

PART 6
Zoning Ordinance Administration

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Article 36. ADMINISTRATIVE RESPONSIBILITY

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- 24-257 – Planning Agency
- 24-258 – Board of Supervisors
- 24-259 – Planning Commission
- 24-260 – Zoning Administrator
- 24-261 – Department of Development Services

24-256 Purpose

This article describes the authority and responsibilities of the Board of Supervisors, Planning Commission, and Zoning Administrator in the administration of the Zoning Ordinance.

24-257 Planning Agency

The Board of Supervisors, the Planning Commission, and the Zoning Administrator shall function as the Planning Agency and as the Advisory Agency in compliance with Government Code Section 65100. The specific function of each of these entities shall be as specified in the sections below and as illustrated in Figure 24-256-1 (Role of the Board of Supervisors, Planning Commission, and Zoning Administrator).

Comment [DCB1]: The fourth bullet of this Figure under Board of Supervisors pertaining to clustered development applications should be moved to the Planning Commission.

24-258 Board of Supervisors

The role of the Board of Supervisors in the administration of the Zoning Ordinance includes the following:

- A. Serving as the review authority on legislative actions as shown in Table 24-182-1 (Review and Decision-Making Authority); and
- B. Reviewing appeals filed from Planning Commission decisions.

24-259 Planning Commission

The role of the Planning Commission in the administration of the Zoning Ordinance shall be as specified in Butte County Code Section 2-74 (Powers and Duties; General Plan), and includes the following:

- A. Serving as the review authority on permit and approval applications as shown in Table 24-182-1 (Review and Decision-Making Authority);

- B. Reviewing appeals filed from Zoning Administrator decisions on discretionary permit applications; and
- C. Providing recommendations to the Board of Supervisors on legislative actions as shown in Table 24-182-1 (Review and Decision-Making Authority).

24-260 Zoning Administrator

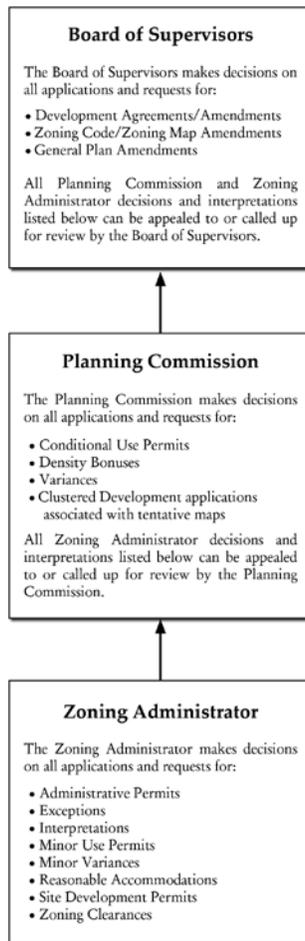
- A. **Appointment.** The Director of Development Services or the Director’s designee shall serve as the Zoning Administrator.
- B. **Role.** The role of the Zoning Administrator in the administration of the Zoning Ordinance includes the following:
 1. Serving as the review authority on permit and approval applications shown in Table 24-182-1 (Review and Decision-Making Authority);
 2. Interpreting the Zoning Ordinance as specified in Article 2 (Interpretation of the Zoning Ordinance); and
 3. Referring action as needed on any permit, approval or interpretation to the Planning Commission for review and final decision.

24-261 Department of Development Services

The role of Department of Development Services staff in the administration of the Zoning Ordinance includes the following:

- A. Attending pre-application conferences with prospective applicants;
- B. Receiving development permit applications and reviewing for completeness;
- C. Reviewing development permit applications for compliance with the California Environmental Quality Act (CEQA);

FIGURE 24-256-1 ROLE OF THE BOARD OF SUPERVISORS, PLANNING COMMISSION, AND ZONING ADMINISTRATOR



- D. Referring development project applications to any public agency that may have an interest in the proposed project;
- E. Reviewing all development project applications for compliance with the Zoning Ordinance and providing recommendations to the Planning Commission or Board of Supervisors as to whether the application should be approved, approved with conditions, or denied;
- F. Ensuring the noticing of public hearings in compliance with State law; and
- G. Performing other duties as needed as part of the daily operations of the Department of Development Services.

Article 37. PUBLIC NOTICE AND HEARINGS

Sections:

- 24-262 – Purpose
- 24-263 – Notice of Hearing
- 24-264 – Scheduling of Hearing
- 24-265 – Hearing Procedure
- 24-266 – Recommendation by Commission
- 24-267 – Decision and Notice
- 24-268 – Effective Date of Decision

24-262 Purpose

This article provides procedures for public hearings required by the Zoning Ordinance. When a public hearing is required, advance notice of the hearing shall be given, and the hearing shall be conducted, in compliance with this article and applicable State law.

24-263 Notice of Hearing

When the Zoning Ordinance requires a noticed public hearing before a decision on a permit, or for another matter, the public will be provided notice of the hearing as required by this article.

- A. **Content of Notice.** Notice of a public hearing shall include all of the following information, as applicable.
 - 1. **Hearing Information.** The date, time, and place of the hearing and the name of the hearing body; and the phone number and street address of the Department of Development Services, where an interested person could call or visit to obtain additional information.
 - 2. **Project Information.** The name of the applicant; the County's file number assigned to the application; a general explanation of the matter to be considered; and a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing.
 - 3. **Statement on Environmental Document.** The hearing notice shall state if the proposed project is determined exempt California Environmental Quality Act (CEQA), or if a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project. The hearing notice shall include a statement that the hearing body will also consider approval of the CEQA determination or document prepared for the proposed project.
- B. **Method of Notice Distribution.** Notice of a public hearing required by this article shall be given as follows:

1. **Mailing.** Notice shall be mailed or delivered at least ten days before the scheduled hearing to the following recipients:
 - a. **Project Site Owners and the Applicant.** The owners of the property being considered in the application or the owners' authorized agent, and the applicant.
 - b. **Local Agencies.** Each local agency expected to provide roads, schools, sewerage, streets, water, or other essential facilities or services to the property which is the subject of the application, whose ability to provide those facilities and services may be significantly affected.
 - c. **Affected Owners.** All owners of real property within 300 feet of the exterior boundaries of the parcel that is the subject of the hearing. In lieu of utilizing the latest assessment roll, the County and/or applicant may utilize records of the County Assessor or Tax Collector which contains more recent information than the assessment roll.
 - d. **Persons Requesting Notice.** Any person who has filed a written request for notice with the Zoning Administrator.
 - e. **Other Persons.** Any other person, whose property might, in the judgment of the Zoning Administrator, be affected by the proposed project.
2. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subparagraph B.1. above is more than 1,000, the Zoning Administrator may choose to provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within Butte County at least 10 days prior to the hearing.
3. **Publication and Posting.** If notice is mailed or delivered as described in Section B.1 above, the notice shall also either be:
 - a. Published at least once in a newspaper of general circulation in the County at least 10 days before the scheduled hearing; or
 - b. Posted at least 10 days before the scheduled hearing in at least three public places within the County, including one public place in the area affected by the proceeding.
4. **Additional Notice.** In addition to the types of notice required above, the Zoning Administrator may provide any additional notice with content and using a distribution method that the Zoning Administrator determines is necessary or desirable.

24-264 Scheduling of Hearing

After the completion of all materials required to render a decision on a matter, a matter requiring a public hearing shall be scheduled for a public hearing at an appropriate time, but no sooner than any minimum time period established by State law.

24-265 Hearing Procedure

- A. **Time and Place of Hearing.** A hearing will be held at the date, time, and place for which notice was given, unless the required quorum of hearing body members is not present.
- B. **Continued Hearing.** Any hearing may be continued from time to time without further notice; provided that the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- C. **Motion of Intent.** The hearing body may announce a tentative decision, and defer its action on a final decision until appropriate findings and/or conditions of approval have been prepared.

24-266 Recommendation by Commission

After a public hearing on any matter on which the Planning Commission will make a recommendation, the recommendation and findings of the Planning Commission shall be forwarded to the Board of Supervisors. A copy of the recommendation shall be mailed to the applicant at the address shown on the application.

24-267 Decision and Notice

- A. **Decision.**
 - 1. The review authority may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing, or make a motion of intent and continue the matter to a later meeting agenda in compliance with this article.
 - 2. At the conclusion of a hearing conducted by the Zoning Administrator, the Zoning Administrator may choose to refer the matter to the Commission for review and final decision. Referral to the Commission may be chosen in cases of unusual public sensitivity, controversy or complexity relating to requested approval.
 - 3. The decision of the Board of Supervisors on any matter is final and conclusive. The decision of the Zoning Administrator and Planning Commission are final upon the completion of the appeal period if no appeal is filed.
- B. **Notice of Decision.**
 - 1. **Provision of Notice.** Following the final decision on an application for a permit or other approval required by the Zoning Ordinance, the County will provide notice of its final action to the applicant and to any person who specifically requested notice of the County's final action.
 - 2. **Contents of Notice.** The notice of the final decision shall contain applicable findings; conditions of approval; reporting and monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general

welfare of the County; and the procedure for appeal for Zoning Administrator and Planning Commission decisions.

24-268 Effective Date of Decision

- A. Administrator's or Planning Commission's Decision.** The decision of the Zoning Administrator or Planning Commission is final and effective after 5:00 p.m. on the 10th day following the actual date the decision is rendered, when no appeal to the decision has been filed in compliance with Article 38 (Appeals and Calls for Review).
- B. Board of Supervisors' Decision.** A decision of the Board of Supervisors is final and shall be effective on the date the decision is rendered.

Article 38. APPEALS AND CALLS FOR REVIEW

Sections:

- 24-268 – Purpose
- 24-269 – Appeal Subjects and Jurisdiction
- 24-270 – Filing and Processing of Appeals
- 24-271 – Calls for Review
- 24-272 – Judicial Review

24-269 Purpose

This article establishes procedures for the appeal and calls for review of actions, interpretations, and decisions made by the Planning Commission and Zoning Administrator. In accordance with Butte County Code Section 2-19.1, the Board of Supervisors may also review any action which is appealable to the Board.

24-270 Appeal Subjects and Jurisdiction

- A. **Zoning Administrator Decisions.** Any decision on applications for Site Development Permits, Minor Use Permits, Minor Variances, Exceptions, or Reasonable Accommodations may be appealed to the Planning Commission. [\(NOTE: we need to establish a fee for this Appeal to cover the costs\)](#)
- B. **Planning Commission Decisions.** Any decision of the Planning Commission may be appealed to the Board of Supervisors.

24-271 Filing and Processing of Appeals

- A. **Eligibility.** Any person may submit an appeal of a decision by the Zoning Administrator or Planning Commission.
- B. **Timing of Appeal.** An appeal shall be filed within ten days following the date the decision was rendered, unless a longer appeal period is specified as part of the project approval.
- C. **Form of Appeal.**
 - 1. An appeal shall be submitted in writing on an official County application form together with all required application fees.
 - 2. The appeal application shall specifically state the pertinent facts and the basis for the appeal.

3. The appeal of a decision made by a review authority at a noticed public hearing may be as to the whole decision or only a part of the decision. If an appellant chooses, an appeal may be taken solely from any finding, action, or condition.

D. Filing Location. NOTE: Need to make this more clear

1. Appeals addressed to the Planning Commission shall be filed with the Department of Development Services.
2. Appeals addressed to the Board of Supervisors shall be filed with the Clerk of the Board of Supervisors.

E. Effect of Appeal. Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered by the applicable review authority.

F. Report and Scheduling of Hearing.

1. When an appeal has been filed, the Zoning Administrator shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority within 90 days of receiving the appeal.
2. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Article 37 (Public Notice and Hearings).
3. Any interested person may appear and be heard regarding the appeal.
4. All appeals on a single project shall be considered together at the same hearing.

G. Hearing and Decision.

1. During the appeal hearing, the review authority may take action only on the specific basis for the appeal. The review authority shall make its own decision supported by findings. In doing so, it may:
 - a. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal;
 - b. Adopt additional conditions of approval that address the matter appealed; or
 - c. Remand the appeal for further review, recommendation, or action to the previous review authority.
2. The hearing body's action shall be based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance of the subject of the appeal with the Zoning Ordinance.
3. A matter being heard on appeal may be continued for good cause (e.g., additional CEQA review is required).
4. If the hearing body is unable to reach a decision on the matter appealed, the outcome of the appeal shall be as follows:

- a. For appeals to the whole decision or an indispensable part of a whole decision, the appeal shall be deemed denied and the application or project is denied.
- b. For appeals to a condition or dispensable part of a decision where the remainder of the application that is the basis for the decision being appealed remains in effect, the appeal shall be deemed denied and the condition or dispensable part of a decision shall remain in effect.

H. Effective Date of Appeal Decision.

1. **Planning Commission's Decision.** A decision of the Planning Commission is final and effective after 5:00 p.m. on the 10th day following the date the decision is rendered, when no appeal to the decision or call for review has been filed in compliance with this article. In the event the completion of the appeal period falls on a weekend, the decision shall become effective after 5:00 pm on the first business day following the completion of the appeal period.
2. **Board of Supervisors' Decision.** A decision of the Board of Supervisors is final and shall be effective on the date the decision is rendered.

24-272 Calls for Review

- A. **Board of Supervisors Review.** The Board of Supervisors may call for a review of any action, interpretation, or decision made by the Planning Commission or Zoning Administrator.
- B. **Initiation.** One or more members of the Board of Supervisors may initiate a call for review by filing a written request with the Clerk of the Board of Supervisors within 10 days following the date of the action, interpretation, or decision. The applicant of the matter called for review shall be notified within 10 days of the initiation of a call for review.
- C. **Effect of Calls for Review.**
 1. A request for a call for review stays the effective date of a determination or decision until the Board of Supervisors can make a decision on the call for review request.
 2. The filing of a call for review does not extend the time in which an appeal of a determination or decision shall be filed; the normal appeal period will continue to run. Where a call for review only applies to a limited issue, an individual may still appeal all or another part of a determination or decision.
- D. **Report and Scheduling of Hearing.**
 1. When a call for review has been initiated, the Zoning Administrator shall prepare a report on the matter, including all of the application materials in question. The Clerk of the Board of Supervisors shall schedule the matter for a public hearing by the Board of Supervisors within 30 days of receiving the call for review.

2. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Article 37 (Public Notice and Hearings).
3. Any interested person may appear and be heard regarding the call for review.

E. Hearing and Decision.

1. During the public hearing, the Board of Supervisors may consider any issue involving the matter called for review, in addition to the specific grounds for the call for review. The Board of Supervisors may:
 - a. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the call for review; or
 - b. Adopt additional conditions of approval that may address issues or concerns other than the subject of the call for review.
2. The Board of Supervisors' action shall be based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the matter called for review, and verify the compliance of the matter with the Zoning Ordinance.
3. Within 60 days of the initial public hearing on the call for review, the Board of Supervisors shall render its decision on the matter, unless it is continued for good cause (e.g., additional CEQA review is required).
4. In the event of a tie vote by the Board of Supervisors, the decision being reviewed shall stand.

- F. Effective Date of Review Decision.** A decision of the Board of Supervisors is final and shall be effective on the date the decision is rendered.

24-273 Judicial Review

No person may seek judicial review of a County decision on a planning permit or other matter in compliance with the Zoning Ordinance until all appeals to the Planning Commission and Board of Supervisors have been first exhausted in compliance with this article.

Article 39. ZONING ORDINANCE AMENDMENTS

Sections:

- 24-273 – Purpose
- 24-274 – Initiation
- 24-275 – Application
- 24-276 – Planning Commission Hearing and Action
- 24-277 – Board of Supervisors Hearing and Action
- 24-278 – Findings and Decision
- 24-279 – Effective Dates

24-274 Purpose

This article establishes procedures for amending the Zoning Ordinance.

24-275 Initiation

- A. **Zoning Map.** A request for an amendment to the Zoning Map may be initiated by:
 - 1. The Board of Supervisors;
 - 2. The Planning Commission;
 - 3. The Zoning Administrator; or
 - 4. The owner of the property for which the amendment is sought. For properties under multiple ownership, the application may be initiated only with the approval of owners representing 60 percent or more of the area to be rezoned.
- B. **Timber Production Zone.** The procedure to establish or amend the Timber Production (TPZ) zone shall be as established by the Z'Berg-Nejedly Forest Practice Act of 1973.
- C. **Zoning Ordinance Text Amendment.** A request for an amendment to the text of the Zoning Ordinance may be initiated by:
 - 1. The Board of Supervisors;
 - 2. The Planning Commission;
 - 3. The Zoning Administrator; or
 - 4. Any resident, property owner, or business owner in the county.

24-276 Application

- A. **General.** An application for a Zoning Ordinance Amendment shall be filed and reviewed in compliance with Article 27 (Permit Application and Review). The application shall include the information and materials specified in the Department of Development Services handout for Zoning Ordinance Amendment applications, together with all required application fees. For amendments submitted by a resident, property owner or business owner, it is the responsibility of the applicant to provide evidence in support of the findings required by Section 24-279 (Findings and Decision).
- B. **Map Amendments for Properties Under Multiple Ownership.** A Zoning Ordinance Map Amendment application for properties under multiple ownership shall be signed by owners representing 60 percent or more of the area to be rezoned. The application may be withdrawn upon the written application of a majority of all the persons who signed such petition at any time prior to the hearing on the proposed amendment before the Board of Supervisors.

24-277 Planning Commission Hearing and Action

- A. **General.** The Planning Commission shall conduct a public hearing on a proposed Zoning Ordinance Amendment in compliance with Article 37 (Public Notice and Hearings).
- B. **Zoning Ordinance Text Amendments.** The Planning Commission shall forward a written recommendation, and reasons for the recommendation, to the Board of Supervisors concerning the proposed amendment, based on the findings identified in Section 24-279 (Findings and Decision). The recommendation shall be transmitted to the Board of Supervisors within 90 days after the date the hearing was closed to the public.
- C. **Zoning Ordinance Map Amendment.** The Planning Commission shall forward a written recommendation, and reasons for the recommendation, to the Board of Supervisors concerning the proposed amendment based on the findings identified in Section 24-279 (Findings and Decision). For a Zoning Map Amendment, if the action of the Planning Commission is to recommend denial, the Board of Supervisors is not required to take further action on the proposed amendment unless an interested party requests a hearing in writing with the Clerk of the Board of Supervisors within five days after the Planning Commission recommendation is filed with the Board of Supervisors. [Need to review with County Counsel...](#)

24-278 Board of Supervisors Hearing and Action

- A. **Approval or Denial.**
 - 1. Upon receipt of the Planning Commission's recommendation on the proposed Zoning Ordinance Amendment, the Board of Supervisors shall conduct a public hearing in compliance with Article 37 (Public Notice and Hearings), unless it chooses not to hear a

Zoning Map Amendment on which the Planning Commission has recommended denial.
[Need to discuss with County Counsel for Due Process.](#)

2. The Board of Supervisors shall take action on the application based on the findings identified in Section 24-279 (Findings and Decision).
3. The action by the Board of Supervisors shall be by a majority vote of the entire Board and shall be final and conclusive.

B. Referral to Commission.

1. If the Board of Supervisors proposes to adopt a substantial modification to the Zoning Ordinance Amendment not previously considered by the Planning Commission, the proposed modification shall be first referred to the Planning Commission for its recommendation.
2. ~~Failure of the Planning Commission to report back to the Board of Supervisors within 40 days following the referral or other such time set by the Board shall be deemed approval by the Planning Commission of the proposed modification.~~

24-279 Findings and Decision

The Board of Supervisors may approve a Zoning Ordinance Amendment only if all of the following findings are first made:

A. Findings for all Zoning Ordinance and Zoning Map Amendments.

1. The proposed amendment is consistent with the General Plan and any applicable community or specific plan as provided by Government Code Section 65860.
2. The proposed amendment will not be detrimental to the public interest, health, safety, ~~convenience~~, or welfare of the county.

B. Additional Finding for Zoning Ordinance Text Amendments.

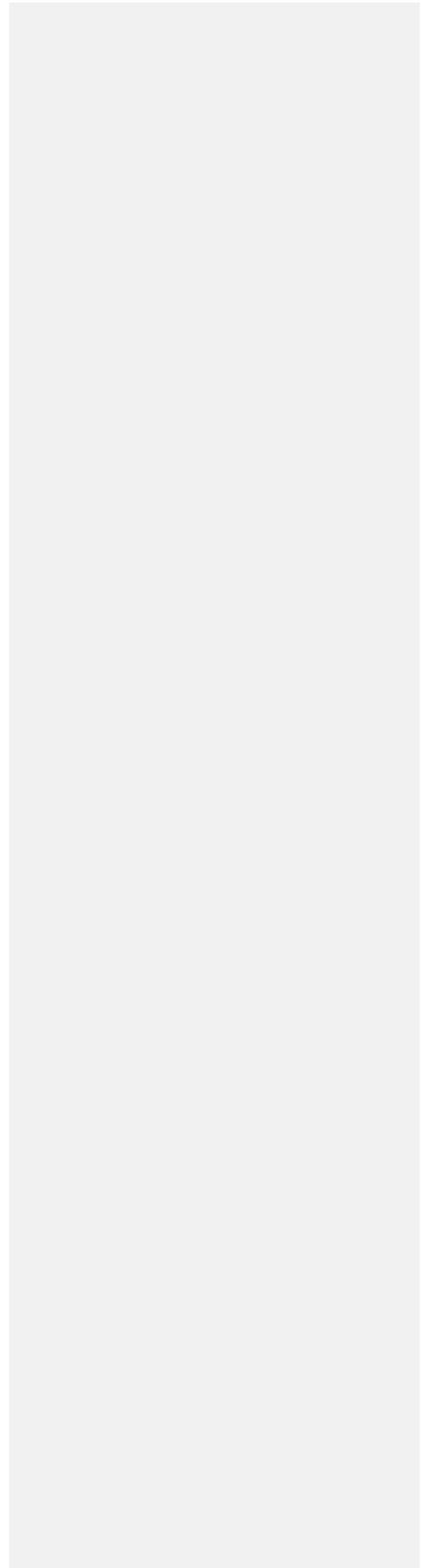
1. The proposed amendment is internally consistent with other applicable provisions of the Zoning Ordinance.

C. Additional Finding for Zoning Map Amendments.

1. The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the proposed uses and development will not endanger, jeopardize, or otherwise constitute a hazard to the property, surrounding properties, and the community at large.

24-280 Effective Dates

A Zoning Ordinance Amendment becomes effective on the 31st day following the adoption of an ordinance by the Board of Supervisors.



Article 40. GENERAL PLAN AMENDMENTS

Sections:

- 24-281 – Purpose
- 24-282 – Initiation
- 24-283 – Application
- 24-284 – Planning Commission Hearing and Action
- 24-285 – Board of Supervisors Hearing and Action
- 24-286 – Findings and Decision
- 24-287 – Effective Dates
- 24-288 – Timing of Amendments

24-281 Purpose

This article establishes procedures for amending the General Plan in a manner consistent with Government Code Section 65350 et seq.

24-282 Initiation

- A. **General Plan Land Use Map Amendments.** A request for an amendment to the General Plan Land Use Map may be initiated by:
 - 1. The Board of Supervisors;
 - 2. The Planning Commission;
 - 3. The Zoning Administrator; or
 - 4. The owner of the property for which the amendment is sought. For properties under multiple ownership, the application may be initiated only with the approval of owners representing 60 percent or more of the area to be redesignated.
- B. **General Plan Text Amendment.** A request for an amendment to the text of the General Plan may be initiated by:
 - 1. The Board of Supervisors;
 - 2. The Planning Commission;
 - 3. The Zoning Administrator; or
 - 4. Any resident, property owner, or business owner in the county.

24-283 Application

- A. **General.** An application for a General Plan Amendment shall be filed and reviewed in compliance with Article 27 (Permit Application and Review). The application shall include the information and materials specified in the Department of Development Services handout for General Plan Amendment applications, together with all required application fees. For amendments submitted by a resident, property owner or business owner, it is the responsibility of the applicant to provide evidence in support of the findings required by Section 24-286 (Findings and Decision).
- B. **Map Amendments for Properties Under Multiple Ownership.** A General Plan Land Use Map Amendment application for properties under multiple ownership shall be signed by owners representing 60 percent or more of the area to be redesignated. The application may be withdrawn upon the written application of a majority of all the persons who signed such petition at any time prior to the hearing on the proposed amendment before the Board of Supervisors.

24-284 Planning Commission Hearing and Action

- A. **General.** The Planning Commission shall conduct a public hearing on a proposed General Plan Amendment in compliance with Article 37 (Public Notice and Hearings).
- B. **General Plan Text Amendments.** The Planning Commission shall forward a written recommendation, and reasons for the recommendation, to the Board of Supervisors concerning the proposed amendment, based on the findings identified in Section 24-286 (Findings and Decision). The recommendation shall be transmitted to the Board of Supervisors within 90 days after the date the hearing was closed to the public. A recommendation for approval of an amendment must be supported by a majority of the total membership of the Planning Commission.
- C. **General Plan Land Use Map Amendment.** The Planning Commission shall forward a written recommendation, and reasons for the recommendation, to the Board of Supervisors concerning the proposed amendment based on the findings identified in Section 24-286 (Findings and Decision). The recommendation shall be transmitted to the Board of Supervisors within 90 days after the date the hearing was closed to the public. A recommendation for approval of an amendment must be supported by a majority of the total membership of the Planning Commission. For a Land Use Map Amendment, if the action of the Planning Commission is to recommend denial, the Board of Supervisors is not required to take further action on the proposed amendment unless an interested party requests a hearing in writing with the Clerk of the Board of Supervisors within 5 days after the Planning Commission recommendation is filed with the Board of Supervisors.

24-285 Board of Supervisors Hearing and Action**A. Approval or Denial.**

1. Upon receipt of the Planning Commission's recommendation on the proposed General Plan Amendment, the Board of Supervisors shall conduct a public hearing in compliance with Article 37 (Public Notice and Hearings), unless it chooses not to hear a Land Use Map Amendment on which the Planning Commission has recommended denial.
2. The Board of Supervisors shall take action on the application based on the findings identified in Section 24-286 (Findings and Decision).
3. The action by the Board of Supervisors shall be by a majority vote of the entire Board and shall be final and conclusive.

B. Referral to Commission.

1. If the Board of Supervisors proposes to adopt a substantial modification to the General Plan Amendment not previously considered by the Planning Commission, the proposed modification shall be first referred to the Planning Commission for its recommendation.
- ~~2. Failure of the Planning Commission to report back to the Board of Supervisors within 40 days following the referral or other such time set by the Board shall be deemed approval by the Planning Commission of the proposed modification.~~

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24-286 Findings and Decision

The Board of Supervisors may approve a General Plan Amendment only if all of the following findings are first made:

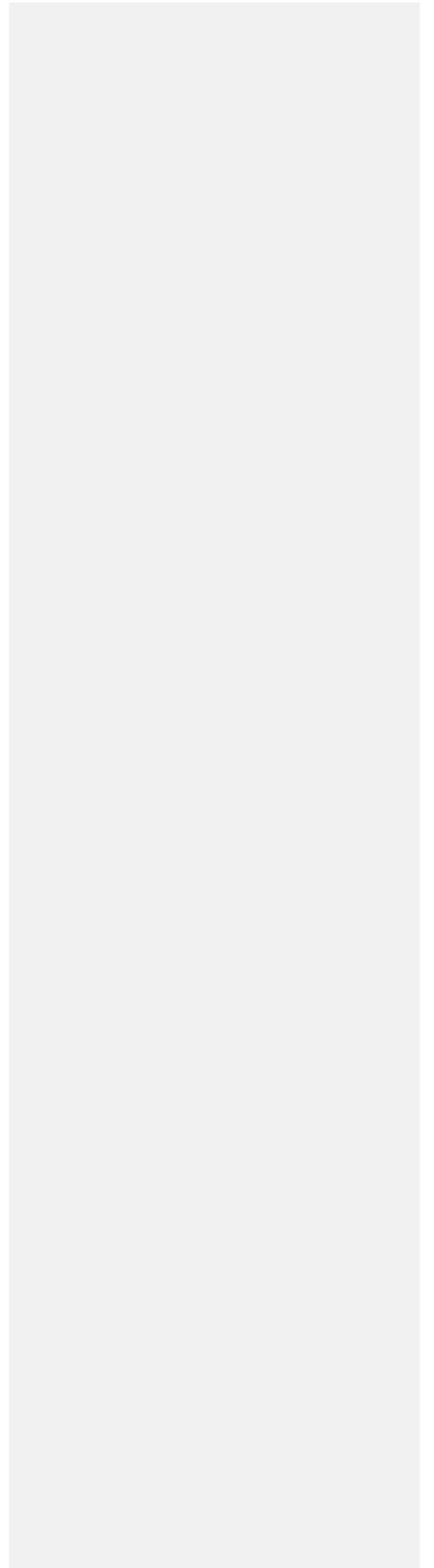
- A. The proposed General Plan Amendment is in the public interest.
- B. The proposed General Plan Amendment is consistent and compatible with the rest of the General Plan.
- C. The potential effects of the proposed General Plan Amendment have been evaluated and have been determined not to be detrimental to the public health, safety, or welfare.
- D. The proposed General Plan Amendment has been processed in accordance with the applicable provisions of the California Government Code and CEQA.

24-287 Effective Dates

A General Plan Amendment becomes effective on the 31st day following the adoption of an ordinance by the Board of Supervisors.

24-288 Timing of Amendments

The General Plan may be amended up to four times in a single calendar year.



Article 41. DEVELOPMENT AGREEMENTS

Sections:

- 24-289 – Purpose
- 24-290 – Applicability
- 24-291 – Review Authority
- 24-292 – Application Submittal and Review
- 24-293 – Public Notice and Hearing
- 24-294 – Planning Commission Action
- 24-295 – Board of Supervisors Action
- 24-296 – Findings
- 24-297 – Conditions of Approval
- 24-298 – Content of the Development Agreement
- 24-299 – Recordation
- 24-300 – Effect of Development Agreement
- 24-301 – Periodic Review
- 24-302 – Modification or Termination

24-289 Purpose

A Development Agreement is a contract between the County and an applicant for a development project, in compliance with Government Code Section 65864 et seq. The purpose of a Development Agreement is to:

- A. Facilitate development projects for which there is significant applicant contribution toward infrastructure, public facilities, open space or other amenities, or other programs of benefit to the County and its residents.
- B. Assure the applicant that upon approval of the subject project, the project may proceed in accordance with existing County policies, rules and regulations in place at the time of Development Agreement approval.
- C. Encourage private participation in comprehensive planning and provision of public facilities, including, but not limited to, streets, sewerage, transportation, potable water, schools and utilities.
- D. Provide a net benefit to the County and its residents not otherwise obtainable through other processes.

24-290 Applicability

The County may enter into a Development Agreement with any person who has controlling, legal, or equitable interest in real property for the development of the property.

24-291 Review Authority

A Development Agreement is a legislative act. The Board of Supervisors shall take action on all Development Agreement applications after considering the recommendation of the Planning Commission and Zoning Administrator.

24-292 Application Submittal and Review

An application for a Development Agreement shall be filed and reviewed in compliance with Article 27 (Permit Application and Review). The application shall include the information and materials specified in the Department of Development Services handout for Development Agreement applications, together with all required fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 24-296 (Findings).

24-293 Public Notice and Hearings

Public notice and hearing for an application for a Development Agreement shall be provided in compliance with Article 37 (Public Notice and Hearings).

24-294 Planning Commission Action

After the public hearing on a Development Agreement application, the Planning Commission shall forward a written recommendation, and reasons for the recommendation, to the Board of Supervisors based on the findings identified in Section 24-296 (Findings). The recommendation shall be transmitted to the Board of Supervisors within 90 days after the date the hearing was closed to the public.

24-295 Board of Supervisors Action**A. Approval or Denial.**

1. Upon receipt of the Planning Commission's recommendation on a Development Agreement application, the Board of Supervisors shall conduct a public hearing and take action on the application based on the findings identified in Section 24-296 (Findings).
2. The action by the Board of Supervisors shall be by a majority vote of the entire Board and shall be final and conclusive.

B. Referral to Commission.

1. If the Board of Supervisors proposes to adopt a substantial modification to the Development Agreement not previously considered by the Planning Commission, the proposed modification shall be first referred to the Planning Commission for its recommendation.
 2. ~~Failure of the Planning Commission to report back to the Board of Supervisors within 40 days following the referral or other such time set by the Board shall be deemed an approval by the Planning Commission of the proposed modification.~~
- C. **Adoption by Ordinance.** If the Board of Supervisors approves the Development Agreement, it shall do so by adoption of an ordinance specifying the findings identified in Section 24-296 (Findings). The effective date of the Development Agreement shall be the effective date of the ordinance approving the Development Agreement.

24-296 Findings

The Board of Supervisors may approve an application for a Development Agreement only if all of the following findings can be made:

- A. The Development Agreement will provide clear and substantial benefits to the County and its residents.
- B. The Development Agreement complies with applicable policies and regulations set forth in the Zoning Ordinance, other County ordinances, the General Plan and any other applicable community or specific plan, and the Improvement Standards.
- C. The Development Agreement complies with the requirements of California Government Code Sections 65864 et seq.
- D. The Development Agreement will promote the public health, safety and welfare, and will not be detrimental to or cause adverse effects to the residents, property, or improvements in the vicinity of the subject project.
- E. The Development Agreement will be compatible with the uses allowed in, and the regulations that apply to, the zone in which the subject property is located.
- F. The Development Agreement will not cause adverse effects to the orderly development of property or the preservation of property values in the county.
- G. The Development Agreement will further important countywide goals and policies that have been officially recognized by the Board of Supervisors.
- H. The Development Agreement will provide the county with important, tangible benefits beyond those that may be required by the County through project conditions of approval.

24-297 Conditions of Approval

The Board of Supervisors may attach conditions to the approval of a Development Agreement as needed to ensure compliance with all applicable standards and regulations in the Zoning Ordinance.

24-298 Content of the Development Agreement

- A. Mandatory Contents.** All Development Agreements shall specify all of the following:
1. The specified duration of the Development Agreement.
 2. The permitted uses of the subject property.
 3. The permitted density or intensity of development of the subject project.
 4. The maximum permitted height and size of proposed structures.
 5. Provisions for the dedication or preservation of land for public purposes, if applicable.
 6. A specific sunset date for the Development Agreement.
- B. Optional Contents.** Development Agreements may, upon mutual agreement of the County and the applicant, specify any of the following:
1. The conditions, terms, restrictions, and requirements for subsequent discretionary actions.
 2. Requirements that construction be commenced within a specified time and that the project or any phase of the project be completed within a specified time.
 3. Terms and conditions related to applicant financing of necessary public facilities and subsequent reimbursement over time.

24-299 Recordation

The Development Agreement shall be recorded in the County Recorder's Office no later than 10 days after it is approved.

24-300 Effect of Development Agreement

- A.** Unless otherwise provided by the Development Agreement, the rules, regulations, and official policies governing allowed uses of the land, density, design, improvement, and construction standards and specifications applicable to development of the property subject to a Development Agreement are the rules, regulations, and official policies in force at the time of execution of the agreement.
- B.** A Development Agreement does not prevent the County in subsequent actions from conditionally approving or denying any subsequent development project application on the basis of existing or new rules, regulations, and policies.

24-301 Periodic Review

- A. The County shall perform a periodic review of the Development Agreement at least every 12 months, or at any other time that the County considers to be appropriate, at which time the applicant (or successor in interest) shall demonstrate good faith compliance with the terms and conditions of the Development Agreement. The review shall be limited in scope to compliance with the terms and conditions of the Development Agreement.
- B. The costs of notice and related costs incurred by the County for review shall be borne by the applicant (or successor in interest).
- C. Failure of the County to conduct a periodic review shall not constitute a waiver by the County of its rights to enforce the provisions of the Development Agreement. The developer shall not assert any defense to the enforcement of the Development Agreement by reason of the failure of the County to conduct a periodic review.

24-302 Modification or Termination

- A. **Result of Review.** If, as a result of review under Section 24-301 (Periodic Review), the County determines that the applicant (or successor in interest) has not complied in good faith with the terms and conditions of the Development Agreement, the County may modify or terminate the Development Agreement.
- B. **Notice.** If the County determines to proceed with modification or termination of the Development Agreement, the County shall give notice to the applicant (or successor in interest) of its intention to modify or terminate the agreement. The notice shall contain all of the following:
 - 1. The time and place of the hearing, which shall be conducted by the Board of Supervisors as provided in Subsection C (Hearing).
 - 2. A statement of whether the County proposes to modify or terminate the Development Agreement.
 - 3. Any other information the County considers necessary to inform the applicant (or successor in interest) of the nature of the proceedings.
- C. **Hearing.** The Board of Supervisors shall conduct a hearing on the modification or termination of the Development Agreement consistent with the following provisions:
 - 1. The applicant (or successor in interest) shall be given an opportunity to be heard at the hearing.
 - 2. At the hearing, the Board of Supervisors may affirm, modify or reject the determination of County staff to modify or terminate the Development Agreement.

3. The Board of Supervisors may refer the matter back to County staff for further proceedings or for report and recommendation.
4. The Board of Supervisors may impose conditions to the action it takes that it considers reasonable and necessary to protect the interests of the County.
5. The decision of the Board of Supervisors on the modification or termination shall be final.

