

## Chapter 17.02 ADMINISTRATION AND ENFORCEMENT

### 17.02.010 Purpose and authority.

The purpose of Chapter 17.02 is to outline those activities and/or procedures that will implement this Zoning Ordinance. The purpose of this section of the Zoning Ordinance is to accomplish the following:

- A. To identify each reviewing and approval authority within the City of Beaumont along with their powers, duties, and related information;
- B. To identify the steps necessary to obtain the requisite City approvals related to land use and development;
- C. To establish and identify the procedures for filing applications for permits and other approvals; and,
- D. To establish and identify the appeal process.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

### 17.02.020 Community Development Director duties and responsibilities.

The Community Development Director shall be responsible for the enforcement of the Zoning Code and shall have the authority to undertake the activities and duties indicated in this section.

- A. The Community Development Director shall administer the Zoning Ordinance;
- B. The Community Development Director shall consider and approve administrative plot plan applications which are in conformance with applicable zoning standards and which do not require a public hearing;
- C. The Community Development Director shall review and make recommendations to the Planning Commission and the City Council on planning applications, land use and planning issues, or other activities as may be directed by the City Council, the Planning Commission, or the City Manager;
- D. The Community Development Director shall assist applicants in the submittal of development applications; and,
- E. The Community Development Director shall review and make recommendations to the Planning Commission and City Council on all applications and any attendant approvals and environmental documents.

F. The Community Development Director, upon written request or upon their own initiative, when a use is not specifically listed as a permitted use or conditional use under a particular zone, and when that use is proposed or classification is requested, shall determine whether the use is sufficiently similar to a listed use in the particular zone to justify a finding that it should be deemed a permitted use or a conditional use in one or more zones. Before permitting or classifying an unlisted use, the director shall first determine that all of the following conditions exist:

(1) The proposed use would meet the objectives of the zone;

(2) The proposed use and its operation are compatible with the uses permitted in the zone; and

(3) The proposed use is similar to one or more uses in the zone.

(4) The director shall notify the planning commission and city council of determination of use.

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( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

### 17.02.030 Planning Commission duties and responsibilities.

The duties of the Planning Commission are outlined in this section.

- A. The Planning Commission shall instruct the Community Development Director to exercise administrative duties where applicable;
- B. The Planning Commission shall conduct public hearings to consider and make recommendations to the City Council regarding general plan amendments, zone changes, zone variances, and specific plans;
- C. The Planning Commission shall conduct public hearing to recommend approval (to the City Council) of all the tentative parcel maps and tentative tract maps;
- D. The Planning Commission shall consider the appeals of determinations made by the Community Development Director regarding site plan reviews, signage plans, and temporary use permits; and,
- E. The Planning Commission shall conduct public hearings to approve plot plans, variances and conditional use permits.

Table 17.02-1 identifies the permits and approvals that may be necessary as required by this Zoning Code, as well as approving authority and appeal body.

<b>Table 17.02-1</b> <b>Permit Approval Matrix</b>			
<b>Application</b>	<b>Staff</b>	<b>Planning Commission</b>	<b>City Council</b>
Conditional Use Permit	Review	Approval	Appeal
Final Map	Review	—	Approval
General Plan Amendment	Review	Recommendation	Approval
Lot Line Adjustment & Parcel Merger	Approval	Appeal	Appeal
Administrative Plot Plan Review	Approval	Appeal	Appeal
Plot Plan (without EIR)	Review	Approval	Appeal
Plot Plan (with EIR)	Review	Approval	Appeal
Sign Plans	Approval	Appeal	Appeal
Modification of Standards	Approval	Appeal	Appeal
Specific Plan	Review	Recommendation	Approval
Temporary Use Permit	Approval	Appeal	Appeal
Tentative Parcel Map	Review	Recommendation	Approval
Tentative Tract Map	Review	Recommendation	Approval
Variance	Review	Approval	Appeal
Zone Change	Review	Recommendation	Approval
Zoning Ordinance	Review	Recommendation	Approval

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

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#### **17.02.040 Application process.**

Applications for permits, permit modifications, amendments, and other matters pertaining to the Zoning Code, shall be filed with the Planning Department on the appropriate City application form. The following procedures apply to the granting of a development application:

- A. *Submittal Information.* All plans, and any other information required by the Planning Department shall be submitted with the application form. Applications shall be completed by the owner(s) of properties, their agents, or other persons who have written authority from the property owner(s) to complete and file the application on the owner's behalf. Any person or authorized representative desiring a permit or approval required by this Title, shall file an application with the Planning Director or the designee on forms provided by the Planning Director.
- B. *Pre-application Meeting.* Prior to the filing of an application for any discretionary permit requiring approval by the Planning Commission or City Council, the applicant may request a pre-application conference with the Community Development Director or the designee. The purpose of the pre-application conference is to advise the applicant of the development regulations applicable to the property for which the application is being filed and to review any preliminary site plan or other development plans the applicant may have prepared.
- C. *Application is Deemed Completed.* No application shall be processed until it is deemed complete by the Community Development Director or the designee. No application shall be deemed complete until all required information is provided in the required quantity and format.
- D. *Concurrent Applications.* Whenever more than one permit or approval is required for a proposed Project or use, all applications shall be filed and processed concurrently. All such related applications will be reviewed in accordance with the procedures set forth for the application requiring the highest level of review.
- E. *Application Fees.* Each applicant for a land use action authorized by this Zoning Ordinance shall pay those fees and costs as established by resolution of the City Council.
- F. *Re-submittal of Application.* Whenever an application or portion of an application has been denied or revoked and the denial or revocation becomes final, no new application for the same or similar request may be accepted within one year of the date of the denial, unless the Community Development Director finds that the conditions surrounding the application have sufficiently changed to warrant a new application. Changed conditions shall mean a substantial change in land use on properties in the vicinity, improved infrastructure in the vicinity, altered traffic patterns, or any such similar change resulting in a changed physical environment.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.050 Public hearings.**

For applications requiring a public hearing, upon accepting an application as complete, the Planning Director shall establish the time and place of the public hearing consistent with the requirements of this Section. The City Council shall have the authority to change the time or place of a hearing. The hearing body for any given matter shall be determined based upon the nature and type of permit as set forth in this Zoning Ordinance. However, in all cases, the hearing shall be held within 30 days of the date on which the application has been accepted as complete, unless a longer time period is required to accommodate the requisite environmental review under the provisions of the California Environmental Quality Act.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

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#### **17.02.051 Public hearings, noticing.**

The procedures for the noticing of public hearings are indicated in this section.

- A. *Newspaper Publication.* The notice of the public hearing shall be published in a newspaper of general circulation not less than ten days prior to the date of the hearing, or as prescribed in the California Environmental Quality Act where relevant. The notice shall include the time, place, and identity of the hearing body or officer, the nature of the application, the application number, and the location of the property under consideration.
- B. *Notice to Surrounding Properties.* Notice shall be given to all owners of property located within the designated radius of the exterior boundaries of the subject property pursuant to the requirements of the State of California Planning and Zoning Development Law.
- C. *Additional Notice.* Additional notice of the hearing shall be provided in accordance with procedures established by the Planning Commission and as may be required under the California Environmental Quality Act.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.052 Public hearing, evidence of noticing.**

When notice of a public hearing is given, the documentation indicated in this section shall be deemed sufficient to serve as proof that such notice was given.

- A. *Affidavit of Publication Required.* When notice is given by publication, an affidavit of publication by the newspaper in which the publication was made is required.
- B. *Affidavit of Mail Delivery Required.* When notice is given by mail or other delivery, an affidavit or proof of mailing/delivery must be made, showing, at a minimum, the date or dates of mailing/delivery and the list of persons and groups to which the mailing/delivery was made.
- C. *Failure to Comply.* Failure to send notice to any property owner whose address is not on the most recent roll of the Riverside County Assessor shall not invalidate any of the proceedings.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.053 Public hearing, procedures.**

The conduct of the public hearing(s) must include the following elements identified in this section.

- A. *Discretionary Review.* At the public hearing, the authorized hearing body shall review the application and any pertinent materials submitted with the application, and any report prepared by the Community Development Director or his designee based on City staff's investigation of the application.
- B. *The Applicant's Rights at Public Hearing.* During any public hearing, the applicant for the application shall have the right to be represented to provide testimony and to present evidence.
- C. *The Public's Rights at Public Hearing.* All other persons shall have the right to comment on any relevant aspect of the application under consideration.
- D. *Discretionary Action.* Following the completion of testimony at a public hearing, action shall be taken to approve, conditionally approve, deny, continue, or take under advisement, the subject of the public hearing.

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- E. *Continuation of Public Hearing.* If the action is taken to continue the item being considered or to take the matter under advisement, before adjournment or recess, the person presiding at the public hearing shall publicly announce the time and place to which the hearing will be continued. No further notice shall be required.
  - F. *Final Decision.* The decision of the hearing body shall be considered final unless a decision is appealed. In all cases, the City Council shall represent the final authority.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.060 Appeals and revocations.**

An applicant is afforded the right to appeal a decision made by the Community Development Director and/or the Planning Commission. The appeals procedures are indicated in this section.

- A. *Appeal of Community Development Director's Decision.* Decisions of the Community Development Director, authorized by this Zoning Ordinance, may be appealed to the Planning Commission. All such appeals shall be filed in writing with the Secretary of the Planning Commission.
- B. *Appeal of Planning Commission Decision.* All actions and decisions of the Planning Commission, authorized by this Zoning Ordinance, may be appealed to the City Council. All such appeals shall be filed in writing with the City Clerk.
- C. *Persons Eligible to File an Appeal.* Any person may appeal a decision or action of the Community Development Director or Planning Commission, in accordance with the terms of this Zoning Ordinance.
- D. *Time Limit for Filing an Appeal.* All appeals must be filed within 15 calendar days of the date of the rendering of the decision. If the 15th day occurs on a holiday or weekend, the appeal period shall be extended to the next City workday. No appeal shall be accepted after the appeal period has expired.
- E. *Appeals Form.* All appeals must be submitted in writing on the appropriate form provided by the City. The appeal must specifically state the grounds for the appeal and instances in which the review body erred in reaching the particular determination subject to the appeal.
- F. *Payment of Fees.* A fee shall be paid concurrent with filing of the appeal in accordance with the fee schedule established by resolution of the City Council.
- G. *Scheduling of Public Hearing.* Within 15 days upon receipt of an appeal, the Planning Commission Secretary (in the case of an appeal of a Community Development Director decision) or the City Clerk (in the case of an appeal of a decision by the Planning Commission) shall set the matter for public hearing. The hearing shall be noticed as provided for in Section 17.42.
- H. *Findings.* All actions to affirm, reverse, or modify in whole or part any decision of the Community Development Director or Planning Commission shall be made with supporting findings for the affirmation, reversal, or modification.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.061 Revocations and right of revocation.**

Upon determination that there has been a violation of the terms or conditions of any permit or approval granted under this Zoning Ordinance; or if a determination is made that a permit or approval was obtained by deception or fraud, or represents a public nuisance; or the use subject to the approval no longer exists; or the permit or approval has not been activated in accordance with the terms of this Title 17, the Community Development Director shall have the authority to initiate revocation proceedings.

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- A. *Public Hearing Required for Revocation.* The Community Development Director shall schedule a hearing before the Planning Commission for the purpose of considering revocation of the permit or approval. In the case where the Planning Commission's original action consisted of a recommendation to the City Council, the Planning Commission's action on the revocation shall also consist of a recommendation to the City Council, and the City Council shall have the authority to revoke the permit or approval.
  - B. *Written Notice to Permittee.* At least 30 days prior to the revocation hearing, the permittee (the owner of the property, use, or business subject to the revocation) subject to the revocation hearing shall be given written notice of the City's intent to conduct the hearing. The notice to the permittee shall be served either in person or by registered mail, return receipt requested.
  - C. *Public Notice.* At least ten days prior to the revocation hearing, public notice of the hearing shall be given in the same manner as was required for the original permit or approval.
  - D. *Evidence in Support of Motion.* At the hearing, the Community Development Director shall present evidence supporting the motion for the revocation of the permit or approval. The permittee shall be given the opportunity to present reasons why the permit or approval shall not be revoked.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.070 Plot plans.**

A plot plan permit shall be required of any party proposing to establish a new land use, ~~or to assume an existing use~~, consistent with the zoning of the proposed location of the use, prior to the use and occupancy of any property for such land use. The purpose of a plot plan permit is to implement the provisions of the Zoning Ordinance and to protect the character and integrity of residential, commercial and industrial areas in the City. Plot plan applications shall be processed by the Community Development Director and shall entail a review of the configuration, design, location and impact of the proposed use by comparing the use to established standards and design guidelines in order to determine whether the permit should be approved. The Community Development Director is empowered to grant and deny administrative plot plan applications for projects which entail use and occupancy of existing facilities and to impose reasonable conditions upon the granting of such permits. The Planning Commission is empowered to grant and deny plot plan applications for projects, and to impose reasonable conditions upon the granting of such permits.

- A. *Providing Proof of Vested Interest.* Any person who is able to demonstrate a legal vested interest in the proposed application may initiate an application for a plot plan permit. The authorized agent of any person with a legal vested interest may also initiate an application. The Community Development Director may request proof of ownership or authorization to apply prior to acceptance of any application.
- B. *Type of Plot Plan Application.* The Community Development Director shall determine the type and scope of application required of any applicant for a proposed use.
  - 1. An administrative plot plan application, not requiring a public hearing, shall be required for the following:
    - a. Occupancy or assumption of a structure where building occupancy classification will change from the previously established or permitted use. Occupancy or assumption of an existing use or business which conforms to this Zoning Ordinance, ~~and does not change building occupancy classification~~ does not require an Administrative Plot Plan but does require an updated Business License
    - b. Site plans for a single-family dwelling unit on an existing legal lot and other residential projects with two to four dwelling units on one legal lot.

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- c. Development plans that are exempt from the California Environmental Quality Act.
  - d. ~~Model home complexes and temporary real estate sales offices used exclusively for the first sales of homes.~~
  - e. ~~Temporary uses, unless a conditional use permit is required or the Community Development Director determines that Planning Commission approval is required due to the uniqueness, size, and/or location of the proposed temporary event.~~
2. A Minor Plot Plan, not requiring a public hearing and containing information as required by the Planning Director, and subject to approval by the Planning Director, shall be required for the following:
- a. Model home complexes and temporary real estate offices used for the sales of homes
  - b. Temporary offices used to operate a business on the same site under is construction for permanent structures in conjunction of an approved plot plan
3. A plot plan application, requiring a public hearing conducted by the Planning Commission, shall be required for the following:
- a. Any use which is subject to the provisions of the California Environmental Quality Act.
  - b. Any use which exceeds the limitations applicable to the administrative plot plan application process, as set forth in this Zoning Ordinance (Section 17.02.070(B)1).
- C. *Filing of Application.* The application shall be filed pursuant to the provisions of this Zoning Ordinance (Section 17.02.040).
- D. *Review of Application by Community Development Director.* The Community Development Director or his designee shall investigate the application and proposal, including the analysis of precedent cases as appropriate. For administrative plot plan applications, the Community Development Director shall render a decision in writing without notice or hearing. For plot plan applications, the Community Development Director or his designee shall prepare a report outlining facts and a recommendation relating to the application. The report shall be provided to the applicant prior to any scheduled public hearing on the application.
- E. *Planning Commission Public Hearing.* For plot plans acted upon in accordance with Section 17.02.070.B.2, a public hearing of the Planning Commission shall be noticed and conducted pursuant to the provisions of this Zoning Ordinance (Section 17.02.051). At the public hearing, the Planning Commission shall review the application and proposal and receive evidence concerning the proposed use and the proposed conditions under which it would be operated and maintained, particularly with respect to the findings prescribed in Subsection G of this section (Findings of Approval).
- F. *Planning Commission Action.* The Planning Commission shall act to approve, conditionally approve, or deny the application. The decision of the Planning Commission shall become effective immediately upon its rendering, unless an appeal is filed pursuant to the provisions of this Zoning Ordinance (Section 17.02.060 Appeals and Revocations).
- G. *Findings of Approval.* The Planning Commission may approve and/or modify a plot plan permit in whole or part, with or without conditions, provided that all of the following findings of fact are made:
- 1. The proposed use is permitted, or is substantially similar to a use permitted, within the subject zone and complies with the intent of all applicable provisions of this Zoning Ordinance;
  - 2. The proposed use is consistent with the objectives, policies, general land uses and programs of the general plan and any applicable specific plans;

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3. The subject site is physically suitable for the type and intensity of the proposed land use;
  4. The location, size, design and operating characteristics of the proposed use is compatible with existing land uses within the general area in which the proposed use is located;
  5. There are adequate provisions for public access, water, sanitation, and public utilities and services to ensure that the proposed land use would not be detrimental to the public convenience, health, safety or general welfare;
  6. The approval of the plot plan permit for the proposed use is in compliance with the requirements of the California Environmental Quality Act and there would be no significant adverse impacts upon environmental quality and natural resources that cannot be reasonably mitigated and monitored.
- H. *Imposition of Conditions of Approval.* In granting a permit, the Community Development Director or Planning Commission may impose such conditions as deemed necessary to ensure that the public health, safety and general welfare are protected and that the proposed use is not a detriment to the community. All conditions shall be binding upon the applicant, heirs, successors, or assignees.
- I. *Plot Plan Time Limits.* The grantee of a plot plan permit shall have one year from the effective date of the permit to establish a right to use the permit; otherwise, the plot plan permit shall lapse and become void. For the purposes of this section, such a right shall be established if either:
1. A building permit has been issued and construction commenced and diligently pursued towards completion of the project.
  2. In the event that no building permit is required, a certificate of occupancy and/or business license has been issued for the use.
- J. *Plot Plan Lapse in Time.* A plot plan permit subject to lapse may be renewed up to one additional year, provided that the applicant files an application for renewal with the Planning ~~Director~~ prior to the expiration date, and subject to consideration in a public hearing.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.080 Zone changes.**

In recognition of that fact that physical, economic, and other conditions in the City may change over time, provisions are hereby made to allow for amendments to the zoning map and Zoning Ordinance text in accordance with the procedures outlined in this Section. All such changes of zone or zoning ordinance text amendments shall be adopted in the manner in which other City ordinances are adopted.

- A. *Providing Proof of Vested Interest.* Any person who is able to demonstrate a legal vested interest in the proposed application may initiate applications for a change of zone or zoning ordinance text amendment. The authorized agent of any person with a legal vested interest may also initiate an application. The Community Development Director may request proof of ownership or authorization to apply prior to the acceptance of any application.
- B. *Zone Changes for Properties Under Multiple Ownership.* In the case of a change of zone application, if the property for which the change of zone is proposed is in more than one ownership, all owners or their authorized agents shall be required to sign the application.
- C. *City Council Initiated Zone Change.* The City Council may initiate an application to change the boundaries of any zone district or to amend the text of the zoning ordinance.
- D. *Planning Commission Public Hearing.* A public hearing before the Planning Commission shall be noticed and conducted pursuant to the provisions of this Chapter 17.02 (Sections 17.02.051 to 17.02.053).

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- E. *Recommendation of Zone Change by Planning Commission.* The Planning Commission shall recommend to the City Council approval, approval with modifications, or denial of the proposed application. The Commission's recommendation shall be transmitted to the City Clerk for scheduling the matter for consideration by the City Council.
  - F. *Denial of Zone Change by Planning Commission.* Upon receipt of a Planning Commission recommendation for denial of a change of zone, the City Clerk shall place the Commission's recommendation on the City Council agenda as a receive-and-file item. The Commission's decision shall be considered final and no further action by the Council will be required unless an appeal is filed in accordance with the provisions of this Zoning Ordinance (Section 17.02.060, Appeals), or unless the Council chooses to set the matter for hearing.
  - G. *City Council Public Hearing.* Upon receipt of a Planning Commission resolution recommendation for approval of a change of zone or zoning ordinance amendment, or denial of a zoning ordinance text amendment, the City Clerk shall set the matter for hearing before the City. At the hearing, the City Council shall review the Commission's recommendation and receive evidence as to how or why the proposed change of zone or zoning ordinance text amendment is consistent with the objectives of this Zoning Ordinance, the City of Beaumont General Plan, and development policies of the City. The City Council shall act to approve or deny the application by resolution.
  - H. *Referral of Matter Back to the Planning Commission.* If the Council proposes any substantial modification to the application not previously considered by the Planning Commission, the Council shall refer the matter back to the Commission for consideration. No public hearing shall be required. Failure of the Commission to act within 40 days of receiving the Council's request shall provide the Council with authority to act without the Commission's recommendation.
  - I. *Approval of Zone Change by City Council.* The City Council shall be required to make the following findings of fact before approving a change of zone or zoning ordinance text amendment:
    - 1. That the proposed change of zone or zoning ordinance text amendment is consistent with the goals, policies, and objectives of the General Plan; and
    - 2. That the proposed change of zone or zoning ordinance text amendment will not adversely affect surrounding properties; and
    - 3. That the proposed change of zone or zoning ordinance text amendment promotes public health, safety, and general welfare and serves the goals and purposes of this Zoning Ordinance.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.090 General plan amendments.**

This Section is established pursuant to Section 65358 of the California Government Code, to allow for the amendment of the City of Beaumont General Plan.

- A. *Providing Proof of Vested Interest.* Applications to amend the General Plan text or maps may be initiated by any person who is able to demonstrate a legal vested interest in the proposed application. The authorized agent of any person with a legal vested interest may also initiate an application. The Community Development Director may request proof of ownership or authorization to apply, prior to the acceptance of any application.
- B. *General Plan Amendments for Properties Under Multiple Ownership.* In the case of a proposed amendment to the General Plan land use policy map, if the property for which the amendment is proposed is in more than one ownership, all owners or their authorized agents shall be required to sign the application.

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- C. *City Council Initiated General Plan Amendment.* The Community Development Director and/or City Council may initiate an application to amend the General Plan.
  - D. *Planning Commission Hearing.* A public hearing before the Planning Commission shall be noticed and conducted pursuant to the provisions of Section 17.02.051. At the public hearing, the Planning Commission shall review the application and proposal and receive evidence as to how or why the proposed General Plan amendment is consistent with the objectives of this Title 17, the balance of the General Plan, and development policies of the City.
  - E. *Planning Commission Action.* The Planning Commission shall act to recommend to the City Council approval, approval with modifications, or denial of the proposed application. A majority vote of the entire Planning Commission is required to recommend approval or approval with modifications. The Planning Commission's action shall include its recommendation and shall be transmitted to the City Clerk for scheduling the matter for public hearing before the City Council.
  - F. *City Council Public Hearing.* Upon receipt of a Planning Commission resolution, the City Clerk shall set the matter for hearing before the City Council as provided for in Section 17.42 [17.02.050] (Public Hearings). At the hearing, the City Council shall review the Commission's recommendation and may receive evidence as to how or why the proposed General Plan amendment is consistent with the objectives of this Zoning Ordinance, the balance of the General Plan, and development policies of the City.
  - G. *City Council Action.* The City Council shall act to approve or deny the application. A majority vote of the entire Council is required to amend the General Plan. The City Council's action to amend the General Plan shall be by formal resolution.
  - H. *Referral of General Amendment to the Planning Commission.* If the City Council proposes any substantial modification to the application not previously considered by the Planning Commission, the City Council shall refer the matter back to the Commission for consideration. No public hearing shall be required. Failure of the Planning Commission to act within 40 days of receiving the City Council's request shall provide the City Council with authority to act without the Planning Commission's recommendation.
  - I. *Required Findings.* Prior to approving a General Plan amendment, the City Council shall make the following findings:
    - 1. That the proposed amendment is in the public interest, and that there will be a community benefit resulting from the amendment;
    - 2. That the proposed amendment is consistent with the other goals, policies, and objectives of the General Plan;
    - 3. That the proposed amendment will not conflict with provisions of the zoning ordinance or subdivision regulations; and
    - 4. In the event that the proposed amendment is a change to the land use policy map, that the amendment will not adversely affect surrounding properties.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

### **17.02.100 Conditional use permits.**

The City recognizes that certain uses, due to the nature of use, intensity, or size, require special review to determine if the use proposed, or the location of that use, is compatible with surrounding uses, or through the imposition of development and use conditions, can be made compatible with surrounding uses. The conditional

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use permit is provided for this purpose. The Planning Commission is empowered to grant and deny applications for conditional use permits and to impose reasonable conditions upon the granting of such permit.

- A. *Providing Proof of Vested Interest.* Any person who is able to demonstrate a legal vested interest in the proposed application may initiate an application for a conditional use permit. The authorized agent of any person with a legal vested interest may also initiate an application. Community Development Director may request proof of ownership or authorization to apply prior to the acceptance of any application.
- B. *Scope of Application.* Applications for conditional use permits may be submitted only for those uses specified as allowable conditional uses in the applicable zone district. A conditional use permit is not a substitute for a change of zone or zoning ordinance text amendment.
- C. *Filing of Application.* The application shall be filed pursuant to the provisions of this Zoning Ordinance (Section 17.02.040).
- D. *Review of Application by Community Development Director.* The Community Development Director or his designee, shall investigate the application and proposal, including the analysis of precedent cases as appropriate, and shall prepare a report outlining facts and a recommendation relating to the application. The report shall be provided to the Planning Commission and the applicant prior to any scheduled public hearing on the application.
- E. *Planning Commission Public Hearing.* A public hearing before the Planning Commission shall be noticed and conducted pursuant to the provisions of this Zoning Ordinance (Section 17.02.051). At the public hearing, the Planning Commission shall review the application and proposal and receive evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings prescribed in subsection G of this section (Required Findings).
- F. *Planning Commission Action.* The Planning Commission shall act to approve, conditionally approve, or deny the application. The decision of the Planning Commission shall become effective immediately upon its rendering, unless an appeal is filed pursuant to the provisions of this Zoning Ordinance (Section 17.02.060 Appeals and Revocations).
- G. *Findings of Approval.* The Planning Commission may approve and/or modify a conditional use permit in whole or in part, with or without conditions, provided that all of the following findings of fact are made:
  - 1. The proposed use is one conditionally permitted within the subject zone and complies with the intent of all applicable provisions of this Zoning Ordinance;
  - 2. The proposed use would not impair the integrity and character of the zone in which it is to be located;
  - 3. The subject site is physically suitable for the type of land use being proposed;
  - 4. The proposed use is compatible with the land uses presently on the subject property;
  - 5. The proposed use would be compatible with existing and future land uses within the zone and the general area in which the proposed use is to be located;
  - 6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;
  - 7. There would be adequate provisions for public access to serve the subject proposal;
  - 8. The proposed use is consistent with the objectives, policies, general land uses, and programs of the City of Beaumont General Plan;

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9. The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare; and
  10. The proposed design and elevations preserve and maximize the image, character, and visual quality of the neighborhood.
  11. The Planning Commission shall find that the proposed use does not have a disproportionately high and adverse human health or environmental effect on minority and low-income populations.
  12. This subsection G shall apply only to the uses identified in Chapter 17.03. This subsection shall not invalidate any conditional use permit for an operating facility but shall be complied with prior to issuance of a building permit for all projects for which no building permit has been issued upon the effective date of this provision.
- H. *Imposition of Conditions of Approval.* The following provisions shall apply with respect to the imposition of conditions of approval:
1. In granting a conditional use permit, the Planning Commission may impose such conditions as it deems necessary to ensure that the public health, safety, and general welfare are protected and that the proposed operation is not a detriment to the community.
  2. All conditions shall be binding upon the applicant, heirs, successors, or assignees and shall restrict the construction, location, maintenance, and use of all land within the development.
  3. A deed restriction may be recorded with the County Recorder of Riverside County, as approved by the City Attorney, regarding the conditions of this section and other requirements of the conditional use permit.
- I. *Conditional Use Permit, Attachment, Suspension, and Revocation.* A conditional use permit that is valid and in effect and granted pursuant to the provisions of this Title 17 shall be valid only on the property for which it was granted and shall continue to be valid upon change of ownership of the property or any lawfully existing building or structure on the property. The Community Development Director shall have the authority to initiate proceedings to suspend or revoke a conditional use permit pursuant to provisions set forth in Section 17.02.61.
- J. *Conditional Use Permit Time Limits.* The grantee of a conditional use permit shall have one year from the effective date of the permit to establish a right to use the permit; otherwise, the conditional use permit shall lapse and become void. For the purposes of this section, such a right shall be established if either:
1. A building permit has been issued and construction commenced and diligently pursued toward completion on the site for which the conditional use permit was approved; or
  2. In the event no building permit is required, a certificate of occupancy has been issued for the structure for which the conditional use permit was approved; or
  3. In the event no building permit or occupancy is required, the site for which the conditional use permit was approved is occupied and used for the permitted purpose; or
  4. Prior to the date on which the conditional use permit will elapse, the grantee files an application to renew the permit pursuant to subsection K below.
- K. *Conditional Use Permit Lapse in Time.* A conditional use permit subject to lapse may be renewed up to an additional one-year period, provided that the application for renewal is filed with the Planning Department prior to the expiration date. A public hearing before the Planning Commission shall be required.

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- L. *Conditional Use Permit Renewal.* The Planning Commission may grant or deny an application for renewal of a conditional use permit. As part of its action, the Commission may also modify existing conditions of approval or add new conditions to reflect any change in circumstances related to the conditional use permit and surrounding properties.
  - M. *Lapsing in Conditional Use Permit.* If any conditional use permit fails to be actively exercised for a continuous 180-day period, the permit shall lapse and become void.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.110 Variances.**

The variance procedure is provided pursuant to Section 65906 of the California Government Code to grant relief from zoning provisions when, because of special circumstances applicable to a property, including size, shape, topography, location, or surroundings, the strict application of this Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

- A. *Limitations in Variances.* Variances shall not be granted to authorize a use or activity on a property that is not otherwise expressly authorized by the provisions of this Zoning Ordinance governing that property. A variance is not a substitute for a zone change, zone text amendment, or conditional use permit. Financial hardship in and of it does not represent grounds on which to file a variance application to gain relief from zoning provisions.
- B. *Providing Proof of Vested Interest.* Any person who is able to demonstrate a legal vested interest in the proposed application may initiate an application for a variance. The authorized agent of any person with a legal vested interest may also initiate an application. The Community Development Director may request proof of ownership or authorization to apply prior to the acceptance of any application.
- C. *Notice of Public Hearing.* An application shall be filed pursuant to the provisions of Section 17.02.051.
- D. *Filing of Application.* In addition to the application filing requirements established in this Zoning Ordinance, the applicant shall file a statement of the precise nature of the variance requested and the practical difficulty or unnecessary physical hardship that would result from the strict or literal interpretation of this ordinance, together with any other data pertinent to the application and the making of requisite findings (Section 17.02.040).
- E. *Review of Application by Community Development Director.* The Community Development Director shall investigate the application and proposal, including the analysis of precedent cases as appropriate, and shall prepare a report outlining facts and a recommendation relating to the application. The report shall be provided to the Planning Commission and the applicant prior to any scheduled public hearing on the application.
- F. *Public Hearing.* A public hearing before the Planning Commission shall be noticed and conducted pursuant to the provisions of this Zoning Ordinance (Section 17.02.051). At the public hearing, the Planning Commission shall review the application and proposal and receive evidence concerning the proposed variance and the conditions which make compliance with specific provisions of this ordinance difficult.
- G. *Planning Commission Action.* The Planning Commission shall act to approve, conditionally approve, or deny the application. The decision of the Planning Commission shall become effective immediately upon its rendering, unless an appeal is filed pursuant to the provisions of Section 17.02.060 (Appeals and Revocations).
- H. *Findings of Approval.* In granting a variance, the Planning Commission must make all of the following findings:

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(Supp. No. 6, Update 2)

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1. That the strict or literal interpretation and application of this Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this Zoning Ordinance, or would deprive applicants of privileges granted to others in similar circumstances; and
  2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or the intended development of the property that do not apply generally to other property in the same zone; and
  3. That the granting of such variance will not constitute the granting of a special privilege inconsistent with the limitations on other properties in the vicinity classified in the same zone; and
  4. That the granting of such variance will not be materially detrimental to the public health, safety, or general welfare nor injurious to property or improvements in the zone or neighborhood in which the property is located; and
  5. That the granting of such variance will not create any inconsistency with any objective contained in the General Plan.
- I. *Imposition of Conditions of Approval.* A variance that is valid and in effect and granted pursuant to the provisions of this Zoning Ordinance shall be valid only on the property for which it was granted and only for the improvements for which it is granted and further, shall continue to be valid upon change of ownership of the property or any lawfully existing building or structure on the property.
- J. *Conditions of Approval will be Binding.* The Community Development Director shall have the authority to initiate proceedings to suspend or revoke a variance pursuant to provisions set forth in Section 17.02.61.
- K. *Time Limits.* The grantee of a Variance shall have one year from the effective date of the approval to establish a right to use the approval; otherwise, the variance shall lapse and become void. For the purposes of this section, such a right shall be established if either:
1. A building permit has been issued and construction commenced and diligently pursued toward completion on the site for which the variance was approved; or
  2. In the event no building permit is required, a certificate of occupancy has been issued for the structure for which the variance was approved; or
  3. In the event no building permit or occupancy is required, the site for which the variance was approved is occupied; or
  4. Prior to the date on which the variance will elapse, the grantee files an application to renew the permit pursuant to subsection L below.
- L. A variance subject to lapse may be renewed up to an additional one-year period, provided that the application for renewal is filed with the Planning Department prior to the expiration date.
- M. The Planning Commission may approve or deny an application for renewal of a variance. As part of its action, the Commission may also modify existing conditions of approval or add new conditions to reflect any change in circumstances related to the variance and surrounding properties.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

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### 17.02.120 Modification of standards.

The modification of standards procedure is established to grant minor relief from development standards, under limited circumstances, when the granting of such relief will provide for better design and function of the structure, or addition to a structure, proposed.

- A. *Use of Modification of Standards.* An application for the purposes of this Section, a modification of standards application shall be filed whenever any one of the following deviations from the provisions of this Title 17 is proposed:
  - 1. A decrease of not more than 20 percent of the minimum required setback area.
  - 2. An increase of not more than ten percent of the maximum permitted building height.
  - 3. Any deviation in the permitted maximum height or location of a fence or wall.
  - 4. An increase of not more than ten percent of the maximum permitted lot coverage.
  - 5. A decrease of not more than 20 percent of the minimum usable open space requirement.
  - 6. Any deviation in the applicable development standards of not more than 20 percent to allow for improved productivity of solar energy systems.
  - 7. A decrease of not more than 20 percent of the minimum number of required parking spaces.
    - a. If a fractional number is obtained with this calculation, the number of parking spaces that may be reduced shall be rounded up to the next highest whole number, except that the parking requirement shall not be reduced to zero (e.g., if two to four parking spaces are required, a minor modification approval could reduce the requirement by one parking space).
  - 8. Modifications in excess of those cited in subparagraph 1 through 7 above shall require a variance.
- B. *Modification of Standards, Initiation.* Any person who is able to demonstrate a legal vested interest in the proposed application may initiate an application for a modification of standards. The authorized agent of any person with a legal vested interest may also initiate an application. The Community Development Director may request proof of ownership or authorization to apply prior to the acceptance of any application. In addition to the application filing requirements, the applicant shall file a statement of the precise nature of the modification of standards requested and reasons for the request.
- C. *Community Development Director Investigation.* The Community Development Director or the designee shall investigate the application and proposal, including the analysis of precedent cases as appropriate, and shall prepare a report outlining facts and a recommendation relating to the application. The Community Development Director may request written statements from adjoining property owners who may be affected by the proposed application.
- D. *Community Development Director Action.* Based on the investigation undertaken pursuant to C above, the Director or designee shall act to approve, approve with conditions, or deny the modification of standards application. In granting a modification of standards, the Director or designee shall make findings of fact that establish the circumstances appropriate for the approval. Action on a modification of standards application shall be taken within ten days of the date the application is deemed complete.
- E. *Modification of Standards Findings.* An application shall not be granted unless all of the following findings can be made:
  - 1. A modification is needed to allow property to be used in a more beneficial manner; and

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2. A modification would not be detrimental to public health, safety, or general welfare or to surrounding property owners or the community; and
  3. The granting the modification would not grant special privileges to the applicant not enjoyed by surrounding property owners; and
  4. There are physical circumstances due to the shape or condition of the property which would result in hardship under existing regulations; and
  5. The purpose of modification is not based exclusively on the financial advantage of the owner; and
  6. The alleged difficulties were not created by the owner; and
  7. The modification would not diminish property values in the area;
  8. The modification would not increase traffic or endanger public safety; and,
  9. The modification would not have detrimental effects on adjoining properties.
- F. *Modification of Standards, Attachment, Revocation, and Suspension.* A modification of standards that is valid and in effect and granted pursuant to the provisions of this Zoning Ordinance shall be valid only on the property for which it was granted and only for the improvements for which it is granted and further, shall continue to be valid upon change of ownership of the property or any lawfully existing building or structure on the property. The Community Development Director shall have the authority to initiate proceedings to suspend or revoke a modification of standards pursuant to provisions set forth in Section 17.02.61.
- G. *Modification of Standards, Time Limits.* The grantee of a modification of standards shall have one year from the effective date of the approval to establish a right to use the approval; otherwise, the approval shall lapse and shall become void. For the purposes of this section, such a right shall be established if either:
1. A building permit has been issued and construction commenced and diligently pursued toward completion on the site for which the modification of standards was approved; or
  2. In the event no building permit is required, a certificate of occupancy has been issued for the structure for which the modification of standards was approved; or
  3. In the event no building permit or occupancy is required, the site for which the modification of standard was approved is occupied; or
  4. Prior to the date on which the modification of standards will elapse, the grantee files an application to renew the permit pursuant to subsection 5 below.
  5. A modification of standards approval subject to lapse may be renewed for an additional one-year period, provided that the application for renewal is filed with the Planning Department prior to the expiration date.
- H. *Approval or Denial of Application.* The Community Development Director may approve or deny an application for renewal of a modification of standards. As part of the action, the Director may also modify existing conditions of approval or add new conditions to reflect any change in circumstances related to the modification of standards and surrounding properties.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)



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### 17.02.125 Certificates of appropriateness.

This purpose of this section is to provide various levels of historic protection and review and to preserve existing elements of historic resources in the City. The City's intent is to be lenient in its review of plans for structures which have little or no historic value, or of plans for new construction, unless such plans would impair the historic value of surrounding structures. The establishment of a certificate of appropriateness is intended to protect structures of historic significance including areas of architectural, cultural, historic, economic, political, and social importance from the adverse effects of any alteration, demolition, or removal.

#### A. *Applicability.*

1. A certificate of appropriateness is required for the exterior alteration, demolition, removal, or relocation of any historic resource or potential historic resource. A historic resource includes:
  - a. A resource identified in a City-approved historic or cultural resources study;
  - b. A structure over 50 years old; and/or
  - c. A structure potentially eligible for registration on a local, state, or national register.
2. The following activities do not require approval of a certificate of appropriateness:
  - a. Painting, routine maintenance, or minor repair, as determined by the Director to be consistent with existing colors and materials and not to have an adverse effect on the integrity of the historic resource. Such work includes:
    1. Alterations to the interior of the structure that do not have the possibility of adversely affecting the integrity of the historic resource;
    2. Repairing pavement or repaving flat concrete work that is not considered a character-defining feature of the historic resource;
    3. Landscaping, unless the landscaping is considered a character-defining feature of the historic resource;
    4. Construction, repair, demolition, or alterations to other structures on the property not determined to qualify as a historic resource;
    5. Re-glazing windows;
    6. Replacement of incompatible windows or doors with more historically appropriate windows or doors;
    7. In-kind replacement of windows and doors on side and rear façades not readily visible from the public right-of-way;
    8. Minor changes to front and street side fences;
    9. Construction, repair, demolition, or alterations to side and rear yard fences;
    10. Roofing work, if there is minimal change in roof structure and exterior appearance;
    11. Foundation work, if there is minimal change in exterior appearance; and/or
    12. Repair of exterior siding, if consistent in material, size, and orientation to existing or proven historic siding.

#### B. *Review Procedure.*

1. *Community Development Director review.* Minor modifications that do not involve new construction, additions to existing structures, or demolition of existing structures shall be subject to review and approval or denial by the Director.
  2. *Planning Commission review.* All other modifications that do not meet the criteria for Director review as specified above shall be subject to review and approval or denial by the Commission. The Commission shall conduct a public hearing on the request in compliance with Section 17.02.053 (Public hearing, procedures).
  3. *Notice.* Noticing for a certificate of appropriateness shall be provided in compliance with Section 17.02.051 (Public hearings, noticing); however, the notice for a certificate of appropriateness subject to Director review shall state the following:
    - a. The Director will decide whether to approve or deny the certificate of appropriateness on a date specified in the notice; and
    - b. A public hearing will be held by the Director only if requested in writing by any interested person before the specified date for the decision.
  4. *Community Development Director public hearing.* If a public hearing is requested in writing for a certificate of appropriateness application subject to Director review, the Director shall schedule the hearing which shall be noticed and conducted in compliance with Chapter 17.02.053 (Public hearing, procedures). If no public hearing is requested, the Director shall render a decision on the date specified in the public notice.
- C. *Findings of Approval.* The review authority shall approve, with or without conditions, a certificate of appropriateness only after the following findings are made:
1. Either, (a) the proposed work will neither adversely affect the significant features or character of a historic resource, or (b) a statement of overriding considerations has been adopted by the review authority finding that the benefits of the proposed work outweigh the impact on historic resources; and
  2. The proposed project is consistent with the General Plan and any applicable specific plan.
- D. *Unsafe or Dangerous Conditions.* None of the provisions of this section shall be construed to prevent any alteration or demolition necessary to correct the unsafe or dangerous conditions of any structure, feature, or part thereof, when such condition has been declared unsafe or dangerous by the Building Official or the Fire Chief and where the proposed measures have been declared necessary by such official to correct such conditions. Work shall be performed in compliance with the current adopted version of the Uniform Code for the Abatement of Dangerous Buildings. However, only such work as is necessary to correct the unsafe or dangerous condition may be performed without compliance with this section.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

#### **17.02.130 Enforcement.**

This section outlines the procedures to ensure that the provisions of this Title are enforced.

- A. *Special Prosecutor Responsibilities.* The Special Prosecutor, upon the request of the City Council, shall institute any necessary legal proceedings to enforce this Zoning Ordinance (Title 17). The Special Prosecutor shall be authorized, in addition to any other remedy provided in this Zoning Ordinance to institute an action for an injunction to restrain or any other appropriate action or proceedings for enforcement.

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(Supp. No. 6, Update 2)

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- B. *Clarification of Ambiguity.* If ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this Zoning Ordinance, or if ambiguity exists with respect to matters of height, yard requirements, area requirements, or zone boundaries as set forth herein, it shall be the duty of the Community Development Director to ascertain all pertinent facts, and to set forth in writing the findings and the interpretations. The Director can refer the matter to the Planning Commission as a scheduled matter not requiring public hearing, and the findings and interpretations of the Planning Commission shall be set forth in the recorded minutes. Thereafter, such interpretations shall govern.
  - C. *Enforcement and Penalty for Violation.* The Planning Commission, the Community Development Director, the City Attorney, the City Clerk, and all officials charged with the issuance of licenses or permits shall enforce the provisions of this Zoning Ordinance. Any permit, certificate, or license issued in conflict with the provisions of this Zoning Ordinance shall be void.
  - D. *Actions Deemed a Nuisance.* Any building or structure erected or maintained, or any use of property contrary to the provisions of this Zoning Ordinance shall be declared to be unlawful and a public nuisance, subject to abatement pursuant to the City of Beaumont Municipal Code.
  - E. *Remedies.* All remedies concerning this Zoning Ordinance shall be cumulative and not exclusive. Conviction and punishment of any person hereunder shall not relieve such persons from the responsibility of correcting prohibited conditions or removing prohibited buildings, structures, or improvements, and shall not prevent the enforced correction or removal thereof.

( Ord. No. 1128 , § 2(Exh. B), 12-1-2020)

**17.02.140 Reserved.**