

Chapter 4.0: Permits, Actions, and Decisions

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Division 4.01—Legislative Actions

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4.01.000: Purpose

The purpose of this Division is to prescribe procedures for the consideration of legislative actions by the appropriate Reviewing Authorities. Generally, legislative actions entail the establishment of rules, policies, or standards of general applicability, which involve the exercise of discretion and preside over considerations of public health, safety, and welfare.

4.01.005: Applicability

Whenever the public necessity, convenience, general welfare, or good planning practice so requires, the appropriate Reviewing Authorities, as prescribed by Table 2.02-1 (Review Matrix) of this Development Code, may consider the adoption of a legislative action pursuant to the general provisions prescribed by Division 2.02 (Application Filing and Processing) of this Development Code, and the provisions of this Division that are appropriate to the legislative action being considered.

4.01.010: Airport Land Use Compatibility Plan (ALUCP) and Amendments

A. Purpose. The purpose of this Section is to establish procedures for adopting, amending, supplementing, or changing the Los Angeles/Ontario International Airport Land Use Compatibility Plan pursuant to the provisions of PUC Section 21670 et seq., whenever the public necessity, convenience, general welfare, or good planning practice so requires.

B. Authority.

1. PUC Section 21675 requires the preparation of an Airport Land Use Compatibility Plan (ALUCP) that will provide for the orderly growth of Los Angeles/Ontario International Airport and the area surrounding the airport and will safeguard the inhabitants within the vicinity of the airport and the public in general. The City Council may, by ordinance and upon written recommendation of the Planning Commission, further amend, supplement or change the ALUCP, whenever the public necessity, convenience, general welfare, and good planning practice so requires.

2. The Los Angeles/Ontario International Airport Land Use Compatibility Plan and any amendments thereto, shall be enforceable in the same manner and to the same extent as any other provision of this Development Code.

C. Application Filing, Processing and Hearing. An application for ALUCP adoption or an amendment there to, shall be filed, processed, and heard pursuant to Section 2.02.015.A (Legislative Actions) of this Development Code.

D. Findings and Decision. An ALUCP, or any amendment thereto, shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The proposed ALUCP, or amendment thereto, will protect the public health, safety, and welfare by ensuring the orderly expansion of airports;

2. The proposed ALUCP, or amendment thereto, will minimize the public's exposure to excessive noise and safety hazards within areas around the airport to the extent that these areas are not already devoted to incompatible uses;

3. The proposed ALUCP, or amendment thereto, is consistent with the goals and policies of the general plan; and

4. The proposed ALUCP, or amendment thereto, is reasonable and beneficial, and in the interest of good planning practice.

4.01.015: Development Agreements

A. Purpose. The purpose of this Section is to establish procedures for adopting, amending, supplementing, or changing Development Agreements by and between the City and persons having a legal or equitable interest in a property proposed to be the subject of an agreement, whenever the public necessity, convenience, general welfare, or good planning practice so requires.

B. Authority. Pursuant to GC Section 65864 et seq., the City Council may, by ordinance and upon written recommendation of the Planning Commission as to the consistency of a proposed Development Agreement with the Policy Plan (General Plan) component of The Ontario Plan, enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property. It is intended that the provisions of this division shall be fully consistent and compliant with the provisions of GC Section 65864 et seq. and shall be so construed.

C. Agreement Contents.

1. A Development Agreement entered into pursuant to the provisions of this Division shall, at a minimum, include the following information:

a. Duration of the agreement;

- b. The permitted use(s) of the property;
- c. The density or intensity of use;
- d. The maximum height and size of proposed buildings; and
- e. Provisions for reservation or dedication of land for public purposes.

2. In addition to the minimum information required by Paragraph C.1., above, the development agreement may include the following:

a. Conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided such conditions, terms, restrictions and requirements for subsequent discretionary actions shall not prevent development of the land for the use(s) and to the density or intensity of development set forth in the agreement;

b. Provide that construction shall be commenced within a specified time period and that the project, or any phase thereof, be completed within a specified time;

c. Terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time; and

d. Any other such terms, conditions, and requirements as deemed necessary and proper by the City Council, including, but not limited to, a requirement for assuring to the satisfaction of the City, performance of all provisions of the development agreement in a timely fashion by the agreement holder.

D. Application Filing, Processing and Hearing. An application for Development Agreement consideration shall be filed, processed, and heard pursuant to Section 2.02.015.A (Legislative Actions) of this Development Code.

E. Findings. A Development Agreement shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing that the provisions of the Agreement are consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and any applicable specific plans, and giving supporting reasons for each finding. A Development Agreement shall be denied if one or more of the required findings cannot be clearly established.

F. Recordation of Agreement. Within 10 days following the City entering into a Development Agreement, the City Clerk shall record with the county recorder, a copy of the Agreement, which shall prescribe the land subject to the agreement. From and after the time of recordation, the Agreement shall impart notice thereof to all persons as is afforded by the recording laws of this State. The burdens of the Agreement shall be binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the parties to the agreement.

G. Amendments. A Development Agreement may be amended, or cancelled in whole or in part, by mutual consent of the parties to the Agreement, or their successors in interest. Any action to amend or cancel any portion of the Agreement shall be carried out pursuant to the procedures specified in Subsection D (Application Filing, Processing and Hearing), above.

H. Annual Review.

1. Every Development Agreement approved and executed pursuant to this Division shall be annually reviewed during the term of the Agreement, following the date of its execution. The purpose of the review is to determine whether the holder of the Agreement has complied in good faith with the terms of the Agreement. The burden shall be placed on the holder of the Agreement to demonstrate compliance to the full satisfaction of and in a manner prescribed by the City.

2. If as a result of annual review pursuant to this Subsection the City Council finds and determines, on the basis of substantial evidence, that the holder of the Development Agreement has not complied in good faith with the terms or conditions of the Agreement, the City Council may either amend or terminate the Agreement.

I. Modification/Suspension in Compliance with State or Federal Regulations. In the event that State or Federal laws or regulations, enacted after a Development Agreement has been entered into, prevent or preclude compliance with one or more provisions of the Development Agreement, the affected provisions of the Agreement shall be modified or suspended as may be necessary to comply with State or Federal laws or regulations.

4.01.020: Development Code Amendments

A. Purpose. The purpose of this Section is to establish procedures for amending, supplementing, or changing this Development Code whenever the public necessity, convenience, general welfare, or good planning practice so requires.

B. Authority. Pursuant to GC Section 65853 through Section 65859, the City Council may, by ordinance and upon written recommendation of the Planning Commission, amend, supplement, or change the ordinances codified in this Development Code whenever the public necessity, convenience, general welfare, or good zoning practice so requires.

C. Application Filing, Processing and Hearing. An application for a Development Code Amendment shall be filed, processed, and heard pursuant to Section 2.02.015.A (Legislative Actions) of this Development Code.

D. Findings and Decision. A Development Code Amendment shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The proposed Development Code Amendment is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan; and

2. The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

E. Urgency Measure: Interim Ordinance. Without following the procedures otherwise required prior to the adoption of a Development Code Amendment, to protect the public safety, health,

and welfare, the City Council may adopt as an urgency measure, an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission, or the Planning Department is considering or studying, or intends to study within a reasonable period. An urgency measure shall be completed pursuant to the provisions of GC Section 65858.

4.01.025: Amendments to the Policy Plan Component of The Ontario Plan (General Plan Amendments)

A. Purpose. The Policy Plan component of The Ontario Plan serves as the City's General Plan, which is mandated by State law pursuant to GC Section 65300 et seq. The purpose of this Section is to establish procedures for amending, supplementing, or changing the Policy Plan whenever the public necessity, convenience, general welfare, or good planning practice so requires.

B. Authority.

1. Pursuant to GC Section 65358, the City Council may, by resolution and upon written recommendation of the Planning Commission, amend, supplement, or change the Policy Plan (General Plan) component of The Ontario Plan.

2. A mandatory element of the Policy Plan shall not be amended more than 4 times during any calendar year; except that this limitation shall not apply to amendments necessary for the development of residential units where at least 25 percent of the proposed units will be occupied by, or available to, persons and families of low or moderate income, as defined by HSC Section 50093.

C. Application Filing, Processing and Hearing. An application for a General Plan (Policy Plan) Amendment shall be filed, processed, and heard pursuant to Section 2.02.015.A (Legislative Actions) of this Development Code.

D. Findings and Decision. A General Plan (Policy Plan) Amendment shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. Technical Amendment Findings. The first finding (Subparagraph D.1.a, below) and any one or more of the subsequent findings (Subparagraphs D.1.b through e, below) shall justify a technical amendment:

a. The proposed amendment will not change any policy direction or intent of the Policy Plan (General Plan) component of The Ontario Plan.

b. An error or omission is in need of correction.

c. A land use designation was based on inaccurate or misleading information and, therefore, should be changed to properly reflect the policy intent of the Policy Plan (General Plan) component of The Ontario Plan.

d. A point of clarification is needed to more accurately express the meaning of the Policy Plan (General Plan) component of The Ontario Plan, or eliminate a source of confusion.

e. A minor change in boundary will more accurately reflect geological or topographic features, or legal or jurisdictional boundaries.

2. Entitlement/Policy Amendment Findings. The first two findings (of the Policy Plan (General Plan) component of The Ontario Plan, below), and any one or more of the subsequent findings (Subparagraphs D.2.c through f, below), shall justify an entitlement/policy amendment:

a. The proposed change does not involve a change in, or conflict with:

(1) The Ontario Plan Vision;

(2) Any principle of the Policy Plan (General Plan) component of The Ontario Plan; or

(3) Any basic/foundational component of The Ontario Plan.

b. The proposed amendment would contribute to the achievement of the purposes of the Policy Plan (General Plan) component of The Ontario Plan, or, at a minimum, would not be detrimental to them.

c. Special circumstances or conditions have emerged that were unknown or unanticipated at the time the Policy Plan (General Plan) component of The Ontario Plan was adopted.

d. A change in policy is required to conform to changes in state or federal law, or applicable findings of a court of law.

e. An amendment is required to comply with an update of the Housing Element or change in State Housing Element law (commencing with GC Section 65580).

f. An amendment is required to address changes in public ownership of land.

3. Land Use Amendment Findings. The first four findings (Subparagraphs D.3.a through d, below), and any one or more of the subsequent findings (Subparagraphs D.3.e through h, below), shall justify an entitlement/policy amendment:

a. The proposed General Plan Amendment is consistent with the goals and policies of The Ontario Plan.

b. The proposed General Plan Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

c. The Land Use Element is a mandatory element of the Policy Plan (General Plan) component of The Ontario Plan, which, pursuant to GC Section 65358, may be amended up to four times per calendar year, and the proposed General Plan Amendment is the first, second, third, or fourth (insert applicable amendment cycle) amendment to the Land Use Element within the current calendar year.

d. During the amendment of the Policy Plan (General Plan) component of The Ontario Plan, opportunities for the involvement of citizens, California Native American Indian tribes (pursuant to GC Section 65352.3), public agencies, public utility companies, and civic, education, and other community groups, through public hearings or other means, were implemented consistent with GC Section 65351.

e. The proposed project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties listed in the Housing Element Sites Inventory. Furthermore, changing the land use designation of the subject property from the existing Policy Plan (General Plan) land use designation (including density, if applicable) to the proposed Policy Plan (General Plan) land use designation (including density, if applicable) will not impact the City's Regional Housing Needs Assessment (RHNA) obligations, or the City's ability to satisfy its share of the region's future housing need.

f. The proposed project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is listed in the Housing Element Sites Inventory, and the proposed project is consistent with the number of dwelling units and density specified in the Housing Element Sites Inventory.

g. The project site is listed in the Housing Element Sites Inventory of the Policy Plan (General Plan) component of The Ontario Plan, and the proposed project is not consistent with the number of dwelling units or density specified in the Housing Element Sites Inventory; therefore, a General Plan Amendment to remove the subject property from the Housing Element Sites Inventory is required. Removal of the subject property from the inventory will not impact the City's RHNA obligations since there are an adequate number of sites in the inventory to meet the City's RHNA obligations.

h. The proposed project is not consistent with the adopted Housing Element. The project site is listed in the Housing Element Sites Inventory of the Policy Plan (General Plan) component of The Ontario Plan, and the proposed project is not consistent with the number of dwelling units or density specified in the Housing Element Sites Inventory; therefore, a General Plan Amendment to remove the subject property from the Housing Element Sites Inventory is required. Removal of the subject property from the inventory will impact the City's RHNA obligations since there are not an adequate number of sites in the inventory to meet the City's RHNA obligations; therefore, the following property(ies) will be added to the Housing Element Sites Inventory:

<i>Assessor Parcel Numbers (APN)</i>	<i>Lot Area</i>
[insert APN]	[insert lot area]

	<i>Housing Element Sites Inventory</i>	
	<i>Existing</i>	<i>Proposed</i>
Number of Units:	[insert existing number of units]	[insert proposed number of units]
Assumed Density:	[insert existing density]	[insert proposed density]

4.01.030: Planned Unit Developments (PUD) and Amendments

A. Purpose.

1. The purpose of this Section is to establish procedures for adopting, amending, supplementing, or changing PUDs whenever the public necessity, convenience, general welfare, or good planning practice so requires.

2. The PUD is intended to:

a. Secure a fuller realization of the Policy Plan component of The Ontario Plan than would result from the strict application of present zoning district regulations;

b. Promote high standards in urban design;

c. Encourage the development of exceptionally high quality, mixed-use, high intensity projects, while establishing regulations and standards for uses with unique regulatory and design needs; and

d. Ensure harmonious relationships with surrounding land uses.

B. Authority.

1. Pursuant to GC Section 65850, the City Council may, by ordinance and upon written recommendation of the Planning Commission, adopt, amend, supplement or change regulations pertaining to the use of buildings, structures, and land; and establish development standards governing: building location, height, bulk, number of stories, and size; the size and use of lots, yards, courts, and other open spaces; lot coverage; the intensity of land use; off-street parking and loading; and signage, whenever the public necessity, convenience, general welfare and good planning practice so requires.

2. A PUD shall be required for those properly identified areas shown on Exhibit LU-05 (Additional Plans Required Map) of The Ontario Plan, and may be allowed on those properties located within the growth areas described on Exhibit LU-04 (Generalized and Growth Areas) of The Ontario Plan and in conjunction with mixed-use developments.

3. A PUD, and any amendments thereto, adopted pursuant to this Division shall be enforceable in the same manner and to the same extent as any other provision of this Development Code.

C. Application Filing, Processing and Hearing. An application for Planned Unit Development adoption or amendment thereto, shall be filed, processed, and heard pursuant to Section 2.02.015.A (Legislative Actions) of this Development Code.

D. Findings and Decision. A PUD, or amendment thereto, shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The proposed PUD, or amendment thereto, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan;
2. The proposed PUD, or amendment thereto, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City;
3. In the case of an application affecting specific property(ies), the proposed PUD, or amendment thereto, will not adversely affect the harmonious relationship with adjacent properties and land uses; and
4. In the case of an application affecting specific property(ies), the subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development.
5. The proposed PUD is superior to that which could be obtained through the application of the Development Code or a specific plan.

4.01.035: Specific Plans and Amendments

A. Purpose. The purpose of this Section is to establish procedures for adopting, amending, supplementing, or changing Specific Plans whenever the public necessity, convenience, general welfare, or good planning practice so requires.

B. Authority.

1. Pursuant to GC Section 65450 et seq., the City Council may, by ordinance or resolution, and upon written recommendation of the Planning Commission, adopt, amend, supplement or change a specific plan.

2. A Specific Plan and any amendments thereto, adopted pursuant to this Division, shall be enforceable in the same manner and to the same extent as any other provision of this Development Code.

C. Application Filing, Processing and Hearing. Unless otherwise specified in a respective Specific Plan, an application for Specific Plan adoption or amendment shall be filed, processed and heard pursuant to Section 2.02.015.A (Legislative Actions) of this Development Code.

D. Findings and Decision. A Specific Plan, or amendment thereto, shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The proposed Specific Plan, or amendment thereto, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan;

2. The proposed Specific Plan, or amendment thereto, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City;

3. In the case of an application affecting specific property(ies), the proposed Specific Plan, or amendment thereto, will not adversely affect the harmonious relationship with adjacent properties and land uses; and

4. In the case of an application affecting specific property(ies), the subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development.

4.01.040: Zone Changes

A. Purpose. The purpose of this Section is to establish procedures for amending or changing the zoning boundaries or zoning classification (Zone Change) of any property within the City whenever the public necessity, convenience, general welfare, or good planning practice so requires.

B. Authority. Pursuant to GC Section 65853 through Section 65859, the City Council may, by ordinance, and upon written recommendation of the Planning Commission, change the zoning boundaries or classification of any property within the City, whenever the public necessity, convenience, general welfare, or good zoning practice so requires.

C. Application Filing, Processing and Hearing. An application for Zone Change shall be filed, processed, and heard pursuant to Section 2.02.015.A (Legislative Actions) of this Development Code.

D. Findings and Decision. A Zone Change, or amendment thereto, shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The proposed Zone Change is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan;

2. The proposed Zone Change would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City;

3. The proposed Zone Change will not adversely affect the harmonious relationship with adjacent properties and land uses; and

4. The subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development.

E. Prezoning of Unincorporated Territory. The prezoning of unincorporated territory within the sphere of influence of the City may be initiated by the Planning Commission on its own motion, or by the City Council in the form of a request to the Planning Commission that it consider the prezoning, or by a petition of the owner or owners of land in the unincorporated territory proposed to be prezoned. A Prezone shall be completed pursuant to GC Section 65859 and this Section and shall become effective at the same time annexation of territory to the City becomes effective.

Division 4.02—Discretionary Permits and Actions

Sections:

- [4.02.000:](#) Purpose
- [4.02.005:](#) Applicability
- [4.02.010:](#) Billboard Relocation Agreements
- [4.02.015:](#) Conditional Use Permits
- [4.02.020:](#) Departures from Development Standards (Minor Adjustments/Alterations and Variances)
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- [4.02.030:](#) Extensions of Legal Nonconforming Status
- [4.02.040:](#) Historic Preservation—Local Historic Landmark and Local District Designations, Historic Resource Tiering, and Architectural Conservation Areas
- [4.02.045:](#) Historic Preservation—Rescind or Amend the Status of a Historic Resource
- [4.02.050:](#) Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources
- [4.02.055:](#) Historic Preservation—Certificates of Economic Hardship
- [4.02.060:](#) Historic Preservation—Conservation Plans
- [4.02.065:](#) Historic Preservation—Mills Act Contracts
- [4.02.070:](#) Master Plans and Amendments
- [4.02.075:](#) Sign Programs
- [4.02.080:](#) Specific Plan Minor Amendments/Alterations
- [4.02.090:](#) Subdivisions—Reversions to Acreage
- [4.02.095:](#) Subdivisions—Tentative Tract and Parcel Maps, and Vesting Maps

4.02.000: Purpose

The purpose of this Division is to prescribe procedures for the consideration of discretionary permits or actions. A discretionary permit or action, as established by Table 2.02-1 (Review Matrix) of this Development Code, includes projects that require the exercise of judgment or deliberation when making a decision to approve, conditionally approve, or deny a particular activity.

4.02.005: Applicability

The Reviewing Authorities prescribed by Table 2.02-1 (Review Matrix) of this Development Code, shall consider a discretionary permit or action pursuant to the general provisions prescribed by Division 2.02 (Application Filing and Processing) of this Development Code, and the provisions of this Division that are appropriate to the discretionary permit or action being considered.

4.02.010: Billboard Relocation Agreements

A. Purpose. The purpose of this Section is to establish a procedure to reduce the overall number of legally established nonconforming billboards within the City, allowing billboards to be relocated to locations within the City that are more suitable, and provide for more attractive, aesthetically pleasing billboard designs. In addition, Billboard Relocation Agreements are intended to reduce or eliminate the City's obligation to pay compensation for the removal of legal

nonconforming billboards. Billboard Relocation Agreements are part of the City's demonstrated commitment to improve its overall aesthetic appearance.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority, upon written recommendation of the Advisory Authority, is hereby empowered to approve, approve in modified form, or deny a Billboard Relocation Agreement for the relocation of legally established nonconforming billboards within the City, to a relocation site established pursuant to this Section, provided a minimum of two existing legal nonconforming billboards are removed.

2. Existing legally established nonconforming billboards may be relocated only as part of a Billboard Relocation Agreement.

3. A relocated billboard proposed pursuant to this Section shall require the concurrent filing of a Sign Plan application pursuant to Section 4.03.020 (Sign Plans) of this Development Code.

C. Definitions. For the purposes of this Section, the following definitions shall apply:

1. "Major Gateway" means an entry into the City through a major transportation corridor or node (e.g., airport, arterial, and rail lines).

2. "Regionally Significant" means a use that supports activities or economies at a scale greater than that of a single jurisdiction, drawing predominately from a market area that extends at least 20 miles beyond the City limits.

3. "Underdeveloped" means a lot that is not developed to its highest and best use.

4. "Visual Clutter" means disorganized, distracting, and/or competing graphics within public view, which contribute to visual blight.

D. Relocation Sites and Billboard Design Criteria. Generally, relocation sites are restricted to areas that are recognized as major gateways into the City, within or adjacent to a regionally significant project. The following considerations shall serve as guidelines for the placement and design of relocated billboards:

1. Site Criteria. The below-listed considerations shall serve as general guidelines for use by applicants and the City in the identification of potential suitable billboard relocation sites. Specific sites within suitable areas will be negotiated through the Billboard Relocation Agreement process.

a. The area is developed with a legally established allowed use that is regionally significant;

b. The area does not have excessive visual clutter;

c. The proposed relocated billboard would be compatible with uses and structures on the site, and in the surrounding area;

d. The proposed billboard would not create a traffic or safety problem with regard to on-site access, circulation, or visibility; and

e. The proposed billboard would not interfere with on-site parking or landscaping required by City ordinance or permit.

2. Prohibited Sites. No Billboard shall be relocated to a site if it meets any of the following criteria:

a. The site is adjacent to any freeway (Interstate 10, Interstate 15, or State Route 60) or Euclid Avenue;

b. The site is located within the AG (Interim Agricultural Overlay) zoning district;

c. The site is undeveloped or underdeveloped;

d. The site is within 3,000 FT of property located within a residential land use district shown on the Land Use Plan (Exhibit LU-01) of the Policy Plan (General Plan) component of The Ontario Plan; and

e. The site is within 3,000 FT of an existing billboard or electronic message center.

f. *Interagency Relocation Exception.* Notwithstanding the foregoing, a billboard may be relocated from a location outside the City, to any location within the City, pursuant to an agreement approved at the discretion of the City Council, between the City and another public agency, so long as the following findings can be clearly established:

(1) A minimum of 6 existing, legal nonconforming billboards shall be removed, at least 5 of which must be currently located within the City;

(2) The billboard's relocation is necessitated by work being performed on the same freeway as the planned new site for the billboard; and

(3) The public health safety and welfare are not impaired by the relocation.

3. Design Criteria. Typical billboard design with a large sign area mounted on a pole is not permitted. Pylon-type signs, which are structural elements with architectural treatment, are required. Suitable design shall be based on the following considerations:

a. The design should be integrated into the design scheme of the surrounding area and/or buildings;

b. The design shall provide architectural interest for the structure; and

c. The design shall incorporate a top and base treatment to the billboard structure;

E. Candidate Billboards for Relocation. The following considerations shall serve as general guidelines in identifying candidate billboards for relocation:

1. Areas of general priority for removal and relocation include redevelopment project areas, areas along major thoroughfares leading into commercial districts, areas visible to freeways and highways, and streets upon which billboards are heavily concentrated and contribute to existing visual clutter.

2. Candidate billboards must be legally established non-conforming billboards. Illegally placed billboards shall not be candidates for Billboard Relocation Agreements.

F. Application Filing, Processing and Hearing. A Billboard Relocation Agreement application shall be filed, processed, and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

G. Findings. A Billboard Relocation Agreement shall be acted on based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The Agreement shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The Billboard Relocation Agreement is consistent with the goals, policies, plans and exhibits of The Ontario Plan, the requirements of the Development Code, and any applicable specific plans, area plans, or planned unit developments;

2. The proposed relocation site is compatible with uses and structures on the site and in the surrounding area;

3. The Billboard Relocation Agreement contributes to the reduction of visual clutter in the City;

4. The proposed site complies with the relocation criteria established by this Section; and

5. The proposed billboard will not create a traffic or safety problem with regard to on-site access, circulation, or visibility.

4.02.015: Conditional Use Permits

A. Purpose. The purpose of this Section is to establish a procedure to ensure that a degree of compatibility is maintained with respect to certain uses on certain properties, due to their nature, intensity or size, or to compensate for variations and degrees of technological processes and equipment as related to the generation of noise, smoke, dust, fumes, vibration, odors and other practical hazards.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority, as applicable, is hereby empowered to approve, approve in modified form, or deny a Conditional Use Permit, and to impose reasonable conditions upon the approval of the application.

2. Conditional Use Permit approval shall be required prior to: [i] the establishment of those land uses, activities and facilities so identified in Table 5.02-1 (Land Use Matrix) of this Development Code; [ii] the conversion of any existing residential development project for sale, transfer, or conveyance as a common interest project pursuant to Section 6.08.045 (Conversion to a Residential Common Interest Project); [iii] the conversion of any existing commercial or industrial development project for sale, transfer, or conveyance, as a common interest project pursuant to Section 6.08.050 (Conversion to a Commercial or Industrial Common Interest Project); and [iv] the alteration/expansion of a nonconforming nonresidential land use or structure pursuant to Subsection 3.01.020.J (Alteration and/or Expansion of a Nonconforming Nonresidential Structure) of this Development Code.

C. Application Filing, Processing and Hearing. A Conditional Use Permit application shall be filed, processed, and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Findings and Decision. A Conditional Use Permit shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The scale and intensity of the proposed land use would be consistent with the scale and intensity of land uses intended for the particular zoning or land use district.

2. The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.

3. The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of this Development Code and any applicable specific plan or planned unit development.

4. The proposed use at the proposed location would be consistent with the provisions of the Airport Land Use Compatibility Plan.

5. The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.

E. Conditions of Approval.

1. In approving a Conditional Use Permit, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. The conditions imposed on Conditional Use Permits may include provisions concerning use, height, area, yards, open spaces, setbacks, parking, loading, signs, improvements (public and private), site design, operational characteristics, land use compatibility, general character, appearance, environmental impact, time limits for commencement or termination of the construction or use authorized, revocation and use termination dates, and other conditions the Approving Authority may deem appropriate and necessary to carry out the purposes of the Development Code.

3. A copy of the approving decision or resolution, and related conditions of approval (if any) issued by the Approving Authority shall be maintained on site and shall be made available for inspection upon demand by a City representative.

4. A Conditional Use Permit shall only apply to the approved particular use on a particular property, which may be transferred from one owner of the property to another successive owner of the same property.

5. All conditions of approval or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

F. Conditional Use Permit Modification/Revision.

1. Conditional Use Permits and/or their conditions of approval may be modified/revised upon application by a project proponent or property owner if different from the proponent. The request shall be submitted to the Planning Department on a City application form pursuant to Division 2.02 (Application Filing and Processing).

2. Modifications/revisions that are minor in nature may be processed administratively, without notice or public hearing, provided the proposed changes are consistent with the intent of the original approval and there are no resulting inconsistencies with this Development Code. Modifications/revisions are considered minor in nature if in the opinion of the Planning Director, they do not involve substantial changes to the approved plans or the conditions of approval and would in no way affect surrounding properties.

3. Modifications/revisions to an approved plan or conditions of approval that, in the opinion of the Planning Director, are not minor in nature, shall be processed as a revised Conditional Use Permit, following the procedures set forth in this Section for Conditional Use Permit approval, except that modification/revision approval shall not alter the expiration date established by the original application approval.

G. Voluntary Surrender of a Conditional Use Permit. A Conditional Use Permit approved pursuant to this Development Code may be voluntarily surrendered, in writing, by the affected property owner. The procedure for Conditional Use Permit surrender shall be as follows:

1. The Reviewing Authority originally approving the subject Conditional Use Permit shall set a date and time on which the request will be considered. Notice of the hearing shall be given pursuant to Division 2.03 (Public Hearings) of this Development Code.

2. The notice shall indicate that any interested person may make a written request at any time prior to the advertised public hearing, or may request in person at the time of the advertised hearing, that a public hearing be held at the advertised date and time. If no hearing is requested, the Reviewing Authority may decide on the matter without a public hearing. If a

public hearing is requested, the Reviewing Authority shall conduct the public hearing pursuant to Division 2.03 (Public Hearings) of this Development Code.

3. The Reviewing Authority shall deny the surrender of the Conditional Use Permit only if it can be clearly shown that there is a compelling government interest in maintaining the Conditional Use Permit.

4. The decision of the Reviewing Authority shall be final and conclusive in the absence of an appeal filed pursuant to Division 2.04 (Appeals) of this Development Code.

4.02.020: Departures from Development Standards (Minor Adjustments/Alterations and Variances)

A. Purpose. The purpose of this Section is to establish procedures by which departures from certain development standards may be permitted by this Development Code when certain specified circumstances exist.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny certain departures from certain development standards established by this Development Code, and to impose reasonable conditions upon the approval of such request.

2. The City's authority to grant departures from the development regulations contained in this Development Code is authorized by GC Section 65906, which provides that in cases where special circumstances applicable to a property exist, and the strict application of the development regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, the City may allow deviation from the strict application of the development regulations.

C. Minor Adjustments/Alterations.

1. Purpose. Minor Adjustments/Alterations, like Variances, are intended to allow for departures from the strict application of the numerical development standards established by this Development Code, when their strict application would result in practical difficulties, unnecessary hardships, or results inconsistent with the general purpose of the development regulations. Minor Adjustments/Alterations, however, are determined to have a lesser (minor) measure of impact than Variances, due to the limited measure of adjustment allowed; therefore, requiring a modified review process.

2. Applicability.

a. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny a Minor Adjustment/Alteration, and to impose reasonable conditions upon the approval of the application.

b. Minor Adjustments/Alterations may be approved for:

(1) A reduction of up to 25 percent from minimum setback and separation requirements, excepting nonresidential setback requirements from property lines that are common with any residentially zoned property; or

(2) A 10 percent increase in the maximum height of structures.

c. A Minor Adjustment/Alteration shall not be approved for reductions in minimum lot size, lot coverage, lot dimension, landscape coverage, parking requirements, or for an increase in maximum density or floor area ratio.

3. Application Filing, Processing and Hearing.

a. A Minor Adjustment/Alteration shall be filed and processed pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

b. The applicant and the owners of all properties having a property line common with the affected property shall be notified of the proposed Minor Adjustment/Alteration pursuant to Section 2.03.010 (Public Hearing Notification) of this Development Code. Furthermore, the notice shall state that a public hearing shall not be required unless requested by the applicant, an abutting property owner, or other affected person or entity.

c. A public hearing, if requested, shall be conducted pursuant to Division 2.03 (Public Hearings) of this Development Code.

d. If no public hearing is requested, the Zoning Administrator shall approve, approve in modified form, or deny a Minor Adjustment/Alteration no less than 10 days following distribution of the notice required by Subparagraph D.3.b, above.

4. Findings and Decision. A Minor Adjustment/Alteration shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the development regulations contained in this Development Code;

b. There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to other properties in the vicinity and in the same zoning district;

c. The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district;

d. The granting of the Minor Adjustment/Alteration will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.

e. The proposed Minor Adjustment/Alteration is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and the purposes of any applicable specific plan or planned unit development, and the purposes of this Development Code.

5. Conditions of Approval.

a. In approving a Minor Adjustment/Alteration, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

b. All conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

D. Variance.

1. Purpose. The City's authority to grant a Variance from the development regulations contained in this Development Code is authorized by GC Section 65906, which provides that in cases where special circumstances applicable to a property exist, and the strict application of the development regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, the City may allow deviation from the strict application of the development regulations.

2. Applicability.

a. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority, is hereby empowered to approve, approve in modified form, or deny a Variance application, and to impose reasonable conditions upon the approval of the application.

b. A Variance may be approved to allow deviation from any numerical development standard established by this Development Code with respect to minimum and/or maximum dimension, area, mass, and quantity, except that a Variance shall not be granted for increases in maximum density or floor area ratio.

c. A variance shall not be approved on a lot that authorizes a use or activity that is not otherwise expressly authorized by the zoning district governing the affected lot, nor shall the power to approve a Variance extend to any public health or safety standard, as this authority has been precluded by state laws.

3. Application Filing, Processing and Hearing. A Variance application shall be filed, processed, and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

4. Findings and Decision. A Variance shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after

considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the development regulations contained in this Development Code;

b. There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to other properties in the vicinity and in the same zoning district;

c. The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district;

d. The granting of the Variance will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.

e. The proposed Variance is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and the purposes of any applicable specific plan or planned unit development, and the purposes of this Development Code.

5. Conditions of Approval.

a. In approving a Variance, the Approving Authority, as applicable, may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

b. All conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

4.02.025: Development Plans

A. Purpose. The purpose of this Section is to:

1. Establish a review process whereby the integrity and character of the physical fabric of the City will be protected in a manner consistent with the goals and policies of The Ontario Plan. This is ensured through the review of:

a. The suitability of building location;

b. Location and design of off-street parking and loading facilities;

- facilities);
- c.** Location, design and dedication of streets and alleys (public and private facilities);
 - d.** Location and design of pedestrian and vehicular entrances and exits;
 - e.** Location, design, materials and colors of walls and fences;
 - f.** Location, design, size, and type of landscaping (public and private facilities);
 - g.** Location, design, and materials of hardscape areas, such as patios, sidewalks and walkways (public and private facilities);
 - h.** Drainage and off-site improvements (public and private facilities);
 - i.** Compatibility with the surrounding area;
 - j.** Exterior building architectural design, materials and colors;
 - k.** Quality of proposed design and construction;
 - l.** Location, type, design, colors, and materials of signs; and
 - m.** Any conditions affecting the public health, safety, welfare, and general aesthetic of the community.

2. Protect and preserve the value of properties and to encourage high quality development throughout the City, whereas adverse effects would otherwise result from excessive uniformity, dissimilarity, poor exterior quality and appearance of buildings and structures; inadequate and poorly planned landscaping; and failure to preserve, where feasible, natural landscape features, and open spaces.

3. Recognize the interdependence of land values and aesthetics, and to provide a method to implement this interdependence in order to maintain the values of surrounding properties and improvements consistent with The Ontario Plan, with due regard to the public and private interests involved.

4. Ensure that the public benefits derived from expenditures of public funds for improvement and beautification of streets and public facilities are protected by the exercise of reasonable controls over the character and design of private buildings, structures, parking and loading facilities, landscaped areas, recreation amenities and open spaces.

5. Ensure the design of landscaping and irrigation that shades parking facilities and other paved areas, buffers or screens undesirable views and compliments building architecture and overall site design.

6. Ensure reasonable controls over the character, design and location of signs, and the appropriate use of well-designed signs that complement the architecture of surrounding buildings, while considering the public and private interests involved and the exercise of control over the undesirable use of excessive signage.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny a Development Plan application, and to impose reasonable conditions upon a Development Plan approval.

2. Development Plan approval shall be required for the physical alteration of a lot, the construction of a building, or the addition or significant alteration of an existing building, as follows:

- a.** The development of 3 or more dwelling units on a single lot;
- b.** The development of 5 or more lots within a residential subdivision;
- c.** The development of 5 or more dwelling units, regardless of the number of lots involved;
- d.** The development of a nonresidential building within a residential zoning district, or an addition thereto, which is in excess of 25 percent of the original structure GFA or 500 SF (cumulative), whichever is less;
- e.** The development of a vacant lot within a nonresidential zoning district;
- f.** The conversion of a commercial structure to a residential structure, or conversion of a residential structure to a commercial structure;
- g.** The remodel of, or addition to, an existing nonresidential building, which results in an overall change in the architectural/aesthetic integrity, as determined by the Planning Director;
- h.** The remodel of, or addition to, a nonresidential building, which would result in the demolition and replacement/reconstruction of more than 50 percent of the existing building;
- i.** The conversion of a gasoline or fueling station to facilitate another allowed land use (see standards contained in Subsection 5.03.040,C (Conversion of Gasoline and Fueling Stations) of this Development Code);
- j.** An addition to an institutional facility (including religious assembly and places of worship, government services, healthcare services, and educational services), when such addition would exceed 25 percent of the original structure GFA or 500 SF (cumulative), whichever is less;
- k.** Commercial developments and the development of a permanent building within the CIV, OS-R, OS-C, or UC zoning district, when such development would exceed 500 SF of GFA (cumulative), or an addition thereto, when such addition would exceed 25 percent of the original structure GFA or 500 SF (cumulative), whichever is less;
- l.** The development of a permanent building within the AG zoning district, when such development would exceed 5,000 SF of GFA (cumulative), or an addition thereto, when such addition would exceed 25 percent of the original structure GFA or 5,000 SF (cumulative), whichever is less;

- m. The relocation (move-on) of a building within any zoning district;
- n. The addition of dwelling units to a multiple-family residential development project, when such addition would result in 3 or more dwelling units on a single lot after the addition;
- o. An addition to a previously developed site within a commercial zoning district, when such addition would exceed 25 percent of the original structure GFA or 2,000 SF (cumulative), whichever is less;
- p. An addition to a previously developed site within an industrial zoning district, when such addition would exceed 25 percent of the original structure GFA or 10,000 SF (cumulative), whichever is less;
- q. A Tier 2 or Tier 3 wireless telecommunications facility pursuant to Section 5.03.420 (Wireless Telecommunications Facilities) of this Development Code; and
- r. Other projects, which, in the opinion of the Planning Director, require such level of review prior to issuance of a building permit, due to the size, nature and/or complexity of the project, or because the project could cause significant environmental impacts or generate significant neighborhood opposition or controversy.

3. A Development Plan shall remain in effect for the life of the affected development project, which shall be developed and maintained in substantial conformance with the plans as approved by the Approving Authority and shall be maintained on file with the City.

C. Application Filing, Processing and Hearing. A Development Plan application, except for wireless telecommunications facilities in the public right-of-way and facilities qualifying as Eligible Facilities Requests (EFRs), shall be filed, processed and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section. Applications to install wireless telecommunications facilities in the public right-of-way and for facilities qualifying as EFRs shall be filed and processed pursuant to the following:

1. Scope. There shall be a type of permit entitled a "Wireless Permit," which shall be subject to all of the requirements of this Section. Unless exempted, every person who desires to place a wireless telecommunications facility in the public right-of-way, modify an existing wireless telecommunications facility in the public right-of-way, or perform work as part of an EFR must obtain a Wireless Permit authorizing the placement or modification in accordance with this Section. Except for small cell facilities, facilities qualifying as EFRs, or any other type of facility expressly allowed in the public right-of-way by state or federal law, no other wireless telecommunications facilities shall be permitted pursuant to this Section.

2. Approving Authority. The Zoning Administrator is the approving authority for wireless telecommunications facilities in the public right-of-way and facilities qualifying as EFRs.

3. Application Submittal. Applications shall be submitted on a City application form issued and amended, from time-to-time, by the Zoning Administrator.

4. Review and Action.

a. The Zoning Administrator shall review the application and then approve, approve in modified form, or deny the application. The decision of the Approving Authority shall

be final and conclusive in the absence of an appeal filed pursuant to Paragraph C.5 (Appeals), below.

b. The wireless regulations and decisions on applications for placement of wireless telecommunications facilities in the public right-of-way and facilities qualifying as EFRs shall, at a minimum, ensure that the requirements of this Section are satisfied, unless it is determined that Applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Development Code may be waived by the Zoning Administrator, but only to the minimum extent required to avoid the prohibition or violation.

c. There will be no public hearings.

5. Appeals. The Applicant may appeal the decision to the Planning Commission, which may decide the issue *de novo*, and whose written decision will be the final decision of the City. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless telecommunications facility. Where the Zoning Administrator grants an application based on a finding that denial would result in a prohibition or effective prohibition under applicable federal law, the decision shall be automatically appealed to the Planning Commission. All appeals must be filed within 2 business days of the written decision of the Zoning Administrator, unless the Zoning Administrator extends the time therefore. An extension may not be granted where extension would result in approval of the application by operation of law. Any appeal shall be conducted so that a timely written decision may be issued in accordance with applicable law.

D. Findings and Decision. A Development Plan shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established. Findings 1-4 do not apply to applications for wireless telecommunications facilities in the public right-of-way or facilities qualifying as EFRs, which are subject to the findings set forth by Paragraph 5, below.

1. The proposed development at the proposed location is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan;

2. The proposed development is compatible with those on adjoining sites in relation to location of buildings, with particular attention to privacy, views, any physical constraint identified on the site and the characteristics of the area in which the site is located;

3. The proposed development will complement and/or improve upon the quality of existing development in the vicinity of the project and the minimum safeguards necessary to protect the public health, safety and general welfare have been required of the proposed project;

4. The proposed development is consistent with the development standards and design guidelines set forth in the Development Code, or applicable specific plan or planned unit development.

5. Required findings for wireless telecommunications facilities in the public right-of-way and facilities qualifying as EFRs are as follows:

a. Except for EFRs, the Zoning Administrator or Planning Commission, as the case may be, shall approve an application if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:

(1) The facility is not detrimental to the public health, safety, and welfare;

(2) The facility complies with this Development Code and all applicable design and development standards; and

(3) The facility meets applicable requirements and standards of state and federal law.

b. For EFRs, the Zoning Administrator or Planning Commission, as the case may be, shall approve an application if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:

(1) That the application qualifies as an eligible facilities request; and

(2) That the proposed facility will comply with all generally applicable laws.

E. Conditions of Approval.

1. In approving a Development Plan application, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. Conditions of approval imposed upon a Development Plan approval may include, but is not limited to, provisions concerning building height, bulk or mass; setbacks; lot coverage; lighting; private and common open space, and/or recreation amenities; screening, including garages, trash receptacles, mechanical and roof-mounted equipment and appurtenances; landscaping; walls and fences; vehicular parking, access and circulation; pedestrian circulation; on-site security; grading; street dedication and improvements (public and private); on and off-site public improvements (public and private) necessary to service the proposed development; project timing/phasing; loading and outdoor storage; architectural treatment; signage; vehicular trip reduction; graffiti removal; sound attenuation; reparation and recordation of covenants, conditions and restrictions, mutual access agreements, maintenance agreements and other similar agreements; property disclosure pursuant to BPC Section 11000 et seq.; and other conditions the Approving Authority may deem appropriate and necessary to carry out the purposes of the Development Code.

3. All conditions of approval or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

F. Development Plan Modifications/Revisions.

1. Development Plans and/or their conditions of approval may be modified/revised upon application by a project applicant or property owner if different from the applicant. The request shall be submitted to the Planning Department on a City application form pursuant to Division 2.02 (Application Filing and Processing) of this Development Code.

2. Modifications/revisions that are minor in nature may be processed administratively, without notice or public hearing, provided the proposed changes are consistent with the intent of the original approval and there are no resulting inconsistencies with this Development Code. Modifications/revisions are considered minor in nature if in the opinion of the Planning Director, they do not involve substantial changes to the approved plans or the conditions of approval and would in no way affect surrounding properties.

3. Modifications/revisions to an approved plan or conditions of approval that, in the opinion of the Planning Director, are not minor in nature, shall be processed as a revised Development Plan, following the procedures set forth in this Section for Development Plan approval, except that modification/revision approval shall not alter the expiration date established by the original application approval.

4.02.030: Extensions of Legal Nonconforming Status

A. Purpose. The purpose of this Section is to establish a process whereby the date that a legal nonconforming use would lose its legal nonconforming status pursuant to Section 3.01.015 (Nonconforming Land Use) of this Development Code, may be extended to allow additional time to complete the sale of the affected property or structure, secure tenants for the affected property or structure, and/or obtain necessary permits or the completion of necessary improvements.

B. Applicability. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny an Extension of Legal Nonconforming Status application, and to impose reasonable conditions upon the approval of the application.

1. The submittal of an application requesting an Extension of Legal Nonconforming Status shall automatically extend the legal nonconforming status of a land use or structure for an initial period of 60 days to allow for the processing of the request pursuant to the procedures prescribed by this Section. The Zoning Administrator may then approve an additional 120-day extension, for a total of 180 days.

2. If due to unforeseen circumstances, a property/structure owner is unable to complete the sale of the affected property, secure necessary tenants for the property or structure, and/or obtain necessary permits and complete all necessary tenant improvements to allow for occupancy of the affected property or structure within the period established by Subsection B.2, above, (180 days), the Approving Authority may grant additional extensions, not to exceed a total of one-year.

C. Application Filing, Processing and Hearing. An Extension of Legal Nonconforming Status application shall be filed, processed and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Findings and Decision. An Extension of Legal Nonconforming Status shall be acted on based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and comments and testimony provided by the public, only after considering and clearly establishing all of the below-listed findings, and giving reasons in support of each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The applicant has made a good faith effort to keep the nonconforming status;
2. A physical and/or economic hardship has prevented the nonconforming use from being reestablished prior to the expiration date;
3. Approving the extension will not adversely affect the character, integrity, or value of surrounding properties;
4. Approving the extension will not adversely affect the character, integrity, or general welfare of the neighborhood; and
5. The extension will not adversely impact the public health, safety, or welfare of the City's residents.

E. Conditions of Approval.

1. In approving an Extension of Legal Nonconforming Status, the Approving Authority, may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. All conditions of approval or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

4.02.040: Historic Preservation—Local Historic Landmark and Local District Designations, Historic Resource Tiering, and Architectural Conservation Areas

A. Purpose. The purpose of this Section is to establish procedures by which Local Historic Landmarks and Districts, Historic Resource Tiering, and Architectural Conservation Areas may be designated

B. Applicability.

1. Designation of Historic Landmarks and Districts, Historic Resource Tiering and Architectural Conservation Areas. The Approving Authority established pursuant to Table 2.02-1 (Review Matrix) of this Development Code is hereby empowered to approve, approve in modified form, or deny a Historic Preservation—Historic Landmark and District Designations, Historic Resource Tiering and Architectural Conservation Areas application.

2. Local Landmark Designation. A historic resource may be designated an "historic landmark" by the City if it meets the criteria for listing in the National Register of Historic Places or the California Register of Historic Resources, or it meets one or more of the following criteria:

a. The historic resource exemplifies or reflects special elements of the City's history;

b. The historic resource is identified with persons or events significant in local, state, or national history;

c. The historic resource is representative of the work of a notable builder, designer, architect, or artist;

d. The historic resource embodies distinguishing architectural characteristics of a style, type, period, or method of construction;

e. The historic resource is a noteworthy example of the use of indigenous materials or craftsmanship;

f. The historic resource embodies elements that represent a significant structural, engineering, or architectural achievement or innovation;

g. The historic resource has a unique location, a singular physical characteristic, or is an established and familiar visual feature of a neighborhood, community, or the City;

h. The historic resource is one of the few remaining examples in the City, region, state or nation, possessing distinguishing characteristics of an architectural or historical type or specimen: or

i. The historic resource has yielded, or is likely to yield, information important to the City's history or prehistory.

3. Local Historic District Designation. A neighborhood or area listed as a historic resource may be designated a "Local Historic District" by the City if the neighborhood meets the criteria for listing in the National Register of Historic Places or the California Register of Historic Resources, or it meets one or more of the following criteria:

a. The historic resource is a geographically definable area possessing a concentration of historic resources or a thematically related grouping of structures that contribute to each other and are unified by plan, style, or physical development, and embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values;

b. The historic resource reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of a park landscape, site design, or community planning;

c. The historic resource is associated with, or the contributing resources are unified by, events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or

d. The historic resource is, or the contributing resources are, associated with the lives of persons important to the City, State or National history.

4. Additional Historic Resource Evaluation Criteria. In addition to the "significance," criteria established in Paragraph B.2 (Local Landmark Designation) and Paragraph B.3 (Local Historic District Designation) of this Section, historic resources must have "integrity" for the time in which they are "significant." The period of "significance" is the date or span of time within which significant events transpired or significant individuals made their important contributions. The term "integrity" means the authenticity of a historical resource's physical identity, as evidenced by the survival of characteristics or historic or prehistoric fabric that existed during the resource's period of significance. Only after significance has been established, should the issue of integrity be addressed. The following criteria should be considered when evaluating properties for integrity:

a. *Design*. Any alterations to the property should not have adversely affected the character defining features of the property. Alterations to a resource or changes in its use over time may have historic, cultural or architectural significance.

b. *Setting*. Changes in the immediate surroundings of the property (e.g., buildings, land use and topography) should not have adversely affected the character of the property.

c. *Materials and Workmanship*. Any original materials should be retained, or if they have been removed or altered, replacements have been made that are compatible with the original materials.

d. *Location*. The relationship between a property and its location is an important component in determining integrity. The place where the property was built and where historic events occurred is often important to understanding why the property was created or why something happened. The actual location of a historic property, complemented by its setting, is particularly important in recapturing the sense of historic events and persons. Except in a few cases, the relationship between a property and its historic associations is destroyed if the property is moved.

e. *Feeling*. The term "feeling" means a property's expression of the aesthetic or historic sense of a particular period. It results from the presence of physical features that, taken together, convey the property's historic character. For example, a rural historic district, such as the Guasti Winery, retaining original design, materials, workmanship and setting, will relate the feeling of agricultural life in the 19th century.

f. *Association*. The term "association" means the direct link between an important historic event or person, and a historic property. A property retains its association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer. Like "feeling," association requires the presence of physical features that convey a property's historic character. For example, a Revolutionary War battlefield, whose natural and manmade elements have remained intact since the 18th century, will retain its quality of "association" with the battle.

Because "feeling" and "association" depend upon individual perceptions, their retention alone is never sufficient to support eligibility. Historic resources must retain enough of their historic or prehistoric character or appearance to be recognizable as historic resources, and to convey the reasons for their significance.

C. Application Filing, Processing, and Hearing. Historic Preservation—Historic Landmark and Historic District Designation applications shall be filed and processed pursuant to Division 2.02 (Application Filing and Processing) of this Development Code, and the provisions of this Section. All eligible historic resources nominated for designation as a Landmark or a Historic District shall be evaluated, processed, and designated a Tier pursuant to Subsection G (Historic Resource Tiering System) of this Section, concurrently with the application for landmark or historic district designation.

D. Local Historic Landmark and District Designation Application Findings and Decision.

1. Within the 30-day period following acceptance of a Historic Preservation—Historic Landmark and District Designations application as complete pursuant to the applicable provisions contained in Section 2.02.015.B (Discretionary Permits and Actions) of this Development Code, the Advisory Authority shall make a preliminary determination as to whether the requested Local Historic Landmark or Local Historic District designation is appropriate, based upon the designation criteria set forth in Paragraphs B.2 (Local Landmark Designation), B.3 (Local Historic District Designation), and B.4 (Additional Historic Resource Evaluation Criteria) of this Section. If it is determined that the proposed resource merits further consideration, the application shall be forwarded to the subsequent Advisory Authority. If the proposed resource does not merit further consideration due to failure of the property to meet the applicable designation criteria, the application shall be denied.

2. Upon receipt of the Advisory Authority's recommendation, the subsequent Advisory Authority shall make a recommendation to the Approving Authority to grant or deny a Historic Preservation—Landmark or District Designation application on the basis of the application and the evidence presented in the Planning Department's written report, after considering and clearly establishing the designation criteria set forth in Paragraphs B.2 (Local Landmark Designation), B.3 (Local Historic District Designation), and B.4 (Additional Historic Resource Evaluation Criteria) of this Section, and giving specific reasons in support of each applicable criterion.

3. The Approving Authority may grant or deny a Historic Preservation—Landmark or District Designation application on the basis of the application and the evidence presented in the Planning Department's written report, after considering and clearly establishing the applicable designation criteria set forth in Paragraphs B.2 (Local Landmark Designation), B.3 (Local Historic District Designation), and B.4 (Additional Historic Resource Evaluation Criteria) of this Section, and giving specific reasons in support of each applicable criterion.

E. Permits. No building, alteration, demolition, or removal permits for any proposed Local Landmark or Local Historic District shall be issued after a Historic Preservation—Landmark or District Designation application has been filed with the Planning Department, until such time that any public hearing or appeal proceedings regarding the application have been completed.

F. Automatic Designations.

1. Any property listed in the National Register of Historic Places or the California Register of Historic Resources shall automatically be designated as a local Historic Landmark.

2. Any neighborhood or area listed in the National Register of Historic Places or the California Register of Historic Resources shall automatically be designated as a local Historic District.

3. Any property identified as a contributing structure to a historic district listed on the National Register of Historic Places or the California Register of Historic Resources shall be considered a contributing structure within the historic district.

G. Historic Resource Tiering System. The Historic Preservation Commission shall be responsible for the adoption of the Historic Resource Tier Designation List, which shall be maintained by the Historic Preservation Subcommittee. A historic resource may be designated "Tier I, Tier II, or Tier III" by the Approving Authority established pursuant to Table 2.02-1 (Review Matrix) of this Development Code, to establish a ranking of historic resources within the City, based upon the determined significance of each resource, as specified below. For the purpose of this Section, upon determining the appropriate tier designation for a historic district, the Approving Authority may rank all contributing structures within that district into the same tier designation. Tier I, II and III historic resources shall be judged based upon their determined degree of significance, pursuant to the criteria contained in Subsection H (Historic Resource Tiering Criteria) of this Section.

1. Tier I. Tier I consists of historic resources that should not be demolished or significantly altered under any circumstances, regardless of their designation status. Resources within this tier are determined to be the City's most significant historical or cultural resources. Tier I resources shall meet one or more of the following:

a. A resource listed on the Ontario Register that meets at least one of the criteria within the Architecture/Form category, and 3 criteria within the History category, listed in Subsection H (Historic Resource Tiering Criteria) of this Section; or

b. A contributing resource within a district that meets at least one of the criteria within the Architecture/Form Category and 3 criteria within the History Category as listed below.

2. Tier II. Tier II consists of historic resources wherein demolition of these properties should be avoided. Tier II resources shall meet one or more of the following:

a. Any historic resource listed or determined eligible for listing in the National Register of Historic Places;

b. Any historic resource listed or determined eligible for listing in the California Register of Historic Resources;

c. A historic resource listed on the Ontario Register and meets at least 2 criteria within the Architecture/Form or History categories, listed in Subsection H (Historic Resource Tiering Criteria) of this Section; or

d. A contributing resource within an eligible historic district wherein the district meets at least 2 of the criteria in either the Architecture/Form or History categories as listed in Subsection H (Historic Resource Tiering Criteria) of this Section.

3. Tier III. Tier III consists of historic resources that are Designated Local Historic Landmarks, are contributing properties within Designated Local Historic Districts, or are eligible historic resources. Demolition of these resources should be avoided where possible but may be appropriate under certain circumstances.

H. Historic Resource Tiering Criteria. The following listing contains criteria to be used in determining the Tier designation of a historic resource:

1. Local Historic Landmark.

a. *Architecture/Form.*

(1) The resource is prototypical, or one of the finest examples, of a period, style, architectural movement, or construction in the City of a particular style of architecture, building type, or historical or archeological object. Only preeminent examples should be considered. Good representative examples of a style, period or method of construction are not appropriate; or

(2) The resource is the first, last, only, or one of the finest examples, notable works, or the best surviving work by an architect or designer of major importance to the City, State or Nation.

b. *History.*

(1) The resource is the location of a historic event(s) that has significantly contributed to the history of the City, State, or Nation;

(2) The resource is associated with a business, company, or individual that has made a significant cultural, social, or scientific contribution to the City, State, or Nation;

(3) The resource is identified with a person(s) who has exerted a major influence on the heritage or history of the City, State, or Nation;

(4) The resource embodies the ideals or principles of the "Model Colony" or furthers the ideals or principals established by the Chaffey Brothers;

(5) The resource has a direct relationship to one of the principal historic contexts in the City's history, including the "Model Colony," (includes the Chaffey Brothers, the Ontario Land and Improvement Company, or the citrus industry), the Guasti Winery or the wine industry, or the Dairy Preserve or the dairy industry;

(6) The resource is related with a business, company, or individual significant in the agricultural history of the City; or

(7) The resource is related to the archeological past of the region.

2. Local Historic Districts.

a. *Architecture/Form.*

(1) The district contains resources that are a prototype of, or one of the finest examples of, or the first, last, only, or few remaining groupings of a period, style, architectural movement, or construction in the City of a particular style of architecture, building type, or historical or archeological object. Only preeminent examples should be considered. Good representative examples of a style, period or method of construction are not appropriate; or

(2) The district contains resources that are the first, last, only, or the finest examples, notable works, or the best surviving work by an architect or designer of major importance to the City, State or Nation.

b. History.

(1) The district is the location of a historic event(s) that has significantly contributed to the history of the City, State, or Nation;

(2) The district is associated with a business, company, or individual that has made a significant, cultural, social, or scientific contribution to the City, State, or Nation;

(3) The district is identified with a person(s) who has exerted a major influence on the heritage or history of the City, State, or Nation;

(4) The district embodies the ideals or principles of the "Model Colony," or furthers the ideals or principals established by the Chaffey Brothers;

(5) The district has a direct relationship to one of the principal historic contexts in the City's history, including the "Model Colony," (includes the Chaffey Brothers, the Ontario Land and Improvement Company, or the citrus industry), the Guasti Winery or the wine industry, or the Dairy Preserve or the dairy industry, or the citrus industry; or

(6) The district is related with a business, company, or individual significant in the agricultural history of the City.

I. Architectural Conservation Area. An area may be designated an "Architectural Conservation Area" by the Approving Authority if the area meets any one of the below-listed criteria; however, these criteria do not evaluate for historic significance. As a result, properties within Architectural Conservation Areas are not qualified for historic landmark or historic district consideration. The criteria for establishing an Architectural Conservation Area are as follows:

1. The area is geographically definable and conveys a sense of architectural cohesiveness through its design, setting, materials, workmanship, or association; or

2. The area reflects significant geographical patterns, including those associated with different areas of settlement and growth, particular transportation modes, or distinctive examples of a park landscape, site design or community planning, or represents established and familiar visual features in the community.

3. Alternately, an area may be designated an Architectural Conservation Area by the City if a conservation plan has been prepared pursuant to Section 4.02.055 (Historic Preservation—Conservation Plans), outlining the character defining features of the neighborhood and appropriate design guidelines that will maintain the character of the neighborhood.

4.02.045: Historic Preservation—Rescind or Amend the Status of a Historic Resource

A. Purpose. The purpose of this Section is to establish a process by which a historic resource may rescind or amend its assigned status, including a Local Landmark or Local District Designation, a Tier Designation, an Eligibility Determination, or an Architectural Conservation Area.

B. Applicability. The Approving Authority for the original application type, pursuant to Table 2.02-1 (Review Matrix) of this Development Code, is hereby empowered to approve, approve in modified form, or deny a request to rescind or amend the assigned status of a Local Historic

Landmark or Local Historic District Designation, Tier Designation, Eligibility Determination, or Architectural Conservation Area.

C. Addition to the Ontario Register. Any property or grouping of properties surveyed at the intensive level pursuant to standards established by the California Office of Historic Preservation, and determined to meet the designation criteria for local historic landmarks or local historic districts set forth in Section 4.02.040 (Historic Preservation—Local Historic Landmark and Local District Designations, Historic Resource Tiering, and Architectural Conservation Areas) of this Development Code, shall be determined by the Approving Authority to be an "eligible" historic resource.

D. Removal of Eligible or Nominated Historic Resources from the Ontario Register. An eligible historic resource or a nominated historic resource may be removed from the Ontario Register, as follows:

1. Any historic resource listed on the Ontario Register may be removed by the Approving Authority if the resource has lost all historic and/or cultural significance due to a catastrophe causing a loss of integrity, or the resource has lost all historical and/or cultural significance due to extensive legally performed alteration(s), which has caused a loss of integrity after the property was initially surveyed.

2. Any historic resource listed on the Ontario Register may be removed by the Approving Authority upon reevaluation of the resource at the request of the property owner, or upon initiation by the City, if the most recently prepared Historic Resource Survey evaluating the resource is more than 5 years old.

3. The Historic Preservation Subcommittee shall evaluate a historic resource utilizing the designation criteria set forth in Paragraph 4.02.040.B.2 (Local Landmark Designation) of this Division. Furthermore, when a historic resource is located within an eligible local historic district, the area or neighborhood shall also be evaluated using the designation criteria set forth in Paragraph 4.02.040.B.3 (Local Historic District Designation) of this Division, and shall be evaluated to determine if it contributes to the significance of the district. The Approving Authority may retain a noncontributing property within a proposed or potential historic district.

4. Any reevaluation of a property shall be valid for a 5-year period.

E. Amending or Rescinding a Local Landmark, Local Historic District, or a Tier Designation from the Ontario Register. A local landmark, local historic district, or a tier designation may be amended or rescinded from the Ontario Register, if:

1. It is discovered that the information relied upon by the Advisory Authority and/or Approving Authority in making the original designation, was erroneous or false;

2. New information compromises the significance of a historic resource;

3. The historic resource has been demolished, relocated, or removed; or

4. The historic resource has been rendered ineligible for designation due to a catastrophic event, beyond the owner's control, which has destroyed the resource to the point where it is considered a hazard to the public health and safety, and the restoration of the resource is not feasible.

4.02.050: Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources

A. Purpose. The purpose of this Section is to establish a process to ensure that any alteration to, or demolition of, an eligible or designated historic resource within the City is in keeping with the historic character of the resource.

B. Applicability.

1. The Approving Authority established pursuant to Table 2.02-1 (Review Matrix) of this Development Code is hereby empowered to approve, approve in modified form, or deny a Historic Preservation—Certificate of Appropriateness application, and to impose reasonable conditions upon the approval of the application.

2. A Certificate of Appropriateness shall be required for any:

a. Alteration, addition, restoration, rehabilitation, remodeling, relocation, repainting, and/or resurfacing of an historic resource. Certificate of Appropriateness approval shall be required even if the City requires no other permits;

b. For any work to the exterior of any noncontributing resource in a Historic District or on a historic property. A reasonable effort shall be made to produce compatibility, and in no event shall there be a greater deviation from compatibility;

c. Infill development within a historic district or on a historic property; and

d. Any demolition, whether in whole or in part, of a historic resource or a noncontributor within a designated historic district in conjunction with a demolition application.

3. No permit shall be issued for work on a historic resource until a Certificate of Appropriateness or Waiver has been issued in accordance with the provisions of this Division.

4. Once a Certificate of Appropriateness has been issued, the Planning Department, from time to time, shall inspect the work to ensure that it is being carried-out in compliance with the approved Certificate of Appropriateness and shall issue a Certificate of Completion prior to any final inspection or occupancy by any City Department to ensure the work has been satisfactorily completed.

C. Application Filing, Processing and Hearing. A Historic Preservation—Certificate of Appropriateness application shall be filed, processed, and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section, except as follows:

1. Determination of Significance.

a. Upon acceptance of a Historic Preservation—Certificate of Appropriateness application as complete for processing pursuant to Subsection 2.02.015.B (Discretionary Permits and Actions) of this Development Code, the Historic Preservation Subcommittee shall evaluate the affected historic resource for significance, which shall include a review conducted by the Planning Department consisting of an evaluation of the resource's eligibility for listing on the National Register of Historic Places, the California Register of Historic

Resources, or the Ontario Register. The review may also include the preparation of a Historic Resource Survey, at the intensive level, pursuant to the standards set forth by the California Office of Historic Preservation.

b. A historic resource that does not meet the criteria for designation set forth in Section 4.02.040 (Historic Preservation—Local Historic Landmark and Local District Designations, Historic Resource Tiering, and Architectural Conservation Areas) of this Division, and not located within a designated, proposed, or potential district, shall be removed from the Ontario Register and the Certificate of Appropriateness shall be deemed approved. A resource that meets the designation criteria set forth in Section 4.02.040 (Historic Preservation—Local Historic Landmark and Local District Designations, Historic Resource Tiering, and Architectural Conservation Areas) of this Division, shall be further processed pursuant to this Section.

2. Environmental Review.

a. Upon determination that a historic resource is "significant," an environmental review shall be conducted pursuant to Section 2.02.020 (Environmental Review) of this Development Code; however, in determining the appropriate level of review for the demolition of a historic resource, the tiering system established pursuant to Subsection 4.02.040.G (Historic Resource Tiering System) of this Division shall be utilized.

b. Any historic resource proposed for demolition, which is determined to be within Tier III pursuant to Subsection 4.02.040.G (Historic Resource Tiering System) of this Division, shall require preparation of an Addendum to The Ontario Plan Environmental Impact Report pursuant to the requirements of CEQA and the implementing guidelines, and City's Local Guidelines For Implementing the California Environmental Quality Act, in conjunction with the approval of Certificate of Appropriateness and Demolition applications.

c. Any historic resource proposed for demolition, which is determined to be within Tier I or Tier II pursuant to Subsection 4.02.040.G (Historic Resource Tiering System) of this Division, shall require preparation and certification of an Environmental Impact Report pursuant to the requirements of CEQA and the implementing guidelines, and City's Local Guidelines For Implementing the California Environmental Quality Act, in conjunction with the approval of Certificate of Appropriateness and Demolition applications.

3. Hearing. Each Advisory or Approving Authority shall hold at least one hearing on the application, which shall be duly noticed, heard, and acted upon pursuant to Division 2.03 (Public Hearings) of this Development Code.

4. Advisory Authority Review and Recommendation. Following completion of all required environmental review pursuant to Paragraph C.2 (Environmental Review) of this Subsection, the Advisory Authority shall make recommendation to the Approving Authority whether to approve, approve in modified form or deny the application. The Advisory Authority's recommendation shall be transmitted to the Approving Authority in such manner and form as specified by the Approving Authority, within 60 days following the date the decision was rendered. The 60-day time limit may be extended by mutual agreement of the applicant and City.

5. Approving Authority Review and Action.

a. Upon receipt of the Advisory Authority's recommendation, the Approving Authority shall approve, conditionally approve, or deny the application, either in whole or in part. The action of the Approving Authority shall be by written decision, setting forth the basis for the

action and shall include all applicable findings prescribed by Subsection D (Findings and Decision), below.

b. The decision of the Approving Authority shall be final and conclusive in the absence of an appeal filed pursuant to Division 2.04 (Appeals) of this Development Code.

D. Findings and Decision.

1. Designated Historic Landmarks, Contributors, and Non-Contributors and Eligible Historic Resources.

a. A Historic Preservation—Certificate of Appropriateness application for Designated Historic Landmarks and Contributors, or Eligible Historic Resources, shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

(1) The proposed alteration, restoration, relocation, or construction will not detrimentally change, destroy or adversely affect any significant architectural feature of the resource;

(2) The proposed alteration, restoration, relocation, or construction will not detrimentally change, destroy or adversely affect the historic character or value of the resource;

(3) The proposed alteration, restoration, relocation, or construction will be compatible with the exterior character-defining features of the historic resource; and

(4) The proposed alteration, restoration, relocation, or construction will not adversely affect or detract from the character of the historic district.

2. Demolition of Historic Resources.

a. A Historic Preservation—Certificate of Appropriateness and Demolition application for the Demolition Of Historic Resources shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

(1) The proposed demolition is necessary because all efforts to restore, rehabilitate, and/or relocate the resource have been exhausted;

(2) The proposed demolition is necessary because restoration/rehabilitation is not practical because the extensive alterations required would render the resource not worthy of preservation;

(3) The proposed demolition is necessary because failure to demolish the resource would adversely affect or detract from the character of the District; and

(4) The resource proposed to be demolished has been assigned a Tier III designation.

3. Instances Wherein Findings Are Not Required. The Approving Authority may act upon Historic Preservation—Certificate of Appropriateness and/or Demolition applications for Tier I and Tier II historic resources that are designated historic landmark contributors and noncontributors to historic districts, or eligible historic resources, without making the findings contained in Paragraph D.1 (Designated Historic Landmarks, Contributors, and Non-Contributors and Eligible Historic Resources) or Paragraph D.2 (Demolition of Historic Resources) of this Subsection, if a Historic Preservation—Certificate of Economic Hardship has been granted pursuant to Section 4.02.055 (Historic Preservation—Certificates of Economic Hardship) of this Division.

E. Conditions of Approval.

1. In approving Historic Preservation—Certificate of Appropriateness and/or Demolition applications, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. All conditions of approval or requirements authorized by this Section are enforceable in the same manner, and to the same extent, as any other applicable requirement of this Development Code.

3. In approving Historic Preservation—Certificate of Appropriateness and/or Demolition applications, the following conditions of approval shall be imposed, and shall be completed prior to commencing any demolition work:

a. Each historic resource shall be fully documented and cataloged pursuant to Historic American Building Survey/Historic American Engineering Record (HABS/HAER) standards, to provide a record of the resource, including, but not limited to: [i] the preparation of site plans, floor plans, exterior and interior elevations, and detail drawings of character defining features (such as moldings, stairs, etc.); and [ii] photographs of the resource, including the exterior, interior, and interior and exterior character defining features (such as moldings, light fixtures, trim patterns, etc.).

b. A mitigation fee established pursuant to Section 7.01.025 (Historic Preservation Mitigation Fee) shall be paid to the City prior to the issuance of a demolition permit for Tier III historic resources. Fees for Tier I and II historic resources shall be determined during the Environmental Impact Report process. The fees established for Tier III will be used as a reference point for establishing fees for Tier I and II historic resources.

c. A Certificate of Appropriateness shall not be issued for the demolition of an historic resource, either in whole or in part, until such time that a demolition permit application and a replacement structure has been approved by the City, and appropriate permits have been issued for its construction, unless: [i] a waiver is granted pursuant to Subsection H (Replacement Structure Waiver for Historic Resources Located within Industrial Zoning Districts) of this Section; [ii] a deferral of the replacement structure requirement is granted pursuant to Subsection G

(Replacement Structure Deferral) of this Section; or **(iii)** demolition is required pursuant to Section 7.01.050 (Unsafe or Dangerous Conditions) of this Development Code.

d. In an effort to preserve features and artifacts from historic resources, a determination whether items within or on the resource should be salvaged must be made by the Planning Department and may include the local historical society prior to the issuance of the demolition permit. The applicant shall be responsible for the removal, relocation, storage, and donation of such items selected for salvaging. The applicant shall provide an inventory of salvaged items to the Planning Department, and shall include a list of each item name, description and dimension (as necessary), and the location of each item on a floor plan.

F. Certificate of Appropriateness Waivers. The Approving Authority may waive the requirement for Certificate of Appropriateness approval for certain alterations, restorations, rehabilitations, remodeling, repainting, resurfacing, and additions to historic resources, as follows:

1. A waiver may be issued for work that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the guidelines set forth in Division 7.01 (Historic Preservation) of this Development Code.

2. A waiver may be issued for minor alterations to historic resources, provided no change in appearance occurs or the proposed change restores period features, including but not limited to, chimneys; fences and walls, including construction, demolition, or alteration of side, rear and front yard fences and walls; foundations; landscaping, unless the Landmark designation specifically identifies the landscape, layout, features or elements as having particular historical, architectural or cultural merit; roofing, provided a 30 year dimensional shingle, or an aesthetically equivalent dimensional shingle is used, and the replacement shingle must maintain the architectural character of the historic resource in terms of scale, pattern, texture, and coloration; and signage, including directional, monument, wall and window signs.

3. A waiver may be issued for the construction of residential accessory structures and additions less than 650 SF in area or 50 percent of the existing original historic building area, whichever is less, to historic resources that are not visible from a public right-of-way, excluding public alleys.

G. Replacement Structure Deferral. The Approving Authority may defer the obligation to construct replacement structures as a requirement for approval of the demolition of a historic resource, if the ultimate project proposed for the site of the demolition provides an exceptional benefit to the community.

1. Findings. A Replacement Structure Deferral shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and any public testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

a. The demolition is necessary to allow the acquisition and assembly of land for a future redevelopment or housing project within a redevelopment project area;

b. The future project will provide exceptional benefits to the City with respect to employment, fiscal, social, housing and economic needs of the community, or will provide new

public facilities that are needed by the City (such as off-site improvements, parks, open space, recreation, or other community facilities, not including parking lots); and

c. Failure to demolish the historic structures could hinder the ability of the City to revitalize or redevelop a blighted lot or area of the City or meet housing production requirements.

2. Condition of Approval. In granting a deferral of the replacement structure requirement, the Approving Authority shall impose a condition of approval requiring any new project on the subject site to be designed pursuant to the infill development guidelines listed in Subsection I (Infill Development Guidelines) of this Section, to insure compatibility with the surrounding area or neighborhood. The Historic Preservation Subcommittee shall make a recommendation to the Approving Authority for the replacement structure regarding compliance with the infill development guidelines.

H. Replacement Structure Waiver for Historic Resources Located within Industrial Zoning Districts. The Approving Authority may waive the obligation to construct replacement structures as a requirement for approval of the demolition of a Tier III Historic Resource, if the site is located in an Industrial Zone. The waiver shall be acted on based upon the information provided in the submitted application, after considering and clearly establishing all of the below-listed findings and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The Tier III Historic Resource is a residential building located in an Industrial Zoning District;

2. Approving the deferral will not adversely affect the character, integrity, general welfare of the surrounding neighborhood, residents, and adjacent properties;

3. Conversion and/or rehabilitation of the residential home is not economically feasible, demonstrated through market analysis, construction costs, structural reports, property and building conditions assessments, and/or any other study/report deemed necessary by the Planning Director;

I. Infill Development Guidelines. The following infill development guidelines shall be incorporated into the design of all new structures proposed within a designated, proposed, or potential Historic District, or on a historic property, pursuant to this Division:

1. New buildings, structures, or improvements constructed within a historic district shall be designed to be compatible with the architectural style, features, and historic character of the district.

2. New buildings shall be compatible with the original style of the contributing buildings within a historic district. The design of the new building shall incorporate the following considerations:

a. The design shall incorporate the design features and details of contributing structures;

b. The height, width, and length of the new building shall be consistent with the original characteristic of the contributing structures; and

c. The exterior materials and treatment shall be similar to the contributing structures.

3. New buildings, structures, and/or improvements constructed on a historic property shall be designed to be compatible with the architectural style and features of contributing historic buildings located on the historic property.

4. New buildings shall be compatible with the original architectural style of the contributing historic buildings on the historic property. The design of the new building shall incorporate the following considerations:

a. The design shall incorporate the design features and details of the historic structure;

b. The height, width, and length of the new building shall be consistent with the original characteristic of the historic building; and

c. The exterior materials and treatment shall be similar to the historic building.

J. Certificate of Appropriateness Modification/Revision.

1. Historic Preservation—Certificates of Appropriateness and/or their conditions of approval may be modified/revise upon application by a project proponent or property owner if different from the proponent. The request shall be submitted to the Planning Department on a City application form pursuant to Division 2.02 (Application Filing and Processing).

2. Modifications/revisions that are minor in nature may be processed administratively, without notice or public hearing, provided the proposed changes are consistent with the intent of the original approval and there are no resulting inconsistencies with this Development Code. Modifications/revisions are considered minor in nature if in the opinion of the Planning Director, they do not involve substantial changes to the approved plans or the conditions of approval and would in no way affect surrounding properties.

3. Modifications/revisions to an approved plan or conditions of approval that are not minor in nature shall be processed as a revised Historic Preservation—Certificate of Appropriateness, following the procedures set forth in this Section for Historic Preservation—Certificate of Appropriateness approval, except that modification/revision approval shall not alter the expiration date established by the original application approval.

4.02.055: Historic Preservation—Certificates of Economic Hardship

A. Purpose. The purpose of this Section is to establish a process to ensure that denial of a Certificate of Appropriateness and/or a Demolition Application does not create any undue hardship upon the owner of a Tier I or Tier II historic resource.

B. Applicability.

1. The Approving Authority established pursuant to Table 2.02-1 (Review Matrix) of this Development Code is hereby empowered to approve, approve in modified form, or deny a Historic Preservation—Certificate of Economic Hardship application.

2. A Certificate of Economic Hardship may be filed concurrently with a Certificate of Appropriateness and/or Demolition Application in cases where the alteration, restoration, rehabilitation, remodel, addition to a historic resource, or demolition, partially or in whole, in compliance with the Certificate of Appropriateness and/or Demolition Application, would cause an immediate and substantial financial hardship. Furthermore, the denial of the Certificate of Appropriateness and/or Demolition Application would deny the property owner all reasonable beneficial use of, or return on, the property.

3. No action shall be taken to demolish or otherwise alter the historic resource for a period of 14 days following the issuance of a Certificate of Economic Hardship.

C. Application Filing, Processing and Hearing. A Historic Preservation—Certificate of Economic Hardship application shall be filed, processed, and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Findings and Decision. A Historic Preservation—Certificate of Economic Hardship application shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. Denial of the application will diminish the value of the subject property so as to leave substantially no value;

2. Sale or rental of the property is impractical, when compared to the cost of holding the property for uses permitted in the underlying zoning district;

3. An adaptive reuse study has been conducted and found that utilization of the property for lawful purposes is prohibited or impractical;

4. Rental at a reasonable rate of return is not feasible;

5. Denial of the Certificate of Appropriateness would damage the owner of the property unreasonably in comparison to the benefit conferred on the community, and

6. All means involving City sponsored incentives, such as a transfer of development rights, tax abatements, financial assistance, building code modifications, changes in the zoning ordinance, loans, grants, and reimbursements, have been explored to relieve possible economic disincentives.

4.02.060: Historic Preservation—Conservation Plans

A. Purpose. The purpose of this Section is to establish a process to expedite the review process for project areas in which numerous historic resources within a single project area would require the issuance of multiple Certificates of Appropriateness for proposed work to those Historic Resources.

B. Applicability. The Approving Authority established pursuant to Table 2.02-1 (Review Matrix) of this Development Code is hereby empowered to approve, approve in modified form, or deny

a Historic Preservation—Conservation Plan application and to impose reasonable conditions upon the approval of the application.

C. Application Filing, Processing and Hearing. A Historic Preservation—Conservation Plan application shall be filed, processed, and acted upon pursuant to the requirements for Historic Preservation—Certificates of Appropriateness, contained in Section 4.02.050 (Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources) of this Development Code, and the provisions of this Section.

D. Findings and Decision. A Historic Preservation—Conservation Plan shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The proposed alterations, restorations, relocations, or construction, in whole or in part, within the plan area will not detrimentally change, destroy or adversely affect any significant architectural feature of Historic Resources;

2. The proposed alterations, restorations, relocations, or construction, in whole or in part, within the plan area will not detrimentally change, destroy or adversely affect the historic character or value of Historic Resources;

3. The proposed alterations, restorations, relocations, or construction, in whole or in part, within the plan area will be compatible with the exterior features of other improvements within the plan area; and

4. The proposed alterations, restorations, relocations, or construction, in whole or in part, within the plan area will not adversely affect or detract from the character of the plan area.

E. Conditions of Approval.

1. In approving a Historic Preservation—Conservation Plan application, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. All conditions of approval or requirements authorized by this Section are enforceable in the same manner, and to the same extent, as any other applicable requirement of this Development Code.

F. Conservation Plan Modification/Revision.

1. Historic Preservation—Conservation Plans and/or their conditions of approval may be modified/revised upon application by a project proponent or property owner if different from the proponent. The request shall be submitted to the Planning Department on a City application form pursuant to Division 2.02 (Application Filing and Processing).

2. Modifications/revisions that are minor in nature may be processed administratively, without notice or public hearing, provided the proposed changes are consistent with the intent of the original approval and there are no resulting inconsistencies with this Development Code. Modifications/revisions are considered minor in nature if in the opinion of the Zoning Administrator, they do not involve substantial changes to the approved plans or the conditions of approval and would in no way affect surrounding properties.

3. Modifications/revisions to an approved plan or conditions of approval that are not minor in nature shall be processed as a revised Historic Preservation—Conservation Plan, following the procedures set forth in this Section for Historic Preservation—Conservation Plan approval, except that modification/revision approval shall not alter the expiration date established by the original application approval.

4.02.065: Historic Preservation—Mills Act Contracts

A. Purpose. The purpose of this Section is to establish a process by which economic incentives may be provided for the preservation of a designated historic landmark or contributing structure within a designated historic district.

B. Applicability.

1. The Approving Authority established pursuant to Table 2.02-1 (Review Matrix) of this Development Code is hereby empowered to approve, approve in modified form, or deny a Historic Preservation—Mills Act Contract (Contract) application.

2. Pursuant to GC Section 50280, et seq., the owner(s) of designated historic landmarks, contributing structures within designated historic districts, and properties listed on the National Register of Historic Places or the California Register of Historic Resources, may request to enter into a Mills Act Contract with the City.

C. Application Filing, Processing and Hearing.

1. Historic Preservation—Mills Act Contract applications shall be filed, processed, and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

2. The owner shall furnish the Approving Authority with any information the Approving Authority shall require in order to enable it to determine the eligibility of the property involved.

D. Findings and Decision.

1. A Historic Preservation—Mills Act Contract shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing **[i]** the eligibility of the property involved, **[ii]** the appropriateness and sequencing of the improvements proposed, and **[iii]** the fiscal benefits derived from those improvements.

2. No later than 20 days after the City enters into a Mills Act Contract with an owner pursuant to this Section, the City Clerk shall record a copy of the Contract with the county recorder, which shall fully describe the affected property.

E. Required Contract Provisions. Pursuant to GC Section 50281, any Mills Act Contract entered into under this Section shall contain the following provisions:

1. The term of the Contract shall be for a minimum period of 10 years.

2. Where applicable, the Contract shall provide for the following:

a. The preservation of designated historic landmarks, contributing structures within designated historic districts, and properties listed on the National Register of Historic Places or the California Register of Historic Resources, and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code;

b. The periodic examinations of the interior and exterior of the premises by the City, San Bernardino County Assessor, the Department of Parks and Recreation, and the State Board of Equalization, as may be necessary to determine the owner's compliance with the Contract; and

c. The Contract shall be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the Contract as the original owner who entered into the Contract.

F. Term of Contract. Each Mills Act Contract shall provide that on the anniversary date of the Contract, or other annual date specified in the Contract, a year shall be automatically added to the initial term of the Contract unless notice of nonrenewal is given pursuant to Subsection G (Contract Nonrenewal), below. If the property owner or the Approving Authority desires within any year not to renew the Contract, that party shall serve written notice of nonrenewal of the Contract on the other party in advance of the annual renewal date of the Contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the Approving Authority at least 60 days prior to the renewal date, one year shall be automatically added to the term of the Contract.

G. Contract Nonrenewal.

1. Upon receipt by the owner of a notice of nonrenewal from the Approving Authority, the owner may make a written protest of the notice. The Approving Authority may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

2. If, within any year, the Approving Authority or the owner serves notice of intent not to renew the Contract, the existing Contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the Contract, as applicable.

H. Contract Cancellation.

1. The Approving Authority may cancel a Mills Act Contract if it determines that the owner has breached any of the conditions of the Contract provided for in this Section or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. The Approving Authority may also cancel a Contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the Contract.

2. A Mills Act Contract shall not be canceled until after the Reviewing Authorities have given notice of, and has held, a public hearing on the matter pursuant to Division 2.03 (Public Hearings) of this Development Code.

3. If a Mills Act Contract is canceled pursuant to Paragraph G.1, above, the owner shall pay a cancellation fee equal to 12.5 percent of the current fair market value of the property, as determined by the county assessor as though the property were free of the contractual restriction.

4. As an alternative to cancellation of a Mills Act Contract for breach of any condition, the City, or any landowner may bring any action in court necessary to enforce a Contract, including, but not limited to, an action to enforce the Contract by specific performance or injunction.

5. In the event that property subject to Mills Act Contract under this Section is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the Approving Authority to frustrate the purpose of the Contract, the Contract shall be canceled and no fee shall be imposed as required under Paragraph G.3, above. Furthermore, the Contract shall be deemed null and void for all purposes of determining the value of the acquired property.

I. Amendment to Work Program. Upon request of the property owner(s), the Planning Director may approve amendments to a Mills Act Contract Work Program, subject to the following:

1. The items listed in the proposed Work Program are consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, and the guidelines set forth in this Development Code;

2. The Work Program shall be completed within the 10-year period following Contract enactment, unless extended by action of the City Council; and

3. The proposed Work Program shall have an equal or greater preservation and monetary value than the previously approved Work Program.

4.02.070: Master Plans and Amendments

A. Purpose. The purpose of this Section is to establish procedures for amending, supplementing, or changing official Master Plans of the City, whenever the public necessity, convenience, general welfare, or good planning practice so requires.

B. Applicability.

1. The Approving Authority is hereby empowered to approve, approve in modified form, or deny an official Master Plan of the City, or any amendment thereto, and to impose reasonable conditions upon the Master Plan approval.

2. The Master Plans subject to the provisions of this Section include the following:

- a. 5-Year Capital Improvement Program (CIP) Master Plan prepared pursuant to GC Section 66540.32(b)(2)(H);
- b. Fiber Optic Master Plan;
- c. Parks Master Plan;
- d. Citywide Streets Master Plan;
- e. Sewer Master Plan;
- f. Storm Drain Master Plan;
- g. Water/Recycled Water Master Plan.

3. A Master Plan of the City shall be an internally consistent, action-oriented and pragmatic, considering both the short-term and long-term future, and shall present clear and concise policy guidance.

C. Application Filing, Processing, and Hearing. The adoption of a Master Plan of the City, or any amendments thereto, carried-out pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Findings and Decision.

1. A Master Plan or amendment thereto, shall be acted upon by the Approving Authority, upon recommendation of the Advisory Authority.

2. The actions of the Approving and Advisory Authorities shall be based upon the evidence presented in the departmental written report and testimony provided during the public hearing, only after considering and clearly establishing that the proposed Master Plan, or any amendment thereto, promotes and/or is consistent with the goals and policies of The Ontario Plan, and giving supporting reasons for the finding. A Master Plan shall be denied if reasons supporting the required finding cannot be clearly established.

E. Conditions of Approval.

1. In approving a Master Plan or any amendment thereto, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. All conditions of approval or requirements authorized by this Section are enforceable in the same manner, and to the same extent, as any other applicable requirement of this Development Code.

4.02.075: Sign Programs

A. Purpose. The purpose of this Section is to establish a process whereby a Sign Program may be required to provide coordinated signing within development projects, utilizing common design elements and integrating the design of signs with the building and landscape design, to form a unified architectural statement.

B. Applicability.

1. Within any commercial, mixed-use, industrial, or specialized use or overlay zoning district, a Sign Program shall be submitted for any multi-tenanted building, complex or center, which shall fully comply with Section 8.01.020.F (Sign Programs) of this Development Code.

2. The Approving Authority is hereby empowered to approve, approve in modified form, or deny, either in whole or in part, a Sign Program on the basis of the application, supporting plans and documentation, and evidence submitted by the applicant.

C. Application Filing and Processing. A Sign Program shall be filed, processed, and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code, the provisions of this Section, and the requirements of Subsection 8.01.020.F (Sign Programs) of this Development Code.

D. Decision. A Sign Program shall be acted upon only after considering and clearly establishing [i] that the Sign Program is in conformance with the provisions of this Section and Division 8.01 (Sign Regulations) of this Development Code, and [ii] that any deviations from Division 8.01 (Sign Regulations) of this Development Code, as allowed by the Sign Program, are limited only to those set forth in Paragraphs 8.01.020.F.2 and F.3 of this Development Code.

4.02.080: Specific Plan Minor Adjustments/Alterations

A. Purpose. The purpose of this Section is to establish a procedure by which minor departures from the strict application of the development standards and/or design guidelines established by a Specific Plan may be approved, provided the requested departure is in the interest of furthering the goals and policies of the affected Specific Plan and The Ontario Plan.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny a Specific Plan Minor Adjustments/Alterations application, and to impose reasonable conditions upon the approval of the application.

2. The following constitute minor adjustments/alterations, not requiring a Specific Plan Amendment and/or update of the affected specific plan:

a. A net change of not more than 15 percent to the number of units within an individual residential area, provided the total number of units for the entire specific plan area does not exceed that established in the affected specific plan;

b. Adjustment/alteration of a residential planning area boundary, provided the total acreage of the affected area does not increase or decrease the total acreage stated in the affected specific plan by more than 15 percent;

c. Minor adjustments/alterations to landscape materials, wall materials, wall alignment, entry design, and streetscape design, which are consistent with the conceptual design set forth in the affected specific plan's development standards and design guidelines;

d. Minor adjustments/alterations to design guidelines, which are intended to be conceptual in nature, and are clearly intended to be flexible in implementation;

e. Other adjustments/alterations of a similar nature to those listed above, which are deemed minor by the Planning Director to be in keeping with the purpose and intent of the affected specific plan and are in conformance with The Ontario Plan; and

f. Adjustments/alterations in street alignments and dimensions that are deemed appropriate by the City Engineer, which are in keeping with the purpose and intent of the specific plan and are consistent with the purpose, principles, goals, and policies, of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, provided the changes do not impact the sizing of master planned infrastructure.

C. Application Filing, Processing and Hearing. Unless otherwise specified in a respective Specific Plan, a Specific Plan Minor Adjustments/Alterations application shall be filed, processed, and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section. A noticed hearing pursuant to Division 2.03 (Public Hearings) of this Development Code shall not be required.

D. Findings and Decision. A Specific Plan Minor Adjustments/Alterations shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The proposed Specific Plan Minor Adjustment/Alteration is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and the specific plan;

2. The proposed Specific Plan Minor Adjustment/Alteration is reasonable and beneficial, and in the interest of good planning practice; and

3. The proposed Specific Plan Minor Adjustment/Alteration will not adversely affect the harmonious relationship with adjacent properties and land uses.

4.02.090: Subdivisions—Reversions to Acreage

A. Purpose. The purpose of this Section is to establish a process for the implementation of those provisions of the Subdivision Map Act (commencing with GC Section 66451.30), pertaining to the unmerger of parcels (reversions to acreage).

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny a Reversion to Acreage application and to impose reasonable conditions upon the approval of the application.

2. Proceedings for Reversion to Acreage may be initiated by the City Council or by petition of all of the property owners of record of the real property within a subdivision.

C. Application Filing, Processing and Hearing. A Reversion to Acreage application (petition by property owners) shall be filed, processed, and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Findings and Decision. A Reversion to Acreage shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The proposed Reversion to Acreage is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan;

2. Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and

3. Either:

a. All owners of an interest in the real property within the subdivision have consented to reversion; or

b. None of the improvements required to be made have been made within 2 years from the date the final map or parcel map was filed for record, or within the time allowed by agreement for completion of the improvements, whichever is the later; or

c. No lots shown on the final map or parcel map have been sold within 5 years from the date the map was filed for recordation.

E. Conditions of Approval.

1. In approving a Reversion to Acreage request, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s); and ensure compliance with GC Section 66499.17.

2. All conditions of approval or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

F. Filing of Parcel Map.

1. A parcel map submitted for the purpose of reverting to acreage shall be accompanied by evidence of title and nonuse or lack of necessity of any streets or easements that are to be vacated or abandoned, and a parcel map in a form acceptable to the City Engineer, which delineates any streets or easements that are to remain in effect after the reversion.

2. After approval of the reversion by the Approving Authority and City Engineer, the parcel map shall be delivered to the County Recorder. The reversion shall be effective upon the recordation of the parcel map by the County Recorder.

3. The filing of the parcel map shall constitute abandonment of all streets and easements not shown on the parcel map and shall constitute a merger of the separate lots into one lot, and shall thereby be shown as a single lot on the assessment roll of the County Assessor, subject to the provisions of GC Section 66445.

4. Except as provided in GC Section 66445(f), on any parcel map used for reverting acreage, a certificate shall appear, signed and acknowledged by all parties having any record title interest in the land being reverted, consenting to the preparation and filing of the parcel map.

G. Return of Fees and Deposits, and Release of Securities. Return of fees and deposits, and release of securities shall be in accordance with GC Section 66499.19.

H. Merger and Resubdividing Without Reversion.

1. Subdivided lands may be merged and resubdivided without reverting to acreage by complying with all the applicable requirements for the subdivision of land as provided by Section 4.02.095 (Subdivisions—Tentative Tract and Parcel Maps, and Vesting Maps) of this Division, and the Subdivision Map Act (commencing with GC Section 66410).

2. The filing of the final map or parcel map shall constitute legal merging of the lots into one lot and the resubdivision of the lot, which will thereafter be shown with the new lot boundaries on the assessment roll of the County Assessor.

3. Any unused fees or deposits pertaining to the resubdivided property shall be credited pro rata towards any of the requirements for the same purposes that are applicable at the time of resubdivision.

4. Any streets or public easements to be left in effect after the resubdivision shall be adequately delineated on the map.

5. After approval of the merger and resubdivision by the Approving Authority, the map shall be delivered to the San Bernardino County Recorder. The filing of the map shall constitute legal merger and resubdivision of the affected land and shall constitute abandonment of all public streets or public easements not shown on the map.

4.02.095: Subdivisions—Tentative Tract and Parcel Maps, and Vesting Maps

A. Purpose. The purpose of this Section is to establish a process for the implementation of those provisions of the Subdivision Map Act (commencing with GC Section 66410), pertaining to the review, regulation, and control of the design of subdivisions, and to achieve the following:

1. Assist in implementing the Vision, Policy Plan (General Plan) and City Council Priorities components of The Ontario Plan;
2. Encourage orderly development of the City through the regulation and control of the design and improvement of subdivisions, with a proper consideration of its relationship to adjoining areas;
3. Ensure that the areas within a subdivision that are dedicated for public purposes will be properly improved by the subdivider so that they will not become an undue burden on the community;
4. Protect the public and individual transferees of land from fraud and exploitation;
5. Provide lots of sufficient size and appropriate design for the purposes for which they are to be used;
6. Provide streets of adequate capacity and design for the traffic that will utilize them and to ensure maximum safety for pedestrians and vehicles;
7. Provide sidewalks or pedestrian ways where needed for the safety and convenience of pedestrians;
8. Identification and preservation of the cultural resources and natural assets of the City;
9. Prevent the indiscriminate clearing of property and the destruction of desirable landscape features;
10. Ensure adequate access to each building site, and safeguard the public safety and welfare through superior subdivision design;
11. Provide adequate systems of water supply, sanitary sewage disposal, storm drainage, street lighting, and other utilities necessary to the public health, safety, and convenience;
12. Provide adequate sites for public facilities necessary to serve the residents of the new developments; and
13. Ensure that the costs of providing land for streets, alleys, pedestrian ways, easements, and other rights-of-way, and for the improvements therein needed to serve new developments, are borne by the subdivider rather than by the taxpayers of the City at large.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny a Tentative Tract

Map, Tentative Parcel Map, Vesting Tentative Tract Map, or Vesting Tentative Parcel Map, and to impose reasonable conditions upon the approval of the application pursuant to the provisions of the Subdivision Map Act (commencing with GC Section 66410), Planning and Zoning Law (commencing with GC Section 65000) and the California Environmental Quality Act (commencing with PRC Section 21000).

2. Each proposed parcel map, tract map or vesting parcel or tract map shall be submitted to the City in the form of a tentative map, which shall include an identifying map number issued by the office of the San Bernardino County Surveyor. All tentative maps shall be prepared by a state-licensed land surveyor or state-registered civil engineer authorized to practice land surveying.

C. Application Filing, Processing and Hearing. A Tentative Subdivision Map application shall be filed, processed and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Findings and Decision. A Tentative Subdivision Map shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The proposed map is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable area and specific plans, and planned unit developments;

2. The design or improvement of the proposed subdivision is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable specific plans and planned unit developments;

3. The site is physically suitable for the type of development proposed;

4. The site is physically suitable for the proposed density of development;

5. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;

6. The design of the subdivision or type of improvements are not likely to cause serious public health problems; and

7. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

E. Conditions of Approval.

1. In approving a Tentative Subdivision Map, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental

impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. All conditions of approval or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

F. Tentative Map Modification/Revision.

1. Tentative maps and/or their conditions of approval may be modified/revised upon application by the subdivider or property owner if different from the subdivider. The request shall be submitted to the Planning Department on a City application form pursuant to Division 2.02 (Application Filing and Processing) of this Development Code.

2. Modifications/revisions that are minor in nature may be processed administratively, without notice or public hearing, provided the proposed changes are consistent with the intent of the original tentative map approval, do not affect off-site properties and there are no resulting inconsistencies with this Development Code. The following modifications/revisions are considered minor in nature:

a. Modifications/revisions affecting less than 20 percent of the total number of lots in the subdivision, provided there is no increase in the total number of lots within the subdivision; and

b. Any other changes that, in the opinion of the Planning Director and City Engineer, do not involve substantial changes to the map or the conditions of approval, and do not affect surrounding properties.

3. Any other amendment or modification of an approved tentative subdivision map shall be processed as a revised tentative map, following the procedures set forth in this Section for tentative subdivision map approval, except that modification/revision approval shall not alter the original expiration date of the tentative map.

G. Vesting Tentative Maps.

1. Filing and Processing of Vesting Tentative Maps. A vesting tentative map shall be filed in the same form; shall have the same content, accompanying data and reports; and shall be processed in the same manner described for tentative maps in Subsections A through F of this Section, except as stated below:

2. Development Rights.

a. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards described in GC Section 66474.2. However, if GC Section 66474.2 is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

b. Notwithstanding Subparagraph G.2.a of this Section, a permit, approval, extension, or entitlement may be made conditional or may be denied if any of the following are determined:

(1) Failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; and/or

(2) The condition(s) or denial is required in order to comply with state or federal laws.

c. The provisions of this Subparagraph shall not:

(1) Limit the City from imposing reasonable conditions on subsequently required approvals or permits necessary for the development and authorized by the ordinances, policies and standards described in Paragraph G.1 (Filing and Processing of Vesting Tentative Maps) of this Section; and

(2) Diminish or alter the types of conditions that may be imposed by the City on a development or the City's power to protect against a condition dangerous to the public health or safety.

3. Modifications/Revisions to Vesting Tentative Maps. At any time prior to the expiration of a vesting tentative map, the subdivider, their successor, or their assignee, may apply for a modification to the map. A public hearing shall be held by the Approving Authority on any application involving a modification to the vesting tentative map, or by the development related thereto, following procedures set forth for the modification of tentative maps contained in Subsection F (Tentative Map Modification/Revision) of this Section. Approval of a modification to a vesting tentative map, or development related thereto, shall be evaluated for compliance with the City regulations, standards, and policies in effect at the time the original vesting tentative map was deemed complete.

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Division 4.03—Ministerial (Administrative) Permits and Decisions

Sections:

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- [4.03.005:](#) Applicability
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4.03.000: Purpose

The purpose of this Division is to prescribe procedures for the consideration of ministerial (administrative) permits or decisions by the Reviewing Authorities established by Table 2.02-1 (Review Matrix) of this Development Code. Ministerial permits and decisions consist of City actions and determinations that involve little or no personal judgment by a public official as to the wisdom or manner of carrying out a project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements.

4.03.005: Applicability

The Reviewing Authorities established by Table 2.02-1 (Review Matrix) of this Development Code shall consider a ministerial permit or decision pursuant to the general provisions prescribed by Division 2.02 (Application Filing and Processing) of this Development Code, and the provisions of this Division that are specific to each discretionary permit or action stipulated herein.

4.03.010: Historic Preservation—Adaptive Reuse Plan

A. Purpose. The purpose of this Section is to establish a procedure by which Adaptive Reuse Plans may be approved by the City, while at the same time:

1. Provide a more efficient way for qualified historic buildings and adaptive reuse projects to meet development, building, and fire protection standards;
2. Promote adaptive reuse as part of broader goals supporting historic preservation, economic development, environmental sustainability and resilience, and recognize the social value of historic buildings;

3. Incentivize building reuse to encourage activation of Downtown Ontario where there is a large collection of commercial and industrial historic buildings that are worthy of preservation;

4. Eliminate or allow nonconformance with certain development regulations that would make adaptive reuse of qualified historic buildings infeasible, including such standards related to parking and loading, height, density, floor-area ratio, and open space; and

5. Allow alternative building and fire code compliance for qualified adaptive reuse projects able to demonstrate an alternative means or method of protecting public health, safety, and welfare.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny an Adaptive Reuse Plan application, and to impose reasonable conditions upon the approval of the application.

2. Adaptive Reuse Plan approval shall allow for those land uses identified in Table 5.02-1 (Land Use Matrix) of this Development Code, which allows for a broad range of land uses of the underlying zoning district in which the site is located. However, no new uses that emits noxious odors or excessive noise shall be allowed, unless it can be demonstrated to the satisfaction of the Planning Director that the use will not cause adverse impacts to nearby residential land uses.

3. Qualifying buildings include those listed on the National Register of Historic Places, on the California Register of Historic Resources, Ontario Register of Historic Resources as designated local landmarks or contributors to designated local historic districts located within the Adaptive Reuse Plan Area.

4. Adaptive Reuse projects are construction and remodeling projects that reconfigure existing spaces within existing buildings to accommodate a new use or purpose other than what it was originally designed for. Adaptive Reuse projects require a change of use and building occupancy from office or commercial to residential, industrial to work/live, residential to office or commercial, or assembly to residential, office or commercial.

5. **Application Filing and Processing.** An Adaptive Reuse Plan application shall be filed, processed, and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section. Plans and reports prepared for an Adaptive Reuse Plan shall be prepared by a California licensed architect meeting the minimum qualifications standards of The Secretary of the interior Professional Qualifications (Code of Federal Regulations, 36 CFR Part 61).

C. Adaptive Reuse Plan Area. This area consists of the City's original downtown, and extends north to include the historic districts adjacent to Euclid Avenue, the boundary of which is as follows:

Beginning at the intersection of the centerlines of State Street and San Antonio Avenue, thence north to the northernmost city boundary, thence east to the centerline of Sultana Avenue, thence south to the centerline of I Street, thence east to the centerline of Campus Avenue, thence south to the centerline of State Street, thence west to the point of beginning.

D. Alternative Building and Fire Code Regulations. The alternative building and fire codes regulations adopted in this Section are applicable to qualified buildings and adaptive reuse projects.

1. *Alternative Codes.* Use of the California Historic Building Code, International Existing Building Code, California Health and Safety Code and the Ontario Adaptive Reuse Plan Technical Manual shall provide a process and the ability for the Building Official and Fire Marshal to consider alternative building standards while ensuring adequate health and safety protections.

2. In permitting repairs, alterations, and additions necessary to accommodate adaptive reuse projects, the alternative code regulations shall impose requirements that will, in the determination of the Building Official and the Fire Marshal, protect the public health, safety, and welfare.

3. Nothing in this Section shall be construed to allow the reduction of existing seismic or fire and life-safety elements of an eligible building where such elements provide a greater level of protection than the minimum requirements established by this Section.

4. Subject to the approval of the Building Official and Fire Marshal, the use or occupancy type of a qualified building shall be allowed to be changed as part of an adaptive reuse project without conforming to all requirements of Title 8, Building Regulations, and Title 4, Chapter 4, Fire Code of the City of Ontario Municipal Code provided the new or proposed occupancy is equally or less hazardous, based on life and fire risk, than the existing use.

5. Whenever there are practical difficulties involved in carrying out the provisions of Title 8, Building Regulations, and Title 4, Chapter 4, Fire Code of the City of Ontario Municipal Code, the Building Official and Fire Marshal shall have the authority to grant modifications for individual cases, provided the Approving Authority shall first find that special individual reasons make the strict letter of the local codes impractical and the modification is in compliance with the intent and purpose of the local codes and that such modification does not lessen health, life and safety requirements.

F. Incentives. The Planning Director may grant the following departures from certain development standards and requirements to incentivize qualified Adaptive Reuse Plans:

1. *Development Plan Waived.* Approved Adaptive Reuse Plans, which may allow for new additions up to 25 percent of the existing building floor area and is not visible from the public right-of-way, shall be exempt for the requirements for Development Plan review set forth in Section 4.02.025.

2. *Mezzanines.* Loft spaces in joint living and work quarters, dwelling units and guest rooms which do not exceed more than 33 percent of the floor area of the space below shall not be considered new floor area. Mezzanines may be included in the calculation of floor area for the purpose of determining compliance with the standards set forth in Paragraph (E) of this subdivision.

3. *Parking Reduction.* New parking spaces shall not be required for any converted use within the existing footprint of the building, but expansions to floor area shall require one parking space per bedroom or one parking space per 250 square feet of gross floor area for office or commercial.

4. Setbacks. Existing building setbacks may remain and shall be considered legally nonconforming, but no further encroachments shall be permitted into any nonconforming setback.

5. Increases in Maximum Building Height. The height of the structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legally nonconforming. Any rooftop construction needed for drainage, ventilation, utilities, or passive recreation shall be included within the height exemption. This height exemption does not include new residential or commercial floor area.

6. Open Space. Private open space for residential adaptive reuse projects may be waived when it is determined by the Approving Authority that the requirement would result in exterior alterations to the existing building that would result in an adverse impact to a historic resource. A minimum of 100 square feet of common open space per residential unit or 25 percent of the building square footage, whichever is less, shall be required and may be provided on the rooftop of the building or within the building and include various type of indoor amenities such as fitness center, workstations, playrooms, etc.

7. Loading Zone. A new loading zone shall not be required if the existing building does not have an existing loading zone.

G. Standards. Adaptive Reuse Projects permitted pursuant to this subdivision shall be developed in compliance with the following standards:

1. Minimum Dwelling Units. Adaptive reuse projects that propose residential shall develop no less than 3 units. The minimum floor area for new dwelling units and joint living and work quarters shall be 450 square feet. Floor area shall not include hallways or other common areas, or rooftops, balconies, terraces, fire escapes, or other projections or surfaces exterior to the walls of the building. The floor area of both the living space and the workspace shall be combined to determine the size of joint living and work quarters. The average floor area, as defined above, of all the dwelling units and joint living and work quarters in the building, including those that existed prior to the effective date of this ordinance, shall be at least 750 square feet. That minimum average size shall be maintained and not reduced.

2. Storefront. Ground floor of an existing multiple level commercial building shall contain street frontage and shall be used as a commercial storefront. Residential on ground may occur at the rear of the building behind the storefront.

3. Exterior or Interior (Public Space) Alterations. A Certificate of Appropriateness pursuant to Section 4.02.050: Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources is required for any alteration, addition, restoration, rehabilitation, remodeling, relocation, repainting, and/or resurfacing of an historic resource.

4. Other Provisions. Floor Area Ratio (FAR), Landscaping, Lot Coverage, and any other development standard of the underlying zone may be waived by the Approving Authority.

H. Conditions of Approval.

1. In approving an Adaptive Reuse Plan, the Planning Director may impose certain safeguards and standards to ensure that the purposes of this Development Code are maintained; ensure that the permit will not endanger the public health, safety or general welfare; ensure that the permit will not result in any significant environmental impacts; ensure that the permit will be in

harmony with the area in which it is located; and ensure that the permit will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. The standards and requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

I. Findings and Decision. An Adaptive Reuse Plan, or any amendment thereto, shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. That the use(s) of the property will not be detrimental to the public health, safety and general welfare surrounding the project location;

2. That the Adaptive Reuse Project complies with the standards set forth in Section 4.03.010 (F) of this Development Code; and

3. A Certificate of Appropriateness has been approved or Waived for the Adaptive Reuse Plan.

4.03.015: Administrative Use Permits

A. Purpose. The purpose of this Section is to establish a procedure by which Administrative Use Permits may be issued by the City, while at the same time:

1. Eliminating any possibility for the exercise of unfettered discretion during the application review process through the establishment of reasonable and uniform regulations that will reduce possible adverse effects that uses subject to this Section may have upon the residents of the City; and

2. Establishing a process whereby the unique operating characteristics of the uses subject to this Section may be properly conditioned through an individual review, in order to ensure compatibility with surrounding uses of property, and preserve the integrity of the residential, commercial, mixed-use, and industrial areas of the City.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny an Administrative Use Permit application, and to impose reasonable conditions upon the approval of the application.

2. Administrative Use Permit approval shall be required for those land uses so identified in Table 5.02-1 (Land Use Matrix) of this Development Code, excepting the following temporary and interim land uses:

a. Car Washes for Fundraising Purposes. Car washes shall be conducted by a qualifying sponsoring organization within a nonresidential zoning or land use district. Sponsorship

shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax-exempt organizations in compliance with Federal Internal Revenue Code Section 501(c). Exempt temporary car washes for fundraising purposes shall be limited to one event per month at each location the activity is conducted and shall be limited to a maximum of 2 days duration.

b. Emergency Public Health and Safety Activities and Facilities. Temporary activities and facilities associated with emergency public health and safety needs of the City, State, and federal governments.

c. Film/Video Making. Temporary filming, photography, and videography, and production activities associated with a Film Permit issued by the City.

C. Application Filing and Processing. An Administrative Use Permit application shall be filed, processed, and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Decision.

1. An Administrative Use Permit shall be acted upon by the Approving Authority, based upon the information provided in the submitted application, evidence presented with any supplemental information or written report, and testimony provided during any hearing (if required), only after considering and clearly establishing that the use for which an Administrative Use Permit is requested complies with all applicable Development Code provisions specific to the requested use.

2. An Administrative Use Permit shall be issued if the Approving Authority determines that the proposed use complies with all applicable Development Code provisions,

3. An Administrative Use Permit shall be denied if the proposed use does not comply with one or more Development Code provisions.

E. Conditions of Approval.

1. In approving an Administrative Use Permit, the Approving Authority may impose certain safeguards and standards to ensure that the purposes of this Development Code are maintained; ensure that the permit will not endanger the public health, safety or general welfare; ensure that the permit will not result in any significant environmental impacts; ensure that the permit will be in harmony with the area in which it is located; and ensure that the permit will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. The standards and requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

3. A copy of the approved Administrative Use Permit shall be maintained on site for the duration of the use, activity, or facility authorized, and shall be made available for inspection upon demand by a City representative.

F. Unlawful Business Practices May Be Enjoined; All Remedies Are Cumulative. Any business activity requiring Administrative Use Permit approval pursuant to Table 5.02-1 (Land Use Matrix) of this Development Code, and which is operated, conducted, or maintained contrary to the

provisions of this Development Code, shall constitute an unlawful business practice pursuant to Business & Professions Code Section 17200 et seq., and the City may file a complaint with the District Attorney and request the District Attorney bring action seeking an injunction prohibiting the unlawful business practice or any other remedy available at law, including but not limited to fines, attorney's fees, and costs. All remedies provided for in this Section are cumulative.

G. Administrative Fines.

1. Violations. Upon a finding by the Police Chief or Community Improvement Director that a land use or business for which an Administrative Use Permit has been issued has violated any provision of this Development Code or of the City or Ontario Municipal Code, the Police Chief or Community Improvement Director may issue an administrative fine of up to \$500.

2. Separate Violations. Each violation of this Development Code or of the Ontario Municipal Code constitutes a separate violation. Each day a violation of this Development Code or the Ontario Municipal Code occurs also constitutes a separate violation.

3. Administrative Fine Procedures. A Notice of Administrative Fine shall be served by hand delivery or certified mail and shall state the legal violation and all supporting facts. Furthermore, the Notice shall also contain an advisement of the right to request an appeal hearing before the Zoning Administrator to contest the suspension or revocation.

4. Appeal of Administrative Fines.

a. An appeal request shall be filed with the Planning Department on a City application form, within 10 days following the date appearing on the Notice of Administrative Fine. The appeal request shall include a statement identifying the pertinent facts disputing the violation.

b. An appeal hearing shall be scheduled within 30 days following the Planning Department's receipt of the appeal request unless an extension is mutually agreed upon by the appellant and the Zoning Administrator.

c. The appeal shall be heard by the Zoning Administrator. The decision of the Zoning Administrator shall be provided by certified mail. The decision constitutes a final administrative order, with no additional administrative right of appeal.

5. Failure to Pay Administrative Fines.

a. If an administrative fine is not paid within 30 days after the date appearing on the Notice of Administrative Fine or, if the Notice is appealed, within 30 days after the date of the Zoning Administrator's decision, whichever occurs later, the fine may be referred to a collection agency.

b. Any outstanding fine must be paid prior to the issuance or renewal of any license or permit issued by the City.

H. Suspension and Revocation of Administrative Use Permits.

1. Reasons. The Police Chief and the Community Improvement Director each has the authority to suspend or revoke an Administrative Use Permit, based on one or more of the following reasons:

- a. The Administrative Use Permit approval was obtained by fraud;
- b. The Administrative Use Permit is being, or has recently been exercised contrary to the terms or conditions of the application approval;
- c. The Administrative Use Permit is being or has been exercised in violation of a federal, state, or City statute, ordinance, law, or regulation; and/or
- d. The Administrative Use Permit was exercised in a way that is detrimental to the public peace, health, safety, or welfare, or otherwise constitutes a nuisance.

2. Suspension and Revocation Procedures. A Notice of Suspension or Revocation shall be served on the owner of the property and upon any tenant or operator in possession of the property, if different from the owner, by hand delivery or certified mail, along with the legal violation and supporting facts. The Notice shall also contain an advisement of the right to request an appeal hearing before the Zoning Administrator to contest the suspension or revocation.

3. Time Period of Suspension of Permit. When any of the conditions listed in H.1.a through d above exists, the Police Chief and the Community Improvement Director are each authorized to suspend an Administrative Use Permit for a period of no less than 5 days, and no more than 90 days, at their discretion.

4. Effective Date of Suspension or Revocation. A Notice of Suspension or Revocation issued under Paragraph H.2 of this Section is effective 10 days following the date appearing on the Notice, in the absence of an appeal filed in accordance with Paragraph H.5 of this Section.

5. Appeal of Suspension or Revocation of Permit.

- a. The decision of the Police Chief or Community Improvement Director to suspend or revoke an Administrative Use Permit may be appealed by the permittee.
- b. The appeal request shall be filed with the Planning Department on a City application form and shall include a statement identifying pertinent facts disputing the reasons stated in the Notice of Suspension or Revocation.
- c. An appeal request must be received by the Planning Department on or before the effective date of the suspension or revocation under Paragraph H.4 of this Section.
- d. The timely filing of an appeal request stays a suspension or revocation pending a decision on the appeal by the Zoning Administrator.
- e. An appeal hearing shall be scheduled within 30 days following the Planning Department's receipt of the appeal request, unless an extension is mutually agreed upon by the appellant and the Zoning Administrator.
- f. Within 20 days following the appeal hearing, the Zoning Administrator shall issue a final administrative order to the appellant, by certified mail. There shall be no further administrative right of appeal.

6. Evidence. The following rules shall apply to any hearing required by this Section. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence

bearing on the issues, to be represented by counsel, and to confront and cross-examine witnesses. Any relevant evidence may be admitted if it is the sort of evidence upon which reasonable persons are accustomed to relying in the conduct of serious affairs. Formal rules of discovery do not apply to proceedings governed by this Section. Unless otherwise specifically prohibited by law, the burden of proof is on the appellant in any hearing or other matter under this Section.

7. Limitations on Application Refiling. A holder of an Administrative Use Permit who has had the Permit revoked under this Section may not apply for the same or substantially similar Administrative Use Permit for 12 months after the date of the Final Administrative Order revoking the Permit.

I. Public Nuisance. It shall be unlawful and a public nuisance for a land use or business activity for which an Administrative Use Permit has been issued to be operated, conducted, or maintained contrary to the provisions of this Development Code or of any conditions of approval imposed on an Administrative Use Permit by the Approving Authority. The City may exercise its discretion, in addition to or in lieu of prosecuting a criminal action, to commence proceedings for the abatement, removal, or enjoinder of that land use or business activity in any manner provided by law.

4.03.020: Sign Plans

A. Purpose. The purpose of this Section is to establish a process by which Sign Plans may be required to ensure compliance with the standards and guidelines contained within this Development Code pertaining to the number, placement, height, size, illumination, and design of signs, and to ensure compliance with any previously approved entitlements.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny a Sign Plan application, and to impose reasonable conditions upon the approval of the application.

2. An approved Sign Plan shall be required prior to placing, erecting, modifying, moving, or reconstructing any sign in the City, unless expressly exempted by this Development Code. Signs requiring a permit shall comply with: **[i]** the provisions of this Development Code, **[ii]** all other applicable laws and ordinances, and **[iii]** with any associated approved entitlements.

C. Application Filing and Processing. A Sign Plan application shall be filed, processed and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Decision. A Sign Plan shall be acted upon by the Approving Authority based upon the information contained in the application, supporting plans and documentation, and evidence submitted by the applicant, only after considering and clearly establishing that the Sign Plan is in conformance with the provisions of Division 8.1 (Sign Regulations) of this Development Code, and any associated entitlements that have been previously approved by the City.

4.03.025: Subdivisions—Certificates of Compliance

A. Purpose. The purpose of this Section is to establish a means by which a Certificate of Compliance or Conditional Certificate of Compliance may be issued by the City pursuant to GC Section 66499.35, and legal status may be conferred to parcels of real property that were not established by other legal means.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the City Engineer is hereby empowered to approve, approve in modified form, or deny a Certificate of Compliance, and to impose reasonable conditions upon the approval of the application.

2. The provisions of this Section shall apply to real property for which there is no final map, parcel map, official map, or approved certificate of exception, which establish the status for legal creation of parcels of real property.

C. Application Filing and Processing. A Certificate of Compliance shall be filed, processed and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Decision.

1. Certificate of Compliance.

a. Upon receipt of a Certificate of Compliance application, the City Engineer shall determine whether the affected real property complies with the applicable provisions of the Subdivision Map Act and this Development Code. A certificate of compliance shall be issued for any real property that has been approved for development of the property.

b. If the City Engineer determines that the real property that is the subject of a Certificate of Compliance application complies with the applicable provisions of the Subdivision Map Act and this Development Code, it shall cause a Certificate of Compliance to be filed for recordation with the County Recorder.

2. Conditional Certificate of Compliance.

a. If the City Engineer determines that the real property that is the subject of a Certificate of Compliance application does not comply with the provisions of the Subdivision Map Act and this Development Code, it shall issue a Conditional Certificate of Compliance. As a condition to granting a Conditional Certificate of Compliance, the City Engineer may impose any conditions that would have been applicable to a division of land on the date the applicant acquired the property, except that if the current property owner was the owner of record at the time of the initial land division and currently owns one or more of the parcels involved in the land division, the Conditional Certificate of Compliance may impose conditions that would be applicable to a current division of land.

b. Upon making a determination and establishing conditions, the City shall cause a Conditional Certificate of Compliance to be filed for recordation with the County Recorder. The certificate shall serve as notice to the property owner or vendee who has applied for the Certificate pursuant to this Section, a grantee of the property owner, or any subsequent transferee or assignee of the property, that the fulfillment and implementation of these conditions

shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.

c. Compliance with imposed conditions shall not be required until the time that a permit or other grant of approval for development of the property is issued by the City.

E. Right to Develop. The issuance of a Certificate of Compliance or Conditional Certificate of Compliance does not imply or grant a right to develop the affected property.

4.03.030 Subdivisions—Final Maps and Parcel Maps

A. Purpose. The purpose of this Section is to establish a process for the implementation of those provisions of the Subdivision Map Act (commencing with GC Section 66410) pertaining to the review, approval and recordation of a final map or parcel map.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the City Council is hereby empowered to approve or deny a final map or parcel map.

2. The subdivider may cause a final map or parcel map to be prepared in substantial accord with the tentative tract map or parcel map as approved, and pursuant to the provisions of this Development Code and applicable standards imposed by the County of San Bernardino for maps filed with the County Recorder.

3. The final map or parcel map, and any accompanying data or additional information, shall be prepared by or under the direction of a registered civil engineer that possesses a State of California license registration number below C33966 and is competent to practice land surveying, or a licensed land surveyor authorized to practice in the State of California.

C. Final Map Preparation. Following approval or conditional approval of a tentative map, and prior to the expiration of the map, the subdivider may cause the property, or any part thereof, to be surveyed and a final map to be prepared, which is consistent with the tentative map, as approved, and the provisions of this Development Code and the Subdivision Map Act (commencing with GC Section 66410). A final map shall be filed with the County Recorder only after a determination by the City Engineer and Planning Director that the conditions of the tentative map have been met. The City Engineer and Planning Director determinations may be appealed to the City Council pursuant to Division 2.04 (Appeals) of this Development Code.

D. Multiple Final Maps. Multiple final maps relating to a single approved or conditionally approved tentative map may be filed pursuant to GC Section 66456.1. The subdivision improvement agreement to be executed by the subdivider shall include provisions for the construction of such improvements as may be required by the City Engineer to constitute a logical and orderly development of the whole subdivision by phases. Each phase shall be so designed and improved as to be functionally self-sufficient.

E. Final Map/Parcel Map Filing, Processing, and Action. A final map or parcel map shall be filed, processed and acted upon as follows:

1. Final Map/Parcel Map Filing.

a. Where a final map or parcel map, or a vesting final map or parcel map is required, the subdivider shall, prior to submitting the map for final review, complete all offers of dedication, secure the required approvals with respect to public and private easements and complete plans and specifications for public improvements, including drainage facilities and sewer facilities, and all applicable provisions of Section 6.08.025 (Improvements) of this Development Code. All certificates shall be executed, excepting those to be executed by the City Engineer, City Clerk and County Recorder.

b. The subdivider shall submit to the City Engineer for approval, the original mylar and as many prints as may be required, along with any required statements and documents. The City Engineer, after ensuring that all conditions and approvals have been met or secured, shall process the map for adoption by the City Council and recordation with the County Recorder.

2. Final Map/Parcel Map Processing.

a. The City Engineer shall, within 30 working days of receipt of the final map or parcel, and accompanying documents, fees and materials, cause the final map or parcel map to be examined, and if found to be in substantial conformity with the approved tentative map and all amendments, conditions, modifications, and provisions made or required by the City Council, and if found to be complete, technically correct, in conformity with the improvement plans and specifications, and in compliance with the requirements of this Development Code, other applicable codes, specific plans, and the Policy Plan (General Plan) component of The Ontario Plan, shall execute the City Engineer's certificate on the map, and shall file the final map or parcel map, and accompanying materials with the City Council.

b. Should the final map or parcel map, or other accompanying documents, fees or materials be found to be incomplete or incorrect in any respect, the subdivider shall be advised of the changes or additions that must be made. The City Engineer shall then cause the corrected final map or parcel map to be reexamined. If the map is found to be correct and in compliance with this Development Code and all other applicable codes, specific plans, and the Policy Plan (General Plan) component of The Ontario Plan, the City Engineer shall execute the City Engineer's certificate on the map, and shall file the final map or parcel map and accompanying materials with the City Council. The date of filing, as set forth in GC Section 66458, shall be the meeting date in which the final map or parcel map is received by the City Council.

3. Final Map/Parcel Map Action.

a. The City Council, at the meeting it receives the final map or parcel map, or at its next regular meeting or within a period of not more than 10 days following the meeting at which the City Council receives the final map and any accompanying materials, shall approve the map if it is found to be consistent with the approved tentative tract or parcel map, and is in compliance with this Development Code and all other applicable codes, specific plans, and the Policy Plan (General Plan) component of The Ontario Plan, and shall instruct the City Clerk to execute the approval certificate. If the final map or parcel does not conform, the City Council shall deny the final map.

b. At the time of approval of the final map or parcel map, the City Council shall accept, subject to improvement, or reject any offers of dedication.

c. The time limit for approval of the final map or parcel map may be extended by mutual consent of the subdivider and the City.

d. If the City Council does not approve or deny the final map or parcel map within the prescribed time, or any authorized extension, and the final map or parcel map conforms to all requirements and rulings, it shall be deemed approved, and the City Clerk shall certify its approval.

e. The City Clerk shall provide notice of any pending approval or denial of a final map or parcel map by the City Council. The notice shall be attached and posted with the City Council's regular agenda and shall be mailed to interested parties who request notification.

4.03.035: Subdivisions—Lot Line Adjustments

A. Purpose. The purpose of this Section is to establish procedures for adjusting the property lines between existing lots by means of a Lot Line Adjustment authorized by GC Section 66412(d).

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the City Engineer is hereby empowered to approve, approve in modified form, or deny a Lot Line Adjustment, and to impose reasonable conditions upon its issuance.

2. A Lot Line Adjustment may be utilized to reconfigure up to 4 adjoining legally recognized lots, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created.

C. Application Filing and Processing. A Lot Line Adjustment shall be filed, processed and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Decision.

1. The City Engineer may approve or deny a Lot Line Adjustment on the basis of the application, supporting plans, and documentation submitted by the applicant. The City Engineer shall limit its review to a determination of whether or not the lots resulting from the Lot Line Adjustment will conform to the Policy Plan (General Plan) component of The Ontario Plan; any applicable specific plan, area plan or planned unit development; and this Development Code.

2. Upon approval of a Lot Line Adjustment, the applicant shall provide the City with a conforming grant deed for each affected lot, which reflects the approved Lot Line Adjustment. The City shall then cause the grant deed(s) to be filed for record with the County Recorder. No record of survey shall be required for a Lot Line Adjustment unless required by BPC Section 8762.

E. Conditions of Approval.

1. The City Engineer shall not impose conditions or exactions on its approval of a Lot Line Adjustment, except as follows:

a. Require conformance to the Policy Plan (General Plan) component of The Ontario Plan, and any applicable specific plan, planned unit development, or area plan;

- b. Require conformance with all applicable provisions of this Development Code and any applicable building ordinances;
 - c. Require the prepayment of real property taxes prior to the approval of the Lot Line Adjustment; and
 - d. Facilitate the relocation of existing utilities, infrastructure, or easements.
 - 2. No tentative tract map, final map or parcel map shall be required as a condition to the approval of a Lot Line Adjustment.

4.03.040: Subdivisions—Map Corrections and Amendments

A. Purpose. The purpose of this Section is to establish a process by which a final map or parcel map that has been filed for recordation with the County Recorder may be amended by either a Certificate of Correction or an amending map.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the City Engineer is hereby empowered to approve, approve in modified form, or deny an application to correct or amend a final map or parcel map that has been filed for recordation with the County Recorder.

2. After a final map or parcel map is filed for recordation in the office of the County Recorder, it may be amended by a Certificate of Correction for any of the following purposes:

- a. Correct an error in any course or distance shown on the map;
- b. Show any course or distance that was omitted from the map;
- c. Correct an error in the description of the real property shown on the map;
- d. Indicate monuments set after the death, disability, and retirement from practice or replacement of the engineer or surveyor charged with responsibilities for setting monuments;
- e. Show the proper location or character of any monument that has been changed in location or character, or originally was shown at the wrong location or incorrectly as to its character; or
- f. Correct any other type of map error or omission that does not affect any property right, including, but are not limited to, lot numbers, acreage, street names, and identification of adjacent record maps.

C. Application Filing and Processing. An amending map or Certificate of Correction shall be filed, processed, and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Findings and Decision. The City Engineer may approve an amending map or Certificate of Correction only after finding that the changes made are limited to those set forth in Paragraphs B.2.a through f, above, and shall certify to this fact on the amending map or Certificate of Correction.

E. Form and Content of Amendment.

1. The Certificate of Correction shall be prepared and signed by a registered civil engineer that possesses a State of California license registration number below C33966 and is competent to practice land surveying, or a licensed land surveyor authorized to practice in the State of California.

2. The form and content of the amending map shall conform to the requirements of this Development Code for tentative tract maps, final maps or parcel maps.

3. The Certificate of Correction shall set forth in detail the corrections made and show the names of the present fee owners of the property affected by the correction.

4.03.045: Subdivisions—Parcel Map Waiver

A. Purpose. The purpose of this Section is to establish a procedure for waiving the requirement for a final parcel map pursuant to GC Section 66428(b), which requires that a local agency provide a procedure for such.

B. Applicability. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the City Engineer is hereby empowered to waive the requirement for a final parcel map for the below-listed reasons, following the approval of a tentative map pursuant to this Development Code:

1. The parcel map is for a division of real property or interests therein created by probate, eminent domain procedures, partition, or other civil judgments or decrees; or

2. The Parcel Map is for a division of property resulting from the conveyance of land, or interest therein, to a public agency for a public purpose (e.g., drainage or sewers, public building sites, rights-of-way for streets, school sites, and utilities).

C. Application Filing and Processing. A request for waiver from the requirement for a final parcel map shall be filed and processed in conjunction with the tentative map. The City Engineer may act upon the parcel map waiver following approval of the tentative map and compliance with the conditions of approval imposed upon tentative map approval (if any).

D. Findings and Decision.

1. The City Engineer shall approve a waiver from the requirement for a final parcel map only after the City Engineer for the corresponding tentative map required pursuant to this Section finds that the proposed division of land:

a. Is consistent with the approved tentative parcel map, and is in compliance with this Development Code, the Subdivision Map Act, and all other applicable codes, specific plans, and is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan; and

b. Complies with the requirements established by this Development Code and the Subdivision Map Act as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, and environmental protection.

2. If the proposed division of land does not conform to Subparagraphs 1.a and b above, the City Engineer shall not approve the Parcel Map Waiver.

E. Certificate of Compliance Required.

1. Following approval of a Parcel Map Waiver by the City Engineer, a Certificate of Compliance for the land to be divided shall be filed with the County Recorder.

2. Requirements for the construction of improvements shall be noted on the Certificate of Compliance by certificate pursuant to GC Section 66411.1.

F. Payment of Processing Fees. All necessary fees as established by City ordinance or by resolution of the City Council shall be paid by the applicant for processing and filing for record, any documents pertaining to the Parcel Map Waiver process.

4.03.050: Subdivisions—Lot Merger (Merger of Contiguous Parcels)

A. Purpose. The purpose of this Section is to establish a process for the implementation of those provisions of the Subdivision Map Act (commencing with GC Section 66451.10), pertaining to the merger of contiguous lots under common ownership (Lot Merger).

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the City Engineer is hereby empowered to approve, approve in modified form, or deny a Lot Merger application, and to impose reasonable conditions upon the approval of the application.

2. The City may initiate a Lot Merger if any one of the contiguous lots or units held by the same owner does not conform to standards for minimum lot size applicable to the lots or units of land, and if all of the following requirements are satisfied:

a. At least one of the affected lots is not developed with a structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is only developed with one or more accessory structures, or is developed with a single primary structure that is partially sited on a contiguous lot or unit.

b. With respect to any affected lot, one or more of the following conditions exists:

(1) Comprises less than 5,000 SF in area at the time of the determination of merger;

(2) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation;

- (3) Does not meet current standards for sewage disposal and domestic water supply;
- (4) Does not meet slope stability standards;
- (5) Has no legal access that is adequate for vehicular and safety equipment access and maneuverability;
- (6) Its development would create health or safety hazards; or
- (7) Is inconsistent with The Ontario Plan and any applicable area plan, specific plan, or planned unit development (other than minimum lot size or density standards).

c. The affected lots, when merged, will not:

- (1) Be inconsistent or create a conflict with The Ontario Plan, any applicable Area Plan or Specific Plan, or the provisions of this Development Code;
- (2) Result in a conflict with the location of any existing structures;
- (3) Deprive or restrict access to another lot; or
- (4) Result in the creation of new lot lines.

3. The City may require the owner of any contiguous lots to initiate the merger of contiguous lots as a condition of any Development Plan or Conditional Use Permit approval.

C. Application Filing, Processing and Hearing. A Lot Merger application shall be filed and processed pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Notification of Intention to Merge Lots.

1. Prior to merging any contiguous lots, the City Engineer shall mail a Notice of Intention to Merge ("NIM"), which notifies affected property owner(s) that the affected lots may be merged pursuant to the provisions of this Section. The NIM shall be sent by certified mail to the property owner(s) of record at the address(es) shown on the latest available assessment roll of the County of San Bernardino. The NIM shall include a statement that the property owner(s) may appeal the decision of the City Engineer to the Planning Commission to present evidence that the proposed Lot Merger does not meet the criteria for a merger. For the purpose of this Section, a property owner is any person holding any portion of title to any affected property.

2. The NIM shall be recorded with the San Bernardino County Recorder on the date that the notice is mailed to all property owners of record.

E. Request for Hearing. Within 30 days following the recordation of the NIM, the owner of the affected property may file a request with the City Engineer, for a hearing regarding the proposed Lot Merger.

F. Procedure for Hearing.

1. Upon receiving a request for a hearing, the City Engineer shall set a time, date, and location for a hearing to be conducted by the Appeal Authority, and shall notify the property owner of the time, date, and location of the hearing by certified mail. The hearing shall be conducted not more than 60 days following the City's receipt of the property owner's request for hearing but may be postponed by mutual consent of the City and the property owner.

2. During the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for Lot Merger specified by this Section.

3. At the conclusion of the hearing, the Appeal Authority shall make a determination as to whether the affected lots should be merged and shall so notify the property owner of its determination.

4. The Appeal Authority may approve or deny a Lot Merger on the basis of the application and the presented evidence, after considering and clearly establishing the following findings, and giving specific reasons in support of each finding:

a. The merged lots comply with the appropriate provisions of the Subdivision Map Act and all applicable City requirements for the merging of contiguous lots; and

b. The merged lots do not adversely affect the purpose and intent of The Ontario Plan, or the public health, safety, and welfare.

5. If the Appeal Authority determines that the affected lots shall be merged, the City Engineer shall cause the NIM, specifying the names of the recorded owner(s) and describing the affected real property, to be recorded with the San Bernardino County Recorder within 30 days following conclusion of the appeal hearing.

6. If the Appeal Authority determines that the affected lots shall not be merged, the City Engineer shall cause a Release of NIM to be recorded with the San Bernardino County Recorder, and a letter of notification shall be sent by certified mail to the property owner(s) of record.

G. Determination When No Hearing Is Requested. If within the 30 days following the recordation of the NIM specified in Subsection D (Request for Hearing) of this Section, the property owner does not file a request for a hearing, at any time thereafter, the City Engineer may make a determination whether or not the affected lots are to be merged. A NIM shall be recorded as provided for in Paragraph F.5 of this Section, no later than 90 days following the mailing of the NIM.

4.03.055: Administrative Exceptions

A. Purpose. The Administrative Exception is hereby established for the purpose of granting minor departures from the strict application of certain numerical development standards established by this Development Code, when the departure would result in superior site, landscape, or architectural design features that could not otherwise be incorporated into a development project under the strict application of the development standards contained in this Development Code.

B. Applicability.

a. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny an Administrative Exception application, and to impose reasonable conditions upon the approval of the application.

b. Administrative Exceptions may be approved for reductions of up to 10 percent from **[i]** minimum setback and separation requirements, excepting nonresidential setback requirements from property lines that are common with any residentially zoned property; and, **[ii]** off-street parking required for nonresidential land uses pursuant to Table 6.03-1 (Off-Street Parking Requirements). An Administrative Exception shall not be approved for reductions from minimum lot size, lot dimensions, landscape coverage, or for an increase in maximum density, floor area ratio, or the height of a structure.

C. Application Filing, Processing and Hearing.

1. An Administrative Exception shall be filed and processed pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

2. A hearing shall not be required; however, the owners of all properties having a property line common with the affected property shall be notified of the proposed Administrative Exception pursuant to Section 2.03.010 (Public Hearing Notification) of this Development Code and shall be invited to comment on the application.

D. Findings and Decision. An Administrative Exception shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and any comments received from property owners notified pursuant to Subparagraph C.3.b of this Section, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The approval of the Administrative Exception is necessary to the production of a comprehensive development, incorporating an enhanced environment and architectural excellence (e.g., appropriate variety of structure placement and orientation opportunities, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than would normally be possible under the strict application of the applicable development standards;

2. The approval of the Administrative Exception will allow for the inclusion of site, architectural, or landscape features that could not otherwise be incorporated into the design of the project under the strict application of the provisions of the applicable development standards; and

3. The approval of the Administrative Exception will not adversely affect the overall quality of development on the project site and will not adversely affect neighboring properties.

4. The proposed Administrative Exception is consistent with the goals, policies, plans, and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and the purposes of any applicable Specific Plan or Planned Unit Development, and the purposes of this Development Code.

E. Conditions of Approval.

1. In approving an Administrative Exception, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. All conditions of approval or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

4.03.060: Fair Housing and Reasonable Accommodations

A. Purpose. Pursuant to Federal and State fair housing laws, the purpose of this Section is to provide a procedure whereby exceptions from specific applications of this Development Code may be considered and properly evaluated in order to assure that no person is discriminated against on the basis of race, color, religion, sex, sexual orientation, family status, marital status, disability, national origin, source of income, or ancestry, by being denied an equal opportunity to use and enjoy a dwelling.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny a Fair Housing and Reasonable Accommodation application and to impose reasonable conditions upon the approval of the application.

2. The Approving Authority may approve reasonable exceptions from the provisions of this Development Code, except that a Fair Housing and Reasonable Accommodation request shall not be approved that would allow the establishment of a land use that would not otherwise be allowed in the zoning district in which the affected property is located, or for increases in residential density.

C. Application Filing, Processing and Hearing. A Fair Housing and Reasonable Accommodation application shall be filed, processed, and heard pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section.

D. Findings and Decision. A Fair Housing and Reasonable Accommodation request shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. The persons who will use the subject property are protected under federal and state fair housing laws;

2. The requested exception is necessary to make specific housing available to a person who will occupy the subject property and who is protected under federal and state fair housing laws;

3. The requested exception will not impose an undo financial or administrative burden upon the City; and

4. The requested exception will comply with all applicable Building and Fire Codes and will not result in a fundamental alteration of the planning, zoning and development laws and procedures of the City.

E. Conditions of Approval.

1. In approving a Fair Housing and Reasonable Accommodation application, the Approving Authority may require certain safeguards and impose certain conditions established to ensure that the purposes of this Development Code are maintained; ensure that the project will not endanger the public health, safety or general welfare; ensure that the project will not result in any significant environmental impacts; ensure that the project will be in harmony with the area in which it is located; and ensure that the project will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. All conditions of approval or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

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