

**Chapter 17.415  
PERMITTING REQUIREMENTS**

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**17.415.010 Permit requirements and exemptions.**

Planning and zoning-related permits and actions required and regulated by the City are listed in this Chapter 17.415. See LEMC Chapter 17.410, General Application Processing Procedures, for general application submittal, review, noticing/hearing, and appeal provisions. Provisions for tentative parcel maps and tentative subdivision maps are set forth in LEMC Title 16.

**17.415.020 General Plan amendments.**

A. Purpose. The purpose of a General Plan amendment is to allow for modifications to the General Plan text (e.g., goals, policies, or implementation programs) or to change the General Plan land use designation on any parcel(s). This section is consistent with Government Code Section 65358 and applies to the original land use designation of property authorized by LAFCO for annexation in the City boundaries.

B. Initiation of Amendment. A General Plan amendment may be initiated by motion of the City Council, by application by property owner(s) of parcel(s) to be affected by General Plan amendment, or by recommendation of the Community Development Director to clarify text, address changes mandated by State law, maintain internal General Plan consistency, address boundary adjustments affecting land use designation(s), or for any other reason beneficial to the City.

C. Application requirements. Applications for a General Plan amendment shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.

D. Procedures. Applications for a General Plan amendment shall be reviewed and processed in compliance with LEMC Chapter 17.410.

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E. Approving Authority. The designated approving authority for General Plan amendments is the City Council. The Community Development Director and Planning Commission provide recommendations and the City Council approves, conditionally approves, or denies the General Plan amendment in accordance with the requirements of this title.

F. Frequency of Amendment. Pursuant to Government Code Section 65358, no mandatory element of the General Plan may be amended more frequently than four (4) times during any calendar year. Subject to that limitation, an amendment may be made at any time and may include more than one change to the General Plan.

G. Findings for General Plan Amendment. In the event that a General Plan amendment is requested by a private property owner, the applicant shall demonstrate to the City Council that there is a substantial benefit to be derived from the amendment.

### **17.415.030 Specific Plans**

A. Purpose. The purpose of this section is to provide a process for preparing, processing, reviewing, adopting, and amending specific plans in compliance with Government Code Sections 65450 through 65457. The purpose of this section includes the following:

1. To encourage the planned development of parcels and to permit comprehensive site planning and building design;
2. To provide a more flexible regulatory procedure by which the basic public purpose of the City of Lake Elsinore General Plan and the zoning code may be accomplished;
3. To encourage creative approaches to the use of land, through variation in siting of buildings and the appropriate mixing of several land uses, activities and dwelling types;
4. To enhance the appearance and livability of the community through encouragement of creative approaches to the use of land and the design of facilities;
5. To promote and create public and private open space as an integral part of land development design;
6. To reduce, when appropriate, the amounts of public and private improvements normally required by developments;
7. To maximize choice in types of environments available in the City;
8. To encourage private development of older areas of the City and for the enhancement and preservation of property with unique features, such as property having historical significance, unusual topography and landscape features.

B. Initiation. A specific plan may be initiated by motion of the Planning Commission or City Council, by application by property owner(s) of all parcel(s) to be affected by the specific plan, or by recommendation of the Community Development Director.

C. Applications requirements. Applications for a specific plan or an amendment to an adopted specific plan shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.

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D. Required concurrent applications. Applications for a zoning amendment and for a general plan amendment shall be submitted and processed concurrently with applications for new specific plans and for specific plan amendments that change the boundaries of previously adopted specific plans.

E. Content. A specific plan shall include, but is not limited to, text and diagram(s) that specify all of the following in detail:

1. The distribution, location and extent of individual land uses, including open space, within the area covered by the plan.
2. The proposed distribution, location, extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, parks and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
3. Land use and development standards that, at a minimum, address land use, density, height, setbacks, landscaping, and parking;
4. Standards that address the conservation, development and utilization of natural resources, where applicable;
5. A program of implementation measures, including regulations, programs, public works projects, financing measures and a statement of consistency with any existing master/capital improvement plan necessary to carry out paragraphs 1, 2 and 3 listed above;
6. A statement of relationship of the specific plan to the General Plan, including a statement of how the specific plan implements the goals and policies of the General Plan; and
7. Any other subjects that, in the judgment of the Community Development Director, Planning Commission or City Council, are necessary or desirable for implementation of the General Plan.

F. Procedures. Applications for a specific plan and concurrent applications shall be reviewed and processed in compliance with LEMC Chapter 17.410.

G. Approving authority. The designated approving authority for specific plans is the City Council. The Community Development Director and Planning Commission provide recommendations and the City Council approves, conditionally approves, or denies the specific plan in accordance with the requirements of this section.

H. Approval by ordinance. Approval of specific plans shall be by ordinance.

I. Findings. Specific plans and any amendment thereto shall be approved/adopted only when the City Council makes the following findings as applicable:

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1. The location and design of the proposed development are consistent with the goals and policies of the City's General Plan and with any other applicable plan or policies adopted by the City.
2. The proposed location allows the development to be well integrated with or adequately buffered from its surroundings, whichever may be the case.
3. All vehicular traffic generated by the development, either in phased increments or at full build-out, is accommodated safely and without causing undue congestion upon adjoining streets.
4. The specific plan identifies methodology(ies) to allow land uses to be adequately serviced by existing or proposed public facilities and services. In appropriate circumstances, the City has required that suitable areas be reserved for schools, parks and pedestrian ways; or public open spaces shall be dedicated or reserved by private covenant for the common use of residents, establishments or operations in the development.
5. The overall design of the specific plan will produce an attractive, efficient and stable development.
6. In accordance with the requirements of the California Environmental Quality Act (CEQA), impacts have been reduced to a level of non-significance, or in the case where impacts remain, a statement of overriding considerations has been adopted to justify the merits of project implementation.

J. Final specific plan. The approved final specific plan shall be filed in the office of the City Clerk and in the City Planning Division.

K. Amendment. A specific plan may be amended as necessary, under the same procedures as adoption of a specific plan.

### **17.415.040 Zoning amendments**

A. Generally. This title may be amended by changing the boundaries of districts, or by changing any other provision thereof whenever the public necessity and convenience and the general welfare require such amendment by following the procedure of this chapter.

B. Initiation. An amendment may be initiated by the verified petition of one or more property owners affected by the proposed amendment, by motion of the City Council, or by the recommendation of the Community Development Director to clarify text, address changes mandated by State law, maintain General Plan consistency, address boundary adjustments affecting land use designation(s), or for any reason beneficial to the City.

C. Application requirements. Applications for a zoning amendment shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.

D. Procedures. Applications for a zoning amendment shall be reviewed and processed in compliance with LEMC Chapter 17.410.

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E. Approving Authority. The designated approving authority for zoning amendments is the City Council. The Community Development Director and Planning Commission provide recommendations and the City Council approves or denies the zoning amendment in accordance with the requirements of this title.

F. Findings: Zoning amendments shall be approved/adopted only when the City Council makes the following findings :

1. The proposed amendment will not be (1) detrimental to the health, safety, comfort, or general welfare of the persons residing or working within the neighborhood of the proposed amendment or within the City, (2) injurious to property or improvements in the neighborhood or within the City.

2. The proposed amendment will be consistent with the latest General Plan.

G. City Council referral. Any significant modification of a proposed zoning amendment by the City Council, not previously considered by the Planning Commission during its hearing, may be, but is not required to be, referred to the Planning Commission for report and recommendation.

### **17.415.050 Major Design review.**

A. Purpose. The City of Lake Elsinore has deemed a quality physical environment as being necessary for the protection of the public's health, safety and welfare and has therefore enacted this section in order to establish a major design review process for development proposals and design concepts in order to ensure that new development, occurs in a manner which enhances the character and quality of surrounding properties and that the scale, special relationships and architectural treatment of structures including materials, colors, and design, visually contribute to the area and environment in which they are located. The design review process is also intended to apply to the ancillary elements of projects such as signs and landscaping in order to ensure that the overall development maintains the same integrity of design as approved for the primary structure(s).

B. Design review required. No building permit shall be issued for, and no person shall commence to use, any structure, including signs, until that structure and its accompanying development has received design review approval pursuant to the provisions of this section.

C. Exemptions. The following structures and improvements are exempt from major design review.

1. Projects subject to minor design review pursuant to LEMC Section 17.415.060.

2. Projects exempt from minor design review pursuant to LEMC Section 17.415.060.

D. Application requirements. Applications for a Major Design Review shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.

E. Approving Authority. The Planning Commission may approve a major design review as the project was submitted or in a modified form, or the application may be denied. A major design review may be approved subject to such conditions as the Commission may prescribe.

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1. Conditions may relate to, but are not limited to, site design, including relationship to surrounding uses, functions of buildings or portions of site, setback, coverage, amount of open space, infrastructure improvements; shape, height, and bulk of structures; distances between buildings; architectural design of structure including exterior materials, colors, and textures; location of ancillary equipment; locations of points of ingress and egress; location, amount, and design of parking areas; location and efficiency of truck maneuvering and loading areas; landscaping, including location and general nature; signs including location, size, design, and height; lighting; walls and fences, including location, height, and materials; project grading; and project phasing.

F. Scope of design review. In order to achieve the purpose of this section, the following design concepts shall be paramount in the consideration of any design review approval:

1. The scale and spatial relationship of all structures should be appropriate to the site and to surrounding developments. Structures should be located on their lots so as to create interest and varying vistas as a person moves along the street.
2. The design concept should complement the quality of existing development and create a visually pleasing, non-detractive relationship between the proposed and existing projects. Garish colors at substantial deviance to the rest of the neighborhood.
3. Exterior materials should evidence a concern for quality and originality. The use of a particular material should, as a rule, exemplify the special characteristics of the product or be demonstrative of its unique application. Tilt-up panels employing formed design or with exposed aggregate is preferable to smooth-surface or painted panels. Similarly, metal as an enhancement material is acceptable while plain metal buildings are not. Paint, in general, should be considered an enhancement tool but should not be considered a replacement for the use of textured surfaces.
4. Visible electrical, mechanical and special processing equipment such as vent stacks as well as similar features should be avoided; however, if essential should be screened and such screening should be an integral aspect of the project design.
5. The design of accessory structures, fences, and walls should be harmonious with the design of the principal structures and should employ compatible building materials.
6. Projects should demonstrate a respect for a neighboring property's privacy, quiet, function, or views, and elements of the design including, but not limited to, openings, docks, and equipment placement should not be located in such a way as to create a nuisance for an adjoining property.
7. The project should be designed in such a way that its circulation patterns and parking areas are efficient, and do not impact traffic on adjoining rights-of-way. Adequate on-site parking should be provided and intrinsic maneuvering such as for trucks and for drive-through facilities should be contained entirely on site.
8. Landscaping should be evenly divided over the site and be visually attractive regardless of the season. In addition to its aesthetic attributes, landscaping should be available to screen parking and storage areas and to shade parking lots.

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9. The project should demonstrate concern for solar orientation and other forms of energy conservation. Deep eaves, overhangs, canopies, and other features that provide shelter and shade should be apparent in the design.

10. The project should be harmonious with the topography of the site in order to minimize the requirement for grading and the associated disruption of the City's scenic amenities.

11. The size and scale of signs should be harmonious with the overall design concept of the project and materials and colors should reflect those used for the principal structures. Signs should enhance, not dominate or distract from the appearance of the project.

G. Findings. The Planning Commission shall make the following findings before major design review approval:

1. The project, as approved, will comply with the goals and objectives of the General Plan and the zoning district in which the project is located.

2. The project complies with the design directives contained in paragraph F of LEMC 17.415.050 and all other applicable provisions of the Municipal Code.

3. Conditions and safeguards pursuant to paragraph E of LEMC 17.415.050, including guarantees and evidence of compliance with conditions, have been incorporated into the approval of the subject project to ensure development of the property in accordance with the objectives of this chapter and the planning district in which the site is located.

H. Effective date of design review approval. The decision of the Planning Commission shall be final unless the item has been requested to be reviewed by the City Council or a written appeal of the action is filed pursuant to the provisions set forth in section 17.410.110 LEMC.

I. Lapse of design review approval and time extensions.

2. Notwithstanding conditions to the contrary, a design review granted pursuant to this section shall run with the land for this two-year period, subject to any approved extensions, and shall continue to be valid upon a change of ownership of the site that was the subject of the design review application.

J. Modification of design review approval. Any alteration or expansion of a project for which there has been a design review approval as well as all applications for modification or other change in the conditions of approval of a design review shall be reviewed according to the provisions of this section in a similar manner as a new application.

K. Reapplication. Following the denial of a design review application or the revocation of a design review approval, no application for a design review for the same or substantially the same design concept on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the design review.

L. Occupancy. No occupancy which has received a design review approval shall be occupied or used in any manner or receive a certificate of occupancy until the Community Development Director has determined that all conditions of approval have been complied with.

**17.415.060 Minor design review.**

A. Purpose. The purpose of the Minor Design Review process is to establish a streamlined permitting process for minor development proposals and design concepts and for the alteration of existing development.

B. Minor design review is required for the following:

1. Detached single-family dwelling on existing lot(s) involving a total of two to four units.
2. Attached multiple-family dwellings not involving more than a total of four units.
3. Additions to commercial and industrial structures or the construction of accessory structures.
4. Alterations to existing structures which do substantially change the appearance of the structure even though the floor area may not be affected (i.e., changes in the shape or exterior materials).
5. Reconstruction of commercial or industrial structures which have been destroyed or substantially damaged provided such structures were legally in existence and such reconstruction returns the structure to its original size and appearance.
6. Signs permits pursuant to Chapter 17.196 LEMC.
7. Wireless communication facility for collocation of new equipment on an eligible support structure or modification of an eligible support structure as required by paragraph D(1) of LEMC 17.415.140.
8. Wireless communication facility for any new wireless communications facility that is not a collocation or modification of an existing tower or base station as required by paragraph D(2) of LEMC 17.415.140.

C. Exemptions. The following structures and improvements are exempt from review pursuant to this Section. However, such structures may require additional permits, such as building permits and review for compliance with the development standards set forth in LEMC Chapter 17.44 and LEMC Chapter 17.112, in order to assure compliance with all applicable LEMC provisions.

1. The following uses when consistent with existing zoning:
  - a. Custom single-family dwelling on an existing lot.
  - b. Single duplex on an existing lot.
  - c. Additions to residential dwellings.
  - d. Accessory structures.



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2. Repairs and maintenance site improvements or structures that do not add to, enlarge, or expand the area occupied by the land use or the floor area of the structure and do not significantly alter the appearance of site improvements or structures.
3. Interior alterations that do not increase the gross floor area within the structure or change/expand the permitted use of the structure.
4. Other structures and/or improvements that the Community Development Director determines to be exempt from minor design review.

The Community Development Director may elect to elevate review and approval of these structures and improvements to the Planning Commission as provided in LEMC 17.410.010(C) (8).

D. Application requirements. Applications for a Minor Design Review shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.

E. Approving authority:

1. The Community Development Director shall be empowered to approve a Minor Design Review as the project was submitted or may require changes in the design or may deny the project and instruct the Building Division to issue no building permits for the project.
  - a. The Community Development Director may elect to provide notice to contiguous property owners prior to making a decision.
  - b. The Community Development Director may also elect to elevate any Minor Design Review to the Planning Commission when, in the Director's opinion, any of the following may be applicable:
    - i. The project may significantly affect properties other than the applicant's and additional public notification and input is warranted.
    - ii. The project requires an environmental impact report or a negative declaration.
    - iii. The project may be generally controversial within the community.
    - iv. The project to proceed will need the benefit of a variance.

F. A minor design review shall only be approved when the following findings can be made.

1. The project, as approved, will comply with the goals and objectives of the General Plan and the zoning district in which the project is located.
2. The project complies with the design directives contained in paragraph F of LEMC 17.415.050 and all other applicable provisions of the Municipal Code.
3. Conditions and safeguards, as may be deemed appropriate, pursuant to paragraph E of LEMC 17.415.050, including guarantees and evidence of compliance with conditions, have been incorporated into the approval of the subject project to ensure development of

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the property in accordance with the objectives of this section and the planning district in which the site is located.

G. Appeals shall be made pursuant to the provisions of LEMC Section 17.410.110.

I. Effective date of minor design review approval. The decision of the approving authority shall be final unless a written appeal of the action is filed pursuant to the provisions set forth in section 17.410.110 LEMC.

H. Lapse of minor design review approval and time extensions.

1. A design review approval shall lapse and become void two years following the date on which the design review became effective, unless one of the following:

a. Prior to the expiration of two years, a building permit related to the design review is issued and construction commenced and diligently pursued toward completion; or

b. Prior to the expiration of two years, the applicant has applied for and has been granted an extension of the design review approval pursuant to the following.

i. The expiration date of an approved design review may be extended for no more than two years. The first extension may be granted for one year subject to the approval of the Community Development Director after consultation with other City departments if such design review complies with current laws, standards and policies. The approval authority that approved the underlying minor design review may grant a second one-year extension so long as the minor design review complies with current laws, standards and policies.

ii. Application for extensions of time shall be filed prior to the expiration of the minor design review approval and accompanied by the required processing fee.

2. Notwithstanding conditions to the contrary, a minor design review granted pursuant to this section shall run with the land for this two-year period, subject to any approved extensions, and shall continue to be valid upon a change of ownership of the site that was the subject of the design review application.

### **17.415.070 Conditional use permit.**

A. Purpose. Certain uses are desirable but may have operational characteristics that disproportionately impact adjoining properties, businesses, or residents. Accordingly, such uses require a more comprehensive review and approval procedure, including the ability to condition the project in order to mitigate significant impact.

B. Approving Authority: The Planning Commission is empowered to grant a conditional use permit as the permit was applied for or in modified form, or the application may be denied. A conditional use permit may be granted subject to such conditions as the Commission may prescribe.

1. Conditions may include, but are not limited to, payment of fees; requirements for special yards, open spaces, buffers, fences and walls; requiring installation and maintenance of landscaping; street dedications and general infrastructure improvements; regulations of

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points of vehicular ingress and egress; control of traffic circulation; regulation of signs; regulations of hours of operation and methods of operation; limitations on attendance; control of potential nuisances; prescribing standards of maintenance of buildings and grounds; phasing; development standards; and such other conditions as the Commission may deem necessary to ensure compatibility of the use with surrounding development and preserve the public health, safety and welfare.

C. Findings. The Commission shall make the following findings before granting a conditional use permit:

1. That the proposed use is in accord with the objectives of the General Plan and the purpose of the planning district in which the site is located.
2. That the proposed use will not be detrimental to the general health, safety, comfort, or general welfare of persons residing or working within the neighborhood of the proposed use or the City, or injurious to property or improvements in the neighborhood or the City.
3. That the site is adequate in size and shape to accommodate the use, and for all the yards, setbacks, walls or fences, landscaping, buffers and other features required by this title.
4. That the site for the proposed use relates to streets and highways with proper design both as to width and type of pavement to carry the type and quantity of traffic generated by the subject use.
5. That in approving the subject use at the specific location, there will be no adverse effect on abutting property or the permitted and normal use thereof.
6. That adequate conditions and safeguards pursuant to paragraph B of LEMC 17.415.070 have been incorporated into the approval of the conditional use permit to ensure that the use continues in a manner envisioned by these findings for the term of the use.

D. Lapse of conditional use permit. A conditional use permit approval shall lapse and become void two years following the date on which the conditional use permit became effective, unless one of the following:

1. Prior to the expiration of two years, a building permit related to the conditional use permit is issued and construction commenced and diligently pursued toward completion; or
2. Prior to the expiration of two years, the applicant has applied for and has been granted an extension of the conditional use permit approval pursuant to the following.
  - a. The expiration date of an approved conditional use permit may be extended for no more than two years. The first extension may be granted for one year subject to the approval of the Community Development Director after consultation with other City departments if such conditional use permit complies with current laws, standards and policies.

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b. The approval authority that approved the underlying conditional use permit may grant a second one-year extension so long as the conditional use permit complies with current laws, standards and policies.

c. Application for extensions of time shall be filed prior to the expiration of the conditional use permit approval and shall be accompanied by the required processing fee.

E. Preexisting conditional uses. A conditional use legally established prior to the effective date of the ordinance codified in this chapter, or prior to the effective date of subsequent amendments to the regulations of zone boundaries, shall be permitted to continue; provided, that it is operated and maintained in accord with the conditions prescribed at the time of its establishment and except as provided in LEMC 17.415.070 (G). Any alteration or expansion of a preexisting conditional use shall be permitted only upon the granting of a use permit as prescribed in this section.

F. Modification of conditional use permit. An application for modification, expansion or other change in a conditional use permit shall be reviewed according to the provisions of this chapter in a similar manner as a new application.

G. Suspension and revocation.

1. A conditional use permit may be suspended or revoked by the Planning Commission pursuant to the provisions of this section on any of the following grounds:

a. Approval of the conditional use permit was obtained through misrepresentation or fraud.

b. That the use is being conducted in violation of the terms and conditions of the permit or in violation of any applicable licenses, permits, regulations, laws, or ordinances.

c. Circumstances under which the conditional use permit was approved have changed such that the use has become detrimental to the public health, safety, or welfare or the manner of operation constitutes or is creating a public nuisance. The provisions of this chapter and the approval of a conditional use permit pursuant thereto shall not authorize the maintenance of any public nuisance.

d. That the use for which the permit was granted has ceased or has been suspended for one year or more.

2. Prior to any suspension, revocation or modification of a conditional use permit, the Planning Commission shall hold a public hearing. The hearing shall be preceded by notice given in the same manner as was required to be given for consideration of issuance of the conditional use permit.

3. At the public hearing, the Planning Commission shall consider evidence from all interested parties. If, based upon the testimony and the facts presented or by investigation, the Planning Commission finds that any one of the grounds set forth in subparagraph (1) of this paragraph exist, the Planning Commission may:

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- a. Suspend the conditional use permit subject to reinstatement upon compliance with specified conditions;
- b. Revoke the conditional use permit; or
- c. Modify the conditional use permit by revising or imposing additional conditions aimed at correcting the grounds which would otherwise justify a revocation.

4. Within five days following the date of a decision of the Commission suspending, revoking or modifying a conditional use permit, the Community Development Director or designee shall transmit to the applicant and City Council written notice of the decision. The decision shall become final 15 calendar days from the date of the decision unless a written appeal of the action is filed pursuant to the provisions set forth in section 17.410.110 LEMC.

H. Reapplication. Following the denial of a conditional use permit application or the revocation of a conditional use permit, no application for a conditional use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the conditional use permit.

I. Use permit to run with the land. Subject to the provisions of paragraph G of LEMC 17.415.070, a conditional use permit granted pursuant to the provisions of this chapter shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the conditional use permit application.

### **17.415.080 Variances**

A. Purpose. The City realizes that under certain circumstances an applicant while attempting to comply with provisions of the zoning ordinance as strictly interpreted may, because of certain physical conditions related to the site, such as size, shape, dimensions, topography, or unique setting, experience practical difficulties and/or unnecessary physical hardships which are inconsistent with the ordinance's intended purpose. This section, therefore, is intended to provide a mechanism whereby the approving authority may grant relief from the applicable provisions of this code, where such relief pursuant to LEMC Section 17.415.090 is not available. The ability to grant variances shall not, however, extend to use regulations or to public safety regulations because such authority is precluded by other local ordinances or State law. Also, in no case shall cost to the applicant of strict or literal compliance with a regulation be the primary reason for granting of a variance.

B. Application requirements. Applications for a variance shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.

C. Approving authority. Variance requests shall be reviewed by the Planning Commission at a public hearing noticed pursuant to Chapter 17.410 LEMC.

D. Public hearing. The approving authority shall hold at least one public hearing on each application for a variance. The hearing shall be set and notice given as prescribed in Chapter 17.410 LEMC. At this public bearing, the approving authority shall review the application and drawings submitted and shall receive pertinent evidence from the public concerning the proposed

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deviation from the LEMC and the manner in which it will affect the subject property and surrounding properties.

E. Action of the Approving Authority. The approving authority may grant a variance as the permit was applied for or in modified form, or the application may be denied. A variance may be granted subject to such conditions as the approving authority may prescribe.

1. Conditions may include, but are not limited to, payment of infrastructure fees; requirements for special yards, open spaces, buffers, fences and walls; requiring installation and maintenance of landscaping; street dedications and improvements; regulation of points of vehicular ingress and egress; control of traffic circulation; regulation of signs; regulation of methods of operation; prescribing standards of maintenance of buildings and grounds; phasing; other more restrictive development standards; and such other conditions as the approving authority may deem necessary to ensure compatibility of the project with surrounding development and to preserve the public health, safety and welfare.

F. Findings. The approving authority shall make the following findings before granting a variance:

1. That adequate conditions and safeguards pursuant to paragraph E of LEMC 17.415.080 have been incorporated into the approval of the variance to ensure development of the property in accord with the objectives of the General Plan and the purpose of the planning district in which the site is located.
2. That there are special circumstances, pursuant to the purpose of this section, applicable to the subject property which do apply generally to other properties in the neighborhood, and, therefore, granting of the variance shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located.
3. That in approving the variance, any reductions authorized from the strict interpretation of the zoning ordinance represents the minimum deviation from this code necessary to fulfill the purpose of this section and enable reasonable development of the property.
4. Granting of the variance or minor exception will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone district in which such property is situated.

G. Effective date of the variance. The decision of the approving authority shall be final unless a written appeal is filed pursuant to the provisions set forth in section 17.410.110 LEMC.

H. Lapse of variance approval and time extensions.

1. A variance approval shall lapse and become void two years following the date on which the variance became effective, unless one of the following:
  - a. Prior to the expiration of two years, a building permit related to the variance is issued and construction commenced and diligently pursued toward completion; or

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b. Prior to the expiration of two years, the applicant has applied for and has been granted an extension of the variance approval pursuant to the following.

i. The expiration date of an approved variance may be extended for no more than two years. The first extension may be granted for one year subject to the approval of the Community Development Director after consultation with other City departments if such variance complies with current laws, standards and policies. The approval authority that approved the underlying variance may grant a second one-year extension so long as the variance complies with current laws, standards and policies.

ii. Application for extensions of time shall be filed prior to the expiration of the initial variance approval and accompanied by the required processing fee.

I. Preexisting variance. A variance legally established prior to the effective date of the ordinance codified in this section, or prior to the effective date of subsequent amendments to the regulations or zone boundaries, shall be permitted to continue; provided, that it is maintained in accord with the conditions prescribed at the time of its establishment. Any alteration or expansion of a project for which a preexisting variance was approved shall comply with all current Code provisions and regulations.

J. Modification of variance. Any alteration or expansion of a project for which a variance was approved shall comply with all current Code provisions and regulations. An application for modification or other change in the conditions of approval of a variance shall be reviewed according to the provisions of this chapter in a similar manner as a new application.

K. Suspension and revocation. A variance, upon violation of any applicable provision of this chapter, or, if granted subject to conditions, upon failure to comply with conditions, shall be suspended as follows:

1. The Community Development Director shall notify, in writing, the holder of the variance of the intention to hold a hearing to consider revocation of the variance. Such notice shall be made at least 10 days prior to the actual date of the hearing. At the hearing, the approving authority shall consider evidence from all interested parties and after deliberation if not satisfied that the regulation, general provision, or condition is being complied with, may revoke the variance or take such action as may be necessary to ensure compliance with the regulation, general provision or condition.

2. Within five days following the date of a decision of the approving authority revoking a variance, the Community Development Director or designee shall transmit to the applicant and City Council written notice of the decision. The decision shall become final 15 calendar days from the date of the decision unless a written appeal of the action is filed pursuant to the provisions set forth in section 17.410.110 LEMC.

L. Reapplication. Following the denial of a variance application or the revocation of a variance, no application for a variance for the same or substantially the same issue on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the variance.

M. Variance to run with the land. Notwithstanding conditions to the contrary, a variance granted pursuant to the provisions of this section shall run with the land and shall continue to be valid

upon a change of ownership of the site or structure which was the subject of the variance application.

**17.415.090 Minor exceptions.**

A. Purpose. The City realizes that under certain circumstances an applicant while attempting to comply with provisions of the zoning ordinance as strictly interpreted may, because of certain physical conditions related to the site, such as size, shape, dimensions, topography, or unique setting, experience practical difficulties and/or unnecessary physical hardships which are inconsistent with the ordinance's intended purpose. The approving authority may grant a minor exception from any property development standard (including setbacks, heights, parking requirements, and other numerical standards) in this chapter, subject to the procedures set forth in this section. The following deviations from code requirements may be processed as minor exceptions:

1. Minor exception for up to ten (10) percent of standard. Any deviation of a numerical standard contained in this title of ten (10) percent or less of the maximum or minimum standard may be granted, except as otherwise provided in this section.
2. Fence height minor exception. Excepting within any front yard setback area, the maximum height of any fence, wall, hedge, or equivalent screening may be increased by a maximum of twenty (20) percent, where topography or a difference in grade between abutting sites warrants such increase in height to maintain a level of privacy, or to maintain effectiveness of screening, or to provide additional security when warranted, provided that the increased height does not encroach into the vehicle sight distance or otherwise impede visibility of motorists.
3. Setback minor exceptions.
  - a. Primary and accessory structures. The required side or rear yard setback may be decreased by not more than fifteen (15) percent where the proposed setback area or yard is in character with the surrounding neighborhood and is not required as an essential open space or recreational amenity to the use of the site, and where such decrease will not adversely affect adjacent properties.
  - b. Porches. Open or covered porches and patio covers or like structures that extend into the required front or rear yard setback up to six (6) feet and ten (10) feet, respectively, subject to a maximum encroachment of fifty percent (50%) of the required setback, where such encroachment will not adversely affect adjacent properties.
4. On-site parking minor exception. A maximum of fifteen (15) percent in the reduction of on-site parking spaces may be granted to allow use of parking off-site or through a joint parking agreement, provided that the reduction will not result in an adverse impact on parking availability or traffic congestion.

B. Application requirements. Applications for a minor exemption shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.



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C. Approving authority. The Community Development Director or designee shall be the approving authority for minor exceptions, with notice given to contiguous property owners prior to the decision date.

### 17.415.100 Temporary uses

A. Purpose. This section is intended to provide for the regulation and control of temporary uses that occur on private property and public property with a valid licensing agreement with the City, which are not otherwise permitted or regulated by this title, in order to protect the public health, safety and general welfare.

B. Definitions. For the purpose of this section, certain terms used herein are defined as follows:

1. "Temporary use" means a use which is limited in time and extent and not involving permanent construction or substantial improvements or significant alteration of the land. A temporary use is not a special event/temporary outdoor activity (any assembly, congregation, attraction, display, entertainment, demonstration, carnival, bazaar, circus, rodeo, or other traveling show, fair, festival, food fair, cook-off, dance concert or performance, or any other planned occurrence that may attract a large number of people or which may otherwise become a hazard to the public peace, health, safety or general welfare); or a street event (which includes parades, processions, assemblages and other events, including but not limited to running road races, bike-a-thons, triathlons, and other such uses of the public streets, highways, thoroughfares, rights-of-way and other public property which are also utilized by motor vehicles, and may constitute a traffic hazard and a threat to the public safety); which are regulated under Chapter 5.108 LEMC, Special Events.

C. Categories. The following categories of permits may be granted subject to the approvals set forth herein following submittal of an application in compliance with LEMC Section 17.410.020 and provided compliance is demonstrated with the standards and provisions of this section.

1. Short-Term Temporary Use Permit. Short-term temporary uses are subject to the following restrictions:

Number of people expected to attend the occurrence at any one given time	Less than 100 (if more than 100 people expected at one time, this would be considered a special event which is governed by Chapter 5.108 LEMC)
Duration	A maximum of 3 consecutive days
Frequency of occurrences per year	Short-term temporary use permits shall not be granted for occurrences held more frequently than 6 times a year
Restriction with respect to the amount of time between occurrences	There will be no restrictions with respect to the amount of time required between occurrences
Approving body	Community Development Director
Amount of time required for submittal of an application for review prior to the occurrence	Must be submitted a minimum of 3 weeks prior to the occurrence

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Restrictions regarding the status of the property	Must be conducted on private property or on public property with a valid written agreement with the City, and shall not be located on vacant property. The proposed use shall be an extension of, and associated with, an existing building and/or center. Temporary uses within this category may also be sponsored and conducted by a nonprofit or existing community organization.
Zoning required for the property where the occurrence is to take place	All commercial districts, all industrial districts or recreational districts
Types of permitted uses anticipated within this category	The sale of merchandise from an existing business (such as what would be found in a sidewalk sale), noncommercial car washes (provided the conditions of the National Pollutant Discharge Elimination System (NPDES) can be met), food vending stands, flower vendors and other similar temporary uses which the Community Development Director determines to be appropriate and compatible with the land use district and surrounding land uses

2. Extended Temporary Use Permit. Extended temporary uses are subject to the following restrictions:

Number of people expected to attend the occurrence at any one given time	Less than 100 (if more than 100 people expected at one time, this would be considered a special event which is governed by Chapter 5.108 LEMC)
Duration	Greater than 3 days but less than 30 days
Frequency of occurrences per year	Extended temporary use permits shall not be granted for occurrences held more frequently than 4 times a year
Restriction with respect to the amount of time between occurrences	There shall be a minimum of 30 days separating each occurrence
Approving body	Community Development Director
Amount of time required for submittal of an application for review prior to the occurrence	Must be submitted a minimum of 3 weeks prior to the occurrence
Restrictions regarding the status of the property	Must be conducted on private property or on public property with a written agreement with the City. May be allowed on vacant property with the written permission of the property owner.
Zoning required for the property where the occurrence is to take place	All commercial districts, all industrial districts or recreational districts
Types of permitted uses anticipated within this category	Christmas tree sales lots (including within this category incidental sale of Christmas related items),

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	pumpkin patches, and other similar temporary uses which the Community Development Director determines to be appropriate and compatible with the land use district and surrounding land uses. This category does not include the sale of goods and services other than those mentioned above or except when associated with a nonprofit or existing community organization or with an existing established business within the City
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3. Seasonal Temporary Use Permit. Seasonal temporary uses are subject to the following restrictions:

Number of people expected to attend the occurrence at any one given time	Less than 100 (if more than 100 people expected at one time, this would be considered a special event which is governed by Chapter 5.108 LEMC)
Duration	Greater than 30 days but less than 120 days
Frequency of occurrences per year	Seasonal temporary use permits shall not be granted for occurrences held more frequently than once a year
Restriction with respect to the amount of time between occurrences	Not applicable
Approving body	Community Development Director
Amount of time required for submittal of an application for review prior to the occurrence	Must be submitted a minimum of 3 weeks prior to the occurrence
Restrictions regarding the status of the property	Must be conducted on private property or on public property with a valid written agreement with the City. May be allowed on vacant property with the written permission of the property owner
Zoning required for the property where the occurrence is to take place	All commercial districts, all industrial districts or recreational districts
Types of permitted uses anticipated within this category	Produce stands, and other similar temporary uses which the Community Development Director determines to be appropriate and compatible with the land use district and surrounding land uses (but not including the sale of retail merchandise or items that can be found in department or outlet type stores)

4. Recreational Temporary Use Permit. Recreational temporary uses are subject to the following restrictions:

Number of people expected to attend the occurrence at any one given time	Less than 100 (if more than 100 people expected at one time, this would be considered a special event which is governed by Chapter 5.108 LEMC)
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Duration	From May 1st through October 31st, with a maximum of 3 additional one-month extensions
Frequency of occurrences per year	Recreational temporary uses shall not be granted for occurrences held more frequently than once a year
Restrictions with respect to the amount of time between occurrences	Not applicable
Approving body	Community Development Director
Amount of time required for submittal of an application for review prior to the occurrence	Must be submitted a minimum of 3 weeks prior to the occurrence
Restrictions regarding the status of the property	Must be conducted on private property or public property with a valid written agreement
Zoning required for the property where the occurrence is to take place	All recreational districts and those sites that are contiguous to recreational districts zoned commercial or industrial and the Lakeshore District
Types of permitted uses anticipated within this category	Uses that are recreation-oriented, i.e., jet ski rentals, boat rentals, etc.

D. Application and fees. Application for temporary use permits shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410 and shall include, but not be limited to, the following:

1. Names and addresses of the sponsor, operator, and owner(s) of the property.
2. Affidavit of the property owner authorizing use of the property for the proposed use.
3. Address and/or legal description of the property (assessor's parcel number).
4. Statement describing the proposed use together with any data pertinent to the consideration and granting of the requested permit, including, but not limited to:
  - a. Number of people expected to attend at any one time;
  - b. Total number of people expected to attend;
  - c. Dates and hours of operation;
  - d. Demonstration of compliance with the standards and provisions of this section and that the conduct of the proposed use will not be detrimental to the environment, or to the public health, safety or general welfare.
5. If the site is on public property, a copy of the executed licensing agreement with the City.
6. A dimensional site plan showing the boundaries of the property where the use is proposed and illustrating the location of the major elements of the use, including parking, access and circulation, water, and sanitary facilities.

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7. Other information and plans as may be required by the Community Development Director to determine whether a permit should be granted or denied. The Director may also authorize omission of any information or plans if he finds they are not necessary.

E. Action upon applications. The Community Development Director may approve, conditionally approve, modify, or deny the application after review of the application and any comments received. No application shall be approved unless the applicant has affirmatively demonstrated that all provisions of this section will be complied with and that the proposed activity will not be detrimental to the environment, or the public health, safety, or general welfare.

F. Standards of operations. Except as otherwise provided in this section, temporary uses may be permitted in the zoning districts noted above in paragraph C of LEMC 17.415.100, provided a permit is granted pursuant to the provisions of this section. The following standards shall be applied to all temporary uses and compliance with these standards shall be demonstrated as a condition of the issuance of any permit provided for by this section:

1. Parking. All applications for temporary uses shall provide adequate parking for the use. If the use is established within an existing parking area it shall be shown that this use will not detract from the existing business or the business' ability to provide adequate parking. A parking plan shall be required to be submitted and approved prior to the issuance of a permit.

2. Access and Parking Control. Every applicant shall provide adequate ingress and egress to the premises of the use and parking areas. Necessary roads, driveways and entrance ways shall exist to ensure orderly flow of traffic into the premises from a highway or road which is a part of the City system of highways or which is a highway maintained by the State or County. A special access way for fire equipment, ambulances and other emergency vehicles may be required. The City Engineer must approve the applicant's plan for ingress and egress before a permit shall be issued.

3. Sanitation Facilities. If deemed necessary by the Community Development Director, adequate sanitation facilities shall be provided as determined by the County Health Officer based upon State and local health laws. Provide facilities for the handicapped.

4. Food Concessions. Concessions must be licensed and operated under valid Health Department permit pursuant to local ordinances and State laws.

5. Hours of Operation. All activities which are subject to a permit under this section shall close and cease operation continuously between the hours of midnight and 8:00 a.m. of each and every day.

6. Trash and Refuse. The site shall be cleaned and restored to its original condition or better at the conclusion of the use. An adequate number of trash receptacles shall be provided on site and shall be emptied or removed as necessary at the applicant's expense. If deemed necessary by the Community Development Director, a bond will be required to ensure that the site is cleaned to its original condition at the conclusion of the use.

7. Noise. The amount of noise generated by the operation of the temporary use shall not disrupt the activities of nearby land uses or otherwise violate the provisions of Chapter 17.176 LEMC relating to noise.

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8. Health and Safety Codes. All applicable laws and ordinances with respect to equipment used, construction, plumbing, mechanical, electrical, and all other respects shall be observed.

9. Sales of Goods and Services. All sales of goods and services shall be limited to or sponsored by one of the following:

- a. Nonprofit organizations;
- b. Existing community organizations;
- c. Existing licensed businesses with an existing established business location within the City;
- d. Licensed businesses with the permission of the property owner of vacant property in the case of extended and seasonal temporary uses subject to the limitations set forth in LEMC 17.200.030(B) and (C).
- e. Written agreement with the City of Lake Elsinore.

G. Performance bonds. Performance bonds may be required as a condition of approval of any permit requiring the permittee to execute an agreement with the City of Lake Elsinore secured by a cash bond in the amount necessary to guarantee performance of the agreement and to restore the site to its original condition.

H. Modifications. Modifications to the strict interpretation of any provisions of this section may be granted by the Planning Commission provided it is found that the purpose and intent of this section has been complied with.

I. Appeals. An applicant or any interested person may file a written appeal of the Community Development Director's decision pursuant to the provisions set forth in section 17.410.110 LEMC.

J. Revocation. Any permit issued pursuant to this section may be summarily revoked and the use ordered closed by the Community Development Director or his designee for breach of any of the conditions of the permit or the provisions of this section, or for the violations of any laws of the State if, at any time, the applicant fails to immediately correct any such deficiencies.

### **17.415.110 Accessory dwelling units.**

A. Purpose: The purpose of this section is to expand the mix of housing opportunities within the City by permitting the development of accessory dwelling units as an accessory use to existing single-family detached dwellings, consistent with Government Code Sections 65852.2 and 65852.22, while providing criteria to assure they are maintained as a harmonious and integral aspect of the single-family neighborhood. An accessory dwelling unit is a residential use that is consistent with the existing General Plan land use designation and zoning designation for lots allowing residential uses. Any accessory dwelling unit constructed pursuant to this Section does not exceed the allowable density for the lot upon which the accessory dwelling unit is located.

B. Definitions.

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1. "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides a complete independent living area for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

a. An efficiency unit, as defined in Health and Safety Code Section 17958.1

b. A manufactured home, as defined in Health and Safety Code Section 18007.

2. "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure (primary unit). A junior accessory dwelling unit may include separate sanitation facilities within the existing primary unit or may share sanitation facilities within the existing structure.

3. "Living area" means the interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory building.

C. Primary Dwelling Unit Required. The lot proposed for an accessory dwelling unit shall be zoned for single-family or multi-family residential uses and must contain an existing detached single-family dwelling at the time an application for an accessory dwelling unit is submitted, or the application for the accessory dwelling unit may be made in conjunction with the development of the primary single-family dwelling.

### D. Design and Development Standards.

1. Number of Units. No more than one accessory dwelling unit is permitted on any one lot.

2. Maximum Number of Bedrooms. Accessory dwelling units shall not exceed a maximum of two bedrooms as sleeping quarters.

3. Floor Area.

a. The minimum square footage of an accessory dwelling unit shall be 400 square feet. The unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation.

b. All proposed accessory dwelling units shall not exceed 50 percent of the existing living area of the existing single-family residence or 1,200 square-feet, whichever is less.

4. Accessory dwelling units shall comply with the development standards set forth by the underlying zoning district for the primary structure including, but not limited to, setbacks, lot coverage, building height, distance between structures, and location.

5. Setbacks. Accessory dwelling units shall comply with the setback standards applicable to other structures within the zone in which the lot is located except as provided below.

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- a. Garage Conversions. No setback shall be required for an existing, legally permitted, garage that is converted to an accessory dwelling unit. However, no addition may be constructed to the converted garage that increases the encroachment into the setback.
6. Height Restrictions. Accessory dwelling units shall comply with the following height restrictions based on the proposed location of the unit:
  - a. Accessory dwelling units attached to the primary structure shall comply with the height limitations of the underlying zoning district for the principal structure.
  - b. Accessory dwelling units to be detached from the primary structure shall be limited to the height restrictions set forth in the underlying zoning district for detached, accessory and secondary structures.
7. Independent Exterior Access. Accessory dwelling units shall provide an independent exterior access separate from the primary residence.
8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For purposes of this Section, "passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit
9. Design and Materials. The exterior design and materials of the accessory dwelling unit shall be visually compatible with the primary dwelling regarding the roof, building walls, doors, windows, horizontal/vertical expression, and architectural detail.

### E. Utility Services.

1. Accessory dwelling units shall not be considered new residential uses for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.
2. An accessory dwelling unit located within the existing space of a primary dwelling unit or an accessory building does not require a new or separate utility connection directly between the accessory dwelling unit and the utility or the payment of a connection fee or capacity charge.
3. For an attached and detached accessory dwelling unit, that is not located within the existing space of a primary dwelling unit or an accessory building, the applicant shall be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility.
4. An accessory dwelling must receive approval by the County Department of Environmental Health where an existing or proposed private sewage disposal system is used.

### F. Parking. Accessory dwelling units shall be required to provide parking in accordance with the following requirements:



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1. **Parking Requirement for Primary Residence.** In any instance, the property shall be required to meet the minimum parking requirement as set forth in Chapter 17.148, Parking Requirements, for the principal residence prior or concurrent to the application for an accessory dwelling unit.

2. **New Units.** Attached or detached accessory dwelling units shall be required to provide one (1) off-street parking space per bedroom on the same lot as the unit in a covered, uncovered, or tandem configuration. Parking spaces may be located in the required setbacks provided the proposed location complies with the landscaping requirement in the front yard and minimum standards set forth within the Chapter 17.148, Parking Requirements, for open parking spaces, unless otherwise approved by the Community Development Director.

3. **Garage Conversions.** Where garages are converted for the purpose of creating an accessory dwelling unit, replacement off-street parking shall be provided on the same lot as the unit in either a covered, uncovered, or tandem configuration provided the proposed location complies with the landscaping requirement in the front yard and the minimum standards set forth within the Off-Street Parking Regulations for open parking spaces, unless otherwise approved by the Community Development Director.

4. **Parking spaces** shall be paved or on another surface approved by the Community Development Director. Parking on dirt or landscaped areas is prohibited.

5. **Parking Exceptions for Certain Accessory Dwelling Units.** Automobile parking is not required for an accessory dwelling unit in any of the following instances:

- a. The accessory dwelling unit is located within one-half mile of public transit.
- b. The accessory dwelling unit is located within an architecturally and historically significant historic district.
- c. The accessory dwelling unit is contained entirely within the permitted floor area of the existing primary residence or an existing accessory structure.
- d. When on-street parking permits are required but not offered to the occupant(s) of the accessory dwelling unit.
- e. When there is a car share vehicle located within one block of the accessory dwelling unit.

G. **Fire Sprinklers.** Accessory dwelling units shall not be required to be equipped with fire sprinklers unless fire sprinkler installation is required for the primary dwelling.

H. **Junior Accessory Dwelling Units.** A junior accessory dwelling unit is permitted if it complies with the following standards:

1. One junior accessory dwelling unit may be located on a residential lot zoned for single-family residential purposes with an existing primary unit.

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2. The owner of the lot proposed for the junior accessory dwelling unit shall occupy, as a principal residence, either the primary unit or the junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another government agency, land trust, or housing organization.
  3. The junior accessory dwelling unit shall not be sold independently of the primary unit on the lot. Either unit may be rented; however, short-term rentals less than 30 days are prohibited.
  4. The junior accessory dwelling unit must be created within the existing walls of an existing primary unit, and must include the conversion of an existing bedroom.
  5. The junior accessory dwelling unit shall have an independent exterior entrance separate from the main entrance to the primary unit.
  6. The interior entrance connecting the junior accessory dwelling unit to the primary unit must be maintained, and may include a second interior doorway for sound attenuation.
  7. The junior accessory dwelling unit shall include an efficiency kitchen, which shall include and be limited to the following components:
    - a. A sink with a maximum waste line diameter of 1.5 inches.
    - b. A cooking facility with appliances that do not require electrical service greater than 120 volts or natural or propane gas.
    - c. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
  8. A junior accessory dwelling unit shall comply with the building setbacks as required for the primary unit.
  9. No additional parking shall be required for the junior accessory dwelling unit provided that the required parking spaces serving the primary unit are maintained.
  10. No water or sewer connection fee or capacity charge shall be required for the development of a junior accessory dwelling unit.
  11. Fire sprinklers shall not be required for a junior accessory dwelling unit if fire sprinklers are not required for the primary unit.
- I. Owner Occupancy. The legal property owner of the lot shall be required to reside in either the primary residence or the accessory dwelling unit located on the parcel. At no time shall the property owner rent the primary dwelling and the accessory dwelling unit separately or allow the primary residence and the accessory dwelling unit to be sublet individually while the property owner resides elsewhere.
1. The accessory dwelling unit shall not be sold separately from the principal residence. The rental and lease period for either unit shall be longer than a minimum of 30 days and shall not be utilized as a short-term rental.

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J. Deed Restriction. A deed restriction, in the form satisfactory to the City Attorney, shall be completed and recorded with the County Recorder's office prior to issuance of a building permit for an accessory dwelling unit. The deed restriction shall include the restrictions and limitations identified in this subsection, shall run with the land, and shall be binding upon any future owners, heirs, or assigns of the property. The deed restriction shall substantively state the following:

1. The accessory dwelling unit shall not be sold or owned separately from the principal dwelling unit, and the lot upon which the unit is located shall not be subdivided in any manner that would authorize such sale or ownership;
2. The accessory dwelling unit shall be a legal unit, and may be used as habitable space, only so long as either the principal dwelling unit, or the accessory dwelling unit, is occupied by at least one owner of record of the property;
3. In the event the minimum one person having ownership interest in the lot ceases to occupy a unit on the lot, the accessory dwelling unit shall automatically become non-habitable space, shall not be used as a dwelling unit, and shall not be rented or leased for any purpose.
4. The principal unit and accessory dwelling unit shall not be rented for a period less than thirty (30) consecutive days; and
5. The above restrictions shall be binding upon any successor in ownership of the property as long as the accessory dwelling unit exists on the property; lack of compliance shall be cause for code enforcement action and removal of the accessory dwelling unit.

The applicant shall submit proof of deed restriction recordation to the Community Development Department prior to issuance of a building permit.

### K. Review and approval process.

1. Applications for accessory dwelling units, including plans and documents required for the plan check process shall be submitted to the Building Division with the required plan check fees.
2. An application for an accessory dwelling unit shall be considered by the Community Development Director. The application shall either be approved or disapproved within 120 days of the submittal of a complete application.

### **17.415.120 Mobilehome park conversions**

A. Purpose and Intent. The purpose of regulating mobilehome park conversions is to ensure that any proposed conversion of an existing mobilehome park to any other use is preceded by adequate notice, that the social and fiscal impacts of the proposed conversion are adequately defined prior to consideration of a proposed conversion and that relocation and other assistance is provided park residents, consistent with the provisions of this section and Government Code Sections 65863.7 and 66427.4. Nothing in this section shall preclude any other notice or requirements imposed by state law, nor shall it limit in any way the rights and available remedies of mobilehome park residents otherwise provided by law.

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B. Application requirements. Applications for a mobilehome park conversion shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.

C. Process. Any application for the a mobilehome park conversion shall be deemed an application for a “change of use” for the purposes of Civil Code Section 798.56(g) or any successor provision thereto, and shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.

D. Approving Authority. The designated approving authority for the conversion of a mobilehome park to another use is the Planning Commission.

E. Prior to any change of a mobilehome park to another use or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the applicant shall comply with all of the following requirements.

1. The person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the impact of the conversion, closure, or cessation of use on displaced mobilehome park residents, the report shall address the availability of adequate replacement space in mobilehome parks and relocation costs.

2. The person or entity proposing the change in use shall provide a copy of the report to each resident of the mobilehome park at least 15 days prior to the hearing on the impact report by the Planning Commission.

3. The Planning Commission shall review such report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate space in a mobilehome park.

F. Notification of change in use requirements. Upon the receipt of any application for the conversion of a mobilehome park to another use, the Planning Division shall, at least 30 days prior to a hearing or any other action on the application, inform the applicant in writing of the provisions of Civil Code Section 798.56 and any additional applicable requirements imposing upon the applicant a duty to notify residents and mobilehome owners of the mobilehome park of the proposed change in use, and shall specify therein the manner in which the applicant shall verify that residents and mobilehome owners of the mobilehome park have been duly notified of the proposed change of use.

G. Neither a hearing on the application, nor any other action thereon be taken by the Planning Commission before the applicant has satisfactorily verified that the residents and mobilehome owners have been so notified in the manner prescribed law or by local regulation.

H. Bankruptcy exemption. The provisions of this section shall not apply if it is determined that the closure or cessation of use of a mobilehome park results from an adjudication of bankruptcy. The applicant shall have the burden to produce substantial evidence that a court of competent jurisdiction has determined that the closure, cessation, or conversion of use of the affected park as a mobilehome park is necessary.

### **17.415.130 Residential care facilities**

A. Purpose. The State of California has enacted certain laws and regulations with the intent to provide for the care of children as well as mentally and physically handicapped persons in a residential environment. The purpose of this chapter is to implement those laws and regulations.

B. Definitions.

1. "Large family day care home" means a home which provides family day care to nine to 14 children, inclusive, including children who reside at the home (as defined by the State Department of Social Services), for the periods of less than 24 hours per day, while the parents or guardians are away.
2. "Residential care facility" means a State-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer mentally disordered or otherwise handicapped persons or dependent and neglected children on a 24-hour-a-day basis.
3. "Small family day care home" means a home which provides family day care to eight or fewer children, including children who reside at the home (as defined by the State Department of Social Services), for periods of less than 24 hours per day, while the parents or guardians are away.

C. Permitted uses. Residential care facilities and small family day care homes as defined herein shall be a permitted use in all residential zones provided such uses are housed within structures that comply with the development standards required of all structures within the zoning district.

D. Large family day care permit required. Operation of a large family day care home shall be subject to the review and approval of a residential care permit in accordance with the following:

1. Application requirements. Applications for a large family day care permit shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410.
2. Not less than 10 days prior to the decision date by the Community Development Director serving as approving authority, the City shall mail notice of the proposed use to all property owners as shown on the last equalized assessment roll within a 100-foot radius of the exterior boundaries of the proposed large family day care home.
4. A decision on the permit shall be made by the Community Development Director without a formal hearing, unless one is requested by either the applicant or other affected persons. If so requested, the Community Development Director or designee will serve as approving authority and hear the request.
4. Effective date of large family day care permit approval. The decision of the approving authority shall be final unless an appeal of the action is filed pursuant to the provisions set forth in section 17.410.110 LEMC.

E. Development standards. In accordance with the purpose of this chapter, all large family day care facilities shall comply with the development standards for the zoning district in which they are located, including, but not limited to, the following:

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1. A six-foot-high wood fence or masonry wall shall be erected around the side and rear property lines, behind the required front yard setback.
2. Adequate parking and driveways, as required for the zoning district in which the facility is located, shall be provided.

### **17.415.140 Wireless communication facilities**

A. Purpose. The purpose of this chapter is to: enhance the ability of wireless communications service providers to effectively and efficiently provide new wireless communications services in the City; encourage the design and placement of wireless communications facilities in a way that minimizes their impact to the visual character, health, economic vitality and biological resources of the City; encourage and maximize the use of existing and approved wireless communications facilities, buildings and other structures while taking into account the use of concealment technology in order to reduce the number of facilities needed to serve businesses and residents in the City; ensure continuous maintenance of new and existing wireless communications facilities; and ensure the timely removal of any unused or outdated wireless communications facilities.

B. Definitions. For purposes of this chapter, the following terms, phrases, words, and derivations shall have the meaning given in this section:

1. "Antenna" means a device used for the purpose of transmitting and/or receiving wireless communication signals.
2. "Base station" means a structure or equipment at a fixed location that enables FCC licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base station includes, without limitation:
  - a. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
  - b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems (DAS) and small-cell networks).
  - c. Any structure other than a tower that, at the time the relevant application is filed with the City under this section, supports or houses equipment described in subsections a and b of this definition that has been reviewed and approved under applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term "base station" does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described in subsections a and b of this definition.

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3. "Collocation" means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
4. "Eligible facilities request" means any request for modification of an existing tower or base station that, within the meaning of the Spectrum Act, does not substantially change the physical dimensions of that tower or base station, and involves the collocation of new transmission equipment, the removal of transmission equipment, or the replacement of transmission equipment.
5. "Eligible support structure" means any tower or base station that exists at the time the application is filed with the City.
6. "FCC" means the Federal Communications Commission or successor agency.
7. "Monopole" means a freestanding antenna structure, with a single continuous footing, designed to be self-supporting without the use of guywires.
8. "RF" means radio frequency on the radio spectrum.
9. "Spectrum Act" means Section 6409(a) of the Middle Class Tax Relief Act and Job Creation Act, 47 U.S.C. Section 1455(a), signed into law on February 22, 2012, and providing, in part, "...a State or local government may not deny, and shall approve, any eligible facilities request for a modification of any existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."
10. "Stealth facility" means a wireless communications facility designed to blend into the surrounding environment, to be minimally visible and to appear as a natural feature, such as a tree or rock or other natural or architectural feature, so that no portion of any equipment cabinet, transmission equipment, or any other apparatus associated with facility's function is visible from publicly accessible areas. A stealth facility may be incorporated into an architectural feature such as a steeple, parapet wall, light standard, equipment screen or landscaping.
11. "Substantially changes" means, in the context of an eligible support structure, a modification of an existing tower or base station where any of the following criteria is met:
  - a. For a tower not located in the public right-of-way, if the height of the tower is increased by:
    - i. More than 10 percent; or
    - ii. By the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; or
    - iii. There is an added appurtenance to the body of the tower that would protrude from the edge of the tower by (1) more than 20 feet, or (2) more than the width of the tower at the level of the appurtenance, whichever is greater.
  - b. For a tower located in the public rights-of-way and for all base stations:

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- i. The height of the tower or base station is increased by more than 10 percent or 10 feet, whichever is greater; or
- ii. There is an added appurtenance to the body of that structure that would protrude from the edge of that structure by more than six feet; or
- iii. It involves the installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure; or
- iv. It involves the installation of any new equipment cabinets on the ground if there is no preexisting ground cabinet associated with that structure.

c. For any eligible support structure:

- i. It involves the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or
- ii. There is entailed in the proposed modification any excavation or deployment outside of the current site of the tower or base station; or
- iii. The proposed modification would cause the concealment/camouflage elements of the tower or base station to be defeated; or
- iv. The proposed modification would not comply with the conditions associated with the prior siting approval of construction or modification of the tower or base station, unless the noncompliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding thresholds in this section.

d. To measure changes in height for the purposes of this section, the baseline is:

- i. For deployments that are or will be separated horizontally, measured from the original support structure.
- ii. For all others, measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved by the City prior to February 22, 2012.
- iii. To measure changes for the purposes of this section, the baseline is the dimensions that were approved by the City prior to February 22, 2012.

12. "Tower" means any structure built for the sole or primary purpose of supporting any FCC licensed or authorized antenna, including any structure that is constructed for wireless communications service. This term does not include a base station.

13. "Transmission equipment" means equipment that facilitates transmission of any FCC licensed or authorized wireless communications service.



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14. "Wireless communications facilities" means any antenna, associated equipment, base station, small-cell system, tower, and/or transmission equipment.

15. "Wireless communications service" means, without limitation, all FCC licensed backhaul and other fixed wireless services, broadcast, private, and public safety communication services, and unlicensed wireless services.

### C. Permits required.

1. Any new wireless communications facility that is not a collocation or modification of an existing tower or base station is subject to approval of a conditional use permit pursuant to Section 17.415.070 LEMC.

2. No building permits shall be issued for the construction of any new wireless communications facilities, collocation of new equipment on an eligible support structure, or modification of an eligible support structure until the applicant has obtained design review approval as described in paragraph D of LEMC 17.415.140. The following exemption shall apply to the modifications to an existing eligible support structure that only include maintenance, repair, and/or replacement of antennas and transmission equipment and that do not change and/or increase the antennas or cabinets previously approved.

### D. Application requirements. All applications for wireless communications facilities shall include the following items:

1. For collocation of new equipment on an eligible support structure or modification of an eligible support structure, an application for minor design review shall be made in accordance with Section 17.415.060 LEMC.

2. For any new wireless communications facility that is not a collocation or modification of an existing tower or base station, an application for a conditional use permit shall also be made in accordance with Section 17.415.070 LEMC in addition to an application for minor design review in accordance with Section 17.415.060 LEMC.

3. A written statement asserting that the proposed collocation or modification is an eligible facilities request and does not result in a substantial change in the physical dimensions of the facility's wireless tower or base station, as those terms are defined by Section 6409, Title 47, United States Code, Section 1455, and justifying that assertion.

4. For new wireless communications facility projects, the plans shall include a scaled depiction of the maximum permitted increase as authorized by the Spectrum Act, using the proposed project as a baseline.

5. For proposed collocations or modifications to wireless towers, the plans must include scaled plan views and all four elevations that depict the physical dimensions of the wireless tower as it existed on February 22, 2012, or as approved if constructed after February 22, 2012. For proposed collocations or modifications to base stations, the plans must include scaled plan views and all four elevations that depict the physical dimensions of the base station as it existed on February 22, 2012, or as approved if constructed after February 22, 2012.

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6. Propagation diagrams showing the existing network coverage within one mile of the site and the proposed coverage based upon the proposed facility at the proposed height.
7. Photo simulations showing the proposed facility from all public roads and all residential developments within a half-mile radius of the site.
8. Technical justification for the proposal (for example, to fill a “dead zone” or to accommodate increased demand), why the subject site is considered necessary to accomplish the provider’s objectives, and why the proposed site is the most appropriate location.
9. A siting analysis which identifies a minimum of two other feasible locations within or outside the City which could serve the area intended to be served by the facility, unless the applicant provides technical reasons for providing fewer than the minimum. The alternative site analysis shall include at least one collocation site.
10. A letter stating whether or not Federal Aviation Administration (FAA) clearance is required. If FAA clearance is required, a letter stating the type of lighting necessary and the tower color.
11. A fully executed copy of the lease or other agreement entered into with the owner of the underlying property. The lease or other agreement shall include a provision indicating that the wireless communications service provider, or its successors and assigns, shall remove the wireless communications facility completely upon its abandonment. The lease or other agreement shall also include a provision notifying the property owner that if the wireless communications service provider does not completely remove a facility upon its abandonment, the City may remove the facility at the property owner’s expense and lien the property for the cost of such removal. Proprietary information in the lease may be redacted.
12. The Community Development Director may require additional information or plans, if necessary, to determine whether the application should be granted or denied.

### E. Permit review (“shot clock”) time periods.

1. Review of Application Materials. The time frame for review of an application shall begin to run when the application is submitted, but shall be tolled if the City finds the application incomplete and requests that the applicant submit additional information to complete the application. Such requests shall be made within 30 days of submission of the application. After submission of additional information, the City will notify the applicant within 10 days of this submission if the additional information failed to complete the application.
2. Processing Time for Eligible Facilities Request. The City will act on the minor design review application for a proposed wireless communications facilities modification within 60 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

If the City determines that the application does not qualify as an eligible facilities request, the City will notify the applicant of that determination in writing and will process the application subject to the processing time identified in subsection (C) of this section.

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To the extent Federal law provides a “deemed granted” remedy for eligible facilities request applications not timely acted upon by the City, no such application shall be deemed granted until the applicant provides notice to the City, in writing, that the application has been deemed granted after the time period provided in this section has expired.

3. Processing Time for Applications for Collocations or Modifications That Do Not Qualify as an Eligible Facilities Request. The City will act on the application within 90 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

4. Processing Time for New Wireless Communications Facilities That Are Not a Collocation or Modification of an Existing Tower or Base Station. The City will act on the application within 150 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

5. Denial of Application. If the City denies a wireless communications facility application, the City will notify the applicant in writing of the reasons for the denial.

### F. Permit process and findings.

1. Minor design review applications for eligible facilities request shall be reviewed by the Community Development Director or his designee. The Community Development Director’s decision shall not be appealable. The Community Development Director shall approve the minor design review application, provided the following findings can be made:

- a. The applicant proposes an eligible facilities request; and
- b. The proposed collocation or modification does not defeat any existing concealment elements of the support structure.

2. Minor design review applications for collocations or modifications that do not qualify as an eligible facilities request shall be reviewed by the Community Development Director. The Community Development Director’s decision shall be appealable to the Planning Commission pursuant to LEMC 17.184.110(G). The Community Development Director, or the Planning Commission on appeal, shall approve the minor design review application provided all the applicable development standards per LEMC 17.186.070 and all of the design review findings in accordance with Chapter 17.184 LEMC can be made.

3. Any new wireless communications facility that is not a collocation or modification of an existing tower or base station shall be reviewed by the Planning Commission in accordance with Chapters 17.168 and 17.184 LEMC, provided all the design review and conditional use permit findings can be made.

### G. Development standards. All wireless communications facilities shall comply with the following development standards:

- 1. All wireless communications facilities shall comply with the General Plan and applicable specific plans.

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2. All wireless communications facilities shall be sited to minimize their impact upon scenic views and shall not block or obscure existing commercial signage monuments. All wireless communications facility antennas, mounting hardware, and cabling shall be covered or painted to match the color and texture of the building, tower, or pole on which it is mounted.

3. All wireless communications facilities shall be substantially screened from view of surrounding properties and the public view in one or more of the following ways:

a. Screened with landscaping planted and maintained around the facility, in the vicinity of the facility, and along access roads as the Director deems necessary. Such landscaping, including irrigation, shall be maintained until the wireless communications facility is removed from the site.

b. Designed as stealth facilities.

c. Collocated with an existing facility or structure so as to not create substantial visual impacts beyond those of the existing facility or structure.

4. Wireless communications facilities are permitted in any zoning district except: Hillside Single-Family Residential (R-H); Estate Density Residential (R-E); Single-Family Residential (R-1); Low Density Residential (R-2); Medium Density Residential (R-2); and High Density Residential (R-3).

Notwithstanding the foregoing exceptions, wireless communications facilities may be located in the zoning districts listed in this section, provided the facility meets one of the following criteria:

a. It is located within the public right-of-way as designated in the General Plan, the proposed wireless communications facility would have an incidental or otherwise insignificant visual or aesthetic impact, and it is located on a streetlight standard or traffic signal standard within the public right-of-way of public streets, including local streets; or

b. It is located on a non-residential structure such as a church, school or recreational facility, including those mounted on light standards within a public or private park.

5. Except as otherwise provided by this chapter, a wireless communications facility shall not exceed the height limit specified for the zone in which it is located.

6. A wireless communications facility shall be set back 50 feet from a residential property line or shall be set back from habitable dwellings a distance equal to 100 percent of the facility height, whichever is greater. A variance may be granted to vary from this requirement upon the findings specified in Chapter 17.172 LEMC.

7. No new monopole shall be permitted unless the applicant demonstrates that a proposed facility cannot be placed on an existing building or collocated. The Community Development Director may require an independent, third party analysis, at the applicant's expense, to identify alternatives to a proposed monopole. All new monopoles shall comply with the following:

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- a. A monopole shall not exceed the height limit established for the zone in which it is to be located, unless: the proposed facility is compatible with surrounding properties; the additional height is necessary to provide service within the City; and a conditional use permit is granted in accordance with Chapter 17.168 LEMC. In no event shall a monopole exceed 60 feet in height.
  - b. Guy wires or support structures shall not be allowed.
  - c. Monopoles shall be designed to allow for collocation of additional antennas.
  - d. Monopoles shall be designed as a stealth facility to blend the antenna or the tower into the surrounding area and to minimize visibility from off-site locations.
8. In addition to all other applicable development standards, wireless communications facilities proposed to be mounted on existing or proposed buildings shall comply with the following standards:
  - a. Antennas and ancillary equipment shall be scaled and designed to integrate with building design so as to be visually unobtrusive. Design techniques may include locating the facility behind parapets or within steeples or towers.
  - b. If antennas are mounted flush against a building wall, the color and material of the antenna and other equipment shall match the exterior of the building.
  - c. A building-mounted wireless communications facility shall be architecturally compatible with the existing building on or to which the antenna, base station, or tower is attached.
  - d. A building-mounted wireless communications facility may extend 15 feet beyond the permitted height of the building in the zone district.
9. All wireless communications facilities shall be enclosed with a decorative block wall, wrought iron fence, or other screening option at a minimum height of six feet as deemed appropriate by the Community Development Director.
10. All wireless communications facilities shall be designed, located, and operated to avoid interference with the quiet enjoyment of adjacent properties, and at a minimum shall be subject to the noise standards of Chapter 17.176 LEMC. The Community Development Director may require an independent acoustic analysis to identify appropriate mitigation measures when the noise of such facility may have a detrimental effect on an adjacent property.
11. Freestanding equipment enclosures shall be constructed to look like adjacent structures or facilities typically found in the area and shall adhere to the Citywide Design Standards and Guidelines where appropriate. Where there are no structures in the immediate vicinity, equipment closures shall blend with existing naturally occurring elements of the viewing background and shall be screened from view by landscaping, fencing/walls or other methods. Equipment enclosures shall not exceed 13 feet in height.

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12. Outside lighting is prohibited unless required by the FAA or the California Building Code, including the appendix and standards adopted by the California Building Standards Commission. All towers that require a warning light to comply with FAA regulations shall use the minimum amount possible. Any lighting system installed shall also be shielded to the greatest extent possible so as to minimize the negative impact of such lighting on adjacent properties and so as not to create a nuisance for surrounding property owners or be a wildlife attractant.

13. Temporary parking for service vehicles may be permitted on site. No off-site parking shall be allowed for any service vehicle. Paving for the parking shall be required, where appropriate, and may not be removed without proper mitigation. No vehicles may remain parked overnight, with the exception of technicians working at the site during the night. If a new wireless communications facility is placed on existing parking spaces required by the use currently on site, the parking spaces shall be replaced so that the current use has the necessary parking required by Chapter 17.148 LEMC. If such replacement of spaces is not feasible, a variance may be requested.

### H. Abandoned sites.

1. Any wireless communications facility that is not continuously operated for a period of 60 days shall be conclusively deemed abandoned.
2. The applicant or operator shall have 60 days after a notice of abandonment is mailed by the County to make the facility operable, replace the facility with an operable facility, or remove the facility.
3. Within 90 days of the date the notice of abandonment is mailed, the City may remove the wireless communications facility at the underlying property owner's expense and shall place a lien on the property for the cost of such removal.
4. The owner of the property shall, within 120 days of the City's removal, return the site to its approximate natural condition. If the owner fails to do so, the City can restore and revegetate the site at the property owner's expense.
5. If there are two or more users of a single facility, the facility shall not be deemed abandoned until all users abandon it.

### **17.415.150 Reasonable accommodation.**

A. Purpose and Intent. This section establishes the procedures to request reasonable accommodation for persons with disabilities seeking equal access to housing under the California Fair Employment and Housing Act, the Federal Fair Housing Act, and the Americans with Disabilities Act ("the Acts") in the application of zoning law and other land use regulations, policies, procedures, and conditions of approval.

### B. Applicability.

1. A request for reasonable accommodation may be made by any person with a disability, their representative, or any other entity, when the application of zoning law or other land use regulation, policy, or procedure acts as a barrier to fair housing opportunities.

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2. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment.

3. A request for reasonable accommodation may include a change or exception to the practices, rules, and standards for the development, siting, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

C. Approving Authority. The Community Development Director shall act as the approving authority for reasonable accommodation applications based on consideration of the requirements of this section. Requests submitted for concurrent review with another discretionary land use application shall be reviewed by the approving authority for the discretionary land use application.

D. Required Information. Any person with a disability, or his or her representative, may request reasonable accommodation on a City application form with the required processing fee(s). An applicant submitting a request for reasonable accommodation must provide the following information:

1. The applicant's name, address, and telephone number;
2. Name and address of the property owner and the owner's written consent to the application;
3. Location of the subject property, including address and assessor's parcel numbers;
4. The current actual use of the subject property;
5. Verifiable documentation of the individual's disability status;
6. Description of the accommodation request, which could include site plans, floor plans, and/or details as necessary to define the extent of the accommodation;
7. The regulation(s), policy, or procedure for which accommodation is sought;
8. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling; and
9. Additional information necessary for Planning Division staff to facilitate proper consideration of the request, consistent with fair housing laws.

E. Procedures. An application for a reasonable accommodation shall be prepared, filed, and processed in compliance with LEMC Chapter 17.410. No noticing or public hearing are required for a reasonable accommodation request. The Community Development Director shall make a written determination within 45 days of the application being deemed complete and either approve, modify, or deny a request for reasonable accommodation in compliance with paragraph F of LEMC Section 17.415.160.

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F. Required Findings: The written decision to grant, grant with modifications, or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

1. Whether the housing, which is the subject of the request, will be used by an individual defined as disabled under the Acts;
2. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts;
3. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City;
4. Whether the requested reasonable accommodation would require a fundamental alteration of a City program or law, including but not limited to land use and zoning;
5. Whether the requested reasonable accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others; and
6. Whether there are alternative reasonable accommodations that provide an equivalent level of benefit to the applicant.

G. Conditions of Approval. In granting a request for reasonable accommodation, the approving authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required herein. The conditions shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the property.

H. Appeals. Reasonable accommodation decisions may be appealed pursuant to the provisions set forth in section 17.410.110 LEMC

I. Expiration, Extensions, Discontinuance and Revocation.

1. Expiration. A reasonable accommodation shall expire and become void two years following the date on which the reasonable accommodation becomes effective, or at an alternative time specified as a condition of approval, unless:

- a. A building permit has been issued and construction commenced;
- b. A certificate of occupancy has been issued;
- c. The use is established; or
- d. A time extension has been granted.

2. Time Extension.

- a. The Community Development Director may, upon an application being filed prior to the expiration and for good cause, grant a time extension of up to two one-year extensions. Each extension of time shall be granted in one-year increments only.



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Upon granting of an extension, the Community Development Director shall ensure that conditions of the administrative approval comply with all current LEMC provisions.

b. Notice of the Community Development Director's decision regarding an extension of time shall be provided in writing, and shall include notice of the right to appeal and to request reasonable accommodation in the appeals process.

c. The time extension for a reasonable accommodation shall be final unless appealed pursuant to the provisions set forth in Section 17.410.110 LEMC.

3. Discontinuance. A reasonable accommodation shall terminate if the accommodation is no longer required, or if the recipient of the accommodation no longer resides at the property.

4. Revocation. Any reasonable accommodation approved in accordance with this section may be revoked if any of the conditions or terms of such reasonable accommodation are violated, or any law or ordinance is violated in connection therewith. Procedures for revocation shall be the same as those followed for the original reasonable accommodation application.

J. Amendments. A request for changes in the conditions of approval of a reasonable accommodation, or a change to plans that would affect a condition of approval shall be treated as a new application. The Community Development Director may waive the requirement for a new application if the changes are minor, do not involve substantial alterations or addition to the plan or the conditions of approval, and are consistent with the intent of the original approval.