote)

Discussion: On October 1, 2013, the State of California began open enrollment in its Covered California health insurance exchange. This event represented a significant implementation milestone in the rollout of the various provisions of the federal Affordable Care Act (ACT) legislation signed into law in 2010.

Over the past year, Town staff has followed the various implementation guidelines as the rollout of the ACT has progressed. Of primary interest from the staff perspective is the impact the ACT will have on the Town's employee benefit program, both in the near and long term. Town Staff will present a verbal presentation that will provide a brief summary of the ACT and what current and potential impacts it may have on the Town's employee benefit program.

Fiscal impact: None at this time.

Attachments: Employee notice and FAQ's

Reviewed By:				
	Town Manager	Town Attorney	Mgmt Services	Dept Head

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



New Health Insurance Marketplace Coverage Options and Your Health Coverage

Form Approved
OMB No. 1210-0149
(expires 11-30-2013)

PART A: General Information

When key parts of the health care law take effect in 2014, there will be a new way to buy health insurance: the Health Insurance Marketplace. To assist you as you evaluate options for you and your family, this notice provides some basic information about the new Marketplace and employment-based health coverage offered by your employer.

What is the Health Insurance Marketplace?

The Marketplace is designed to help you find health insurance that meets your needs and fits your budget. The Marketplace offers "one-stop shopping" to find and compare private health insurance options. You may also be eligible for a new kind of tax credit that lowers your monthly premium right away. Open enrollment for health insurance coverage through the Marketplace begins in October 2013 for coverage starting as early as January 1, 2014.

Can I Save Money on my Health Insurance Premiums in the Marketplace?

You may qualify to save money and lower your monthly premium, but only if your employer does not offer coverage, or offers coverage that doesn't meet certain standards. The savings on your premium that you're eligible for depends on your household income.

Does Employer Health Coverage Affect Eligibility for Premium Savings through the Marketplace?

Yes. If you have an offer of health coverage from your employer that meets certain standards, you will not be eligible for a tax credit through the Marketplace and may wish to enroll in your employer's health plan. However, you may be eligible for a tax credit that lowers your monthly premium, or a reduction in certain cost-sharing if your employer does not offer coverage to you at all or does not offer coverage that meets certain standards. If the cost of a plan from your employer that would cover you (and not any other members of your family) is more than 9.5% of your household income for the year, or if the coverage your employer provides does not meet the "minimum value" standard set by the Affordable Care Act, you may be eligible for a tax credit.¹

Note: If you purchase a health plan through the Marketplace instead of accepting health coverage offered by your employer, then you may lose the employer contribution (if any) to the employer-offered coverage. Also, this employer contribution—as well as your employee contribution to employer-offered coverage—is often excluded from income for Federal and State income tax purposes. Your payments for coverage through the Marketplace are made on an after-tax basis.

How Can I Get More Information?

For more information about your coverage offered by your employer, please check your summary plan description or contact [Debra Breidenbach-Sterling](#).

The Marketplace can help you evaluate your coverage options, including your eligibility for coverage through the Marketplace and its cost. Please visit [HealthCare.gov](#) for more information, including an online application for health insurance coverage and contact information for a Health Insurance Marketplace in your area.

¹ An employer-sponsored health plan meets the "minimum value standard" if the plan's share of the total allowed benefit costs covered by the plan is no less than 60 percent of such costs.

PART B: Information About Health Coverage Offered by Your Employer

This section contains information about any health coverage offered by your employer. If you decide to complete an application for coverage in the Marketplace, you will be asked to provide this information. This information is numbered to correspond to the Marketplace application.

3. Employer name Town of Yucca Valley		4. Employer Identification Number (EIN) 33-0490145	
5. Employer address 57090 Twentynine Palms Highway		6. Employer phone number 760-369-6585 ext. 231	
7. City Yucca Valley	8. State CA	9. ZIP code 92284	
10. Who can we contact about employee health coverage at this job? Debra Breidenbach-Sterling			
11. Phone number (if different from above) 760-369-6585 x231		12. Email address dbreidenbach@yucca-valley.org	

Here is some basic information about health coverage offered by this employer:

- As your employer, we offer a health plan to:

All employees.

Some employees. Eligible employees are:

All employees who work an average of 30 hours per week as measured by our Safe Harbor Measurement Period

- With respect to dependents:

We do offer coverage. Eligible dependents are:

Anyone who qualifies as a dependent under IRS guidelines or the State of California

We do not offer coverage.

If checked, this coverage meets the minimum value standard, and the cost of this coverage to you is intended to be affordable, based on employee wages.

** Even if your employer intends your coverage to be affordable, you may still be eligible for a premium discount through the Marketplace. The Marketplace will use your household income, along with other factors, to determine whether you may be eligible for a premium discount. If, for example, your wages vary from week to week (perhaps you are an hourly employee or you work on a commission basis), if you are newly employed mid-year, or if you have other income losses, you may still qualify for a premium discount.

If you decide to shop for coverage in the Marketplace, HealthCare.gov will guide you through the process. Here's the employer information you'll enter when you visit HealthCare.gov to find out if you can get a tax credit to lower your monthly premiums.

Frequently Asked Questions on the Affordable Care Act

Q. What is Health Care Reform?

A. Health Care Reform is also known as Obamacare, the Affordable Care Act and the Patient Protection and Affordable Care Act (PPACA). It is all the same thing.

Q. How does this impact me?

A. Starting January 1, 2014, all individuals in the United States must have medical coverage for themselves and family members or pay a tax penalty. If you currently have health insurance through your employer and will be continuing coverage in 2014, you meet the requirement. The health plan we offer is intended to meet the requirement of minimum essential coverage. You don't need to purchase insurance through the Marketplace to avoid tax penalty.

Q. What is the Marketplace?

A. The Marketplace is the place that sells health insurance policies to individuals. There is a California Marketplace operated by the State of California called "Covered California." Insurance policies purchased through Covered California are eligible for federal subsidies for low income individuals. There are also a number of private exchanges that may be selling individual health insurance policies that have not been qualified by Covered California, and are not eligible for federal subsidies. If you intend to request government assistance, make sure that you are purchasing coverage from Covered California.

Q. What does Covered California have to do with the requirement that I must have medical coverage?

A. Covered California was set up to make medical coverage available to people who may not have the opportunity for it elsewhere. You can buy coverage from Covered California but you are encouraged to do your homework first because the medical coverage and options may be quite different than what you have available from your employer.

Q. Is my employer coverage better or worse than what I can purchase on Covered California?

A. Generally speaking, the coverage offered by your employer will be better than the coverage that you could buy from Covered California but it really depends on your personal circumstances with respect to the cost, doctors and hospitals. For some people with low incomes, the Federal government will subsidize the purchase of coverage from Covered California. However, the physician networks and hospitals may differ significantly from what you are used to under the

employer plan. It is always best to do your homework and compare your current coverage to the coverage you can buy from Covered California to see what may work best for you.

Q. How do I know whether I am eligible for a Federal government subsidy to purchase medical coverage from Covered California?

A. Covered California, the IRS, Homeland Security and the Department of Health and Human Services will review your application, tax information and legal residency requirements. They will decide whether you are eligible for government assistance. In general, people with low incomes whose employers do not offer medical coverage or whose coverage is unaffordable would be eligible for government assistance.

Q. Will employees be eligible for government assistance to purchase coverage from the California Exchange?

A. Most of our employees will not be eligible for government assistance to purchase coverage from Covered California. To determine if you're eligible, you can contact Covered California. They also have a calculator on their website that will be helpful. However, in order to be sure that you will receive government assistance, it is likely that you will have to complete a Covered California application and submit it for approval.

Q. How do I find out more about coverage on Covered California and whether I should purchase coverage from them and receive government assistance?

A. To find out more, you must contact Covered California by any one of the following means:

- ✓ Call 1-888-975-1142
- ✓ Visit www.coveredca.com
- ✓ Additional information regarding Health Care Reform can be found at: www.healthcare.gov

Q. Is the enrollment in Covered California different than my employer enrollment?

A. Yes. Open enrollment for Covered California begins on October 1, 2013 for coverage starting January 1, 2014. If you are interested, contact them by one of the methods indicated above. You will need to complete an extensive application form because Covered California does not know you.

Q. Can the cost of my coverage with Covered California be deducted from my pay?

A. No. You will have to write a check each month or have the premium automatically deducted from your personal checking account, or there may be other means of payment. However, the amount you pay for your coverage is on an after-tax basis, not through our cafeteria plan (pre-tax) and not by means of payroll deductions.

Q. What types of medical plans are offered on Covered California?

A. Covered California has indicated that they will be selling HMO coverage and PPO coverage. You will need to contact them to evaluate and compare your employer coverage and their coverage. However, the medical coverage sold on Covered California will be different than our coverage.

Q. How will I know which is better?

A. You will need to contact Covered California and compare the plans available from them with our plans to see what works for you.

Q. Is coverage on Covered California cheaper than my employer coverage?

A. This is a very difficult question to answer because the value of a plan is not just found in the premiums paid but also includes the deductibles, copayments, out-of-pocket maximums and other out of pocket expenses incurred. Moreover, the value of a plan would include the quality of providers and hospitals. If you are considering the purchase of coverage from Covered California, we urge you to do your homework and comparison shop before making a purchase.

Q. Can I drop my employer coverage and purchase coverage from Covered California?

A. You can always elect to drop employer coverage but only during open enrollment. The election would be effective for the upcoming plan year starting January 2014. You cannot drop our coverage in the middle of the plan year because you wish to purchase coverage from Covered California. Additionally, should you opt to take the coverage through Covered California and you decide you do not like the plan; you will not be able to come back into our plan until the next open enrollment.

Q. If I elect employer coverage, can I purchase coverage on Covered California in the middle of the plan year?

A. During Covered California's open enrollment, you can purchase coverage from them but you cannot drop employer coverage in the middle of the year because you purchased coverage from the Marketplace.

Q. If I don't like the coverage I purchased from Covered California, can I come back to my employer's plan?

A. You have an opportunity to enroll into our plan during open enrollment each year. There are no special enrollment rights with respect to dropping coverage that you purchased from Covered California. In other words, you cannot enroll in the plan during the plan year if you decided that you don't like your coverage from Covered California.

Q. When can I go to the Marketplace and when can I come back?

A. Exchange open enrollment begins October 1, 2013 for a January 1, 2014 effective date. If you choose not to be covered under our plan, you can re-enroll during the next open enrollment which would be effective on the first day of the plan year.

Q. Can I purchase coverage from Covered California for my family but stay with single employer coverage for myself?

A. Covered California has not established its rules with respect to family coverage. However, you always have the right not to cover family members and elect single coverage. You should talk to your family about this decision before making a decision on family coverage.

Q. Can I purchase coverage for me and my family from Covered California and from my employer so that I have dual coverage?

A. Covered California has not established its rules with respect to dual coverage and guidance has not been received about coordination of benefits with group and individual policies.

Q. I read about Health Care Reform, am I now eligible for coverage under my employer's group medical plan?

A. No, if you were not previously eligible for group health coverage based on classification or work hours.

Q. If I become eligible for COBRA, is it better for me to take COBRA coverage and purchase coverage from Covered California?

A. The answer depends on what you mean by "better" coverage. If the cost of coverage is your concern, it may be possible to find less costly, and a greater variety, of options with Covered California as compared to your COBRA coverage. If adequacy of networks and hospitals are your concern, you would need to compare COBRA coverage with coverage offered by Covered

California. For example, if you have a certain doctor that you like and want to continue to use them under COBRA, or are undergoing a treatment for a specific condition but the physician providing those services is not available as an in-network physician under coverage from Covered California, you may prefer to continue with COBRA. There is no one right answer to this question.

Q. Did Health Care Reform extend the time period I can have COBRA beyond 18 months?

A. No. The coverage period for COBRA has not been extended and related rules have not changed under COBRA.

Q. If I am on COBRA, can I drop COBRA and enroll in Covered California?

A. You may terminate your COBRA coverage at any time. The COBRA rules have not changed with respect to the availability of other coverage.

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Shane Stueckle, Deputy Town Manager
Alex Qishta, Project Engineer
Date: October 8, 2013
For Council Meeting: October 15, 2013




Subject: Community Center Playground Improvement – Town Project No. 8961
Notice of Completion
JMJ Construction, Inc., Winchester CA

Prior Council Review: The Town Council previously allocated three years of Community Development Block Grant (CDBG) funds to the renovation of the Community Center Playground, including the addition of a splash park amenity to the facility. The Town Council appropriated these funds in the FY 2011/2012 adopted budget. On October 4, 2011, the Town Council authorized advertisement of the Request for Proposal (RFP) for the park design and the preparation of bid ready construction drawings. On January 17, 2012, the Town Council awarded the design contract to RJM Design Group. The Town Council authorized project bidding at its meeting of September 18, 2012. At the Town Council meeting of December 4, 2012, the Town Council rejected all bids and directed staff to return to the Town Council at the time of CDBG funding allocation for further consideration.

At the meeting of February 19, 2013, the Town Council directed staff to proceed with the Community Center Playground Improvement and Splash Park project, approving modifications to the project design for this phase to include only the replacement of playground equipment in the current site configuration, and directed staff proceed with replacement of playground equipment and associated recreational infrastructure at Paradise Park, and authorizing the submittal of all necessary documents to the County of San Bernardino necessary to secure the Community Development Block Grant funds for both project sites.

At the April 16, 2013 meeting, the Town Council approved the Notice Inviting Bids and a Resolution for the purpose of advertising and receiving bid for project. On April 30, 2013, the Town Council approved the revised Notice Inviting Bids that incorporates the County required language regarding Community Development Block Grant Funds.

At June 4, 2013, the Town Council awarded Project No.8961 to JMJ Construction, Inc. of Winchester, CA.

Reviewed By:	 Town Manager	_____ Town Attorney	 Mgmt Services	 Dept Head
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<input checked="" type="checkbox"/> Department Report	<input type="checkbox"/> Ordinance Action	<input type="checkbox"/> Resolution Action	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Minute Action	<input type="checkbox"/> Receive and File	<input type="checkbox"/> Study Session

Recommendation: That the Town Council accepts the project as substantially complete, authorizes staff to file the Notice of Completion, authorizes the reduction of the Faithful Performance Bond to 10%, and directs staff to retain the Labor and Material Bond for six (6) months for Project No.8961.

Executive Summary: Project No.8961 involves the replacement of the existing playground equipment, as well as replacing the existing sand with wood chips for ADA access.

Order of Procedure:

- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question Voice Vote

Discussion: The Community Center Playground Improvement project included the replacement of the existing playground equipment, as well as replacing the existing sand with wood chips for ADA access. All work required for the project has been satisfactory completed.

It is appropriate for the Town to accept the work and file a Notice of Completion. It is also appropriate to reduce the Faithful Performance Bond being as held as a surety to 10%. The Labor and Material Bond shall be retained for a period of six (6) months, and then released provided no liens or stop notices have been filed.

Alternatives: Staff recommends no alternative actions.

Fiscal impact: The following outlines project costs of completion of the work as bid.

JMJ, Inc. Contract	\$187,969.00
Construction Contingency	\$18,750.00
Total	\$206,719.00
Total Contract Costs:	\$204,219.00
Contract Remaining Balance:	\$2,500.00
Indirect Cost Allocation	\$0.00
Total Back to Fund	\$2,500.00

The funds remaining from this project will be returned to the source fund(s) for future appropriation by the Town Council.

Attachments: None

