



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: March 7, 2019

AGENDA ITEM # 4

Project Description

Applicant: County of San Bernardino Land Use Services Department

Community: Countywide

Location: Countywide

Project No: P201800444

Staff: Christney Barilla

Proposal: A Development Code Amendment to correct minor errors and/or add clarification as a clean-up action to various sections of Title 8 of the County Code (Development Code). This amendment includes revisions to the following topics: residential land use zoning districts, setback regulations and exceptions, commercial cannabis activity, review authority, notice of pending land use decisions, types of minor variances allowed, regulated trees and plants, and general permit and tree removal permits.

Newspaper Publication Date: February 24, 2019

Report Prepared By: Christney Barilla

PROJECT DESCRIPTION

The proposal (Project) is a San Bernardino County Development Code (Development Code) Amendment to add or amend provisions for the correction of minor errors and/or adding clarification to the Residential Land Use Zoning Districts Subsection 82.36.030(c)(1); Setback Regulations and Exceptions Subsection 83.02.070(c)(1); Commercial Cannabis Activity Subsection 84.34.020(g); Review Authority Table 85-1 of Section 85.01.030; Notice of Pending Land Use Decisions Subsection 85.03.080(a)(4); Types of Minor Variances Allowed Table 85-5 of Section 85.17.040; Regulated Trees and Plants and General Permit Subsections 88.01.040 (a) and (b); and repealing Tree or Plant Removal Permits Subsection 88.01.050(c).

BACKGROUND

The Land Use Services Department has an on-going program of identifying minor inconsistencies and unnecessary complications within the County Development Code, General Plan, and other documents prepared by the Department, and proposing clarifications to address those issues. Suggestions for document corrections are submitted by staff and other users, to improve these documents, making them more readable, functional, and complete.

ANALYSIS OF PROPOSAL

Content of the Proposed Ordinance: The proposed Ordinance identifies several sections of the Development Code that could benefit from clarification or correction. The proposed revisions represent staff's recommendations to correct these issues, and are summarized as follows:

- **Residential Land Use Zoning Districts** - [Subsection 82.36.030(c)(1)] is amended to correct a misspelling.
- **Setback Regulations and Exceptions** - [Subsection 83.02.070(c)(1)] is amended to correct a reference to another subsection.
- **Commercial Cannabis Activity** – [Subsection 84.34.020(g)] is amended to expand the definition of delivery to not include a person, entity or location outside of the unincorporated County that is delivering commercial cannabis to an individual within the unincorporated County, if the person or entity is licensed by the State of California to engage in commercial cannabis delivery.
- **Review Authority** - [Table 85-1 of Section 85.01.030] is repealing the sign registration issuance which is a type of entitlement or decision, which is no longer being issued by the Code Enforcement Division of the Land Use Service Department.
- **Notice of Pending Land Use Decisions** – [Subsections 85.03.080(a)(4)] is being amended for clarification of the staff review with notice for specific uses.
- **Type of Minor Variances Allowed** – [Table 85-5 of Section 85.17.040] is being amended to clarify the Department of Public Works division is the Traffic Division.
- **Regulated Trees and Plants and General Permit** – [Subsection 88.01.040(a)] is amended to remove an extra word. [Subsection 88.01.040(b)] is amended to correct a misspelling.
- **Tree or Plant Removal Permits** – [Subsection 88.01.050(c)] is repealed since the preconstruction inspections solely for the presence of regulated trees and plants are no longer required or performed by the Building and Safety Division of the Land Use Services Department.

ENVIRONMENTAL DETERMINATION

The Proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to §15061(b)(3) of the CEQA Guidelines, as such there is no possibility that the activity in question may have a significant effect on the environment.

FINDINGS

The following findings and the evidence to support such findings must be made by the Planning Commission in its recommendation to the Board of Supervisors to approve the proposed Development Code Amendment:

1. The proposed ordinance amending the Development Code is consistent with the General Plan and any applicable community plan or specific plan because it will allow the Department to more effectively enforce the provisions of the Development Code. The proposed ordinance is to amend the code for the corrections of minor errors, clarifications of existing language, removal of references, expand a definition, and update department decisions or actions no longer required or performed.
2. The proposed ordinance amending the Development Code would not be detrimental to the public interest, health, safety, convenience or welfare of the County;
3. The proposed ordinance amending the Development Code is internally consistent with other applicable provisions of the Development Code. For the purpose of maintaining consistency throughout the Development Code, multiple sections of the Development Code are included in the proposed Ordinance.
4. The proposed amendment is exempt from the requirements of CEQA pursuant to CEQA Guidelines §15061(b)(3) because it can be determined that implementation of the proposed ordinance would not have a significant effect on the environment.

RECOMMENDATION

That the Planning Commission recommend that the Board of Supervisors:

- A. **ADOPT** the proposed Ordinance amending Title 8 of the County Code (Development Code) for the corrections of minor errors, clarifications of existing language, and removal of references, definition amended and department decisions or actions no longer performed in Subsection 82.36.030(c)(1), Subsection 83.02.070(c)(1), Subsection 84.34.020(g), Table 85-1 of Section 85.01.030, Subsections 85.03.080(a)(3) and (4), Table 85-5 of Section 85.17.040, Subsection 88.01.040(a) and (b), and repeal Subsection 88.01.050(c).
- B. **ADOPT** the findings as contained in the staff report.
- C. **FILE** the Notice of Exemption.

ATTACHMENTS

Exhibit A: Proposed County Development Code Section Changes (Red-lined Version)

EXHIBIT A

Proposed County Development Code Section Changes (Red-lined Version)

- (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~~ 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); Amended Ordinance xxxx (2019)

- (2) Street setback lines, as delineated on all Final Maps, Parcel Maps and Records of Survey maps recorded in the County between March 1, 1948 and January 1, 1987, or on Composite Development Plans on file with the Division of Building and Safety shall be the street and yard setback distances required on the property within the Final Maps, Parcel Maps, Records of Survey or Composite Development Plans, unless additional road dedication is required as a condition of development. When additional road dedication is required, or in the case of Final Maps, Parcel Maps and Records of Survey maps recorded prior to March 1, 1948, the greater setback distance of either the property development standards in the applicable land use zoning district based on the ultimate right of way width or the setback distance as shown on the approved map shall prevail. Notwithstanding any other provisions of the Development Code, any request to modify or deviate from a building setback line designated on a recorded map or final map shall be made in compliance with the provisions of Chapter 85.17 (Variances).

(c) **Measurement of setbacks.** Setbacks shall be measured as follows:

- (1) **Front setbacks.** The front yard setback shall be measured at right angles from the nearest point on the front property line of the parcel to the nearest point of the structure envelope, except for corner parcels. Refer to Subsection 810.01.014(~~ss00~~)(1) for the definition of front lot line.

(2) **Side setbacks.**

- (A) The side yard setback shall be measured at right angles from the nearest point on the side property line of the parcel to the nearest line of the structure envelope, establishing a setback line parallel with the side property line that extends between the front and rear yards.

- (B) For the purposes of calculating side setbacks, the following dwellings with common party walls shall be considered as one structure occupying one parcel:

- (I) Semi detached two and four family dwellings.

- (II) Row dwellings.

- (c) **Cannabis Plant.** Any mature or immature cannabis plant, any cannabis seedling or any clipping or cutting from a cannabis plant that contains roots.
- (d) **Cannabis Product.** Cannabis that has undergone a process whereby the raw cannabis has been transformed into a concentrate, including, but not limited to, cannabis concentrate. Cannabis product also includes products containing cannabis and other ingredients, such as, but not limited to, edible cannabis products and topical cannabis products.
- (e) **Commercial Cannabis Activity.** Any enterprise or activity, whether or not for profit, gain or benefit, concerning the cultivation, production, storage, processing, manufacture, dispensing, delivery, distribution, laboratory testing, transportation, provision or sale of cannabis or cannabis products, for medical purposes or otherwise. Without limiting the foregoing, commercial cannabis activity specifically includes, but is not limited to, those activities defined as “commercial cannabis activity” by California Business and Professions Code section 19300.5, as currently enacted or hereafter amended.
- (f) **Cultivation.** Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, whether conducted indoors or outdoors.
- (g) **Delivery.** The transfer of cannabis or cannabis products by: a person or entity located within the unincorporated County directly to an individual ~~within the unincorporated County; or, a person, entity, or location outside of the unincorporated County to an individual within the unincorporated County.~~ Delivery includes the use of any technology platform that enables entities or individuals to arrange for or facilitate the transfer of cannabis or cannabis products. Delivery does not include the transfer of cannabis or cannabis products by a person or entity outside of the unincorporated County to an individual within the unincorporated County, if the person or entity is licensed by the State of California to engage in commercial cannabis delivery.
- (h) **Dispensary.** A facility or location, whether fixed or mobile, where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, made available to, or provided, either individually or in any combination, with or without remuneration, for medical purposes or otherwise. A dispensary includes those facilities defined as a “dispensary” by Business and Professions Code section 19300.5, as currently enacted or hereafter amended.
- (i) **Distribution.** The procurement, sale, and transport of cannabis or cannabis products between entities or facilities, and not directly to an individual. Distribution does not include such transactions if done directly to an individual end-user.
- (j) **Edible Cannabis Product.** Manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, any type of food, drink, or pill, for medical purposes or otherwise.
- (k) **Enforcement Officer.** Any County employee, Special District employee, or agent of the County or Special District with the authority to enforce any provision of this Development Code, specifically:

85.01.030 Authority for Land Use and Zoning Decisions

Table 85-1 (Review Authority) identifies the County official or authority responsible for reviewing and making initial decisions on each type of application or land use entitlement required by this Development Code, the nature of the initial decision (i.e. issue, approve, or recommend), and the nature of the response of the subsequent review authority.

**TABLE 85-1
REVIEW AUTHORITY**

Type of Entitlement or Decision	Applicable Citation	Director (1) (2)	Planning Commission (3)	Board of Supervisors (4)
ABC Licensing	Ch. 85.04	Issue	Appeal ⁽⁵⁾	Appeal
Adult Business Regulatory Permit	Ch. 84.21	Recommend	Approve	Appeal
Amendments (General Plan, Development Code, Community Plan, and Area Plan)	Ch. 86.12	Recommend	Recommend	Approve
Airport Comprehensive Land Use Plan and Amendments	Ch. 86.11	Recommend	Recommend	Approve
Certificates of Land Use Compliance	Ch. 85.05	Issue	Appeal	Appeal
Conditional Use Permits	Ch. 85.06	Recommend	Approve / Recommend	Approve/ Appeal
Development Agreements and Amendments	Ch. 86.13	Recommend	Recommend	Approve
Home Occupation Permits	Ch.	Approve	Appeal	—
Housing Incentives Program ⁽⁶⁾	Ch. 83.03	Recommend	Recommend	Approve
Interpretations	Ch. 81.02	Issue	Appeal	Appeal
Major Variances	Ch. 85.17	Approve	Appeal	—
Minor Use Permits	Ch. 85.06	Approve	Appeal	Appeal
Minor Variances	Ch. 85.17	Approve	Appeal	—
Planned Development Permits	Ch. 85.10	Recommend ⁽¹⁰⁾	Recommend	Approve
Revisions to an Approved Actions	Ch. 85.12	Approve	Appeal	Appeal
Sign Permits	Ch. 85.13	Issue	Appeal	Appeal
Sign Registration	Ch. 85.13	Issue⁽⁸⁾	Appeal	Appeal
Site Plan Permits	Ch. 85.08	Issue	Appeal	—
Special Use Permits	Ch. 85.14	Issue ^(7 or 8)	Appeal	Appeal
Specific Plans and Amendments	Ch. 86.14	Recommend	Recommend	Approve
Subdivision Sign Location Plans	Ch. 85.13	Issue ⁽⁸⁾	Appeal	—
Surface Mining & Reclamation	Ch. 85.06	Recommend	Approve	Appeal
Temporary Special Event Permits	Ch. 85.15	Approve	Appeal	Appeal
Temporary Use Permits	Ch. 85.15	Issue ^(7 or 8)	Appeal	Appeal
Tenant Improvement Permits	Ch. 85.09	Issue ⁽⁷⁾	Appeal	Appeal
Wind Energy Systems Permit	Ch. 85.18	Approve	Appeal	—

Notes:

- (1) The Director may defer action and refer any permit or approval application to the Commission for final determination.
- (2) All decisions of the Director are appealable to Commission, and then to the Board, in compliance with Division 11, Article 6 (Appeals), except for those decisions addressed in Note (3).

- (3) The Commission may refer consideration of an appeal to the Board, except for those decisions involving only a Variance, determination as to the completeness of an application, the determination to approve or deny a Home Occupation Permit, an Accessory Wind Energy Permit, a Subdivision Sign Location Plan, or the requirement for preparation of an Environmental Impact Report (EIR). In these instances the Commission's decision shall be the final and conclusive decision. The Board will not accept nor consider an appeal of these Commission decisions.
- (4) All decisions of the Board are final.
- (5) "Recommend" means that the review authority makes a recommendation to a higher review authority; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier review authority, in compliance with Division 11, Chapter 8 (Appeals).
- (6) The Housing Incentives Program application shall only be filed concurrently with one of the following applications: Conditional Use Permit, Tentative Parcel Map, Tentative Tract, or Planned Development Permit.
- (7) Issued by the Building Official.
- (8) Issued by Code Enforcement.
- (9) Concurrent processing. Multiple applications for the same project shall be processed concurrently, and shall be reviewed, and approved or disapproved by the highest review authority designated by this Development Code for any of the required applications (e.g., a project with applications for both a Zoning Map amendment and a Conditional Use Permit shall have both applications decided by the Board, instead of the Commission acting on the Conditional Use Permit as otherwise provided by Table 85-1 [Review Authority]).
- (10) Initial review by the Development Review Committee is required in compliance with Section 85.10.040(a).

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009); Amended Ordinance 4239 (2014); Amended Ordinance XXXX (2019)

- (b) **Failure to provide required information.** Any application for a land use decision that does not contain the required information and materials, or that is not accompanied by the appropriate application fee in compliance with the County Fee Ordinance, may be rejected as incomplete by the Planning Agency.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

85.03.070 Pre-application Review

When the complexity of a land use application warrants it, the applicable review authority or the office given responsibility for accepting the land use application may require that the applicant submit materials and attend necessary conferences or hearings to conduct a preliminary review of a development proposal before the acceptance of the application.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

85.03.080 Notice of Pending Land Use Decisions

- (a) **Public hearing or staff review with notice procedures.** Upon receipt of a request for a land use decision that utilizes the public hearing or staff review with notice procedures, the applicable review authority shall give notice specifying the time and place for the decision at least 10 calendar days before the date of the scheduled land use approval/denial by the following applicable methods:
- (1) Notice shall be published once in a newspaper of general circulation in the respective community of the proposal for the following land use decisions using the public hearing procedure:
 - (A) Amendments to the text of the General Plan or a specific plan.
 - (B) Development Code amendments.
 - (C) General Plan map amendments.
 - (D) Subdivisions, where a tentative and final map are required.
 - (2) Notice shall be given by first class mail to any person who has filed a written request for a specific application.
 - (3) Notice shall be given by first class mail or delivery to all surrounding property owners within a certain distance of the exterior boundaries of the subject site for land use decisions using the public hearing or staff review with notice procedures. The distances shall be in compliance with the Table 85-2 (Distance Requirements of Noticing Purposes), below.

**Table 85-2
Distance Requirements for Noticing Purposes**

Size of Project Parcel(s)	Property owners of parcels located within the following distances of the exterior boundaries of the subject parcel ⁽¹⁾
20 acres or less	300 feet
20.1 to 160 acres	700 feet
160.1 acres or greater	1,300 feet
Notes: (1) Refer to Chapter 85.04 (ABC Licensing) for special noticing requirements for ABC Licensing projects.	

- (4) Notice shall be given by first class mail or delivery to all contiguous property owners for land use decisions using the staff review with notice [procedures required by specific applications, e.g. Reasonable Accommodation in Housing Development for Disabled Individuals and Accessory Structures and Uses](#).
 - (5) Notice shall also be given, as required by Government Code Section 66451.3, in the case of a conversion of residential real property to a community apartment project, condominium project, or stock cooperative.
 - (6) Notice may be given in any other manner as is deemed necessary or desirable by the Director.
- (b) **Required information for notices.** The notice shall include sufficient information to give those receiving the notice a reasonable opportunity to evaluate the implications of the proposal and to participate in the decision making process. Furthermore, notices for land use decisions involving subdivisions for which a tentative and final map are required shall inform the recipient of their right to request, before the noticed land use decision date, that the proposal be reviewed by the County under the public hearing procedures.
- (c) **One-eighth page optional notice.** An one-eighth page legal display advertisement in a newspaper of general circulation may be substituted for individual property owner notice whenever the individual notice would require notification of more than 1,000 property owners.
- (d) **Ownership and addresses of properties.** Ownership and addresses of contiguous and surrounding properties shall be determined from the latest equalized tax assessment role or from other records of the County Assessor or County Tax Collector, whichever contains more recent information.
- (e) **Continued hearings.** During the public hearing, items that are continued by the review authority to a specific date shall not be re-noticed unless specifically requested by the review authority.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009); Amended Ordinance XXXX (2019)

- (1) **Notice.** The notice shall state that the Director will decide whether to approve or disapprove the Variance application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision. The request for a hearing shall be based on issues of significance directly related to the application (e.g., provision of evidence that the request cannot meet one or more of the findings identified in Section 85.17.060 [Findings and Decision], below).
- (2) **If hearing is requested.** If a public hearing is requested, the Director shall schedule the hearing, which shall be noticed and conducted in compliance with Chapter 86.07 (Public Hearings).
- (3) **If no hearing is requested.** If no public hearing is requested, the Director shall render a decision on the date specified in the notice referred to in Subsection (c) (1) above.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

85.17.040 Minor Variations

- (a) **Types of Minor Variations allowed.** The Director may grant a Minor Variance to reduce any of the following requirements of this Development Code up to the maximum specified in the Table 85-5 (Types of Minor Variations Allowed), below.

**Table 85-5
Types of Minor Variations Allowed**

Types of Minor Variations Allowed*		Maximum Variance
1	Area requirements. Excluding parcel area requirements.	30%
2	Distance between structures. Up to 40 percent, but no closer than 6 feet.	40%
3	Fence or wall heights. Up to 30 percent, but no higher than 6 feet in the front or street side yard setback.	30%
4	Floor width requirements. Of the single-family residential design standards.	20%
5	Gross floor area requirements.	10%
6	Height requirements. Except that any height adjustment not exceeding two feet in total height shall also be considered a Minor Variance.	30%
7	Off-street parking requirements. Parking and loading space requirements, not to exceed two spaces. Parking area/lot improvements.	30%
8	Overlay District requirements. Of the standards identified in the overlay districts.	30%
9	Setback requirements. a. Front setbacks. But no closer to the nearest property line than 15 feet in the valley and desert areas and 10 feet in the mountain region. b. Side setbacks. But no closer than three feet from the nearest property line, except in a Fire Safety Overlay District in which case no closer than five feet. c. Rear setbacks. But no closer than 10 feet from the nearest property line.	40% 40% 30%
10	Sign requirements. a. Sign area limitations. b. Sign height and setback limitations.. c. Sign number limitations: Not to exceed four signs.	10% 30% 100%

Notes.

(*) Administrative criteria for Minor Variances for these structures shall be established by the Building Official. Those proposals that do not meet the criteria shall be submitted to the Department of Public Works [Traffic Division](#), with the appropriate fee, for road safety evaluation. Architectural design and construction materials shall be compatible with the visual setting of the surrounding area. Variances to the requirements of Section 83.02.030 regarding “clear sight triangles” shall not be evaluated with a Minor Variance.

- (b) **Major Variances.** Any request for a Variance, other than a Minor Variance, shall be termed a Major Variance.
- (c) **Referral to the Commission.** The Director may choose to refer any Variance application to the Commission for hearing and final action.

Adopted Ordinance 4011 (2007); Amended Ordinance 4043 (2008); Amended Ordinance 4067 (2009); Amended Ordinance 4085 (2009)

85.17.050 Application Requirements

An application for a Variance (Major or Minor) shall be prepared, filed, and processed in compliance with Chapter 85.03 (Application Procedures). The application shall include the information and materials specified in the Department handout for Variances. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 85.17.060 (Findings and Decision), below.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

85.17.060 Findings and Decision

- (a) **General findings.** The review authority may approve a Variance (Major or Minor) only after first finding all of the following:
 - (1) The granting of the Variance will not be materially detrimental to other properties or land uses in the area and will not substantially interfere with the present or future ability to use solar energy systems;
 - (2) There are exceptional or extraordinary circumstances or conditions applicable to the subject property or to the intended use that do not apply to other properties in the same vicinity and land use zoning district;
 - (3) The strict application of the land use zoning district deprives the subject property of privileges enjoyed by other properties in the vicinity or in the same land use zoning district; and
 - (4) The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan.

- (m) Oak woodlands.** The following projects shall be exempt from the conditions for mitigating the conversion of oak woodlands required in Subsection 88.01.050(e) (Native Tree or Plant Removal Permits Conditions of approval), below, in compliance with Public Resources Code 21083.4:
- (1) Projects undertaken in compliance with a Natural Community Conservation Plan or subarea plan within a Natural Community Conservation Plan, as approved in compliance with Fish and Game Code Section 2800 *et seq.*, that includes oaks as a covered species or that conserves oak habitat through natural community conservation preserve designation and implementation and mitigation measures that are consistent with this Chapter.
 - (2) Affordable housing projects for lower income households, as defined in Health and Safety Code Section 50079.5, that are located within a city's sphere of influence.
 - (3) Projects on agricultural land within an Agricultural Land Use Zoning District that includes land used to produce or process plant and animal products for commercial purposes.
 - (4) Projects undertaken in compliance with a State agency's regulatory program certified in compliance with Public Resources Code Section 21080.5.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

88.01.040 Regulated Trees and Plants and General Permit

- (a) Regulated trees and plants.** A regulated tree or plant shall be any of the those trees or plants identified in:
- (1) Section 88.01.060(c) (Regulated desert native plants);
 - (2) Section 88.01.070(b) (Regulated trees); or
 - (3) Section 88.01.080(b) (Regulated riparian plants).
- (b) Permit for removal required.** A Tree or Plant Removal Permit issued in compliance with Section 88.01.050 (Tree or Plant Removal Requirements) shall be required for the removal of regulated ~~tree-trees~~ and plants.
- (c) Conditions of approval.** The permits required by this Chapter may be subject to conditions imposed by the applicable review authority as identified in Subsection 88.01.050(e) (Tree or Plant Removal Permits - Condition of approval).

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

88.01.050 Tree or Plant Removal Permits

- (a) **When Tree or Plant Removal Permit required.** A Tree or Plant Removal Permit shall be required for the removal of a regulated tree or plant as identified in this Chapter.
- (1) **Removals in conjunction with land use application or development permit Director approval.** The Director may approve the removal of regulated trees or plants when requested in conjunction with a land use application, a Building Permit, and all other development permits (e.g., Grading Permits, Mobile Home Setdown Permits, etc.). An approved land use application and/or development permit shall be considered to include a Tree or Plant Removal Permit, if the land use application or development permit specifically reviews and approves the removals. The review of a land use application or development permit shall consider and require compliance with this Chapter.
- (2) **Removals not in conjunction with land use application or development permit Director approval.** The Director may approve a Tree or Plant Removal Permit for the removal of regulated trees or plants requested not in conjunction with a land use application or development permit.
- (3) **Removals to mitigate fire hazards Fire Chief approval.** The Fire Chief may approve a Tree or Plant Removal Permit for the removal of regulated trees or plants when requested for the purposes of mitigating fire hazards and independent of a land use application or development permit.
- (b) **Expert certification.** The applicable review authority may require certification from an appropriate arborist, registered professional forester or a Desert Native Plant Expert that the proposed tree removal, replacement, or revegetation activities are appropriate, supportive of a healthy environment, and in compliance with this Chapter. The certification shall include the information in compliance with Department procedures.
- (c) ~~**(Reserved) Preconstruction inspections.** A preconstruction inspection before approval of development permits shall be required in areas with regulated trees or plants to determine the presence of regulated trees and plants. The preconstruction inspection may be combined with any other required inspection.~~
- (d) **Duration of Tree or Plant Removal Permits.**
- (1) **Removals in conjunction with land use application or development permit.** The duration of a Tree or Plant Removal Permit, when issued in conjunction with a land use application and/or a development permit, shall have the same duration of the associated application or permit, unless otherwise specified.