



# NOTICE OF DEVELOPMENT CODE AMENDMENTS

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Two ordinances were recently adopted by the Board of Supervisors amending Title 8 of the San Bernardino County Code (Development Code). Ordinances 4204 and 4205 were effective on July 25, 2013. For those individuals or companies with a printed copy of the Development Code, replacement pages reflecting the changes made by this ordinance can be printed by using a print setting for 2-sided pages. Please remove all old pages and replace them with the new ones as indicated on the following list:

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# **COUNTY OF SAN BERNARDINO**

## **2007 DEVELOPMENT CODE**

*Prepared for:*

County of San Bernardino  
Land Use Services Division  
385 North Arrowhead Avenue, 1st Floor  
San Bernardino, CA 92415-0182

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San Bernardino County General Plan

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Ordinance Disposition Table

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# DIVISION 2

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**CHAPTER 82.24 BEAR VALLEY COMMUNITY PLAN**

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**CHAPTER 82.25 BLOOMINGTON COMMUNITY PLAN**

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**CHAPTER 82.26      CREST FOREST COMMUNITY PLAN**

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**CHAPTER 82.27 HILLTOP COMMUNITY PLAN**

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**CHAPTER 82.28 HOMESTEAD VALLEY COMMUNITY PLAN**

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**CHAPTER 82.29      JOSHUA TREE COMMUNITY PLAN**

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**CHAPTER 82.30 LAKE ARROWHEAD COMMUNITY PLAN**

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**CHAPTER 82.31 LUCERNE VALLEY COMMUNITY PLAN**

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**CHAPTER 82.32      LYTLE CREEK COMMUNITY PLAN**

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**CHAPTER 82.33 MORONGO VALLEY COMMUNITY PLAN**

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**CHAPTER 82.34 MUSCOY COMMUNITY PLAN**

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**CHAPTER 82.35 OAK GLEN COMMUNITY PLAN**

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## CHAPTER 82.36 OAK HILLS COMMUNITY PLAN

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### Sections:

- 82.36.010 General Provisions
- 82.36.020 Agricultural and Resource Management Land Use Zoning Districts
- 82.36.030 Residential Land Use Zoning Districts
- 82.36.040 Commercial Land Use Zoning Districts
- 82.36.050 Industrial and Special Use Land Use Zoning Districts

### 82.36.010 General Provisions

Development standards, procedural regulations and other provisions of this Title shall apply to all projects within the Oak Hills Community Plan area except as noted in this Chapter.

Adopted Ordinance 4204 (2013)

### 82.36.020 Agricultural and Resource Management Land Use Zoning Districts

- (a) **Minimum Area Designation:** As outlined in Table 82-3 of Chapter 82.03.
- (b) **Allowed Uses and Permit Requirements.** As outlined in Table 82-4 of Chapter 82.03.
- (c) **Subdivision Standards.** As outlined in Subsection Table 82-4C of Chapter 82.03, except as noted below:
  - (1) **Oak Hills/Resource Conservation (OH/RC) Land Use Zoning District.**
    - (A) **Minimum Width:** 150 feet.
    - (B) **Minimum Depth:** 150 feet.
  - (2) **Oak Hills/Floodway (OH/FW) Land Use Zoning District.** The provisions of Section 82.03.070 plus the following additional provisions shall apply to all development within the OH/FW Land Use Zoning District:
    - (A) **Site Design.** The natural drainage courses should not be occupied or obstructed and should be left in their natural state as much as possible. Hard lined concrete facilities are discouraged; however rock slope protection may be used for erosion control.
    - (B) **Road Crossings.** Road crossings shall be designed to have minimal impact on the natural drainage courses.

(C) **Boundaries.** Where it has been demonstrated in a detailed drainage report that land within the Floodway Land Use District should not be restricted by the limitations of the Floodway designation, the boundary between the Floodway and the adjacent land use district shall be interpreted to be consistent with such report.

(d) **Development Standards.** As outlined in Table 82-5C of Chapter 82.03.

Adopted Ordinance 4204 (2013)

**82.36.030 Residential Land Use Zoning Districts**

(a) **Minimum Area Designation.** As outlined in Table 82-6 of Chapter 82.04.

(b) **Allowed Uses and Permit Requirements.** As outlined in Table 82-7 of Chapter 82.04.

(c) **Subdivision Standards.** As outlined in Subsection Table 82-8C of Chapter 82.04, except as noted below for the Oak Hills/Single Residential (OH/RS) Land Use Zoning District:

(1) **Minimum Lot Size.** The minimum lot size shall be 7,200 square feet. Within areas that contain significant environmental or topographic constraints, clustering of residential uses may be encouraged to preserve natural resources and mitigate environmental impacts. Maximum permitted density will be determined through the development review process, based upon environmental and infrastructure conditions.

(2) **Minimum Width:** 100 feet for subdivisions with parcels greater than or equal to one acre and 60 feet for subdivisions with parcels less than one acre.

(3) **Minimum Depth:** 100 feet for subdivisions with parcels or any size.

(d) **Development Standards.** As outlined in Table 82-9C of Chapter 82.04, except as noted below:

(1) **Oak Hills/Rural Living (OH/RL) Land Use Zoning District.** Side – Interior Setbacks: 15 feet.

(2) **Oak Hills/Single Residential (OH/RS) Land Use Zoning District.** Maximum coverage: 40%.

Adopted Ordinance 4204 (2013)

**82.36.040 Commercial Land Use Zoning Districts**

- (a) **Minimum Area Designation:** As outlined in Table 82-10 of Chapter 82.05, except the minimum area for the Oak Hills/Neighborhood Commercial (OH/CN) Land Use Zoning District designation shall be 2.5 acres.
- (b) **Allowed Uses and Permit Requirements.** As outlined in Table 82-11 of Chapter 82.05.
- (c) **Subdivision Standards.** As outlined in Subsection Table 82-12C of Chapter 82.05, except as noted below:
  - (1) **Oak Hills/Neighborhood Commercial (OH/CN) Land Use Zoning District.**
    - (A) **Minimum Lot Size:** 2.5 acres. Minimum lot size can be less than two and one-half (2.5) acres if the subdivision application is filed concurrently with a Planned Development, Conditional Use Permit, or Department Review application.
    - (B) **Minimum Width:** 300 feet.
    - (C) **Minimum Depth:** 300 feet.
    - (D) **Site Design.** Site design should incorporate effective internal circulation for both vehicular and pedestrian traffic, as well as buffering if adjacent to residential uses.
  - (2) **Oak Hills/General Commercial (OH/CG) Land Use Zoning District.**
    - (A) **Minimum Width:** 300 feet.
    - (B) **Minimum Depth:** 300 feet.
    - (C) **Site Design.** Site design within general commercial use areas should include effective internal circulation, designed to minimize traffic impacts on adjacent arterial streets.
    - (D) **Regional Commercial Uses.** Regional commercial uses should have access from major highways or arterials, and be of a size and configuration to facilitate development of businesses attracting consumers from a regional market area. Minimum site area for a development project within a regional commercial area should be ten acres.
- (d) **Development Standards.** As outlined in Tables 82-15A and 84-15B of Chapter 82.05, except as noted below:

**(1) Oak Hills/Neighborhood Commercial (OH/CN) Land Use Zoning District.**

- (A) Maximum lot coverage:** 40%.
- (B) Side - Street Side Setback:** 15 feet.
- (C) Floor Area Ratio (FAR):** Maximum FAR (floor area/lot area): 0.47.

**(2) Oak Hills/General Commercial (OH/CG) Land Use Zoning District.**

- (A) Maximum lot coverage:** 60%.
- (B) Floor Area Ratio (FAR):** Maximum FAR (floor area/lot area): 1.20.

Adopted Ordinance 4204 (2013)

**82.36.050 Industrial and Special Purpose Land Use Zoning Districts**

- (a) Minimum Area Designation:** As outlined in Table 82-16 of Chapter 82.06, except the minimum area for the Oak Hills/Special Development (OH/SD) Land Use Zoning District designation shall be ten acres.
- (b) Allowed Uses and Permit Requirements.** As outlined in Table 82-17 of Chapter 82.06. The allowed uses for the Special Development (SD) Land Use Zoning District shall be as outlined under Special Development-Residential (SD-RES).
- (c) Subdivision Standards.** As outlined in Subsection Table 82-18C of Chapter 82.06, except as noted below:

**(1) Oak Hills/Community Industrial (OH/IC) Land Use Zoning District.**

- (A) Minimum Width:** 150 feet.
- (B) Minimum Depth:** 200 feet.
- (C) Site Design.** Where possible, industrial areas should be separated from residential areas by natural or manmade barriers, such as drainage courses, utility easements, railroad tracks, or major arterials. Adequate land use and design buffers to mitigate impacts of truck traffic, noise, emissions, and other potential land use conflicts, must be addressed through the design review process.

**(2) Oak Hills/Institutional (OH/IN) Land Use Zoning District.**

- (A) **Maximum Width to Depth Ratio:** 1:4.
- (B) **Site Design.** The boundaries of the Institutional Land Use District are intended to match the rights-of-way or easements for public utilities and interstate transportation corridors within the community plan area.
- (3) **Oak Hills/Special Development (OH/SD) Land Use Zoning District.**
  - (A) **Minimum Lot Area:** 10 acres.
  - (B) **Minimum Width:** 400 feet.
  - (C) **Minimum Depth:** 400 feet.
- (d) **Development Standards.** As outlined in Tables 82-21A and 81-21B of Chapter 82.06, except as noted below:
  - (1) **Oak Hills/Community Industrial (OH/IC) Land Use Zoning District.**
    - (A) **Side - Street Side Setback:** 15 feet.
    - (B) **Floor Area Ratio (FAR):** Maximum FAR (floor area/lot area): 0.97.
    - (C) **Maximum lot coverage:** 70%.
  - (2) **Oak Hills/Institutional (OH/IN) Land Use Zoning District.**
    - (A) **Front Setback:** 15 feet.
    - (B) **Side - Street Side Setback:** 15 feet.
    - (C) **Floor Area Ratio (FAR):** Maximum FAR (floor area/lot area): 1.20.
    - (D) **Maximum lot coverage:** 70%.
  - (3) **Oak Hills/Special Development (OH/SD) Land Use Zoning District.**
    - (A) **Front Setback:** 15 feet.
    - (B) **Side - Street Side Setback:** 15 feet.
    - (C) **Side - Interior Yard Setback.** Only one side yard is required to provide for emergency access. If the adjacent property is not designated commercial or industrial, a side yard shall be required along that side of the property.

(D) **Rear Yard Setback.** A rear yard is required only when the adjacent property is not designated commercial or industrial.

(E) **Floor Area Ratio (FAR):** Maximum FAR (floor area/lot area): 1.20.

(F) **Maximum Structure Height:** 50 feet.

Adopted Ordinance 4204 (2013)

**CHAPTER 82.37      PHELAN/PINON HILLS COMMUNITY PLAN**

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Adopted Ordinance 4204 (2013)

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# DIVISION 4 STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES

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## **CHAPTER 84.13 MESSAGE SERVICES**

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### **Sections:**

- 84.13.010 Purpose
- 84.13.020 Applicability
- 84.13.030 Development Standards

### **84.13.010 Purpose**

The purpose of this Chapter is to provide development standards for establishments providing massage services.

Adopted Ordinance 4011 (2007)

### **84.13.020 Applicability**

The development standards provided in this Chapter shall apply to massage services where allowed in compliance with the provisions of Division 2 (Land Use Zoning Districts and Allowed Land Uses).

Adopted Ordinance 4011 (2007)

### **84.13.030 Development Standards**

A business providing massage services shall be located at least 750 feet from another business providing massage services or from any adult oriented business.

Adopted Ordinance 4011 (2007)

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## CHAPTER 84.18 PLANNED DEVELOPMENT STANDARDS

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### Sections:

- 84.18.010 Purpose
- 84.18.020 Applicability
- 84.18.030 Development Standards
- 84.18.040 Design Standards

### 84.18.010 Purpose

The purpose of this Chapter is to provide standards for applicants that desire to develop under the provisions of Planned Development Permits (Chapter 85.10). The standards in this Chapter are intended to promote a more efficient use of the land and to create a more desirable and affordable living environment by providing greater design flexibility than would be possible through the strict application of standard development regulations required by a land use zoning district.

Adopted Ordinance 4011 (2007)

### 84.18.020 Applicability

- (a) **Compliance with the General Plan.** The provisions in this Chapter apply to development in any land use zoning district in compliance with the application requirements identified in Chapter 85.10 (Planned Development Permit). Strict compliance with the purpose and intent of the General Plan shall be required. Only uses allowed in the land use zoning district for which the planned development is proposed shall be allowed.
- (b) **Authority of the Commission to Recommend Alteration to Standards.** The Planning Commission may recommend alteration of adopted standards in the Preliminary Development Plan, for approval by the Board of Supervisors.
- (c) **Authority of the Board to alter Standards.** Unless specifically changed within this Chapter, adopted County ordinances, standards and policies shall apply to a planned development project, including those identified in this Development Code and the General Plan. The Board of Supervisors may alter adopted standards in the Preliminary Development Plan, where the Board finds that the altered standards would more adequately serve the purpose and intent of the planned development provisions of the Development Code. Any alterations to these standards must be made consistent with the findings required in Section 85.10.050(b).

Adopted Ordinance 4011 (2007); Amended Ordinance 4205 (2013)

**84.18.030 Development Standards**

- (a) **Size.** A minimum site of five acres shall be required for a residential, commercial, industrial, and/or mixed-use development.
- (b) **Density.** Unless modified by the Board as described in Subsection 84.18.020 (c), the total density of a planned development shall be determined by the land use zoning district applicable to the subject property. Increased densities may be granted by the review authority through the bonus density or transfer of density authorized by the General Plan and implemented by this Development Code under the Housing Incentives Plan in Chapter 83.03 (Affordable Housing Incentives - Density Bonus), or a Specific Plan. However, density increases shall not be granted for that portion of a planned development for which only a Preliminary Development Plan has been approved. Parcel sizes smaller than those required by the land use zoning district may be approved for a Planned Development provided the overall parcel density is not exceeded, except as otherwise allowed by this Development Code and/or the General Plan. The maximum unit allowable dwelling densities shall be as follows:

Maximum Unit Allowable Dwelling Density*	Average Slope
4.0 Dwelling Units/Acre	0% - less than 15%
2.0 Dwelling Units/Acre	15% - less than 30%
1.0 Dwelling Units/3 Acres	30% - less than 40%
1.0 Dwelling Units/10 Acres	40% or greater
*The density shall not be more than the maximum allowed by the land use zoning district.	

- (1) **Transfer of density.** A 100 percent transfer of the density indicated on the General Plan official land use zoning district shall be allowed within a planned development project, provided all other performance criteria are met. The maximum allowable density transfers shall be determined by the table above. This transfer of density may include a transfer of density from adjacent property for which development restrictions in favor of the planned development project have been obtained.
- (A) To be eligible for density transfer, adjacent private lands shall meet the following criteria:
- (I) Private lands from which the density is being transferred shall be free of hazards or other physical constraints that prohibit the construction of residential dwellings.
- (II) Private lands from which the density is being transferred shall be shown on the General Plan as developable for residential dwellings.

- (B) Open space within the project that has been created as a result of a density transfer shall be common open space. However, in those circumstances when it is infeasible or impracticable for a private organization to adequately maintain and preserve the land as open space, the land may be dedicated to the public for open space purposes.
- (C) Transferable density on slopes in within a Fire Safety Overlay shall be determined by the formulas in Section 82.13.060 (FS1, FS2, and FS3 Development Standards).

**(2) Bonus density.**

- (A) An additional bonus in dwelling-unit density, up to 10 percent above that indicated in the General Plan Land Use Zoning District for the area, may be granted by the review authority provided one of the following criteria is met:
  - (I) A publicly valuable resource is provided, preserved, or enhanced that would otherwise require the expenditure of public monies.
  - (II) A public or quasi-public feature is provided above and beyond the normal expectations.
  - (III) An amenity, convenience, or excellence in design is provided above and beyond normal expectations.
- (B) The granting of density bonuses shall further the purpose and intent of the planned development provisions of this Development Code and the General Plan.

**(c) Accessory uses in planned residential developments (PRD's).**

- (1) Accessory uses allowed in the RS (Single-Family Residential) land use zoning district shall be allowed in a planned residential development, provided that the accessory uses are compatible with the approved PRD development plan.
- (2) When the underlying land use zoning district allows the keeping of horses, and where the density of a planned residential development project does not exceed four dwelling units per acre, horses shall be allowed in a PRD project as follows:
  - (A) On parcels 20,000 square feet or greater subject to the regulations of the RS (Single-Family Residential) land use zoning district.
  - (B) Where parcels are less than 20,000 square feet, horses shall be allowed subject to the following conditions:
    - (I) Horses shall be clustered onto common parcels.

- (II) The maximum density of horses shall not exceed four horses per gross acre of common parcel area.
  - (III) Standards and regulations of the Environmental Health Services Division shall apply.
  - (IV) Maintenance and management of the clustered facilities shall be provided by the property owners' association.
- (d) **Phased development.** In a phased development, safeguards shall be required in the form of easements or bonds or other commitments for open space requirements that will protect the integrity of the total project.
- (e) **Subdivision.** When a tentative subdivision map is filed with a planned development project, before recordation of the final subdivision map, the following items shall be filed with the appropriate agency:
- (1) Documentation of easements, covenants, deeds, and Property Owner Association by-laws, restrictions, and articles of incorporation.
  - (2) Sureties and performance bonds covering open space areas, dedicated public improvements, and other items as determined by the review authority. The amount of the performance bonds shall be reviewed annually by the appropriate agency.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008); **Amended Ordinance 4205 (2013)**

#### **84.18.040 Design Standards**

- (a) **Circulation and parking.**
- (1) **Vehicular circulation pattern.** The vehicular circulation pattern shall be designed to:
    - (A) Provide adequate vehicular access to and within the project, in compliance with adopted County standards.
    - (B) Coordinate with external transportation networks in terms of location and loads.
    - (C) Integrate with the natural landscape and, where possible, parallel the natural drainage system.
    - (D) The noise levels from vehicular traffic shall comply with the standards outlined in Section 83.01.080 (Noise).

- (E) The planned development project, and each phase of the project, shall have two points of vehicular ingress and egress from surrounding streets, one of which may be emergency only. Where the applicant can show that this is a physical impossibility, the appropriate fire authority may modify this requirement.
  - (F) Private streets are acceptable if they are built to County standards and are inspected by the County. However, rights-of-way shall not be accepted by the County nor shall private streets be accepted as part of the County maintained road system.
- (2) **Pedestrian circulation pattern.** The pedestrian circulation pattern shall be designed so that:
- (A) It is separated from vehicular traffic where possible and it discourages pedestrian crossing of the vehicular network, except at controlled points that are designed for pedestrian safety.
  - (B) Hard-surfaced, safely lighted pedestrian access to common open space, recreational areas, community facilities, and other logical terminal points shall be provided.
- (3) **Common off-street parking areas.** Common off-street parking areas shall be designed so that:
- (A) They provide adequate, convenient, well-marked, and safely lighted parking.
  - (B) With the exception of enclosed parking structures, they shall contain appropriate landscaping to minimize the effect of large areas of asphalt or concrete.
- (4) **Parking spaces required per unit.** Two parking spaces per dwelling unit shall be provided. Tandem parking shall not be allowed except in mountain areas. Guest parking, either on-street or in common parking areas, shall be provided at a ratio of one space per two dwelling units.

(b) **Open space.**

- (1) **Open space defined.** For the purposes of this Chapter, open space within a planned development shall be the total area of land or water within the boundaries of a planned development, designed and intended for use and enjoyment as open space areas.
- (A) Open space within a planned development shall include the following:
    - (I) Area of the site not covered by structures, paved areas or accessory structures, except recreational structures.

- (II) Land that is accessible and available to all occupants of the development for which the space is intended.
  - (B) Open space within a planned development shall not include:
    - (I) Proposed and existing street rights-of-way and private streets.
    - (II) Open parking areas, driveways.
    - (III) School sites.
    - (IV) Commercial, industrial, or office areas, and their structures, accessory structures, parking, and loading facilities.
  - (2) **Minimum open space required for planned development.** A residential planned development project shall have a minimum of 40 percent private and common open space, not including balcony area.
  - (3) **Minimum open space required for each dwelling unit.** Each dwelling unit shall have a minimum contiguous private open space area as follows:
    - (A) Ground Floor. 225 square feet.
    - (B) Upper-story dwelling without ground floor. 60 square feet.
  - (4) **Management of common facilities.** Provisions for the maintenance and management of the common open space and common facilities shall be reviewed and approved by the Commission. The approval shall be based on the following criteria:
    - (A) The applicant shall establish a property owners' association before the selling of a parcel or the occupancy of a dwelling unit.
    - (B) The property owners' association by-laws, restrictions, and articles of incorporation shall include the necessary regulations required by the Federal Housing Administration. Other standards shall be approved by the reviewing County Housing Authority.
- (c) Site resource utilization.**
- (1) The planned development shall be designed and developed to minimize the cutting of trees, disturbance of ground cover, cut and fill work, drainage alteration, and hillside development. Removal of trees shall be in compliance with County permit procedures.
  - (2) New earthwork and exposed slopes shall be suitably stabilized in compliance with Chapter 83.08 (Hillside Grading). Scarred and erosion prone areas shall be stabilized with appropriate planting.

**(d) Site and structure relationship.**

- (1) The spacing of structures shall be governed by the requirements for adequate light and air, proper access, fire regulations, and the need for visual and auditory privacy.
- (2) Whenever possible, dwelling units shall be arranged to take advantage of views and vistas with consideration given to “micro” (subsections of the planned development) elements (e.g., climate control, pleasing relationships of structure, mass, etc.).
- (3) The planned development shall be designed to minimize the likelihood of criminal activity by:
  - (A) Minimizing those areas that are neither clearly private nor public.
  - (B) Planting landscaping to ensure that maximum observation is obtained while providing the desired degree of aesthetics.
- (4) Structure height, bulk, and “micro” coverage are regulated only to the extent that ensures that they meet the performance criteria identified in this Subsection E.
- (5) Structures for human habitation shall not be placed in an environmentally hazardous, fragile, or unique area.

**(e) Perimeter.**

- (1) Adjacent properties to the planned development shall be protected from adverse influences of traffic, land use, structure scale, and density by the combined use of screening, setbacks, and land use location.
- (2) Perimeter planning and coordination are required to ensure continuity in the community facilities and services. The applicant shall demonstrate that the development proposal can be adequately served by community facilities and services without undue public expenditure.
- (3) Planned development projects that are within Fire Safety (FS) Overlay shall develop perimeter areas in compliance with Section 82.13.060 (FS1, FS2, and FS3 Development Standards)

Adopted Ordinance 4011 (2007); Amended Ordinance 4205 (2013)

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## CHAPTER 85.10 PLANNED DEVELOPMENT PERMITS

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### Sections:

- 85.10.010 Purpose
- 85.10.020 Applicability
- 85.10.030 Procedures
- 85.10.040 Review Authority
- 85.10.050 Findings
- 85.10.060 Concurrent Subdivision Applications
- 85.10.070 Development Plans
- 85.10.080 Time Limits and Expiration
- 85.10.090 Planned Development Permit Amendments
- 85.10.100 Post Decision Procedures

### 85.10.010 Purpose

The Planned Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The County expects each Planned Development Permit project to be of obvious, significantly higher quality than would be achieved through conventional design practices and development standards.

Adopted Ordinance 4011 (2007)

### 85.10.020 Applicability

A Planned Development Permit application may be filed and processed only under the following circumstances.

- (a) **Minimum site area.** A Planned Development Permit may be requested for a residential, commercial, industrial, and/or mixed-use development on a site(s) with a minimum of five acres. The Director may also accept applications for a Planned Development Permit for residential, commercial, industrial, and/or mixed-use development on a site(s) with a minimum of one acre, provided the development involves construction of multiple buildings and the Director determines that the Planned Development process would provide a more effective tool to address development on the site than other available procedures.
- (b) **Timing of permit.** No Building or Grading Permit shall be issued on a site for which a Planned Development Permit is proposed until the Planned Development Permit has been approved in compliance with this Chapter.

Adopted Ordinance 4011 (2007)

### 85.10.030 Procedures

- (a) **Application review.** Each Planned Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Chapter.
- (b) **Public hearing.** The review authority shall conduct a public hearing on an application for a Planned Development Permit before the approval or disapproval of the Permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 86.07 (Public Hearings).
- (c) **Scope of approval.** Planned Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable standard of this Development Code (e.g., **size, density**, height, parking, setbacks, street layout, etc.); provided, the approval shall not authorize a land use that is not allowed in the applicable land use zoning district by Division 2 (Land Use Zoning Districts and Allowable Land Uses).

Adopted Ordinance 4011 (2007); **Amended Ordinance 4205 (2013)**

### 85.10.040 Review Authority

- (a) **Initial review by the Development Review Committee (DRC).** The DRC shall review all applications for preliminary or final development plans before their review by the Director, Commission, and Board.
- (b) **Commission and Board action required.** The Commission shall review and recommend and the Board shall act upon all initial applications for preliminary development plans and significant revisions to previously approved preliminary development plans for Planned Development Permits.
- (c) **Recommendation for disapproval.** A disapproval action by the Commission shall terminate any application for a Planned Development Permit, unless it is appealed in compliance with Chapter 86.08 (Appeals).
- (d) **Preliminary and final development plans required.** When an applicant chooses to file a final development plan for a project that has not had a preliminary development plan previously approved, the applicant shall file the preliminary and final development plans concurrently.
- (e) **Director to review and act upon all final development plans.** The Director shall review and act upon all applications for final development plans for a Planned Development Permit; provided, the plans have been determined to be non-controversial and are consistent with the approved preliminary development plans.

# DIVISION 6 DEVELOPMENT CODE ADMINISTRATION

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**86.09.080 Enforcement**

- (a) **Notices, orders, and citations.** This Development Code may be enforced through the issuance of various notices and orders pertaining to any land use; or to any addition, alteration, construction, conversion, enlargement, installation, moving, reconstruction, rehabilitation of any structure; or to any use of any structure; that is contrary to any provision of this Development Code as provided herein, or as otherwise provided under various provisions of the other Titles of the San Bernardino County Code. Such notices may include, without limitation, notice of violation, notice to correct, notice to vacate, and stop work orders. This Development Code may also be enforced through the use of administrative citations issued pursuant to Government Code Section 53069.4 and the provisions of the San Bernardino County Code adopted pursuant to the authority conferred by Government Code Section 53069.4; or through the use of criminal citations issued pursuant to Penal Code Section 836.5 and in the manner specified by the San Bernardino County Code, Title 1, Division 1, Chapter 2, Section 11.024.
- (b) **Enforcement remedies are cumulative and discretionary, not exclusive.** All remedies contained in this Development Code for the handling of violations or enforcement of the provisions of this Development Code shall be discretionary and cumulative, and not exclusive of any other applicable provisions of the San Bernardino County Code or other applicable State law. The County, at its sole discretion and acting through the officials designated in this Chapter and in consultation with the Office of County Counsel, may enforce this Development Code through the application of criminal, civil, and administrative remedies as set forth in this Chapter. In the exercise of such discretion in selecting an appropriate code enforcement remedy, the County shall not be required to institute available code enforcement remedies in any particular order, or to prefer the application of one remedy to another.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

**86.09.090 Criminal Actions**

- (a) Notwithstanding any other provision of the San Bernardino County Code, each person violating, causing, or allowing a violation of any provision of this Development Code or any permit or condition of approval granted pursuant thereto, shall be guilty of an infraction, unless the violation is specifically declared to be a misdemeanor.
- (b) Every violation of any provision of this Development Code, or of any permit issued pursuant to this Development Code (including any of the conditions of approval for such permit) that is prosecuted as an infraction shall be punished, upon conviction or upon a plea of nolo contendere (commonly called no contest), by: (1) a base fine not exceeding \$100.00 for a first violation; (2) a base fine not exceeding \$200.00 for a second violation of the same Code Section or permit (or any of the conditions of approval) occurring on the same property and committed by the same person within one year; and (3) a base fine not exceeding \$500.00 for each additional violation of the same Code Section or permit (or any of the conditions of approval) occurring on the

same property and committed by the same person within one year. Any court costs that the court may otherwise be required to impose pursuant to applicable state law or local ordinance shall be imposed in addition to the base fine. Notwithstanding the above, a first or subsequent violation of this Development Code may be charged and prosecuted as a misdemeanor.

- (c) A misdemeanor shall be punished, upon conviction or upon a plea of nolo contendere (commonly called no contest), by a base fine of not less than \$500.00 and not more than \$1,000.00, or by imprisonment in the County jail for a period of not more than six months, or by both such base fine and imprisonment. Any court costs that the court may otherwise be required to impose pursuant to applicable state law or local ordinance shall be imposed in addition to the base fine.
- (d) The conviction and punishment of any person of an offense as described in this Section or the payment of a criminal fine by or on behalf of the person convicted, shall not relieve that person from the responsibility for correcting, removing, or abating the violation that resulted in the conviction; nor prevent the enforced correction, removal or abatement thereof by the County. The correction, removal, or abatement of a violation begun after the issuance of a criminal citation or the filing of a criminal complaint shall not be a defense to the infraction or misdemeanor so charged and, following a conviction or plea of nolo contendere, shall not be grounds for the dismissal of the action or the waiver, stay, or reduction of any fine established in this Section.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008); Amended Ordinance 4057 (2008); Amended Ordinance 4085 (2009)

### **86.09.100 Civil Actions**

- (a) **Injunctive relief and abatement.** At the request of any person authorized to enforce this Development Code, the County Counsel or District Attorney may commence proceedings for the abatement, removal, correction and enjoinder of any act or omission that constitutes or will constitute a violation of this Development Code or any permit or land use approval granted pursuant thereto, and an order requiring the violator(s) to pay civil penalties and/or abatement costs. Where multiple violators are involved, they shall be jointly and severally liable for the civil penalties and/or abatement costs.

- (b) **Civil Remedies and Penalties.** Any person, whether acting as principal, agent, employee, owner, lessor, lessee, tenant, occupant, operator, contractor, or otherwise, who violates any provision of this Development Code or any permit or any condition of land use approval granted pursuant thereto, shall be liable for a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation for each day or any portion thereof, that the violation continues to exist. In determining the amount of civil penalty to be imposed, both as to the daily rate and the subsequent total amount for any given violation, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting the violation, the nature and persistence of such conduct, the length of time over which the conduct occurred or as repeated, the assets, liabilities, and net worth of the violator, whether a corporate entity or an individual, and any corrective action taken by the violator.
- (c) **Attorney's Fees.** In any civil action, administrative proceeding (excluding administrative citations issued pursuant to § 86.09.110 Administrative Actions), or special proceeding to abate a public nuisance, whether by seeking injunctive relief and/or an abatement order, or other order; attorney's fees may be recovered by the prevailing party and shall not exceed the amount of reasonable attorney's fees incurred by the County in that action or proceeding (Government Code § 25845).

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008); Amended Ordinance 4085 (2009)

#### **86.09.110 Administrative Actions**

As an alternative to the criminal or civil enforcement of this Development Code, i.e., Title 8 of the San Bernardino County Code, and, further, as an alternative to all other administrative enforcement procedures provided by this Development Code, all violations of this Development Code may be subject to enforcement through the use of Administrative Citations in accordance with Government Code § 53069.4 and this Section, and in the same manner and under the same authority as provided at § 11.0208 of the San Bernardino Code.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008); Amended Ordinance 4057 (2008); Amended Ordinance 4175 (2012)

#### **86.09.120 Filing of a Notice of Pendency**

Whenever the County institutes a judicial action or proceeding to enforce the Development Code, a Notice of Pendency of the action or proceeding may be filed with the County Recorder's Office. The notice shall be filed at the time of the commencement of the action or proceeding, and upon recordation of the notice as provided in this Section, shall have the same effect as a notice recorded in compliance with Section 409 of the State Code of Civil Procedure.

- (a) The County Recorder shall record and index the Notice of Pendency of action or proceeding in the Grantor/Grantee Index.



- (b) Any Notice of Pendency of action or proceeding filed in compliance with this Section may, upon motion of a party to the action or proceeding, be vacated upon an appropriate showing of need therefore by an order of a judge of the court in which the action or proceeding is pending.
- (1) A certified copy of the “Order to Vacate Notice of Pendency” may be recorded with the County Recorder’s Office, and upon the recordation, the Notice of Pendency of the action or proceeding shall not constitute constructive notice of any of the matters contained therein nor create any duty of inquiry in any person thereafter dealing with the property described therein.
  - (2) An “Order to Vacate Notice of Pendency” shall not be appealable, but the party aggrieved by the order may, within 20 days after service of written notice of the order, or within additional time not exceeding 20 days as the court may, within the original 20 days allow, but in no event later than 60 days after entry of the order, petition the proper reviewing court to review the order by Writ of Mandate.
  - (3) No “Order to Vacate Notice of Pendency” shall be effective, nor shall it be recorded with the County Recorder’s Office, until the time within which a petition for the filing of a Writ of Mandate has expired in compliance with this Section.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

#### **86.09.130 Filing Notice of Action**

Whenever an enforcement action is initiated and prior to filing a Notice of Pendency, the Code Enforcement Division or other County department initiating the action, may pursuant to Government Code Section 27280, file with the County Recorder’s Office a notice of action identifying the enforcement action taken for violation of the Development Code or other applicable law.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

#### **86.09.140 Initial Investigation Procedures**

This Section describes the procedures for initiating enforcement action in cases where the Director has determined that real property within the unincorporated area of the County is being used, maintained, or allowed to exist in violation of the provisions of this Development Code. It is the objective of these provisions to encourage the voluntary cooperation of responsible parties in the prompt correction of violations, so that the other enforcement measures provided by this Chapter may be avoided.

- (a) **Notice.** Subject to Subsection (c) of this Section upon investigation and a determination that a violation of any of the provisions of this Development Code or any condition(s) imposed on any approval, authorization, permit, or variance is found to exist, the Director shall notify the record owner or any person having possession or



control of the property by mail, of the existence of the violation(s), the Department's intent to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing on any objections they may have. The notice shall be in a form approved by the County Counsel.

**(b) Notice of Violation.** The Director shall provide the record owner of the subject site and/or any person in possession or control of the site with a written Notice of Violation, which shall include the following information:

- (1) A description of each violation, and citations of applicable Development Code provisions being violated;
- (2) A time limit for correcting the violation(s) in compliance with Subsection (c)., below;
- (3) A statement that the County intends to charge the property owner for all administrative costs associated with the abatement of the violation(s) in compliance with Section 86.09.180 (Recovery of Costs), and/or initiate legal action as described in Section 86.09.080 (Enforcement).

**(c) Time limit for correction.**

- (1) The Notice of Violation shall state that the violation(s) shall be corrected within 30 days from the date of the notice to avoid further enforcement action by the County, unless the responsible party contacts the Code Enforcement Division within that time to arrange for a longer period for correction.
- (2) The 30-day time limit may be extended by the Director upon a showing of good cause.
- (3) The Director may also require through the Notice of Violation that the correction occur within less than 30 days if the Director determines that the violation(s) constitutes a hazard to public health or safety.

**(d) Use of other enforcement procedures.** The enforcement procedures of Section 86.09.080 (Enforcement), may be employed by the Director after or instead of the provisions of this Section where the Director determines that this Section would be ineffective in securing the correction of the violation(s) within a reasonable time.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

### **86.09.150 Inspections**

**(a) Pre-approval inspections.** Every applicant seeking an authorization, permit, or any other action in compliance with this Development Code shall allow the County officials handling the application access to any premises or property which is the subject of the application.

- (b) **Post approval inspections.** If the authorization, permit, or other action in compliance with this Development Code is approved, the owner or applicant shall allow appropriate County officials access to the premises in order to determine continued compliance with the approved authorization or permit and/or any conditions of approval imposed on the approval, authorization, permit, or Variance.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

#### **86.09.160 Stop Work Orders**

- (a) Any construction in violation of this Development Code or any conditions imposed on any approval, authorization, permit, or Variance shall be subject to the issuance of a "Stop Work Order."
- (b) Any violation of a Stop Work Order shall constitute a misdemeanor and a public nuisance, and shall be subject to the remedies and penalties established by the County Code and this Chapter.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

#### **86.09.170 Revocation or Modification of Permits or Approvals**

- (a) **Purpose.** Discretionary permits or approvals issued in compliance with this Development Code may be revoked or modified in compliance with this Section.
- (b) **Procedures.** This Section provides procedures for securing revocation or punitive modification of previously approved permits or approvals.
- (c) **Revocations.** The County's action to revoke a permit or approval shall have the effect of terminating the permit and denying the privileges granted by the original approval.
- (d) **Modifications.** County modification of a permit or approval instead of revocation may include any operational aspect of the project, including buffers, duration of the permit or entitlement, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect/condition determined to be reasonable and necessary to ensure that the permit is operated in a manner consistent with the original findings for approval.
- (e) **Hearings and notice.**
- (1) The appropriate review authority shall hold a public hearing to revoke or modify a permit or approval granted in compliance with the provisions of this Development Code.
  - (2) At least ten days before the public hearing, notice shall be "delivered" in writing to the applicant for the permit or approval being considered for revocation, and/or owner of the property for which the permit was granted. The only

exception to the 10-day notice provision shall be for Temporary Use Permits which, because of their short term nature, shall only require a 24-hour notice.

- (3) Notice shall be deemed “delivered” two days after being mailed, certified and first class, through the United States Postal Service, postage paid, to the owner as shown on the County's current equalized assessment roll and to the project applicant, if not the owner of the subject property.

**(f) Action by Reviewing Authority.**

- (1) **Permits.** A Conditional Use Permit, Minor Use Permit, or other County planning permit or approval (except a Variance, see Subsection (f)(2), below) may be revoked or modified by the reviewing authority (e.g., Director, Commission, or Board) that originally approved the permit, if the reviewing authority first makes any one of the following findings:

- (A) Circumstances under which the permit or approval was granted have been changed by the applicant to an extent that one or more of the findings that justified the original approval can no longer be made, and the public health, safety, and welfare require the revocation or modification;
- (B) The permit or other approval was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or approval;
- (C) One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated;
- (D) The approved use or structure has ceased to exist or has been suspended for at least 12 months;
- (E) An improvement authorized in compliance with the permit is in violation of any applicable code, law, ordinance, regulation, or statute; or
- (F) The improvement/use allowed by the permit has become detrimental to the public health, safety, or welfare or the manner of operation constitutes or is creating a nuisance.

- (2) **Variances.** A Major or Minor Variance may be revoked or modified by the review authority which originally approved the Major or Minor Variance, if the review authority first makes any one of the following findings, in addition to any one of the findings in Subsection (f)(1), above:

- (A) Circumstances under which the original approval was granted have been changed by the applicant to a degree that one or more of the findings contained in the original approval can no longer be made in a positive

manner, and the grantee has not substantially exercised the rights granted by the Major or Minor Variance; or

- (B) One or more of the conditions of the Major or Minor Variance have not been met, or have been violated, and the grantee has not substantially exercised the rights granted by the Major or Minor Variance.
- (g) **Amortization.** If a revocation is ordered, the Commission may provide for a reasonable period of time to amortize any lawful existing uses on the site. Extensions of this time period may be granted for good cause shown on an application to the applicable review authority by any affected person.
- (h) **Action is appealable.** The revocation or modification of a permit or Variance is appealable in compliance with Chapter 86.08 (Appeals)
- (i) **Enforcement.** The County department or agency that issues the permit shall have the primary responsibility for enforcing compliance with the permit.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

#### **86.09.180 Recovery of Costs**

This Section establishes procedures for the recovery of administrative costs, including staff and County Counsel time expended on the enforcement of the provisions of this Development Code, other than administrative citation cases, to correct a violation. The intent of this Section is to recover County administrative costs reasonably related to enforcement.

- (a) **Record of costs.**
  - (1) The Department shall maintain records of all administrative costs incurred by responsible County departments, associated with the processing of violations and enforcement of this Development Code, and shall recover the costs from the property owner in compliance with this Section.
  - (2) Staff time shall be calculated at an hourly rate as established and revised from time to time by the Board.
- (b) **Summary of costs and notice.**
  - (1) At the conclusion of the case, the Director shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the property by certified and first class mail.
  - (2) The summary shall include a notice in a form approved by the County Counsel, advising the responsible party of their right to request a hearing on the charges for County cost recovery within 10 days of the date of the notice, and that if no request for hearing is filed, the responsible party will be liable for the charges.

- (3) In the event that no request for hearing is timely filed or, after a hearing the Director affirms the validity of the costs, the property owner or person in control shall be liable to the County in the amount stated in the summary or any lesser amount as determined by the Director.
  - (4) The costs shall be recoverable in a civil action in the name of the County, in any court of competent jurisdiction, or by tax assessment, or by a lien on the property, at the County's election.
- (c) **Attorney's fees.** In any action or administrative proceeding to abate a nuisance, the prevailing party in the action or proceeding shall be entitled to recover reasonable attorney's fees; however, the amount of attorney's fees awarded to a prevailing party shall not exceed the amount of attorney's fees incurred by the County in the action or proceeding. Further, an award of attorney's fees in compliance with this Section shall only be allowed where the County elects, at the initiation of the action or proceeding, to seek recovery of its own attorney's fees.
- (d) **Request for hearing on costs.** Any property owner, or other person having possession and control of the subject property, who receives a summary of costs shall have the right to a hearing before the Director on their objections to the proposed costs.
- (1) A written request for hearing shall be filed with the Department within 10 days of the service by mail of the Department's summary of costs, on a form provided by the Department.
  - (2) Within 30 days of the filing of the request, and on 10 days written notice to the owner, the Director shall hold a hearing on the owner's objections, and determine their validity.
  - (3) In determining the validity of the costs, the Director shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include:
    - (A) Whether the present owner created the violation(s);
    - (B) Whether there is a present ability to correct the violation(s);
    - (C) Whether the owner promptly corrected the violation(s);
    - (D) The degree of cooperation provided by the owner; and
    - (E) Whether reasonable minds can differ as to whether a violation(s) exists.
  - (4) The Director's decision shall be appealable as provided by Chapter 86.08 (Appeals).

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

**86.09.190 Additional Permit Processing Fees**

Any person who establishes a land use, or alters, constructs, demolishes, enlarges, erects, maintains, or moves any structure without first obtaining any authorization or permit required by this Development Code, shall pay the additional permit processing fees in compliance with the County Fee Ordinance for the correction of the violations, before being granted an authorization or permit for a use or structure on the site.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

**86.09.200 Reinspection Fees****(a) Amount and applicability of reinspection fee.**

- (1) A reinspection fee shall be imposed on each person who receives a Notice of Violation, notice and order, or letter of correction of any provision of this Development Code or the County Code, adopted Building Code, or State law.
  - (A) The fee amount shall be established in compliance with the current Fee Ordinance.
  - (B) The fee may be assessed for each inspection conducted when the particular violation, for which a Notice of Violation, notice and order, or letter of correction was issued, was not fully abated or corrected as directed by, and within the time and manner specified in, the notice or letter.
- (2) The fee shall not apply to the original verification inspection to document the violations and shall apply to the first compliance inspection made after the issuance of a notice or letter, unless the correction has been made.

**(b) Continuation of the original case.**

- (1) If a notice or letter has been previously issued for the same violation and the property has been in compliance with the provisions of this Development Code or the County Code for less than 90 days, the violation shall be deemed a continuation of the original case, and all inspections or reinspections, including the first inspection for the repeated offense, shall be charged a reinspection fee.
- (2) This fee is intended to compensate for administrative costs for unnecessary County inspections, and is not a penalty for violating this Development Code or the County Code.
- (3) Any reinspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of this Development Code or the County Code, or costs incurred by the County for the abatement of a public nuisance.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

**86.09.210 Documentation**

It is highly recommended that the property owner initiate a Certificate of Land Use Compliance application to document any existing use where an application was not processed but determined to be a legal use and where the zoning or land use designation has changed and where a court decision determined a use to be legally established. This process records a document with the County Recorder's Office and is readily available to future property owners, the public and agencies. It is also recommended that the property owner initiate a General Plan and Development Code Interpretation application whenever it is unclear to the owner, or may be to a future owner, what a specific use is determined to be considered under the Development Code.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008)

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