

ORDINANCE NO. 1759

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING ZONING AMENDMENT 22-366 AMENDING CERTAIN SECTIONS AND TABLES OF TITLE 17 (ZONING) OF THE SAN CLEMENTE MUNICIPAL CODE TO CLARIFY, STREAMLINE, AND CONSOLIDATE PERMIT PROCEDURES, WHILE MAINTAINING ADEQUATE REVIEW OF PROPOSALS THAT ARE REGULARLY WITHOUT SIGNIFICANT IMPACTS AND PUBLIC CONCERNS

WHEREAS, on February 4, 2014, the City Council of the City of San Clemente adopted the Centennial General Plan, which, among other provisions, included changes to land use designations, particular types of uses, and development criteria for certain designations; and

WHEREAS, on February 4, 2014, as part of its action on the Centennial General Plan, the City Council certified Environmental Impact Report SCH No. 2013041021 ("General Plan EIR") pursuant to the California Environmental Quality Act ("CEQA"), approved mitigation measures, and adopted a Statement of Overriding Considerations; and

WHEREAS, subsequent to adoption of the General Plan EIR, the City Council adopted several Addenda:

- A. On November 3, 2015, the City Council adopted General Plan Amendment ("GPA") 15-049, approved Ordinance Nos. 1609 and 1610 for Zoning Amendment ("ZA") 14-456, and certified EIR Addendum No. 1 (the "2015 Addendum");
- B. On September 5, 2017, the City Council adopted GPA 15-331, approved EIR Addendum No. 2 (the "2017 Addendum"), and approved Ordinance No. 1645 for ZA 17-251;
- C. On December 17, 2019, the San Clemente City Council adopted GPA 19-291 and SPA 19-292 (an update to the *Pier Bowl Specific Plan*), and approved EIR Addendum No. 3 (the "2019 Addendum"); and
- D. On October 18, 2022, the City Council adopted GPA 21-238, SPA 21-239, ZA 21-240, and Land Use Plan Amendment ("LUPA") 21-241, and approved EIR Addendum No. 4 (the "2022 Addendum").

WHEREAS, on July 19, 2022, the City Council initiated Zoning Amendment 22-366 (the "Project") to Title 17 (Zoning) of the San Clemente Municipal Code to:

- A. Clarify planning permit review procedures to facilitate staff implementation and promote public understanding;
- B. Consolidate planning applications, making it easier for the public to understand which zoning permits are required and to submit applications, and reduce staff time on report writing, which allows the reallocation of those resources to other City priorities and review of other project applications. These amendments preserve findings for project consistency with planning documents, such as the General Plan, Zoning Ordinance, and Design Guidelines; use compatibility, quality design, historic preservation, and other planning issues. Therefore, the amendments maintain a focus on ensuring projects implement community goals and policies for quality of a life;
- C. Update the staff-level approval process for minor architectural changes. Currently, the Zoning Code has a “staff waiver” application that functions as a permit rather than a waiver. There are approval findings, an ability to add conditions, and types of eligible projects, including a broad category: “Other minor projects that do not substantially alter the visual appearance and/or architectural integrity of the property or structure.” The proposed Ordinance replaces the staff waiver application with an “Administrative Development Permit” that:
 - 1. Establishes criteria for review of administrative applications. These changes add objective general and project-specific standards (e.g., projects that won’t affect character-defining features of historic structures, such as a privacy fence constructed of certain materials). The general standards address design issues, such as architectural style, materials, colors, massing, scale, and historic considerations. The project-specific standards are additional objective criteria for eligible projects, such as types of windows that are minor for staff approval. Projects that don’t meet criteria would require a public hearing. Also, the City Planner would continue to have the authority to refer applications to a public hearing if determining a proposal has potential for significant public concern or impacts; and
 - 2. Lists specific types of projects that would be eligible for staff approval, replacing the broader categories of projects staff can currently review.
- D. Streamline the level of review required to approval several project types, while maintaining public minutes of decisions and appeal procedures, when experience has shown the projects have not had issues of significant public concerns or impacts to prompt a higher level of public review. The proposed streamlining is described in Attachment 2 of the administrative staff report. The streamlining includes: 1) reducing the level of hearing required, such as changing the review authority for a project type from a Planning Commission decision to Zoning Administrator review; and 2) in three limited instances, the proposed amendments change the decision process from a discretionary

public hearing decision to a staff level ministerial process with required approval of an Administrative Development Permit.

WHEREAS, this Ordinance (the “Ordinance”) amends various provisions within Title 17 of the San Clemente Municipal Code (“SCMC”) to effectuate the Project and the Council’s directives on the same; and

WHEREAS, the City, as Lead Agency, conducted an environmental review of the proposed SCMC amendments for compliance with the CEQA and the State CEQA Guidelines. The amendments do not constitute a “project” as defined by the State CEQA Guidelines Sections 15378(b)(2) and 15378(b)(5) (Cal. Code Regs., Title 14, §§ 15378(b)(2) and 15378(b)(5)) because the amendments involve continuing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment; and

WHEREAS, on January 18, 2023, the Planning Commission held a duly noticed public hearing on the Project, considered evidence presented by City staff and comments from other interested parties, and continued the hearing on March 8, March 22, and April 19, 2023; and

WHEREAS, on June 7, 2023, the Planning Commission held a continued duly noticed public hearing on the attached Ordinance, considered evidence presented by City staff and comments from other interested parties, and made a recommendation to the City Council; and

WHEREAS, on September 5, 2023, the City Council held a duly noticed public hearing, considered evidence presented by City staff including the Ordinance and exhibits attached thereto, heard other interested parties; and continued the public hearing to the September 19, 2023 hearing; and

WHEREAS, on September 19, 2023, the City Council held a continued public hearing, considered additional evidence; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby ordain as follows:

Section 1. Incorporation of Recitals.

The City Council hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the City Council as fully set forth in this Ordinance.

Section 2. Zoning Amendment Findings.

With respect to ZA 22-366, the City Council finds the following with respect to the amendments to the Zoning Ordinance:

- A. The amendments are consistent with the General Plan, in that:
1. The amendments improve the effectiveness of processes that directly implement goals and policies Centennial General Plan (as adopted on February 14, 2014 and by subsequent amendments thereafter) pursuant to Government Code Section 65860(c); and
 2. The zoning amendments clarify, consolidate, and streamline permits procedures and improve the effectiveness of regulations, making the City's review process more understandable, predictable, and timely; appropriate to the level of public concern, potential impacts, and nature of projects proposed to implement the General Plan, consistent with Governance Element Policy G-1.01, Effective Governance, *"We practice effective governance by adhering to a planning, budgeting, and implementation process which is publicly accessible, understandable, predictable and timely."*
- B. The zoning amendments adopting the use provisions and development criteria as proposed will not adversely impact the public health, safety, and welfare since they further the Centennial General Plan objectives of (1) meeting community values, needs, and conditions; (2) guiding long-term public and private land use, transportation, economic development, resource preservation, urban design, and other public policy actions; and (3) reflecting the City Council's review, direction, and independent judgement regarding land use.

Section 3. SCMC Code Amendments. Title 17 (Zoning) of the San Clemente Municipal Code is hereby amended and replaced in full to read as set forth in Exhibit "A-1," attached hereto and incorporated herein fully by reference.

Section 4. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases would be declared invalid or unenforceable.

Section 5. The City Clerk shall certify to the passage of this Ordinance and publish the same in the manner required by law, and this Ordinance shall take effect as provided by law.

APPROVED, ADOPTED AND SIGNED this _____ day of September, 2023.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the ____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

Elizabeth A. Mitchell, CITY ATTORNEY

SECTION 1. Section 17.12.020 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.020 Review Authorities.

This section identifies the review authorities responsible for making decisions on applications required by the Zoning Ordinance.

- A. **City Council.** Refer to Chapter 2.04 for a description of the City Council's function, duties, and powers.
- B. **Planning Commission.** Refer to Chapter 2.32 for a description of the Planning Commission's function, duties, and powers.
- C. **Zoning Administrator.** Refer to Chapter 2.34 for a description of the Zoning Administrator's function, duties, and powers.
- D. **The Planning Division.** The Planning Division is responsible for the administration of the Zoning Ordinance, including the following functions:
 - a. **Application Process.** The Planning Division shall process applications consistent with goals and policies in the General Plan and the Zoning Ordinance. If a project is located in a Specific Plan area, then applications shall also be processed consistent with the Specific Plan.
 - b. **Public Information.** The Planning Division shall have the responsibility to provide information to the public on provisions and requirements of the Zoning Ordinance.
 - c. **Coordination.** The Planning Division shall be responsible for coordinating matters related to the administration of this title with other agencies, City departments and divisions, and City boards and commissions. The Planning Division participates in the Development Management Team (DMT), which is a group of City staff from various departments and staff from other agencies (e.g., the Orange County Fire Authority) that meets regularly to coordinate on the review of applications for completeness, consistency with requirements, guidelines, and policies. The DMT also makes non-binding recommendations to the applicable review authority. Unless required by this Title, the City Planner has discretion on whether to bring an application to the DMT for review and a recommendation.
 - d. **Application Status Updates.** The Planning Division shall provide information to applicants and interested parties on the status of applications.
- E. **Designated Review Authority for Required Approvals.** Refer to Table 17.12.020, Review Authority for Permits or Entitlements, for the review authority designated to act upon applications required by this Title, according to procedures described in Section 17.12.060.

(Continue on next page)

Table 17.12.020 - Review Authority for Permits or Entitlements

Permit Application	Review Authority¹	Process Levels in Section 17.12.060	Public Hearings
Administrative Development Permit	City Planner	Process 1	No
Administrative Sign Permit	City Planner	Process 1	No
Cultural Heritage Permit	See Table 17.16.110	Process 2 for Zoning Administrator decisions. Process 3 for Planning Commission	Yes
City Antenna Permit	City Manager	Process 1	No
Coastal Review In-Concept	City Planner	Process 1	No
Conditional Use Permit	Planning Commission, except height exceptions in MU 3.0 and MU 3.3 that require City Council approval	Process 3 for Planning Commission decisions. Process 4 for City Council	Yes
Demolition of Historic Properties	City Council	Process 5	Yes
Designation of Historic Resources and Landmarks	City Council	Process 5	Yes
Development Agreements	City Council	Process 5	Yes
Development Permit	See Table 17.16.100	Process 2 for Zoning Administrator decisions. Process 3 for Planning Commission	Yes
Discretionary Sign Permit	See Section 17.16.250	Process 2 for Zoning Administrator decisions. Process 3 for Planning Commission	Yes
General Plan Amendment	City Council	Process 5	Yes
Historic Property Preservation (Mills Act) Agreements	City Council	Process 4	Yes
Home Occupation Permit	City Planner	Process 1	No
Interpretations, Minor	City Planner	Process 1	No
Interpretations, Major	Planning Commission	Process 3	Yes
Minor Conditional Use Permit	Zoning Administrator	Process 2	Yes
Minor Exception Permit	Zoning Administrator	Process 2	Yes
Short-Term Lodging Unit Zoning Permit	City Planner	Process 1	No
Short-term Apartment Rental	Zoning Administrator	Process 2	Yes
Special Activities Permit	City Planner	Process 1	No

Specific Plan Amendment	City Council	Process 5	Yes
Temporary Use Permit	City Planner	Process 1	No
Tentative Parcel Map	See Municipal Code Title 16		Yes
Tentative Tract Maps	See Municipal Code Title 16		Yes
Variance	Planning Commission	Process 3	Yes
Waiver of Development Standards for Historic Resources and Landmarks	Planning Commission	Process 3	Yes
Wireless Permit	City Planner	Process 1	No
Zoning Amendment	City Council	Process 5	Yes

¹ Refer to Section 17.12.090, Consideration of Concurrent Applications, regarding review of concurrent applications.

SECTION 2. Section 17.12.025 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.025 - Design Review Subcommittee.

This section describes the Design Review Subcommittee's function, duties, and applications that may require design review.

A. Function and Duties.

The Design Review Subcommittee is an advisory body, not an approval body. The Subcommittee advises applicants on how projects can best comply with policies and design guidelines that relate to various visual impact issues, such as site planning, architecture, landscaping, and the preservation of cultural and aesthetic resources. The policies and guidelines are contained in various planning documents, such as the General Plan, Design Guidelines, Specific Plans (when projects are located in a Specific Plan area), Zoning Ordinance, and Coastal Land Use Plan.

The Design Review Subcommittee does not focus on land use issues, which are the purview of the review authority. The Design Review Subcommittee forwards a recommendation to the review authority that acts upon a project. For sites on the City’s designated historic structures and landmarks list, the Design Review Subcommittee (DRSC) functions as the Cultural Heritage Subcommittee (CHSC). The CHSC has similar duties as the DRSC but with added emphasis on historic resource preservation.

B. Referrals to the Design Review Subcommittee.

The review authority may refer applications to the Design Review Subcommittee if not required otherwise by Chapter 17.16 for specific applications.

C. Applications that May Require Design Review Subcommittee Review.

Table 17.12.025 identifies applications that may require projects to be reviewed by the Design Review Subcommittee. For each application shown below, the table provides examples of common design issues reviewed by the Design Review Subcommittee.

Table 17.12.025 - Applications and Design Review Process

Application	Code Section	DRSC review	Examples of design issues reviewed by Design Review Subcommittee
Administrative Development Permit	17.16.095	City Planner discretion.	Issues similar to those listed for Cultural Heritage Permits and Development Permits
City Antenna Permit	17.16.130	Required.	Aesthetics of new wireless antennas on City property
Conditional Use Permit	17.16.060	Required for new antenna projects and exceptions to development standards.	Design, scale, materials, and massing of certain development projects, such as new wireless antennas and density bonus requests for eligible housing projects. Visual impacts of requests for height increases and limited exceptions to other development standards
Cultural Heritage Permit	17.16.110	Refer to Section 17.16.110.	Preservation and restoration of historic resources and landmarks, site planning, setbacks, compatibility and relationships with adjacent development, and architectural design issues, such as architectural quality and style, massing, scale, proportions, landscaping, materials, design features, and visual impacts on aesthetic resources
Designation of Historic Resources and Landmarks	17.16.160	Required.	Designation of historic resources and landmarks
Development Permit	17.16.100	Refer to Section 17.16.100.	Site planning, parking lot design, setbacks, compatibility and relationships with adjacent development, and architectural design issues, such as design quality and style, massing, scale, proportions, landscaping, materials, design features, visual impacts on aesthetic resources and adjacent historic resources
Discretionary Sign Permit	17.16.250	Required.	Design, scale, materials, location, and other visual aspects of signs that require a public hearing process

Historic Property Preservation (Mills Act) Agreement	17.16.175	Required.	Design, scale, materials, location, and other visual aspects of improvements to preserve and restore historic resources
Variance	17.16.080	Required.	Visual impacts of development standard exceptions

SECTION 3. Section 17.12.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.040 Filing an Application.

- A. **Persons Who May File an Application (or Pre-application).** Unless otherwise specified, an application required or permitted by this title will only be accepted if signed by the owner of the subject property or by the property owner's authorized agent. When the property owner's authorized agent submits an application, the application must be accompanied by written authorization from the property owner. If the property for which an application is submitted is in more than one ownership, all the owners or their authorized agents must either sign the application or submit a written, signed document indicating their consent to the application.
- B. **Application Forms.** Unless indicated otherwise by Chapter 17.16, Applications, of this title, applications required or authorized by this title shall be submitted to the Planning Division and shall include forms and any other materials, reports, dimensioned plans or other information required by the application checklist available from the Planning Division. If a public hearing is required prior to issuance or approval of the application, all public notification materials required by Table 17.12.100, Public Hearing Requirements, must be included with the application. It is the responsibility of the applicant to ensure that all required information is provided.
- C. **Fees.** The City Council shall, by resolution, establish and amend from time to time a schedule of fees for applications required or authorized by Chapter 17.16, Applications, of this title. Applicants shall pay the fees and costs for processing applications when the application is filed with the Planning Division. The purpose of the application fees is to reimburse the City for all costs incurred as the result of its administration of the provisions of this title.
- D. **Waiver of Fees.** For special circumstances, the City Council may waive or reduce the application fees established by resolution of the City Council, based on the merit of the request. Waiver of fees shall be approved prior to application submittal. The applicant must file a request for waiver of fees with the City's Planning Division. The letter shall explain the reasons for the request for a waiver. The Planning Division shall forward the letter requesting a waiver of fees to the City Council for their review at the next regularly scheduled City Council meeting at which time the request can be agendized under New Business.
- E. **Supplemental Information.** The City Planner, or review authority, may request the applicant submit information to clarify, correct, or otherwise supplement submitted information beyond that originally submitted in the course of processing the application should he or she find that additional information is necessary to adequately review a request. Such a request shall not invalidate the original determination that the application was complete at the time the determination was originally made. Supplemental information may include, but is not limited to, visual analysis tools such as story pole staking, photo simulations, and models. Projects with added concern for visual impacts are more likely to require story poles that include construction or expansion of three-story

structures in the Architectural Overlay district and structures with the potential to affect public view corridors from public places in the Coastal Overlay zone.

1. **Certification of Visual Analysis Tools.** When visual analysis tools are required, the accuracy of the materials shall be certified by a licensed architect or engineer prior to scheduling the first public hearing for a project.
2. **Story Pole Installation Requirements.** When story poles are required, they shall be erected at least 14 calendar days prior to the first public hearing or meeting on the Project, as determined by the City Planner, except that the approval authority shall have discretion to require that they be erected earlier, but not to exceed 28 calendar days prior to the hearing. The following must be completed for a site to be deemed to have been properly staked with story poles:
 - a. Story poles and connecting thick colored lines or pennants, which accurately represent the limits of the proposed structure's envelope. This includes the outermost corners of the building's roof area and along the tallest roof ridgelines or peaks, or other areas necessary to evaluate visual impacts at the discretion of the City Planner or Review Authority. The City Planner shall have final approval authority over the location of the story poles to ensure that they do not detrimentally impact the public or the then current use of the property; and
 - b. A staking plan with the location and height of the story poles must be certified as accurate by a registered land surveyor or registered civil engineer. If a complete and certified staking of story poles for a project is not in place in the time required, the project shall be continued to a later date. Neither the applicant, a relative of the applicant, nor any other person possessing a financial interest in the property or the project may certify the location and height accuracy of the staking poles.
3. **Story Pole Re-certification.** Re-certification is required at least 14 calendar days prior to the first public hearing as described above in 2. Requirements, in the following instances:
 - a. If the project is modified during the design review process requiring the project to be re-staked; and/or
 - b. If the initial installation of story poles was completed one year prior to the final hearing date.
4. **Story Pole Removal.** A deposit in the amount the City Planner determines to be reasonably necessary to remove the story poles shall be made prior to the time the project is scheduled for public hearing. Story poles shall be removed by the applicant within 20 calendar days after the appeal period for the project has expired. Upon timely removal of the story poles, the deposit shall be returned to the applicant. The applicant's failure to remove the story poles within the prescribed time period shall result in the automatic forfeiture of the deposit, and the City shall have the ability to access the site to remove the poles. Story poles must be removed if a project has been inactive for a period longer than six months. Story pole placement shall be photo-documented from viewpoints determined by the City Planner to document size, mass, height, and scale, and shall be submitted to [be] retained by the City with the project file. Prior to the first public hearing on the project, the applicant shall grant to the City a written right of entry for purposes of pole removal.

SECTION 4. Section 17.12.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.050 Application Completeness.

- A. **Review for Completeness.** The Planning Division shall determine the completeness of an application within the time period specified by State law (Government Code Section 65943), after receiving a submitted application and associated information. No application shall be processed pursuant to this title until the Planning Division determines the application is complete. If the Planning Division fails to make a determination as to completeness of an application or resubmitted application within the time period specified by State law (Government Code Section 65943), the application shall be automatically deemed complete and processed pursuant to the provisions of this title.
- B. **Applicant Notification.** If an application is deemed complete, the Planning Division shall notify the applicant in writing. The application shall then be processed pursuant to the provisions of this title. If an application is deemed incomplete, the Planning Division shall notify the applicant in writing, outlining the reason(s) for the determination and the information necessary to complete the application.

SECTION 5. The former Section 17.12.080 of the San Clemente Municipal Code is hereby re-numbered to Section 17.12.055 and is amended to read in its entirety as follows:

17.12.055 Environmental Review.

All applications will be reviewed by the Planning Division for compliance with the California Environmental Quality Act (CEQA). No application shall be approved pursuant to this title prior to the completion and/or certification of applicable environmental documentation required by CEQA. Applications shall be processed within the time limits prescribed in CEQA (Government Code Section 65920 et seq.).

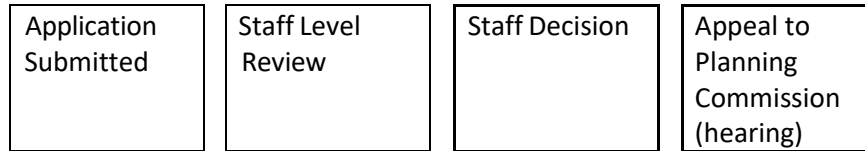
SECTION 6. The existing provisions of Section 17.12.060 of the San Clemente Municipal Code are hereby struck and replaced with the following:

17.12.060 Decision Process

Application for permits or other matters shall be acted upon in accordance with one of the five decision processes established shown on Figure 17.12.060.A, except for capital improvement program projects. The subject matter of the development application determines the process that shall be followed for each application. The provisions of Chapter 17.16 that pertain to each permit, map, or other matter describe the decision process in more detail. Depending on the proposal, the review process may also require review by an advisory body such as the Design Review Subcommittee or Cultural Heritage Subcommittee. Figure 17.12.060.A is provided for convenience of reference only and does not define, describe, or limit the scope, meaning, or intent of any provision of this Title. This diagram describes the City of San Clemente's processes only, not decision processes that may be required by other agencies such as the California Coastal Commission.

Figure 17.12.060.A, Decision Processes

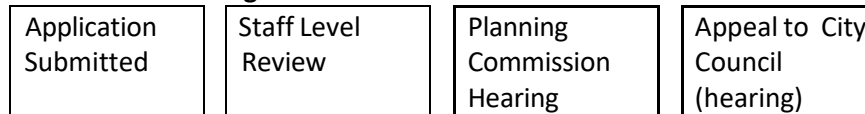
Process 1 – Staff Decision Without Notice



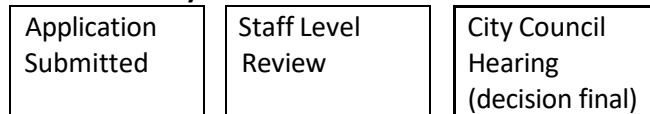
Process 2 – Zoning Administrator Decision



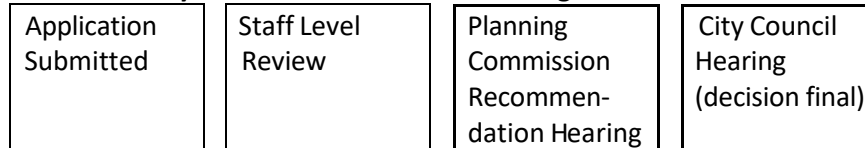
Process 3 – Planning Commission Decision



Process 4 – City Council Decision



Process 5– City Council Decision with Planning Commission Recommendation



* Depending on the proposal, the review process may also require review by an advisory body such as the Design Review Subcommittee or Cultural Heritage Subcommittee.

A. Process One – Staff Decision Without Public Hearing

A Process One decision on an application may be approved or denied by a City staff person specified in Table 17.12.020 or their designee. A public hearing will not be held. A decision may be appealed to the Planning Commission according to Section 17.12.140.

B. Process Two – Zoning Administrator Decision

A Process Two decision on an application shall be made as follows:

1. Decision Process. The Zoning Administrator may approve, conditionally approve, or deny the application at a public hearing.
2. Public Notification. Notice of a public hearing shall be provided according to Section 17.12.100 with necessary materials provided by an applicant.
3. Appeals. The Zoning Administrator’s decision may be appealed to the City Council according to Section 17.12.140.

C. Process Three – Planning Commission Decision

A Process Three decision on application shall be made as follows:

1. Decision Process. The Planning Commission may approve, conditionally approve, or deny the application at a public hearing.
2. Public Notification. Notice of a public hearing shall be provided according to Section 17.12.100 with necessary materials provided by an applicant.
3. Appeals. The Planning Commission's decision may be appealed to the City Council according to Section 17.12.140.

D. Process Four – City Council Decision

1. A Process Four decision on an application may be approved, conditionally approved, or denied by the City Council at a public hearing.
2. Public Notification. Notice of a public hearing shall be provided according to Section 17.12.100 with necessary materials provided by an applicant.
3. Ability to Act as Review Authority for a Lower Level Process.

The City Council by majority vote may decide to serve as the Review Authority for any applications that require a lower level Process according to Table 17.12.020.

E. Process Five – City Council Decision with Planning Commission Recommendation

A Process Five decision on an application shall be made by the City Council as follows:

1. Planning Commission Recommendation.

Before the City Council decision, the Planning Commission shall hold a public hearing to consider the application. The hearing shall be noticed in accordance with Section 17.12.100. The hearing may be continued if desired by the Commission to solicit and obtain information needed to make a recommendation. However, the hearing shall be concluded no later than 60 calendar days after the initial hearing date. At the conclusion of the public hearing, the Planning Commission shall make a written recommendation to the City Council to approve, conditionally approve, or deny the application. If the Planning Commission fails to act within this 60-day period the matter shall proceed to City Council without a recommendation.

2. Decision Process.

After receiving the Planning Commission's recommendation or expiration of the 60-day time period with no recommendation, the City Council shall hold a public hearing to consider the application. The hearing shall be noticed in accordance with Section 17.12.100. The City Council may approve, conditionally approve, or deny the application at the conclusion of the hearing.

F. Referrals to Higher Review Level. A Review Authority has the discretion to refer applications to a higher review level, as follows:

1. The City Planner may refer Process 1 decisions to the Zoning Administrator or Planning Commission, depending on level of public concern anticipated for a matter. If decisions are referred to the Zoning Administrator or Planning Commission, a public hearing and notification shall be required according to Chapter 17.12; and

2. The Zoning Administrator may refer Process 2 decisions to the Planning Commission, depending on level of public concern anticipated for a matter.

SECTION 7. Section 17.12.065 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.065 Inactive Applications.

The City may close inactive applications according this Section.

- A. **Incomplete Letters.** The City determines the completeness of an application within the time period specified by State law as described in Section 17.12.050. If the application is incomplete, the City notifies the applicant in writing to describe what is needed to process the application, such as studies, development plans, forms, and fees. The letter specifies a timeframe for submitting the requested items.
- B. **Resubmittal Timeframe.** Applications shall be deemed inactive and be closed at the discretion of the City Planner if the applicant does not submit requested items for six consecutive months following the date of the incomplete letter, unless the incomplete letter specifies an alternate timeframe or an extension is granted according to Subsection C.
- C. **Request for Time Extension.** The applicant may request an extension of time to resubmit the application. The time extension request shall be made in writing and received within the resubmittal timeline described in Subsection B. The written request shall provide a detailed explanation of the reason(s) for the request and the additional time needed to provide the requested information and/or application fees. Such reasons may include by way of example and not by limitation, additional time needed to conduct a required seasonal biological survey or to secure a professional consultant to carry out a required analysis.

The City Planner shall review the written request and provide the applicant a written determination, approving or denying the request, based on finding whether there are unusual circumstances preventing the applicant from resubmitting the application within the given timeframe. If the City Planner grants the applicant's request, the written determination shall specify the additional time granted to resubmit the application. Then, the applicant shall submit requested items within extended resubmittal timeframe or the City shall have discretion to close the application.

- D. **Return of Unused Deposit Account Funds.** If an application is withdrawn by the City or the applicant, the City shall contact the applicant to refund any unused deposit account fees. If an applicant is unresponsive, the City will refund fees when an opportunity arises to communicate with the applicant. Fixed fee applications are not refundable.

SECTION 8. Section 17.12.100 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.12.100 Public Hearing and Notification.

- A. **Purpose.** This section defines procedures for public notification when required by this title. The purpose of this section is to ensure public awareness and full and open public discussion and debate regarding proposed actions being taken pursuant to this title.

- B. **Notice of Public Hearings.** A notice of public hearing is required for processes 2 to 5 in Section 17.12.060 that involve a public hearing action by the Zoning Administrator, Planning Commission, or City Council. The City Planner is authorized to advertise and notice Zoning Administrator and Planning Commission public hearings. The City Clerk is authorized to advertise and notice City Council public hearings. Table 17.12.020, Review Authority for Permits and Entitlements, identifies the applications that require a public hearing, as well as the review authorities for applications.

Notice of public hearings shall be given pursuant to applicable provisions of State law, Government Code Sections 65090 and 65091, and this title, including all of the following requirements which must be complied with at least 10 days prior to the public hearing:

1. **Publication.** Publication in a newspaper of general circulation in the City of San Clemente;
2. **Mailing Recipients.** A notice of public hearing shall be mailed to the following:
 - a. Owners of property within 300 feet of a site that is the subject of the public hearing. If the number of owners to whom notice would be mailed or delivered pursuant to this subsection is greater than 1,000, the City, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City at least 10 days prior to the hearing;
 - b. Local agencies expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, where ability to provide these facilities and services may be significantly affected;
 - c. Persons requesting notice of such hearing;
 - d. The City of San Clemente as owning property within a specified distance from the exterior boundaries of the subject property (radius of notice), unless the City is the sole applicant for the hearing that is the subject of the notice; and
3. **Notice Content.** At a minimum, the notice of public hearing shall include all of the following:
 - a. General subject of the public hearing;
 - b. The location of the property that is the subject of the application;
 - c. The date, time, and place of the public hearing;
 - d. The Review Authority holding the public hearing; and
 - e. The name, telephone number, and address of the City staff person to contact for additional information.
4. **Posting.** Posting three notices adjacent to the subject property in conspicuous places facing the public street. Posting of public hearing notices may be delegated by the City Planner to the project applicant. If posting is delegated to the project applicant, notices must be provided to the applicant by the Planning Division.
5. **Affidavit of Mailing, Publication and/or Posting.** Once a notice of public hearing has been given, in accordance with this Section, an affidavit shall be filed in the permanent records of the subject project, according to the following requirements:

- a. Mailing and Publication. The City Planner, if the hearing is held by the Zoning Administrator or Planning Commission, or the City Clerk, if the hearing is held by the City Council, shall be responsible for the affidavit of mailing and publication; and
 - b. Posting. The City Planner, if the hearing is held by the Zoning Administrator or Planning Commission, or the City Clerk, if the hearing is held by the City Council, shall be responsible for the affidavit of posting. If posting is delegated to the project applicant, an affidavit of posting must be provided by the City and signed by the applicant or the applicant's representative.
- C. **Failure of Any Person to Receive a Mailed Notice.** Failure of any person to receive notice according to this Section shall not invalidate any proceedings.
- D. **Materials for Notice Mailings.** Applicants shall provide all necessary materials for each public notice required by this Title, including: one set of stamped, labeled envelopes; a mailing list in label format; a radius map (for mailings); and a signed form certifying all materials are accurate within six months of notice distribution.

SECTION 9. Section 17.12.140 of the San Clemente Municipal Code is hereby amended in its entirety as follows:

17.12.140 Appeals of an Action.

A. **Appeals by the Public.**

1. **Right to Appeal.**

- a. Decisions of the Community Development Director or City Planner. Any person may appeal a decision of the Community Development Director and/or City Planner to the Planning Commission, except for a decision on a Wireless Permit. The Planning Commission's decision may be appealed to the City Council, whose decision shall be final. Appeals of decisions of the City Planner on Wireless Permits are governed by Section 17.16.075(b)(2).
- b. Decisions of the City Manager on City Antenna Permits. Any person may appeal a decision of the City Manager on City Antenna Permits to the Planning Commission. The Planning Commission's decision may be appealed to the City Council, whose decision shall be final.
- c. Decisions of the Zoning Administrator. Any person may appeal a decision of the Zoning Administrator to the Planning Commission. Then, the City Council will consider the Planning Commission's appeal decision according to Subsection (B).
- d. Decisions of the Planning Commission. Any person may appeal a decision of the Planning Commission to the City Council. The City Council's decision on the appeal shall be final.

2. **Time Limits for Filing an Appeal.**

- a. **Decisions of the Community Development Director or City Planner.** Except for appeals on Wireless Permit decisions, an appeal of a decision made by the Community Development Director or City Planner shall be filed with the Planning Division within ten consecutive

calendar days following the decision sought to be appealed. Appeals of decisions of the City Planner on Wireless Permits are governed by Section 17.16.075(b)(2).

- b. **Decisions of the City Manager on City Antenna Permits.** An appeal of a decision made by the City Manager on a City Antenna Permit shall be filed with the Planning Division within ten consecutive calendar days following the decision sought to be appealed.
 - c. **Decisions of the Zoning Administrator or Planning Commission.** An appeal of the decision of the Zoning Administrator, or Planning Commission shall be filed in the office of the City Clerk or with the City Planner within ten consecutive calendar days following the decision sought to be appealed.
 - d. **Calculation of the Appeal Period.** For the purpose of calculating the appeal period, the first day of the appeal period shall be the day immediately following the day on which the decision occurred. Other than appeals on Wireless Permits, the final day of the appeal period shall be the tenth calendar day following the first day of the appeal period, at 5:00 p.m. If the last day to appeal falls on a holiday or on a Saturday or Sunday, the following business day shall be deemed the last day to appeal.
3. **Application for Appeal.** Appeals shall be in writing on a form obtained from the Planning Division or City Clerk. The appellant shall state the specific reasons for the appeal, submit funds to pay the required appeal fee, and submit public notification materials. Unless otherwise provided for in Table 17.12.100, Public Hearing Requirements, of this chapter public notification materials shall consist of postage pre-paid envelopes addressed to each person owning property within 300 feet of the property which is the subject of the appeal, as such names appear on the latest County equalized tax assessment role.

B. Appeals by the City Council and Planning Commission.

1. **City Council Right to Appeal.** The City Council may appeal any decision of the Zoning Administrator or Planning Commission by calling up the decision for consideration by the City Council, in accordance with Subsection (B)(4) of this section.
2. **Planning Commission Right to Appeal.** The Planning Commission may appeal any decision of the Zoning Administrator by calling up the decision for consideration by the Planning Commission, in accordance with Subsection (B)(4) of this section.
3. **Time Limits for Appealing a Decision.** An appeal by the City Council or Planning Commission shall be made by the time the official transmittal of the decision on an application is received and filed, through minutes, action memorandum or otherwise. A transmittal of a decision shall be provided to the appeal body at the next available regular or adjourned regular public meeting following the decision. In the instance of Zoning Administrator decisions, transmittal of the decision is provided to the City Council and Planning Commission concurrently.
4. **Appeal by Majority Vote.** Appeals shall be initiated by a majority vote of the City Council or Planning Commission at a regular or adjourned regular public meeting. The appeal will be heard as a public hearing at a future meeting of the appealing body as indicated in Subsection (D).

- C. **Public Notice of the Appeal.** Notice of the public hearing on the appeal shall be provided as required in Section 17.12.100, Public Hearing and Notification, of this title. As indicated in Subsection (D) of this section, Time Limit for Hearing an Appeal, stamped envelopes for mailing the public hearing notices shall be provided by the appellant.
- D. **Time Limit for Hearing an Appeal.** Public hearings on appeals shall be held within 60 days of the date in which an appeal is initiated by application submittal (Subsection A.3), or a majority vote by a City appeal body (Subsection B.4). The City Clerk shall notify the applicant, in writing, of the date established for the public hearing within 10 days of receipt of a completed appeal application. The appellant must provide stamped envelopes for public notification, by 20 days prior to the scheduled hearing on the appeal, or the appeal shall be taken off the appeal body's calendar and the appellant shall have waived any and all rights to such appeal.
- E. **Scope of Review.** The body hearing the appeal shall not be limited to the issues raised on the appeal, but rather shall be entitled to review new evidence and to consider all elements of the appealed action. At the close of the public hearing on the appeal, the appellate body may reverse, affirm, revise or modify original action on the application being appealed.
- F. **Effective Date of Appealed Actions.** Please refer to Section 17.12.130, Effective Date of Decision on an Action, of this chapter, Effective Date of Decision.

SECTION 10. Section 17.16.050 of the San Clemente Municipal Code is hereby deleted in its entirety.

SECTION 11. Section 17.16.060 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.060 Conditional Use Permits.

- A. **Purpose and Intent.** It is the purpose and intent of the Conditional Use Permit process to provide for the review of uses that may, because of their nature, have an impact on the surrounding environment and for the determination of whether or not the proposed use is appropriate for its proposed location. The Conditional Use Permit process is intended to encourage uses to be located in a manner that is: 1) consistent with the City's zones; 2) sensitive to community and neighborhood identity; and 3) minimizes impacts to adjacent uses. Review of a use may require the consideration of site plan issues related to the use, as well. For a discussion of the purpose of site plan review, please refer to Section 17.16.050(A), Purpose and Intent, in this chapter.
- B. **Review Authority.** The review authority for Conditional Use Permits is as follows:
 - 1. **Planning Commission.** The Planning Commission is the review authority for Conditional Use Permits, except for requests to exceed height limitations on sites with sloping topography in the Mixed Use 3.0 Zone (Table 17.40.43) and Mixed Use 3.3 Zone (Table 17.40.46). For these requests, the Planning Commission is an advisory body that reviews applications and forwards a recommendation to the City Council.
 - 2. **City Council.** The City Council is the review authority for requests to exceed height limitations on sites with sloping topography in the Mixed Use 3.0 Zone (Table 17.40.43) and Mixed Use 3.3 Zone (Table 17.40.46).
 - 3. **Concurrent Review.** If a Conditional Use Permit is processed concurrently with other applications, refer to Section 17.12.090 for the final review authority.

4. Appeal of an Action. If a Conditional Use Permit is appealed, the City Council is the final review authority per Section 17.12.140, Appeals of an Action.

C. **Applicability.** Conditional Use Permits are required as indicated by the use tables in Chapters 17.32, Residential Zones and Standards, through 17.48, Public Zones and Standards, in this Title. Conditional Use Permits are also required for the following requests:

Use/Modifications	As Provided for in:
Antennas, new, on City property	Section 17.28.070(C), Review Requirements
Chimneys which exceed the height limit of the zone in which they are located by more than two feet	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Density bonus requests	Section 17.24.070(E), Review Procedures
Development standards, determination of, for development in the following zones: RVL Zone, Open Space Zones, Public Zone	Table 17.32.040, Residential Zone Development Standards; Table 17.44.030, Open-Space Zone Development Standards; Table 17.48.030, Public Zone Development Standards
Exceptions to the Development Standards of Mixed Use Zone Lots of 12,000 Square Feet or Smaller	Section 17.40.050(C), Required Findings for Exceptions
Exceptions to the Development Standards for Mixed Use 3.2 Zone on Lots of 8,000 Square feet or Smaller	Section 17.40.050(E), Required Findings for Exceptions
Fences, hedges, and walls exceeding six feet in height for specific purposes in residential zones	Section 17.24.090((C)(2)(b), Review Procedures
Flag poles and church steeples in residential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Flag poles, antennas (other than satellite antennas or antennas on City property), church steeples, cupolas, and monuments, and similar structures in nonresidential and mixed-use zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Storage tanks and similar structures in nonresidential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Grading requests not accompanying development requests	Section 17.28.130(B), Review Requirements

Use/Modifications	As Provided for in:
Historic Structures, exceptions to the minimum commercial floor area for mixed-use projects in Mixed Use zones	Section 17.40.050(D), Exceptions to the Minimum Floor Area Requirements for the Commercial Portion of Mixed-use Projects for Buildings on the City's Designated Historic Structure List
Home occupations conducted outside enclosed structures	Section 17.28.160(B), Review Requirements
Neighborhood Commercial 2 (NC 2) Height Increase	Table 17.36.030E, Row "Height Limitations", Subsection 2
Neighborhood Commercial 3 (NC 2) Height Increase	Table 17.36.030F, Row "Height Limitations", Subsection 2
Height limitation exception for sloping topography in Mixed Use 3.0 (MU 3.0) Zone	Table 17.40.040D, Row "Height Limitations"
Mixed Use 3.2 (MU 3.2) Top of Roof Height Ceiling Increase	Table 17.40.040F, Row "Height Limitations", Subsection 1
Height limitation exception for sloping topography in Mixed Use 3.3 (MU 3.3) Zone	Table 17.40.040G, Row "Height Limitations"
Nonconforming uses: change from prohibited use to a different prohibited use	Section 17.72.060(C)(3), Changes of Use.
Nonresidential uses allowed in the zone located on the same floor as residential uses of a vertically mixed-use building in Mixed Use zones	Section 17.40.030(A)(2)(a), Special Use Regulations
Outdoor dining areas	Section 17.28.205(C), Review Requirements
Parking modifications for: Bed and Breakfast Inns; Uses in and out of the Downtown Parking Study Area; Historic nonresidential and mixed-use structures; Historic structures in the RM and RH Zones; Relocation of historic structures; Hotels	Section 17.28.090(D), Minimum Standards for Bed and Breakfast Inns in All Zones; Section 17.64.125, Waivers of parking requirements
Public utilities, major, initiated by outside agencies	Section 17.28.240(B)(2)(a), Projects Initiated by

Use/Modifications	As Provided for in:
	Outside Agencies/Applicants
Residential uses on the street level, buildings on the City's Designated Historic Structure List	Section 17.40.030(A)(2)(a), Location of Residential Uses
Urban Private Storage in Mixed-Use Zones	Section 17.28.305, Urban Private Storage
Height exceptions for residential development on Lots 46 through 64 of Tract 4938 in the RL-11 special residential overlay zone	Appendix A, Subsection (K.4.B) in this Title

D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.

E. **Application Filing, Processing, and Review.**

1. **Application Filing.** The review process is initiated when the Planning Division receives an application package. The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
2. **Application Review.** Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.
 - a. **Development Management Team Review.** The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. **Environmental Review.** After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act to determine if environmental studies are required. If studies are required then they shall be completed at the applicant's expense, which may involve the selection of a consultant.
 - c. **Design Review Subcommittee.** The Design Review Subcommittee shall review proposals for new wireless antenna projects and development standard exceptions. The Design Review Subcommittee is an advisory body that reviews design issues and provides a recommendation to the review authority per procedures in Section 17.12.025.
3. **Public Hearing and Appeal Provisions.**
 - a. **Public hearing is required.** A public hearing and notification shall be conducted in compliance with Section 17.12.100.

- b. The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.
- c. The review authority's decision may be appealed per Section 17.12.140.

F. Required Findings.

1. General Findings. Prior to approval of an application for a Conditional Use Permit (other than for a multifamily dwelling with five or more units, which is addressed in subsection F.2 below), all of the following findings shall be made:
 - a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.
 - b. The site is suitable for the type and intensity of use that is proposed.
 - c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
 - d. The proposed use will not negatively impact surrounding land uses.
2. Prior to approval of a Conditional Use Permit, a multifamily dwelling with five or more units, only the following findings must be made: those in subsection F.1.a and b. and a finding that the proposed use will not be detrimental to the public health and safety to properties and improvements in the vicinity.
3. Specific Findings. In addition to the general findings required in subsection F.1, above specific findings shall be made prior to the approval of an application for a Conditional Use Permit for the following requests, as follows:

Use/Modifications	As Provided for in:
New antennas on City property	Section 17.28.070(F), Required Findings for Conditional Use Permits
Density bonus requests	Section 17.24.070(F), Required Findings
Exceptions to the Development Standards of Mixed Use Zone Lots of 12,000 Square Feet or Smaller	Section 17.40.050(C), Required Findings for Exceptions
Exceptions to the Development Standards for Mixed Use 3.2 Zone on Lots of 8,000 Square feet or Smaller	Section 17.40.050(E), Required Findings for Exceptions
Fences, hedges, and walls exceeding six feet in height for specific purposes in residential zones	Section 17.24.090(D)(2), Required Findings
Grading requests not accompanying development requests	Section 17.28.130(C), Required Findings

Use/Modifications	As Provided for in:
Height limitation exception for sloping topography in Mixed Use (MU) 3.0 and 3.3 Zones	Section 17.40.050(F), Building Height and Stories in the Downtown Core
Historic Structures, exceptions to the minimum commercial floor area for mixed-use projects in Mixed Use Zones	Section 17.40.050(D)(2), Required Findings
Home occupations conducted outside enclosed structures	Section 17.28.160(B), Review Requirements
Neighborhood Commercial 2 (NC 2) Height Increase	Table 17.36.030E, Row "Height Limitations", Subsection 2
Neighborhood Commercial 3 (NC 2) Height Increase	Table 17.36.03F, Row "Height Limitations", Subsection 2
Mixed Use 3.2 (MU 3.2) Top of Roof Height Ceiling Increase	Table 17.40.040F, Row "Height Limitations", Subsection 1
Nonconforming structures: replace structures in non-residential zones that are damaged by an accident with repair costs that are 50 percent or greater than a structure's replacement cost	Section 17.72.070(B)(3)(b), Structures damaged by 50 percent or greater of replacement cost
Nonconforming uses: change from prohibited use to a different prohibited use	Section 17.72.060(C)(3), Changes of Use.
Outdoor dining areas	Section 17.28.205(E), Required Findings
Parking waivers for the Downtown Parking Study Area, and certain projects and land uses outside the Downtown Parking Study Area, such as: historic nonresidential and mixed-use structures; historic structures in the RM and RH Zone; and hotel uses.	Section 17.64.125(A), Waivers of Parking Requirements in the Downtown Parking Study Area; Section 17.64.125(B), Waivers of Parking Requirements Outside the Downtown Parking Study Area
Public utilities	Section 17.28.240(C)(2)(d), Minor Utilities
Residential uses on the street level, buildings on the City's Designated Historic Structure List	Section 17.40.030(A)(2)(a), Location of Residential Uses
Height exceptions for residential development on Lots 46 through 64 of Tract 4938	Appendix A, Subsection (K.4.B.2) of this Title

- G. **Appeals.** An appeal of the action on a Conditional Use Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- H. **Modifications Requested by the Applicant.** Modifications to approved Conditional Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
- I. **Modifications and/or Revocations Initiated by the City.** The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings. For antennas on City property, a Conditional Use Permit may also be revoked or modified if other findings can be met pursuant to Section 17.28.070(G).
- J. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general review process requirements and procedures, such as time limits on approvals, time extensions, and the review of multiple applications concurrently.
- K. **Mandatory Condition of Approval for Alcohol Sales Establishments.** For all Conditional Use Permits which are approved for sale of alcohol for on- or off-site consumption pursuant to Section 17.28.040, or per the use tables in Chapters 17.32 through 17.48 of this title, the Planning Commission shall place the following mandatory condition of approval: "The applicant shall be responsible for ensuring that all employees receive 'Responsible Alcoholic Beverage Service' training as offered through programs established by the Orange County Health Care Agency and Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request." This mandatory condition of approval may be modified to allow corporate training programs or other alcohol sales responsibility programs if such modification is found by the Planning Commission to provide training on the sale and dispensing of alcohol by employees which is the equivalent of Responsible Alcoholic Beverage Service training.
- L. **Approval Runs with the Land.** The approval of a Conditional Use Permit shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.

SECTION 12. Section 17.16.070 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.070 Minor Conditional Use Permits.

- A. **Purpose and Intent.** It is the purpose of the Minor Conditional Use Permit process to provide for the streamlined review of uses that may have an impact on the surrounding environment and require discretionary review, but due to their nature, scale or location, do not require discretionary consideration by the Planning Commission. The Minor Conditional Use Permit process has as its purpose the same goals for uses described for the Conditional Use Permit process included in Section 17.16.060(A), Conditional Use Permits, Purpose and Intent, of this chapter.
- B. **Authority.** The Zoning Administrator is the final authority on Minor Conditional Use Permits, subject to the concurrent review and appeal provisions of Sections 17.12.090, Consideration of Concurrent Applications, and 17.12.140, Appeals of an Action. The Zoning Administrator has the discretion to refer applications to the Planning Commission for review and final action.
- C. **Applicability.** Minor Conditional Use Permits are required as indicated by the use tables in Chapters 17.32, Residential Zones and Standards through 17.48, Public Zones and Standards. Minor Conditional Use Permits are also required for the following requests:

1. Outdoor dining areas per Section 17.16.205(C), Review Requirements;
 2. Outdoor display, permanent, accessory, as provided for in Section 17.28.210(B), Review Requirements;
 3. Waivers of fees/development standards for Historic Resources and Landmarks per Section 17.16.180;
 4. Relocations of structures, as provided for in Section 17.24.160, Relocation of Structures;
 5. Parking modifications for the Downtown Parking Study Area, as provided for in Section 17.64.125(A), Waivers of Parking Requirements in the Downtown Parking Study Area;
 6. Parking modifications for outdoor dining for a restaurant, as provided for in Section 17.28.205(D)(5), Parking, and Section 17.64.125(B), Waivers of Parking Requirements Outside the Downtown Parking Study Area.
 7. Elevator towers that exceed the height limits of the zone in which they are located by more than six feet.
 8. Off-site parking according to Section 17.64.110.
 9. Shared parking according to Section 17.64.120.
- D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- E. **Application Filing, Processing, and Review.**
1. Application Filing. The review process is initiated when the Planning Division receives an application package, The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
 2. Application Review. Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.
 - a. Development Management Team Review. The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. Environmental Review. After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act to determine if environmental studies are required. If studies are required, then they shall be completed at the applicant's expense, which may require consultant services.

3. Public Hearing and Appeal Provisions.

- a. Public hearing is required. A public hearing and notification shall be conducted in compliance with Section 17.12.100.
- b. The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.
- c. The review authority's decision may be appealed per Section 17.12.140.

F. **Required Findings.**

1. General Findings. Prior to approval of an application for a Minor Conditional Use Permit, the same findings shall be made as required for approval of a Conditional Use Permit.
2. Specific Findings. In addition to the general findings required in Subsection (F)1., above, specific findings shall be made prior to the approval of an application for a minor Conditional Use Permit for the following requests, as follows:
 - a. Outdoor dining areas per Section 17.28.205(E), Required Findings;
 - b. Parking modifications for the Downtown Parking Study Area, specific findings in accordance with Section 17.64.125(A) (Waivers of Parking Requirements), The Downtown Parking Study Area, of this title;
 - c. Parking modifications for outdoor dining for a restaurant, as provided for in Section 17.64.125(B)(7), Waivers of Parking Outside the Downtown Parking Study Area.
 - d. Shared Parking findings according to Section 17.64.120.

G. **Appeals.** An appeal of the action on a Minor Conditional Use Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.

H. **Modifications Requested by the Applicant.** Modifications to approved Minor Conditional Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.

I. **Modifications and/or Revocations Initiated by the City.** The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings.

J. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as time limits on approvals, time extensions, and the review of multiple applications concurrently.

K. **Mandatory Condition of Approval for Alcohol Sales Establishments.** For all Minor Conditional Use Permits which are approved for sale of alcohol for on- or off-site consumption pursuant to Section 17.28.040, or per the use tables in Chapters 17.32 through 17.48 of this title, the Zoning Administrator shall place the following mandatory condition of approval: "The applicant shall be responsible for ensuring that all employees receive 'Responsible Alcoholic Beverage Service' training as offered through programs established by the Orange County Health Care Agency and Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for

inspection upon request." This mandatory condition of approval may be modified to allow corporate training programs or other alcohol sales responsibility programs if such modification is found by the Zoning Administrator to provide training on the sale and dispensing of alcohol by employees which is the equivalent of Responsible Alcoholic Beverage Service training.

- L. **Approval Runs with the Land.** The approval of Minor Conditional Use Permits shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.

SECTION 13. Subsection (C) of Section 17.16.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- C. **Applicability.** Minor Exception Permits are required for deviations in the following standards:
1. Arbors, as provided for in Section 17.32.050(A), Arbors;
 2. Encroachment from the median front yard setback, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;
 3. Encroachments of architectural projections and cornices, eaves, and roof overhangs into any required front yard setback areas, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;
 4. Encroachments of balconies, porches, decks, landing places, and stairways, into any required front, rear, or side yard setback area, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;
 5. Encroachments of bay windows into any required front yard setback areas, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;
 6. Fences, walls or hedges as provided for in Section 17.24.090(C)(2), Exceptions;
 7. Garage encroachments, as provided for in Section 17.32.050(E), Garage Encroachments into the Front Setback;
 8. Landscaping requirements for Residential Zones, as provided for in Section 17.68.050(A)(1)(a), Landscaping Requirements for Specific Zones, Residential Zones;
 9. Parking modifications for historic structures in RM and RH Zones, as provided for in Section 17.64.125(B), Historic Structures in RM and RH Zones;
 10. Nonconforming structure requirements, exception for single-family dwellings with less than 1,400 square feet of gross floor area [per Section 17.72.050(E)(4)(b) and Section 17.72.050(1)(3)(b)(i)];
 11. Parking modifications for nonresidential and mixed-use historic structures, as provided for in Section 17.64.125(B), Historic Nonresidential and Mixed-Use Structures;
 12. Parking modifications for minor additions to nonresidential and the commercial portion of mixed-use structures, as provided for in Section 17.64.125(B), Minor Additions to Nonresidential and the Commercial Portion of Mixed-Use Structures;
 13. Parking modifications for changes of uses on sites that cannot meet the parking requirements, as provided for in Section 17.64.125(B), Changes of Use;
 14. Parking modifications for restaurants, due to joint use of parking and off-peak parking demand periods, as provided for in Section 17.64.125(B), Indoor Seating for Restaurants;
 15. Swimming pools, spas, hot tubs, and other bodies of water within the front and street side yard setbacks, as provided for in Section 17.24.080, Encroachments into Setbacks and Height Limits;

16. Retaining walls, as provided for in Section 17.24.180(D)2(b) and 17.24.180(D)(4), Exceptions;
17. Satellite antennas, as provided for in Section 17.28.080(B)(2), Minor Exception Permits;
18. Setbacks for buildings provided encroachments comply with length limitations in Section 17.24.080(B), as follows:
 - a. A decrease of not more than 20 percent of the required width of a side yard or the yard between buildings,
 - b. Continuation of legal nonconforming side yard setbacks up to within 30 inches of the side property line for any stories, existing or new,
 - c. A decrease of not more than 15 percent of the required front or rear yard with the combined total not to exceed 20 percent,
 - d. For lots subject to a 16-foot height limit in accordance with Appendix A of this Title, subsections (L) and (K), a decrease of not more than 25 percent of the required rear yard.
19. Tandem parking, maximum curb break, as provided for in Section 17.64.090(A), Curb Break.

SECTION 14. A new Section 17.16.095 is hereby added to the San Clemente Municipal Code and shall read in its entirety as follows:

17.16.095 – Administrative Development Permit

A. Purpose.

This section provides administrative approval of minor projects without significant impacts. Administrative Development Permits are intended to ensure that these minor projects comply with City standards and guidelines, yet provide a streamlined review procedure to facilitate and incentivize minor projects encouraged by City goals and policies.

B. Applicability. Administrative Development Permits are required to allow eligible projects on the following properties:

1. Nonresidential sites (within nonresidential zones or by legally-established use of property);
2. Properties within the Architectural Overlay district;
3. Properties abutting the City’s historic resources and landmarks list (“historic structures list”);
4. Properties on the City’s historic resources and landmarks list; and
5. Properties with three or more dwelling units located within 300 feet of residentially zoned buildings on the City’s historic resources and landmarks list, if projects are visible from public right-of-way adjoining historic structures and landmarks or are visible from public view corridors designated in the General Plan.

C. Exemptions. The following activities are exempt from an Administrative Development Permit:

1. Improvements necessary to comply with State or Federal law (e.g. new or modified ramp to meet Americans with Disabilities Act [ADA] Requirements), in which feasible landscaping and architectural changes shall be made proportional to the scope of the proposed project, at the discretion of the City Planner, to maintain compliance with zoning standards and City Design Guidelines.

2. Interior projects not visible on the exterior of structures and from adjoining public right-of-way.
3. Landscaping of area under 500 square feet according to standards in Subsection F.11.
4. Removal and replacement of trees according to standards in Subsection F.11 and at the discretion of the City Planner, provided that a landscape professional demonstrates to the City Planner that the tree(s) meet at least one of the following criteria:
 - I. Dead/dying;
 - II. Diseased and unlikely to be rehabilitated;
 - III. Dangerous; or
 - IV. Destructive.

D. Projects Eligible for Administrative Approval.

The following types of projects are eligible for ministerial approval of an Administrative Development Permit, if proposed projects comply with this Title, and both the general standards and project specific standards in this Section. If standards are unmet, projects shall require a Site Development Permit (Section 17.16.100) or Cultural Heritage Permit (Section 17.16.110).

1. Additions to Private Recreational Facilities
2. Accessory Structures: Other Minor
3. Awnings
4. Chimneys and Metal Flues
5. Color and Finishes: Exterior
6. Decks or Patios
7. Doors
8. Driveways/Paving/Minor Site Work
9. Fences
10. Historic Resources, Minor
11. Landscape Alterations
12. Lighting: Exterior
13. Mechanical Equipment: General
14. Mechanical Equipment: Rooftop
15. Porches
16. Roofs (and "Reroofs")
17. Sheds or Spas
18. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas
19. Skylights
20. Trellises, Pergolas, or Arbors
21. Walls
22. Windows

E. General Review Standards.

For approval of a permit, eligible projects must comply with the following general standards and applicable project specific standards in Subsection F.

1. Design. The architectural design of the addition, alteration, or site change is compatible with the style of buildings that will remain on site. One overall architectural style is required.

2. Materials. The exterior finish materials of the proposed project match the existing exterior finishes of the structures on the lot, or may be altered if compatible with the architectural style of structures.
3. Style. Style is expressed through architectural elements such as windows, doors, lighting, railings, trim, eaves, roof pitch, element proportions and materials. The style of the proposed work should be stated on the project plans and matches the existing style or style required for a design district if applicable, such as the Architectural Overlay. Wherever this document references a requirement for style compatibility, the following method is used to determine style compatibility. Staff may reference style books to confirm the proposed style classification. Staff will check for consistency of style of a structure's proposed elements with the elements for the chosen style as described in reference materials. Staff will also check that any patterns or materials created by the existing elements are repeated in the proposed work.
4. Additions. Additions shall match the architectural style of the building with similar materials, details and colors.
5. Alterations. Alterations shall match the architectural style of the building or result in one architectural style consistent with Subsection E.3. Alterations are welcome that modify the structure's appearance to be a more traditional form of the style on the site or the style required. Alterations to implement an architectural style that is not typical for the neighborhood or required by this Title are in eligible for an Administrative Development Permit.
6. Colors. Additions must match the existing colors of the building, siding or trim; or may be altered if compatible with the architectural style that meets guidelines in Subsection E.3. For Spanish architecture, existing colors may be substituted with colors selected from the City Planner-approved color palette.
7. Scale. The scale of all additions is compatible with the scale of the existing structure, style of the building, and surrounding area. The scale of a project is consistent with the prevailing development patterns of additions in the area. The review criteria utilized to determine correct scale shall be the degree of project visibility, plate heights, roof pitch and maximum building heights. Additions or alterations out of character with the surrounding area or inappropriately sited on the lot, as determined by the City Planner, are not eligible for an Administrative Development Permit.
8. Historic Considerations. Minor alterations to City, State, or Federally-designated historic resources, or other potentially significant structures, shall maintain character-defining features or avoid any adverse change to the significance to a historic resource in order to be eligible for administrative approval. The City Planner has the discretion to consult with a licensed professional at the applicants cost to make a determination on the significance of structures and impacts of projects. If this guideline is not met, then the project shall be referred to the Zoning Administrator with required consultation of the Cultural Heritage Subcommittee.
9. Objective Design Standards. Projects shall comply with any objective design standards adopted by the City Council.
10. Not subject to CEQA. Projects are eligible only if they are categorically or statutorily exempt or otherwise not subject to the California Environmental Quality Act (CEQA).

F. Project Specific Standards.

In addition to complying with the general requirements specified in Subsection E above, projects seeking administrative approval must also comply with any applicable project specific requirements in this Subsection. The project specific standards identify which projects are eligible for administrative review, not limit projects permissible in this Zoning Code (Title 17).

1. Additions to Private Recreational Facilities. Additions to buildings are eligible for administrative approval that are up to 500 square feet, less than 50 percent of the existing building's floor area, and meet the following criteria:
 - a. The project is not located in the Architectural Overlay;
 - b. The site is not on the City's designated historic resources and landmarks list;
 - c. The addition is to a private recreational facility building;
 - d. The project is not visible from a scenic corridor designated in the General Plan.
2. Accessory Structures: Other Minor. Minor accessory structures, such as barbeques, fire pits, and low counter tops, not addressed otherwise in the project-specific standards (this Subsection) are eligible for administrative approval if the following apply:
 - a. For the City's designated historic resources and landmarks list, accessory structures are limited to those that are a maximum height of six feet and are detached from buildings; and
 - b. Structures are screened from adjoining public right-of-way and have materials that meet general standards in Subsection E.
3. Awnings. Awnings over window or door openings that are compatible with the style and colors of the structure are eligible. Awnings shall be canvas with wrought-iron supports on new buildings and major remodels in the Architectural Overlay and on historic structures with Spanish architecture.
4. Chimneys and Metal Flues. All of the following standards must be met:
 - a. For the City's designated historic resources and landmarks list, the project is limited to repairing or altering the chimney and flue to improve the resource's historical integrity with a design, style, and materials to restore the original condition or be architecturally compatible.
 - b. Chimneys are consistent with the style of the existing structure and use masonry, stone, stucco, or metal pipe.
 - c. Wood material is not used on chimneys.
 - d. Metal flues are of traditional design and are painted to match the roof color.
 - e. The shape of the chimney is fairly uniform, i.e. there is no awkward extensive projection of exposed pipe beyond the top of the chimney in response to Building and Safety requirements.

5. Color and Finishes: Exterior. The project is consistent with Subsection E, General Standards, Colors and Materials. For the Architectural Overlay and historic structures with Spanish architecture, stucco shall be 'steel, hand trowel' applied with a smooth Mission finish, slight undulations, bull-nosed corners and edges, including archways; and no control/expansion joints.
6. Decks or patios. New or altered decks or patios less than 200 square feet at the first floor level are eligible for administrative approval if the following standards are met:
 - a. For the City's designated historic resources and landmarks list, the decks or patios must be screened from public right-of-way and detached to be eligible.
 - b. New decks or patios are of a scale and style which is compatible with the structure to which the deck is attached.
 - c. When viewed from a public viewing location, the proposed deck or patio is not likely to be more noticeable than the structure it is attached to.
 - d. New decks or patios are not located to cause potential privacy or noise impacts to adjacent properties.
 - e. Deck or patio materials are finished to be compatible with the color scheme of the primary structure.
7. Doors. Minor door alterations — for example, to enhance access by the physically challenged and for compliance with the Americans with Disabilities Act (ADA) — are covered by this provision. Installation of guard/hand rails shall be referred to the consent calendar. The modification of doors and sidelights within existing rough openings should be designed to comply with the following requirements for Administrative approvals:
 - a. For the City's designated historic resources and landmarks list, every effort shall be made to avoid alterations first with repairs and maintaining the original doors. If this cannot be done, projects shall replace doors to match the originals to the best extent possible based on historical photos or the existing condition.
 - b. The type of proposed doors and color of frames are compatible with the architectural style of the building and appear compatible with existing doors.
 - c. If the doors of an addition are the same size and material as existing nearby doors, the proposed doors match the existing nearby doors in appearance.
 - d. Door and sidelight sash material matches the window material.
 - e. Where adjacent windows are "divided light" type, the new doors and sidelights shall also mimic the appearance of divided lite windows. Where dual glaze glass is used, the mullions should break the exterior pane.
 - f. In door pairs, both doors should have the same width.
 - g. In doors with sidelights, sidelights should have the same width if feasible.
 - h. Doors and sidelights should be placed symmetrically within architectural elements.
 - i. Any changes in paving material associated with the door alteration match the existing material.

8. Driveways/Paving/Minor Site work. Extensions, modifications, and additions to driveways are eligible for administrative approval if all of the following requirements are met:
 - a. For the City's designated historic resources and landmarks list, changes to site work shall be limited to providing access to entrances and exits, patios, courtyards, and utility pathways; so landscape area is preserved. The exceptions are changes to provide safe access to required parking and pedestrian sidewalks that meet City standards;
 - b. There is no drainage impact on adjoining lots;
 - c. Any paving or driveway additions or modifications are of the same materials as the existing paving or driveway materials;
 - d. For residential development, the driveway width complies with Engineering technical standards;
 - e. Any new driveway paving materials are compatible with the existing structure and surrounding area; and
 - f. New paved parking areas, such as expansions to commercial parking lots, are screened from adjoining public property through fencing, landscaping or other structures.

9. Fences. Chain link, chicken wire, metal, plastic, vinyl, wire-mesh and unfaced cement block fence materials are not eligible for administrative approval. Fences not specifically excluded in the preceding sentence may be reviewed and approved administratively if:
 - a. The fences meet zoning requirements;
 - b. For the City's designated historic resources and landmarks list, eligible fences are not in yards adjacent to street frontages;
 - c. The fence height shall preserve views of traffic to-and-from driveways and the public right-of-way; and
 - d. The fence design and materials shall be compatible with the street scene and the materials and finishes of the primary structure.

10. Historic Resources, Minor. In addition to the general standards above (Subsection E) and other project-specific standards in this Subsection, the following applies to repairs and upgrades to historic resources and landmarks on the City's designated historic resources and landmarks list; repairs and refinishing of existing materials are eligible; such as stucco, roof tiles, pavers, wood trim, and stone, if the following apply:
 - a. Repairs and refinishing of existing materials shall be completed according to the Secretary of the Interior's Standards for the Treatment of Historic Properties; such as repairs to stucco, roof tiles, pavers, wood trim, and stone;
 - b. Original materials are to be repaired and refinished to every extent possible versus replacement. Photographs of the existing material conditions and of the work completed shall be provided for the property file;
 - c. Minor alterations are eligible that improve the historical integrity of historic resources and landmarks on the City's designated historic resources and landmarks list; such as installation of painted decorative tiles on stair risers or replacing non-original features with documented traditional period appropriate materials, such as replacing vinyl

windows with wood windows that meet window standards in this Subsection;

- d. For historic structures with Spanish architecture, work shall be completed according to the City's Henry Lenny Design Guidelines; and
 - e. If material replacement is demonstrated to be necessary, the materials shall be selected to mimic the original conditions unless alterations will improve the significance such as replacing vinyl with wood windows (see window guidelines for more on that work). Photographs of the existing material conditions and of the work completed shall be provided for the property file.
11. Landscape Alterations. Excluding exempt landscaping changes in Subsection C, the following standards apply to landscape alterations eligible for administrative approval:
- a. For the City's designated historic resources and landmarks list, changes shall exclude landscaping noted on a historic survey form identified as a contributor to the significance of a historic resource;
 - b. The project adds or alters 500 square feet or more of landscaping;
 - c. The alteration complies with zoning requirements;
 - d. The alteration is consistent with City Design Guidelines, including the recommended plant list;
 - e. Tree Removal. The removal or replacement of trees shall meet the following criteria:
 - i. Replacement trees shall be a minimum of a 24-inch box size;
 - ii. Trees are ineligible if taller than 25 feet high and replaced within yard area between a building and public right-of-way; and
 - iii. Trees are ineligible if located within a public view corridor designated in the General Plan, or if required to screen hillside ridgelines according to the Hillside Development Ordinance in Chapter 15.40 of this Municipal Code.
12. Lighting: Exterior. The following standards must be met for administrative approval:
- a. Replacement or installation of additional fixtures is compatible in style, color and scale with the existing structure or building to which lighting is attached;
 - b. Lighting fixtures and placement meet the lighting requirements and Design Guidelines; and
 - c. For the City's designated historic resources and landmarks list, see Subsection F.10 for additional standards.
13. Mechanical Equipment: General. Equipment such as water heaters, water heater enclosures, electrical or gas metering equipment and pool and spa equipment must be located and screened as follows in order to be eligible for administrative approval:
- a. If the new mechanical equipment is installed at ground level, it is placed as close to the building as practicable and screened from view through fencing, landscaping or other structures. Landscape screening, the preferred method of screening, is indicated on project plans to be maintained;
 - b. All cables connecting outdoor equipment are properly secured and/or buried in the

- ground;
- c. Equipment shall be installed over existing hardscape surfaces first if possible; and
 - d. All pool and spa equipment is located as far away from adjoining properties as reasonably practicable in consideration of neighbors, and the equipment's property line decibel level is consistent with the Noise Ordinance.
14. Mechanical Equipment: Rooftop. Transmitting antennas, including wireless facilities, are not eligible for administrative approvals. Satellite antennas and other rooftop equipment reviewed by Staff must comply with the following standards:
- a. Equipment shall be screened from on-site parking areas, adjacent public streets and adjacent residentially zoned property. The height of equipment screens shall be less than 10 feet tall and under the height limit of the zone;
 - b. If equipment must be visible from off-site locations, despite screening or in cases where only vegetative screening is used, the equipment is painted the same color as the roof or adjacent background, as specified by the City Planner. However, for the City's designated historic resources and landmarks list, visible equipment on historic resources and landmarks is ineligible for administrative approval; and
 - c. Screening shall be integrated into the appearance of the overall building; and
15. Porches. Porches are covered outdoor spaces attached to the primary structure eligible for administrative approval that meet the standards below, excluding the City's designated historic resources and landmarks list.
- a. Porches may be a maximum of 200 square feet;
 - b. Porches unscreened from the public right-of-way shall be on less than 50 percent of a building elevation's length;
 - c. The porch shall be integrated into the primary structure with a compatible design and materials; and
 - d. Porch railings have open pickets, glass, or other design and material with spacing to maintain visibility of the primary structure from the public right-of-way, unlike than a solid guardrail.
16. Roofs (and "Reroofs"). Roofs (including new roof material and "reroofs") must comply with the following standards:
- a. The type and color of roofing material is compatible with the architectural style of the structure;
 - b. Roofs of additions or accessory buildings match the existing roof pitch of the structure;
 - c. For the Architectural Overlay and historic structures with Spanish architecture, roof tiles shall have materials and be installed according to the Henry Lenny Design Guidelines.

17. Sheds or Spas. The following standards must be met:
 - a. The shed or spa is entirely screened from public right-of-way and separated from buildings according to the Building Code;
 - b. The shed or spa area is 120 square feet or smaller;
 - c. Materials match site fencing or the main structure's materials and colors; and
 - d. Any mechanical equipment meets criteria Subsection F.13 and F.14 above.

18. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas.

The placement, style, color and types of outdoor dining furniture and barriers shall be consistent with and complement the design and appearance of the building and site, consistent with General Standards in Subsection E. The outdoor dining furniture and barriers shall also be in conformity with Public Works standards.

19. Skylights. Skylights must meet the following standards for eligibility:
 - a. For the City's designated historic resources and landmarks list, skylights shall not be installed over original building areas;
 - b. Skylights are compatible with the architectural style of the building and with the character of the surrounding area;
 - c. Skylights are screened from adjoining properties; and
 - d. Skylights shall have an orientation and design to avoid light trespass and glare on other properties in evenings, such as glazing, shades, or tint.

20. Trellises, Pergolas, and Arbors. Trellises, pergolas, and arbors are architectural elements with posts or columns on the sides and connected by beams and topped with open rafters. They can also include trellis overhead between the rafters. Trellises, pergolas, and arbors are eligible for administrative approval if:
 - a. For the City's designated historic resources and landmarks list, the trellis, pergola, or arbor is screened from public right-of-way and separated from neighboring buildings and property lines according to the Building Code;
 - b. The structure covers less than 250 square feet of lot area and is less than 12 feet tall; and
 - c. The structure's height, size and materials are compatible with the surrounding area.

21. Walls. Accessory structure walls shall meet the following criteria:
 - a. For historic resources and landmarks, eligible walls are not in yards adjacent to street frontages;
 - b. The wall meets zoning standards in Sections 17.24.090, 17.24.180, and 17.24.190; and
 - c. The wall materials shall match the color and finish of the primary structure.

22. Windows. Windows may be replaced or added if the following standards are met:
- a. For the City’s designated historic resources and landmarks list, see Subsection F.10 for additional standards;
 - b. Windows of additions match the predominant windows of the existing structure;
 - c. The window types are of appropriate size and scale for the proposed location(s); and
 - d. For the Architectural Overlay and historic structures with Spanish architecture:
 - I. Window design shall mimic the appearance of true divided lite windows.
 - II. The window surround or flange is to be constructed as part of the frame, not a plant on detail.
 - III. Factory color finishes are acceptable.
 - IV. Windows materials shall be consistent with allowed types shown in Table 17.16.095 below.

Material Type	Non-residential	Residential with Architectural Overlay	Residential without Architectural Overlay	Historic Structure (original)	Historic Structure (addition)
Wood	Yes	Yes	Yes	Yes	Yes
Metal - Steel or aluminum	Yes	Yes	Yes	No	Yes
Fiberglass	Yes	Yes	Yes	No	Yes
Vinyl					
Ground floor	No	No	Yes (non-visible)	No	No
Upper levels non-visible	No	Yes	Yes	No	No

G. Application Process.

1. Application Submittal. Administrative Development Permit review is initiated upon submittal of an application in compliance with Section 17.12.040, Filing an application.
2. Application Review.
 Projects are reviewed upon submittal of an application in compliance with Section 17.12.040, Filing an application. Then, a case planner is assigned to coordinate the review of the application upon receipt of an application, provided information and materials are reviewed to determine if applications meet criteria for approval of a permit.
3. Decisions. The City Planner shall approve or deny an application based on whether a project is consistent with the following:
 - a. General design standards in Subsection E.

- b. Project-specific standards in Subsection F.
 - c. The City's objective design standards.
- 4. Appeals. Decisions are subject to appeal processes according to Section 17.12.140.
- H. **Reporting of Decisions**. A summary of decisions will be provided to the Planning Commission at the next regularly scheduled meeting of those hearing bodies in the agenda packet, including permits issued up until the time of packet preparation.
- I. **Quality Assurance**. Projects shall be completed in accordance with City approvals and code compliance procedures in this Municipal Code. City staff have authority to require an inspection of approved projects to ensure work is completed according to approved materials.
- J. **General Review Requirements**. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as modifications to applications, time limits on approvals, time extensions, and the review of multiple applications concurrently.
- K. **Approval Runs with the Land**. The approval of an Administrative Development Permit shall run with the land, and shall continue to be valid upon a change of ownership of the property to which it applies.

SECTION 15. The existing provisions of Section 17.16.100 are hereby struck and replaced in their entirety with the following:

17.16.100 - Development Permit

A. Purpose.

1. Development Permits are required to ensure development projects, not involving the City's designated historic resources and landmarks list, will:
 - a. Promote the orderly development of the City in compliance with the goals, objectives, and policies of the General Plan, any applicable Specific Plan, and the standards specified in this Zoning Code.
 - b. Preserve and strengthen the City's unique atmosphere as a Spanish village;
 - c. Comply with the purpose and intent of the Architectural Overlay district for projects within the overlay area identified on the Zoning Map;
 - d. Encourage site design and architecture sensitive to community and neighborhood character;
 - e. Enhance the visual environment and protects the economic value of existing structures.
 - f. Respect the physical and environmental characteristics of the site;
 - g. Ensure safe and convenient access and circulation for pedestrians and vehicles;
 - h. Exemplify the best professional design practices through consistency with the City's Design Standards and Guidelines;
 - i. Allow for and encourage individual identity for specific uses and structures;
 - j. Encourage a distinct community or neighborhood identity;

- k. Minimize or eliminate negative or undesirable visual impacts, especially on historic resources and landmarks on the City's designated historic resources and landmarks list;
- l. Prevent inappropriate design or development of structures; and
- m. Maintain and increase the desirability of other properties within the vicinity for the uses for which they are zoned.

B. Definitions. For purposes of this Section, the term "Sensitive areas" shall mean:

- a. Properties located within the Architectural Overlay district;
- b. Properties with single-family residences or duplexes abutting the City's designated historic resources and landmarks list.
- c. Properties with three or more dwelling units located within 300 feet from residentially zoned buildings on the City's designated historic resources and landmarks list.

C. Applicability.

1. **When Required.** Development activities listed in Table 17.16.100 require Development Permits for the development of structures and improvement of property, when a project site is not on the City's list of designated historic structures and landmarks. In that circumstance, refer to Section 17.16.110.
2. **Exemptions.** The following activities are exempt from a Development Permit.
 - a. Activities exempted from an Administrative Development Permit specified in Section 17.16.095;
 - b. Improvements State or Federal law requires or preempts from local discretionary review procedures;
 - c. Interior projects not visible on the exterior of structures and from adjoining public right-of-way;
 - d. Maintenance of property and structures;
 - e. Projects proposed on properties with three or more dwelling units located within 300 feet of residentially zoned historic buildings on the City's designated historic resources and landmarks list, if all of the following criteria apply:
 - i. Projects are not located in the Architectural Overlay district;
 - ii. Projects are not visible from public right-of-way that adjoins properties on the City's designated historic resources and landmarks list;
 - iii. Projects are not proposed on property abutting properties on the City's designated historic resources and landmarks list; and
 - iv. Projects are not visible from public view corridors designated in the General Plan.
 - f. Public park facilities other than the development or expansion of buildings as described in Chapter 17.28.

D. Review Authority.

Table 17.16.100 identifies the required review authority and review process in Section 17.12.060 for each project. Development Permits are acted upon by the highest review authority designated

in Table 17.16.100 for proposed development, or if a Development Permit is reviewed concurrently with other applications according to Section 17.12.090, Consideration of Concurrent Applications.

Table 17.16.100 – Review Process for Development Permit

Development Activities	Review Process (Section 17.12.060)
<p>A. New development of nonresidential buildings.</p> <ol style="list-style-type: none"> 1. New nonresidential primary buildings, excluding public park facilities. 2. Public park facilities, new buildings and additions with 1,500 square feet of floor area or greater in compliance with Chapter 17.28. 3. Public park facilities, new buildings and additions less than 1,500 square feet of floor area in compliance with Chapter 17.28. 4. New nonresidential accessory buildings that are screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 2,000 square feet and less than 50 percent of the primary building’s floor area. 5. New nonresidential accessory buildings that are unscreened from adjoining public right-of-way, or the building has floor area larger than 2,000 square feet or greater than 50 percent of the primary building’s floor area. 	<p>Process 3</p> <p>Process 3</p> <p>Process 2</p> <p>Process 2</p> <p>Process 3</p>
<p>B. Nonresidential building additions.</p> <ol style="list-style-type: none"> 1. Nonresidential building additions of floor area 2,000 square feet or less to nonresidential buildings, excluding public park facilities. 2. Nonresidential building additions of floor area larger than 2,000 square feet to nonresidential buildings, excluding public park facilities. 	<p>Process 2</p> <p>Process 3</p>
<p>C. New development of residential buildings.</p> <ol style="list-style-type: none"> 1. Development of residential primary buildings that results in five or more dwelling units on a property. 2. New residential primary buildings proposed in the Architectural Overlay District. 3. New residential primary buildings on properties adjoining the City’s designated historic resources and landmarks list. 4. Development of a single-family dwelling or duplex across a street and abutting a property on the City’s designated historic resources and landmarks list. 5. Development of three or more dwelling units on properties that are not abutting historic structures but located within 300 feet of residentially zoned buildings on the City’s designated resources and landmarks list, unless exempted by Subsection 17.16.100(C)(2). 	<p>Process 3</p> <p>Process 3</p> <p>Process 3</p> <p>Process 2</p> <p>Process 2</p>

Development Activities	Review Process (Section 17.12.060)
6. New residential accessory buildings in sensitive areas (defined in Subsection B) screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.	Process 2
7. New residential accessory buildings in sensitive areas (defined in Subsection B) that are unscreened from adjoining public right-of-way or the proposed building has floor area larger than 500 square feet or greater than 50 percent of the primary building’s floor area.	Process 3
8. Accessory Dwelling Units that vary from standards as specified in Section 17.28.270 in which discretionary review is allowed by State law.	Process 3
<p>D. Residential building additions.</p> <p>1. Residential building additions to residential buildings in sensitive areas (defined in Subsection B) screened from adjoining public right-of-way where the addition of floor area is less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.</p> <p>2. Residential building additions to residential buildings in sensitive areas (defined in Subsection B) where the addition of floor area is unscreened from adjoining public right-of-way or the addition is larger than 500 square feet or greater than 50 percent of the primary building’s floor area.</p> <p>3. Residential building additions of floor area 50 percent or greater to nonconforming single-family residences with less than 1,400 square feet of floor area as of March 21, 1996, expanded up to 2,100 square feet.</p>	<p>Process 2</p> <p>Process 3</p> <p>Process 2</p>
<p>E. New accessory structures.</p> <p>1. New accessory structures that are ineligible for an Administrative Development Permit according to Section 17.16.095.</p>	Process 2
<p>F. Exterior changes.</p> <p>1. Exterior changes to structures and sites that are ineligible for an Administrative Development Permit according to Section 17.16.095.</p>	Process 2
<p>G. Subdivisions and general provisions.</p> <p>1. Development on new parcels created from a subdivision of property.</p> <p>2. New Planned Residential Developments (PRD).</p> <p>3. New golf courses.</p> <p>4. Nonresidential projects abutting residentially zoned properties in compliance with Section 17.24.170.</p> <p>5. Relocation of structures according to Section 17.24.160, Relocation of Structures.</p> <p>6. Neighborhood Electrical Vehicle (NEV) parking credit in the North Beach Parking Overlay according to Section 17.56.080.</p>	<p>Process 3</p> <p>Process 3</p> <p>Process 3</p> <p>Process 2</p> <p>Process 2</p> <p>Process 2</p>

Development Activities	Review Process (Section 17.12.060)
7. Subdivisions excluding condominiums.	Process 5
8. Residential detached accessory buildings over 15 feet in height that encroach into required setbacks.	Process 3
9. Residential detached accessory structures over 15 feet in height.	Process 3

E. Application Filing, Processing, and Review.

1. Application Filing.

- a. An application for a Development Permit shall be filed and processed according to Chapter 17.12.
- b. The application shall include the information and materials specified in the application for a Development Permit with required fees, and any additional information required by the City Planner or Review Authority to conduct a thorough review of the proposed project, as described according to Section 17.12.060.
- c. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.16.100.F below.

2. Application Review.

A Development Permit review is initiated when the Planning Division receives an application package. Then, a case planner is assigned to coordinate the review of the application with City staff and other agencies as needed. At the direction of the City Planner, proposals are reviewed by the Development Management Team (DMT), staff from City departments with expertise in various subject areas. Upon receipt of an application, provided information and materials are reviewed to determine if applications are:

- i. Complete in compliance with Section 17.12.050;
- ii. In compliance with the California Environmental Quality Act as specified in Section 17.12.080. If studies or consultant work is required for this review, this shall be completed at the applicant’s expense according to City policies and the City Planner’s direction;
- iii. Consistent with the purpose of this Chapter and required findings in Subsection F to support the requested Development Permit; and
- iv. Meets applicable development standards, policies, regulations, and guidelines.

3. Design Review Subcommittee Review.

Applications require Design Review Subcommittee (DRSC) review if the application requires Planning Commission or City Council approval. Applications may also be referred to the DRSC by the City Planner or Zoning Administrator.

4. Decision and Appeal Process.

Table 17.16.100 identifies the Review Authority and Review Process described in Section 17.12.100 for each project. Refer to Section 17.12.060 for details on the review process. Notification procedures are in Section 17.12.100.

F. Required Findings.

1. General Findings. For approval of a Development Permit, the Review Authority shall make the following findings:

- a. The proposed project is consistent with the General Plan;
- b. The proposed project complies with zoning regulations;
- c. The proposed project is consistent with the City's Design Guidelines;
- d. The proposed development will not be detrimental to the public health, safety, or welfare, or materially injurious to properties and improvements in the vicinity; and
- e. The proposed project is in character and compatible with the properties in the neighborhood.

2. Additional Findings for Requests. In addition to the general findings in Subsection F.1, the Review Authority shall make findings for approval of a Development Permit to allow the following.

- a. For projects in the Architectural Overlay District, the Review Authority shall find: the proposed project complies with the purpose and intent of the Architectural Overlay District, Section 17.56.020.
- b. For new structures and major remodels in the Architectural Overlay, the Review Authority shall also find one of the following:
 - i. The proposed project/use preserves and strengthens the pedestrian-orientation of the district and/or San Clemente's historic identity as a Spanish village; or
 - ii. The proposed project/use is a minor remodel and it is not practical or desirable, in this particular case, to attempt conversion to a pedestrian-orientation and/or Spanish Colonial Revival style. The proposed changes, however, improve the quality and architectural integrity of the proposed project.
- c. For projects reviewed because they are abutting or within 300 feet of an historic property, the Review Authority shall find: the proposed project will not have negative visual or physical impacts upon the historic structure.
- d. For Planned Residential Developments (PRDs), the Review Authority shall make findings in Section 17.56.040(G).

G. General Review Requirements. Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as appeals, modifications to applications, time limits on approvals, time extensions, and the review of multiple applications concurrently.

- H. **Approval Runs with the Land.** The approval of a Development Permit shall run with the land, and shall continue to be valid upon a change of ownership of the property to which it applies.

SECTION 16. The existing provisions of Section 17.16.110 of the San Clemente Municipal Code are hereby struck and replaced in their entirety with the following:

17.16.110 - Cultural Heritage Permits

- A. **Purpose.** Cultural Heritage Permits are required for projects affecting sites on the City's list of designated historic structures to ensure projects:
1. Preserve and strengthen the City's identity as a Spanish village;
 2. Comply with the purpose and intent of the Architectural Overlay district for projects involving cultural and historical resources within the overlay zone identified on the Zoning Map;
 3. Preserve and strengthen the pedestrian-oriented areas designated in the General Plan;
 4. Preserve and protect those places, sites, buildings, structures, neighborhoods, objects, and improvements, manmade or natural, having a special historical, cultural, or architectural interest;
 5. Protect and enhance the City's attraction as a historic community to tourists and visitors;
 6. Promote the use of historic properties for the education, pleasure, and welfare of the people of the City;
 7. Encourage and, where specified by this title, require architecture which reflects the community's historic pedestrian-oriented character;
 8. Promote the orderly development of the City in compliance with the goals, objectives, and policies of the General Plan, any applicable Specific Plan, and the standards specified in this Zoning Code.
 9. Encourage site design and architecture sensitive to community and neighborhood character;
 10. Enhance the visual environment and protects the economic value of existing structures.
 11. Respect the physical and environmental characteristics of the site;
 12. Ensure safe and convenient access and circulation for pedestrians and vehicles;
 13. Exemplify the best professional design practices through consistency with the City's Design Standards and Guidelines;
 14. Allow for and encourage individual identity for specific uses and structures;
 15. Encourage a distinct community or neighborhood identity;
 16. Minimize or eliminate negative or undesirable visual impacts, especially on historic resources and landmarks on the City's designated historic resources and landmarks list;
 17. Prevent inappropriate design or development of structures; and
 18. Maintain and increase the desirability of other properties within the vicinity for the uses for which they are zoned.

B. Applicability.

1. When Required. Development activities listed in Table 17.16.110 require Cultural Heritage Permits for the development of structures and improvement of property on the City’s designated historic resources and landmarks list, unless exempted by Subsection B.2.
2. Exemptions. The following activities are exempt from a Cultural Heritage Permit.
 - a. Activities exempted from an Administrative Development Permit specified in Section 17.16.095.
 - b. Improvements State or Federal law requires or preempts from local discretionary review procedures;
 - c. Interior projects not visible on the exterior of structures and from adjoining public right-of-way; and
 - d. Public park facilities other than the development or expansion of buildings as described in Chapter 17.28.

C. Review Authority.

Table 17.16.110 identifies the required review authority and review process in Section 17.12.060 for each project. Cultural Heritage Permits (CHP) are acted upon by the highest review authority designated in Table 17.16.110 for proposed development, or if a Cultural Heritage Permit is reviewed concurrently with other applications according to Section 17.12.090, Consideration of Concurrent Applications.

Table 17.16.110 – Review Process for Cultural Heritage Permit

Development Activities	Review Process (Section 17.12.060)
<p>A. New nonresidential buildings.</p> <ol style="list-style-type: none"> 1. New nonresidential primary buildings, excluding public park facilities. 2. Public park facilities, new buildings and additions with 1,500 square feet of floor area or greater in compliance with Chapter 17.28. 3. Public park facilities, new buildings and additions less than 1,500 square feet of floor area in compliance with Chapter 17.28. 4. New nonresidential accessory buildings screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area. 5. New nonresidential accessory buildings unscreened from adjoining public right-of-way, or the building has floor area larger than 500 square feet or greater than 50 percent of the primary building’s floor area. 	<p>Process 3</p> <p>Process 3</p> <p>Process 2</p> <p>Process 2</p> <p>Process 3</p>
<p>B. Nonresidential building additions.</p> <ol style="list-style-type: none"> 1. Nonresidential building additions of floor area 2,000 square feet or less to nonresidential buildings, excluding public park facilities. 	<p>Process 2</p>

Development Activities	Review Process (Section 17.12.060)
2. Nonresidential building additions of floor area larger than 2,000 square feet to nonresidential buildings, excluding public park facilities.	Process 3
<p>C. New residential buildings.</p> <p>1. New residential primary buildings.</p> <p>2. New residential accessory buildings screened from adjoining public right-of-way with less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area, and meets zoning standards.</p> <p>3. New residential accessory buildings unscreened from adjoining public right-of-way or larger than 500 square feet or greater than 50 percent of the primary building’s floor area.</p> <p>4. Accessory Dwelling Units that vary from standards as specified in Section 17.28.270 in which discretionary review is allowed by State law.</p>	<p>Process 3</p> <p>Process 2</p> <p>Process 3</p> <p>Process 3</p>
<p>D. Residential building additions.</p> <p>1. Residential building additions of floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.</p> <p>2. Residential building additions of floor area larger than 500 square feet or greater than 50 percent of the primary building’s floor area.</p>	<p>Process 2</p> <p>Process 3</p>
<p>E. New accessory structures.</p> <p>1. New accessory structures that are ineligible for an Administrative Development Permit according to Section 17.16.095.</p>	Process 2
<p>F. Exterior changes.</p> <p>1. Exterior changes to structures and sites that are ineligible for an Administrative Development Permit according to Section 17.16.095.</p>	Process 2
<p>G. Subdivisions and general provisions.</p> <p>1. Development on new parcels created from a subdivision of property.</p> <p>2. New Planned Residential Developments (PRD).</p> <p>3. New golf courses.</p> <p>4. Nonresidential projects abutting residentially zoned properties in compliance with Section 17.24.170.</p> <p>5. Relocation of structures according to Section 17.24.160, Relocation of Structures.</p> <p>6. Neighborhood Electrical Vehicle (NEV) parking credit in the North Beach Parking Overlay according to Section 17.56.080.</p> <p>7. Subdivisions excluding condominiums.</p>	<p>Process 5</p> <p>Process 3</p> <p>Process 3</p> <p>Process 2</p> <p>Process 3</p> <p>Process 2</p> <p>Process 5</p>

Development Activities	Review Process (Section 17.12.060)
8. Residential detached accessory buildings over 15 feet in height that encroach into required setbacks.	Process 3
9. Residential detached accessory structures over 15 feet in height.	Process 3

D. Application Filing, Processing, and Review.

1. Application Filing.
 - a. An application for a Cultural Heritage Permit shall be filed and processed according to Chapter 17.12.
 - b. The application shall include the information and materials specified in the application for a Cultural Heritage Permit with required fees, and any additional information required by the City Planner or Review Authority to conduct a thorough review of the proposed project, as described according to Section 17.12.060.
 - c. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection E below.
2. Application Review. A Cultural Heritage Permit review is initiated when the Planning Division receives an application package. Then, a case planner is assigned to coordinate the review of the application with City staff and other agencies as needed. At the direction of the City Planner, proposals are reviewed by the Development Management Team (DMT), staff from City departments with expertise in various subject areas. Upon receipt of an application, provided information and materials are reviewed to determine if applications are:
 - i. Complete in compliance with Section 17.12.050;
 - ii. In compliance with the California Environmental Quality Act as specified in Section 17.12.080. If studies or consultant work is required for this review, this shall be completed at the applicant’s expense according to City policies and the City Planner’s direction;
 - iii. Consistent with the purpose of this Chapter and required findings in Subsection E to support the requested Cultural Heritage Permit; and
 - iv. Meets all applicable City and State development standards, policies, regulations, and guidelines.
3. Cultural Heritage Subcommittee Review. Applications require Cultural Heritage Subcommittee (CHSC) review if the application requires Planning Commission or City Council approval. Applications may also be referred to the CHSC by the City Planner or Zoning Administrator. The Design Review Subcommittee serves as the CHSC.
4. Decision and Appeal Process. Table 17.16.110 identifies the Review Authority and Review Process described in Section 17.12.100 for each project. Refer to Section 17.12.060 for details on the review process. Notification procedures are in Section 17.12.100. Appeals are addressed in Section 17.12.140.

E. Required Findings.

1. For approval of Cultural Heritage Permit, the Review Authority shall make the following findings:
 - a. The proposed project is consistent with the General Plan;
 - b. The proposed project complies with zoning regulations;
 - c. The proposed development will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity;
 - d. The proposed project is in character and compatible with the properties in the neighborhood;
 - e. The proposed project is in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and City's Design Guidelines to substantially further the City's goals of historic preservation, and
 - f. The proposed project preserves to the extent feasible the character defining features.
2. Additional Findings for Requests. In addition to the general findings in Subsection E.1, the Review Authority shall make findings for approval of a Cultural Heritage Permit to allow the following.
 - a. For projects in the Architectural Overlay District, the Review Authority shall find: the proposed project complies with the purpose and intent of the Architectural Overlay District, Section 17.56.020. And, for new structures and remodels in the Architectural Overlay District, the Review Authority shall also find one of the following:
 - i. The proposed project/use preserves and strengthens the pedestrian-orientation of the district and/or San Clemente's historic identity as a Spanish village; or
 - ii. The proposed project/use is a minor remodel and it is not practical or desirable, in this particular case, to attempt conversion to a pedestrian-orientation and/or Spanish Colonial Revival style. The proposed changes, however, improve the quality and architectural integrity of the proposed project.
 - b. For exemptions from Chapter 17.72, Nonconforming Structures and Uses, the Review Authority shall find: the proposed exemption from nonconforming regulations is warranted to maintain the historical significance of national, state or a locally designated historic structure.

F. **General Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as appeals, time limits on approvals, time extensions, and the review of multiple applications concurrently.

G. **Approval Runs with the Land.** The approval of Cultural Heritage Permits shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies.

SECTION 17. Subsection (D) of Section 17.16.145 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

A. **Review Procedures.** Following receipt of a completed application, the City Planner shall review the application for compliance with the Zoning Ordinance.

SECTION 18. Subsection (A) of Section 17.16.175 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- A. **Purpose and Intent.** In order to preserve and protect the cultural, historical, and architectural heritage of San Clemente, certain incentives are provided in various sections of this title to owners of designated historically significant properties. The purpose and intent of this section is to outline the process for obtaining property tax reduction incentives available through the execution of a voluntary Historic Property Preservation Agreement with the City of San Clemente. For other, regulatory incentives, see Sections 17.16.180, Waivers of Fees/Development Standards, Relocation of Historic Structures; 17.64.120, Modifications and Waivers of Parking Requirements; and Section 17.16.110. Please refer to the City's Building Division for additional provisions related to the use of the State Historical Building Code.

SECTION 19. Subsection (J) of Section 17.16.175 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- J. **Cancellation of Agreement.**
1. The City Council may cancel an Historic Property Preservation Agreement if the City Council determines that the property owner has breached any of the terms of the Agreement, or has allowed the property to deteriorate to the extent that it no longer meets the criteria in Section 17.16.160(F)(1).
 2. Following completion of the Enforcement of Agreement procedures contained within each Historic Property Preservation Agreement and prior to the cancellation of a Historic Property Preservation Agreement, the City Council may initiate and review cancellation of an Agreement as described in Section 17.12.175, City Initiated Changes of Revocation of Approved Applications.
 3. If the City Council cancels an Agreement, the property owner shall pay a penalty of 12½ percent of the full market value of the property, as determined by the County Tax Assessor, to the State.

SECTION 20. Section 17.16.180 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.180 Waiver of Fees/Development Standards for Historic Resources and Landmarks.

- A. **Purpose and Intent.** In order to preserve and protect the cultural, historical, and architectural heritage of San Clemente, certain incentives are provided in various sections of this title to owners of designated historically significant properties. The purpose and intent of this section is to describe the waiver of fees/development standards for historic resources and landmarks on the City's designated historic resources and landmarks list. For other regulatory incentives, see Sections 17.16.175, Historic preservation incentives, historic property preservation (Mills Act) agreements; 17.64.120, Modifications and Waivers of Parking Requirements; and Section 17.16.110. Please refer to the City's Building Division for additional provisions related to the use of the State Historical Building Code.
- B. **Authority.** The City Council is the final authority on the authorization and approval of fee/development standard waivers for properties on the City's Designated Historic Resources List.

C. Fee waivers.

1. The fees for the first eight hours of time required to process a Cultural Heritage Permit shall be waived for the following eligible properties:
 - a. All resources sites listed on the City's List of Designated Historic Structures Resources and Landmarks Lists.
 - b. All abutting single-family homes and duplexes.
 - c. All sites with three or more dwelling units within 300 feet of residentially zoned sites listed on the City's List of Designated Historic Structures Resources and Landmarks Lists.

The fee waiver shall not apply to non-historic properties located within the Architectural Overlay District.

The fee waiver shall not apply to any costs incurred for any required technical studies, miscellaneous associated fees with processing the application, additional permits, etc. Projects taking less than eight hours of staff time to process shall not be provided a credit for the value of the unused portion of the fee waiver.

SECTION 21. Section 17.16.250 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.16.250 - Discretionary Sign Permits

- A. **Purpose and Intent.** The purpose of this section is to provide a discretionary review process for signs that are significant in terms of size, number, location or type. The intent of discretionary review is to ensure signs are compatible and harmonious with the architecture of the buildings they serve and with the surrounding neighborhood. The intent of discretionary review is also to ensure that signs comply with the purpose and intent of the City's sign regulations.
- B. **Authority.** The final authority on Discretionary Sign Permits is as follows:
 1. Planning Commission for signage in the Architectural Overlay district, freestanding signs, pole signs, and Master Sign Programs for new development.
 2. Zoning Administrator for other signage requiring a Discretionary Sign Permit.
- C. **Applicability.** A Discretionary Sign Permit is required to allow any of the following:
 1. Sign types for which a Discretionary Sign Permit is required in Table 17.84.030(A), Matrix of Sign Types.
 2. Tenant exceeding 64 square feet at a property outside of the Architectural Overlay District.
 3. Tenant signage exceeding 25 square feet at a property within the Architectural Overlay District.
 4. Signs with neon lighting.
 5. Master Sign Programs according to Section 17.84.020(G).
- D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.140, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.

E. Application Filing, Processing, and Review.

1. **Application Filing.** The review process is initiated when the Planning Division receives a complete application package. The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
2. **Application Review.** Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.
 - a. **Development Management Team review.** The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. **Environmental Review.** After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act and determine if environmental studies are required. If studies are required, then they shall be conducted at the applicant's expense, which may involve the selection of a consultant.
 - c. **Design Review Subcommittee review.** The Design Review Subcommittee shall review applications. The Design Review Subcommittee is an advisory body that reviews design issues and provides a recommendation to the review authority per procedures in Section 17.12.025.
3. **Public Hearing and Appeal Provisions.**
 - a. **Public hearing is required.** A public hearing and notification shall be conducted in compliance with Section 17.12.100.
 - b. **The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.**
 - c. **The review authority's decision may be appealed per Section 17.12.140.**

F. Required Findings. Prior to approval of a Discretionary Sign Permit, all of the following findings shall be made:

1. The design, including lighting, scale, length and materials, of the sign is consistent with the intent of the design elements of the General Plan, Design Guidelines, respective specific plan or Architectural Overlay District in which the sign is to be located;
2. The design, scale and materials of the sign harmonize with the architectural design and details of the building or site it serves;

3. The design and scale of the sign is appropriate to the distance from which the sign is normally viewed;
 4. The design and materials of the sign provide a contrast between the background and letters;
 5. If a freestanding sign is included in the sign application, the design, scale or location of the building dictates the use of freestanding signs, rather than building-mounted signs;
 6. If a pole sign is included in the sign application, the design, scale or location of the building dictates the use of a pole sign rather than a monument sign;
 7. For Master Sign Programs:
 - a. The provisions of the Master Sign Program ensure consistency in design and style of all new signs,
 - b. The provisions of the Master Sign Program address compatibility of the design and style of any existing signs on the building or site, and
 - c. All new signs within the Master Sign Program are in compliance with the design standards of this chapter.
- G. **Appeals.** An appeal of the action upon a Discretionary Sign Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- H. **Modifications Requested by the Applicant.** Modifications requested by the applicant to approved Temporary Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
- I. **Modifications and/or Revocations Initiated by the City.** The City may make changes or revoke the approval of applications when conditions of approval are violated, it is necessary to resolve a nuisance, and/or when the application contained incorrect, false, or misleading information. Refer to Section 17.12.175 for related procedures and required findings.
- J. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as consideration of concurrent applications, time limits on approvals and time extensions.

SECTION 22. Subsection (D) of Section 17.24.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- D. **Standards for Fences, Walls and Hedges in Nonresidential Zones.** In nonresidential zones, fences, walls, and hedges shall comply with the following requirements:
1. **Height and Materials.** The height limit and other features of fences, walls, and hedges are determined through an architectural review process with required approval of a Development Permit (Section 17.16.100), or Cultural Heritage Permit (Section 17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.
 2. **Fencing Around Parking Areas.** For requirements for fencing around parking lots, please refer to Section 17.28.220, Parking Lots.

SECTION 23. Subsection 17.24.040(C)(2) of the San Clemente Municipal Code is amended in its entirety as follows:

2. Height Limit for Detached Accessory Structures. Except as modified by Section 17.24.080, Maximum Encroachments into Setbacks and Height Limits, General; the height limit for detached accessory structures shall be as follows:
 - a. Front Half of the Lot. Detached accessory structures in the front half of the lot shall not exceed 15 feet in height;
 - b. Rear Half of the Lot. Detached accessory structures shall have a maximum height of 15 feet, however; the height limit may be increased to the height limit of the zone with the approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (Section 17.16.110).
3. Height Limits for Detached Accessory Buildings. Except as modified by Section 17.24.080, Maximum Encroachments into Setbacks and Height Limits, General; the height limit for detached accessory buildings shall be as follows:
 - a. Front Half of the Lot. Detached accessory buildings in the front one-half of the lot shall not exceed 15 feet in height;
 - b. Rear Half of the Lot.
 - i. Accessory Buildings with Setback Encroachments. Detached accessory buildings in the rear half of the lot encroaching into required setbacks may be constructed over 15 feet high, up to the height limit of the zone with the approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (Section 17.16.110). Setback encroachments require compliance with Section 17.24.080 or the approval of an application in Chapter 17.16; and
 - ii. Accessory Buildings with Setback Compliance. Detached accessory buildings in the rear one-half of the lot may be constructed up to the height limit of the zone if detached accessory buildings comply with required setbacks of the zoning district for the primary building.

SECTION 24. Subsection 17.24.040(C)(2) of the San Clemente Municipal Code is hereby struck in its entirety and retitled as “Reserved.”

SECTION 25. Subsection (B)(1) of Section 17.24.110 of the San Clemente Municipal Code is hereby amended to read follows:

- B. **General Regulations for the Measurement of Height.** The following regulations for calculating height shall apply to all development within the City of San Clemente:
 1. Measurement of Height from Original or Finished Grade.
 - a. Developments With Mass Recontouring. In the case of subdivisions and/or land development where mass recontouring has been or will be permitted by the City, building height shall be measured from finished grade based on City approved plans. Please refer to Figure 17.24.110A for a map of those areas in the City which have had mass recontouring. This subsection does not include properties with significant grading which have received

the approval of a variance from height limits; please refer to the following paragraph b, for the method of measuring height on these properties.

- b. All Other Development. In the case of developments where mass recontouring has not been permitted, or where significant grading has been allowed but through the approval of a variance from the height limit, building height shall be measured from original grade.
- c. In cases where it is ambiguous whether building height should be measured from finished or original grade, or where a determination of finished or original grade is difficult, the City Planner shall make such determination, subject to the appeal provisions in Section 17.12.140, Appeals of an Action, of this title.

SECTION 26. Section 17.24.160 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.24.160 - Relocation of Structures.

- A. **Review Requirements.** The relocation of a building or other structure from one lot to another requires the approval of a Minor Conditional Use Permit (Section 17.16.060) and a Development Permit (17.16.100) or Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.
- B. **Minimum Standards.** The relocation of a building or structure requires the following:
 - 1. Compliance. Compliance with the requirements, relative to the building or structure, of the zone to which the building is being relocated; and
 - 2. Conformance. Conformance with or improvement upon the general character of the existing buildings in the neighborhood.
- C. **Public Notification.** Public notification for the required discretionary approvals shall be provided, as described in Section 17.12.100, Public Hearing and Notification, of this title, and shall be provided for both the original location of the building or structures and the location to which the building or structure is being moved.

SECTION 27. Section 17.24.170 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.24.170 - Residentially Zoned Property, Development Adjacent to.

- A. **Purpose and Intent.** The purpose of this section is to establish review procedures for nonresidential and mixed-use development adjacent to residentially zoned property. The purpose of review is to allow development adjacent to residential property while addressing potential impacts related to noise, light and glare, parking and circulation and privacy.
- B. **Building Setbacks from Adjacent Residentially Zoned Property.** Except as provided for within this section, new nonresidential and mixed-use buildings and/or additions to existing buildings shall maintain a minimum 20-foot setback from adjacent residential property lines. Encroachment of the nonresidential or mixed-use building and/or addition into this setback shall be allowed through the discretionary review process required for the project based on measures included in the project to address noise, parking, lighting, massing and other similar impacts upon adjacent residential development.

- C. **Additions Within 50 Feet of Existing Single-Family Residences.** Any nonresidential or mixed-use building addition that is closer than 50 feet to an existing single-family residence shall require the approval of a Development Permit (Section 17.16.100), or a Cultural Heritage Permit (Section 17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 28. Subsection (C) of Section 17.24.180 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- C. **Standards for Retaining Walls In Nonresidential Zones.** The height limit, design, materials, stepping, and other retaining wall features of retaining walls are reviewed and approved through an architectural review process with the required approval of a Development Permit (Section 17.16.100), or a Cultural Heritage Permit (Section 17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 29. Subsections (C)(1) and (C)(2) of Section 17.28.205 of the San Clemente Municipal Code are hereby amended to read in their entirety as follows:

C. **Review Requirements.**

1. **Outdoor Dining Areas on Private Property.** To allow an outdoor dining area on private property, the following is required:
 - a. **Review of Exterior Modifications.** Exterior modifications to establish outdoor dining areas require review in compliance with Section 17.16.095 (Administrative Development Permit), Section 17.16.100 (Development Permit), or Section 17.16.110 (Cultural Heritage Permit) for historic resources and landmarks on the City's designated historic resources and landmarks list.
 - b. **Outdoor Dining Without Alcohol Service or Entertainment.** The City Planner may approve outdoor dining areas with a maximum of 16 seats and four tables on private property, provided that alcohol service or live entertainment is not proposed. A Minor Conditional Use Permit is required to allow outdoor dining areas with more than 16 seats and four tables.
 - c. **Outdoor Dining with Alcohol Service or Entertainment.** Alcohol and/or entertainment may be allowed on outdoor dining areas, on private property, as a restaurant accessory use with the approval of a Conditional Use Permit or Minor Conditional Use Permit. Refer to Chapters 17.36 (Commercial Zones) through Chapter 17.48 (Public Zones) to determine if this is allowed.
2. **Outdoor Dining on Public Property.** The following procedures are required to allow outdoor dining areas on public property, such as sidewalks:
 - a. **Review of Exterior Modifications.** Exterior modifications to establish outdoor dining areas require review in compliance with Section 17.16.095 (Administrative Development Permit), Section 17.16.100 (Development Permit), or Section 17.16.110 (Cultural Heritage Permit) for historic resources and landmarks on the City's designated historic resources and landmarks list.
 - b. **Number of Outdoor Seats.** A Minor Conditional Use Permit is required to allow outdoor dining areas with a maximum of 16 seats and four tables. A Conditional Use Permit is required to allow outdoor dining areas with more than 16 seats and four tables.

- c. Encroachment into Public Property. An Encroachment Permit is required to allow outdoor dining on public property per Chapter 12.20.
- d. Location of Outdoor Dining on Public Property. A Minor Conditional Use Permit is required to allow outdoor dining areas that are adjacent to private property. A Conditional Use Permit is required to allow outdoor dining in other areas, such as in a parkway, areas separated from private property, or areas directly adjacent to a street or parking.
- e. Outdoor Dining with Alcohol Service or Entertainment. Alcohol and/or entertainment may be allowed on outdoor dining areas, on public property, as a restaurant accessory use with the approval of a Conditional Use Permit or Minor Conditional Use Permit. Refer to Chapters 17.36 (Commercial Zones) through Chapter 17.48 (Public Zones) to determine if this is allowed.

SECTION 30. Section 17.28.230 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.28.230 - Public Park Facilities.

- A. **Purpose and Intent.** The purpose of this section is to describe the architectural review procedures for public park facilities. For specific details regarding the review of parks and recreational facilities, please refer to the interim policy for the review of recreational facilities and streetscapes, until such time as this policy has been incorporated into the City's Parks and Recreation Master Plan.
- B. **Review Requirements.**
 - 1. Buildings. The development of new park facility buildings or additions to existing buildings require architectural review with the approval of a Development Permit (Section 17.16.100), or Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list, such as the Municipal Golf Course. The Review Authority considers architectural and aesthetic impacts of proposals.
 - 2. Other Facilities. The development or addition of sports courts, landscaping, benches, trails and other recreational facilities which do not include the development of buildings shall be exempt from the discretionary review requirements of the Zoning Ordinance.

SECTION 31. The former Subsection (G)—which, following City Council Ordinance No. 1742, is now subsection (H)—of Section 17.28.270 of the San Clemente Municipal Code is hereby amended to read as follows:

17.28.270(H) Accessory Dwelling Units, Non-qualifying ADUs and JADUs and Discretionary Approval.

Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections A through F of this section may be allowed by the City with a Development Permit or Cultural Heritage Permit, in accordance with the other provisions of this title.

SECTION 32. Subsection (E) of Section 17.28.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- E. **Converted Service Stations.** When a service station use is converted to another use, the service station structures and other improvements shall be removed or modified to an extent that makes the site compatible with the neighborhood and conforming to rules. The modification or removal of improvements requires the approval of an Administrative Development Permit (17.16.095) or Development Permit (Section 17.16.100). For example, the conversion of a service station could involve the removal of all fuel equipment and underground storage tanks, pole signs, removal of canopies, removal of pump islands, removal of overhead doors, the addition or modification of landscaping, addition of missing street improvements, exterior remodeling, etc. For nonconforming service stations, refer to change of use requirements in Chapter 17.72, Nonconforming Structures and Uses.

SECTION 33. Subsection (I) of Section 17.28.300 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- I. **Other Temporary Fencing for Security and Screening.** Temporary fencing, other than what is required for active construction projects, is allowed for the purpose of providing security and screening to ensure the health, safety and welfare of the community at the discretion of the City Planner, subject to the following regulations.
 1. Review Requirements. Temporary fencing and similar structures erected higher than 42 inches and up to six feet in height shall require an Administrative Development Permit according to Section 17.16.095.
 2. Expiration of Permits. Any permit issued pursuant to this section shall become invalid upon the expiration of an approved permit for which the use has been approved.
 3. Minimum Standards. Temporary fencing and similar structures shall not be chainlink. Acceptable materials are more permanent in nature and include wrought iron, wood, or similar material and must be compatible with the existing style of surrounding development. Temporary fences and similar structures shall be maintained in good condition with no unintentional rips/tears (except for minimization of wind effects), fading, or general disrepair. Maintenance shall not become so defective, unsightly, or in such condition of deterioration or disrepair to create a public nuisance as set forth in Section 5.82.030.

SECTION 34. The rows for “Accessory Buildings” entries in Table 17.32.030 of Section 17.32.030 of the San Clemente Municipal Code is hereby amended to read as follows:

Table 17.32.030 - Residential Zone Uses

Use	RVL	RL	RML	RM	RH
5. Unclassified Uses					
Accessory Buildings:					
a. Accessory Buildings, Residential ¹⁵ Detached, over 15 Feet in Height that Encroach into Required Setbacks	O	O	O	O	O
b. All Others, Residential	P	P	P	P	P
c. Accessory Buildings, Nonresidential ¹⁶	MC	MC	MC	MC	MC

SECTION 35. Table 17.36.020 of Section 17.36.020 of the San Clemente Municipal Code is hereby amended as follows:

1. Within Section 1’s “Commercial” entries, new rows are hereby regarding for Liquor Sales for On-Site Consumption and Dancing and/or entertainment;
2. Within Section 8’s “Restaurant and Bars” entries are amended in their entirety;
3. Within Section 9’s “Unclassified” entries for “Amusement Center”, “Bowling Alley”, “Pool Halls”, and “Theaters”; and
4. Footnotes 14 to 22 are amended and renumbered.

Table 17.36.020 - Commercial Zone Uses

Use	Zones										
	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4	RMF1	NOTE
1. Commercial											
Nurseries (Outdoor Garden Retail Sales)			C	C	C	C	C	C	C	C	
Liquor Sales for On-Site Consumption:											
a. Hard alcohol	C	C	C	C	C	C	C	C	C		
b. Beer and wine indoors with active food service	P	P	P	P	P	P	P	P	P		
c. Beer and Wine in outdoor dining areas with active food service	MC	MC	MC	MC	MC	MC	MC	MC	MC		
d. Beer and Wine without active food service	MC	MC	MC	MC	MC	MC	MC	MC	MC		
Dancing and/or entertainment that has:											
a. No amplified sound.	MC	MC	MC	MC	MC	MC	MC	MC	MC		
b. Amplified sound.	C	C	C	C	C	C	C	C	C		
8. Restaurants and bars	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4	RMF1	NOTE
Bars, cocktail lounges (with or without dancing and/or entertainment)	P	P	P	P	P	P	P	P	P		
Microbreweries (with limited production up to	P	P	P	P	P	P	P	P	P		

Use	Zones											
5,000 barrels and tasting room) as defined in Section 17.88												
Taprooms as defined in Section 17.88	P	P	P	P	P	P	P	P	P			
Restaurants without a drive-through	P	P	P	P	P	P	P	P	P			
Restaurants with drive-through			C	C	C	C	C	C	C		13	
9. Unclassified Uses	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4			
Amusement Centers	C	C	MC	MC	MC	MC	MC	MC	MC		14	
Bowling Alley	C	C	MC	MC	MC	MC	MC	MC	MC			
Pool Halls	C	C	MC	MC	MC	MC	MC	MC	MC		18	
Theaters	C	C	MC	MC	MC	MC	MC	MC	MC			

14. Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.

15. Refer to Section 17.28.050, Amusement Centers, of this title, for special provisions for arcades/amusement centers.

16. Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.

17. Massage is subject to Section 5.28 of the City of San Clemente Municipal Code. Refer to Section 17.28.185, Massage Establishments, of this title, for special provisions for massage establishments and accessory massage establishments.

18. The provisions for amusement centers shall apply to pool halls. Please refer to Section 17.28.050, Amusement Centers, for special provisions for amusement centers.

19. Refer to Section 17.28.250, Recycling Facilities, of this title, for special provisions for recycling facilities.

20. Refer to Section 17.28.290, Service Stations, of this title, for special provisions.

21. Refer to Section 17.28.310, Vehicle Dealerships, Rental, and Sales of this title, for special provisions for vehicle dealerships.

22. Refer to Section 17.28.320, Vehicle Service and Repair-Related Facilities, of this title, for special provisions.

SECTION 36. Table 17.36.030(A) of the San Clemente Municipal Code is hereby amended in its entirety as follows:

17.36.030 Commercial Zone General Development Standards.

The following property development standards shall apply to all land and permitted or conditionally permitted buildings located within their respective commercial zones.

A. **Creation of New Lots.** The creation of new lots within commercial zones following the date of adoption of this title shall conform to the minimum dimensions for lots established within this zone, except in the case of condominium lots or individual lots within a shopping center, in which case minimum dimensions shall be applied to the boundaries around the entire center. Individual lots created within shopping centers are exempt from the site development standards stated herein, as they relate to minimum lot areas and lot width, as long as the following conditions are met:

1. The commercial center has been processed and approved pursuant to Section 17.16.100, Development Permits and Section 17.16.110, Cultural Heritage Permits;
2. Easements for reciprocal access, parking and maintenance are recorded in a form approved by the City Attorney and maintained; and
3. All applicable setbacks adjacent to the exterior boundaries of the shopping center or commercial development are met.

SECTION 37. Section 17.36.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.36.040 Commercial Zone Special Development Standards.

Chapter 17.24, General Development Standards, of this title includes a number of special provisions affecting commercial properties. Unless otherwise indicated in the referenced sections, or in other City documents regulating commercial development, the development standards listed in Chapter 17.24, General Development Standards, of this title shall apply to all zones described in this chapter.

**Table 17.36.040
Special Development Standards for All Commercial Zones**

Standards	Sections
Accessory Buildings	Section 17.24.040
Building Equipment and Services and Their Screening	Section 17.24.050
Encroachment into Setbacks and Height Limits, General	Section 17.24.080
Fences, Walls, Hedges	Section 17.24.090
Height Limitations	Section 17.24.110
Lighting	Section 17.24.130
Off-Street Loading Area	Section 17.24.150
Relocation of Structures	Section 17.24.160
Residentially Zoned Properties, Development Adjacent To	Section 17.24.170
Retaining Walls	Section 17.24.180
Skirt Walls	Section 17.24.190
Substandard Lots	Section 17.24.200
Through Lots, Rear Yard Setback For	Section 17.24.210
Trip Reduction Measures for Projects with Greater than 100 Employees	Chapter 17.76

SECTION 38. Subsection (A)(2)(a) of Section 17.40.030 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

2. Special Use Regulations.
 - a. Residential and Nonresidential Uses on the Same Building Floor. In vertical mixed-use projects, nonresidential uses may be permitted on the same building floor as a residential use with the approval of a Conditional Use Permit, in accordance with Section 17.16.060, Conditional Use Permits, of this title.

SECTION 39. Table 17.40.030 of Section 17.40.030 of the San Clemente Municipal Code is hereby amended as follows:

1. Within Section 1’s “Commercial” entries, new rows are hereby regarding for Liquor Sales for On-Site Consumption and Dancing and/or entertainment;
2. Within Section 8’s “Restaurant and Bars” entries are amended in their entirety;
3. Within Section 9’s “Unclassified” entries for “Accessory Buildings, Residential”, “Amusement Center” and “Pool Halls” are amended as shown below; and
4. Footnotes 16 to 30 are amended and renumbered.

Table 17.40.030 – Mixed Zone Uses.

Use	Zones							
	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	NOTE
1. Commercial								
Liquor Sales for On-Site Consumption:								
a. Hard alcohol	C	C	C	C	C	C	C	
b. Beer and wine indoors with active food service	P	P	P	P	P	P	P	
c. Beer and Wine in outdoor dining areas with active food service	MC	MC	MC	MC	MC	MC	MC	
d. Beer and Wine without active food service	MC	MC	MC	MC	MC	MC	MC	
Dancing and/or entertainment that has:								
a. No amplified sound.	MC	MC	MC	MC	MC	MC	MC	
b. Amplified sound.	C	C	C	C	C	C	C	
8. Restaurants and bars	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	NOTE
Bars, cocktail lounges (with or without dancing and/or entertainment)	P	P	P	P	P	P	P	

Use	Zones							
	P	P	P	P	P	P	P	
Microbreweries (with limited production up to 5,000 barrels and tasting room) as defined in Section 17.88	P	P	P	P	P	P	P	
Taprooms as defined in Section 17.88	P	P	P	P	P	P	P	
Restaurants without drive-through	P	P	P	P	P	P	P	
Restaurants with drive-through			C	C	C	C	C	16
9. Unclassified Uses	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	NOTE
Accessory Buildings, Residential				P		P	P	20
Accessory Buildings, Nonresidential	C	C	C	C	C	C	C	
Amusement Centers	C	C	C	C	C	C	C	18
Bowling Alley	C	C	C	C	C	C	C	
Pool Halls	C	C	C	C	C	C	C	21
Theaters	C	C	C	C	C	C	C	

16. Refer to Section 17.28.260, Drive-Throughs.
17. Refer to Section 17.24.040, Accessory Buildings.
18. Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.
19. Refer to Section 17.28.050, Amusement Centers.
20. Refer to Section 17.28.130, Grading.
21. Massage is subject to Section 5.28 of the City of San Clemente Municipal Code. Refer to Section 17.28.185, Massage Establishments, of this title, for special provisions for massage establishments. To the extent otherwise allowed, Accessory Massage is permitted only in the commercial portion of a mixed-use building.
22. The provisions for amusement centers shall apply to pool halls. Refer to Section 17.28.050, Amusement Centers.
23. Refer to Section 17.28.250, Recycling Facilities.
24. Refer to Section 17.28.305, Urban Private Storage.
25. Refer to Section 17.28.320, Vehicle Service and Repair-Related Facilities.
26. A boarding house may not be located within 300 feet of any other boarding house measured by following a straight line without regard to intervening buildings from the nearest point of the parcel on which the proposed boarding house is to be located to the nearest point of the parcel that contains the existing boarding house. No more than one boarding house is allowed on a legal parcel.

27. Refer to Section 17.28.292, Short-Term Lodging Units, of this title for special provisions for STLUs and STARs.

SECTION 40. Section 17.40.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.40.050 Mixed-Use Zone Special Development Standards.

This section and Chapter 17.24, General Development Standards, of this title, includes a number of special provisions affecting mixed-use properties. Unless otherwise indicated in the referenced sections, or in other City documents regulating mixed-use development, the development standards listed in Chapter 17.24, General Development Standards, of this title shall apply to all zones described in this chapter.

**Table 17.40.050
Special Development Standards for All Mixed-Use Zones**

Standards	Sections
Accessory Buildings	Section 17.24.040
Arbors (Residential Structures Only)	Section 17.32.050(A), Arbors
Building Equipment and Services and Their Screening	Section 17.24.050
Density Allowance for Lots with Less than 3,600 Square Feet of Lot Area (Residential Lots Only)	Section 17.32.050(B), Density Allowance for Lots with Less than 3,600 Square Feet of Lot Area (residential lots only)
Distance Between Primary Buildings, Minimum Required	Section 17.32.050(C), Distance Between Primary Buildings, Minimum Required
Encroachment into Setbacks and Height Limits, General	Section 17.24.080
Fences, Walls, Hedges	Section 17.24.090
Front Setback, Special Provisions for Reduction (Residential Lots Only)	Section 17.32.050(D)
Garage Encroachment into the Front Yard Setback (Residential Lots Only)	Section 17.32.050(E)
Height Limitations	Section 17.24.110, Front Setbacks, Special Provisions for Reductions (residential lots only), Section 17.32.050(D), Garage Encroachment into the Front Yard Setbacks (residential lots only), Section 17.32.050(E)
Lighting	Section 17.24.130
Off-Street Loading Area	Section 17.24.150
Relocation of Structures	Section 17.24.160
Residential/Nonresidential Use Restrictions for MU 3.0-CB	Please refer to Section 17.56.030, Central Business District Overlay.
Residential/Nonresidential Use Restrictions for MU 5 (Minimum Contiguous Use)	Please refer to subsection (A), Residential/Nonresidential Use Restrictions for MU 5.
Residentially Zoned Properties, Development Adjacent to	Section 17.24.170

Standards	Sections
Retaining Walls	Section 17.24.180
Skirt Walls	Section 17.24.190, Special Provisions for Dwelling Units with Front Entrances Located Along the Side Property Line (residential lots only), Section 17.32.050(F)
Special Provisions for Dwelling Units with Front Entrances Located Along the Side Property Line (Residential Lots Only)	Section 17.32.050(F)
Substandard Lots	Section 17.24.200
Through Lots, Rear Yard Setback For	Section 17.24.210
Trip Reduction Measures for Projects With Greater Than 100 Employees	Chapter 17.76
Unit Size, Minimum	Please refer to subsection (B), Unit Size, Minimum

SECTION 41. Footnote 2 of Table 17.44.020 of Section 17.44.020 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

2 New golf courses in the OSC zone require approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (17.16.110).

SECTION 42. Section 17.52.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.52.040 - General Requirements for Specific Plan Zones.

- A. **Determination of Land Uses and Development Regulations.** Precise locations of land uses and development regulations within the SP Zone shall not be fixed or predetermined until a specific plan has been adopted by the City in accordance with Section 17.16.030, Specific Plan Adoption and Amendments, of this title.
- B. **Limitations on Grading Permits, Building Permits, and Land Use Permits.** No Grading Permits, Building Permits, or Land Use Permits, or other development entitlements, shall be issued for any property with an SP designation prior to the adoption of a specific plan for the property, unless such permits or entitlements are solely for emergency measures, restoration or remedial maintenance and do not in any way predispose the future use of the land.
- C. **Scope of Specific Plan.**
 - 1. Each specific plan shall include the specific land uses, standards and criteria necessary for the development, maintenance and use of the subject property, in compliance with the policies and programs of the General Plan. Each specific plan shall clearly specify how and to what extent the plan is to improve upon, supplement or supersede the City's Zoning Ordinance.
 - 2. New specific plans and amendments to existing specific plans may be required, at the City's discretion, to include standards and a financing program for the installation of public facilities and utilities, schools, flood control and transportation facilities, and other public and private improvements and facilities related to the specific plan.

3. Specific plans shall address the applicable portions of State law related to the preparation of a specific plan.
- D. **Amendment of the Zoning Ordinance and Map.** Adoption of a specific plan shall include an amendment to the Zoning Ordinance and Zoning Maps in accordance with Section 17.16.040, Zoning Amendments, of this title. Each specific plan shall be named. The Zoning Map shall not indicate the land use designations within the specific plan, but shall show the letters "SP" and an abbreviation of the specific plan name. Thereafter, all land use, development and improvements shall conform to the provisions of the adopted specific plan.
 - E. **Inclusion of Specific Plan Text and Maps.** Adoption of a specific plan shall include the incorporation of the specific plan text and maps as an appendix to the Zoning Ordinance.
 - F. **Reference of Specific Plan Text and Maps.** Adoption of a specific plan shall require the amendment of Table 17.52.060, Adopted Specific Plans, of this chapter to include a reference to the new specific plan.
 - G. **Development Agreements.** Specific plans shall not be required to but may be accompanied by development agreements. Approved development agreements related to specific plans are listed in Table 17.52.060, Adopted Specific Plans, of this chapter.
 - H. **Requirements Not Specified.** The standards in the Zoning Ordinance shall apply when development standards are not specified within individual specific plans. Any use that is not expressly permitted or prohibited in a specific plan is subject to the City's general zoning ordinance. This includes, among other things, the citywide prohibition on all cultivation of industrial hemp, as defined in Section 11018.5 of the California Health and Safety Code, and all marijuana dispensary, marijuana manufacturer, marijuana delivery, and marijuana testing laboratory uses.
 - I. **Zoning Applications and Review Procedures.** Specific plans shall identify when a proposal requires zoning approval and refer to this Zoning Ordinance for applications, submittal requirements, and general review procedures, unless specific procedures are designated in a Specific Plan. If a Specific Plan requires approval of an application unaddressed in Chapter 17.16, the current procedures and applications within this Title shall apply.

SECTION 43. Subsections (A)-(C)(3) of Section 17.56.040 of the San Clemente Municipal Code are hereby amended to read in their entirety as follows:

17.56.040 - Planned Residential District (-PRD) Overlay.

- A. **Purpose and Intent.** The purpose of the Planned Residential District (-PRD) Overlay is to provide flexible regulations in order to foster innovation, variety, amenities, and a sensitivity to the natural topography in residential development. The intent is to allow development to deviate from conventional residential standards to achieve higher quality rather than increased density.
- B. **Applicability.** The provisions in this section apply to all areas with the Planned Residential District (-PRD) designation.
- C. **Adoption and Amendment of the Planned Residential Overlay District (-PRD).**
 1. Adoption and amendment of the -PRD Overlay on any properties shall occur in accordance with the provisions described in Section 17.16.040, Zoning Amendments, of this title.

2. Adoption of the -PRD Overlay shall require the concurrent approval of a Tentative Map, if property is being subdivided according to the City's Subdivision Ordinance and concurrent approval of a Development Permit (Section 17.16.100) or Cultural Heritage Permit (17.16.110)..
3. Prior to submitting an application for adoption of the -PRD Overlay, the applicant or prospective developer shall schedule a preapplication review conference with the City Planner. Please refer to Section 17.12.030, Preapplication Review, of this title for the general purpose and intent of preapplication review.

SECTION 44. Subsection (D) of section 17.56.020 of the San Clemente Municipal Code is hereby amended to read as follows:

- D. **Development Review.** Development within the Architectural Overlay may require approvals specified in Chapter 17.16, such as an Administrative Development Permit; Section 17.16.100, Development Permit; or Section 17.16.110, Cultural Heritage Permit for historic resources and landmarks on the City's designated historic resources and landmarks list.

SECTION 45. Subsection (D)(6) of Section 17.56.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

6. Coastal Bluff and Canyon Preservation.
 - a. Landscaping. Landscaping in coastal canyon setback areas or the coastal bluff setback areas, as defined in the subsections above, shall be primarily composed of native plant species. The removal of native plant species and the introduction of nonnative plant species in the canyons shall be discouraged. The use of native plant species in and adjacent to the canyons shall be encouraged.
 - b. Landscape thinning and clearing within Coastal Canyons and Bluffs, including setback areas as defined in the subsections above, for areas located within 30 feet of any habitable structure or parking garage, shall be allowed when done in accordance with the following criteria:
 - i. Dead and dying plants, leaves and similar debris shall be removed.
 - ii. Non-native (also termed as ornamental or exotic) vegetation may be removed.
 - iii. Vegetation located next to or under combustible structures shall be removed.
 - iv. 30 feet shall be provided between the building and native (also defined as non-ornamental or non-exotic), non-irrigated vegetation, unless the vegetation is on a slope, in which case the native, non-irrigated plants shall be trimmed and thinned while retaining root structures in place for slope and soil stability. Where root zone is not sufficiently established, to be determined by the City Engineer, alternative measures for slope and soil stability may be required, to the satisfaction of the City Engineer and Coastal Commission staff.
 - v. Best Management Practices (BMPs) must be utilized to prevent any discharge of soil, vegetation or other material to the storm drain system (including natural canyons, area drains, streets, gutters, catch basins, pipes, channels or receiving waters) in compliance with the municipal storm water permit issued by the San Diego Regional Water Quality

Control Board, the city's local implementation plan and the Orange County Drainage area management plan.

- c. Landscape thinning and clearing within Coastal Canyons and Bluffs, including setback areas as defined in the subsections above, for areas located within 100 feet of any habitable structure or parking garage, shall be allowed when done in accordance with the following criteria:
 - i. Dead and dying plants, leaves and similar debris shall be removed.
 - ii. Non-native (also termed as ornamental or exotic) vegetation may be removed.
 - iii. Nominal trimming of native vegetation is allowed. In no case shall plants be trimmed down to the root stalk, unless in-concept approved by the City Planner and approved by the California Coastal Commission.
 - iv. Best Management Practices (BMPs) must be utilized to prevent any discharge of soil, vegetation or other material to the storm drain system (including natural canyons, area drains, streets, gutters, catch basins, pipes, channels or receiving waters) in compliance with the municipal storm water permit issued by the San Diego Regional Water Quality Control Board, the city's local implementation plan and the Orange County Drainage area maintenance plan.
- d. New landscaping and landscape modification, other than as described above, must be in-concept approved by the City Planner and reviewed and approved by the California Coastal Commission.
- e. Subdivision. Any subdivision of property in or adjacent to coastal bluffs and/or coastal canyons shall be reviewed for consistency with the coastal bluff and canyon preservation policies. New parcels that do not have an adequate building site area to comply with the setback standards of these policies shall not be created.
- f. Review of Projects:
 - i. Projects Requiring a Development Permit or Cultural Heritage Permit. Review of all projects within the Coastal Zone requiring Development Permit, Cultural Heritage Permit, or Conditional Use Permit review shall include an assessment of the potential impact on natural habitat areas. Site plan review of all development projects located adjacent to parks and recreation areas shall include an evaluation of potential impacts on coastal bluffs and coastal canyons.
 - ii. Mitigation measures identified during site plan review stages to limit a project's effect on the coastal bluff or coastal canyon environment shall be incorporated into final project design plans.
 - iii. Large-Scale Projects. The analysis and evaluation of large-scale development projects shall include a comprehensive inventory of biological resources. A determination should be made of the area's importance as a native habitat, including identification of rare or endangered species, or those species being considered to be listed as rare or endangered.

SECTION 46. Subsection (C)(3) of Section 17.56.080 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

3. Neighborhood Electric Vehicles. Parking for Neighborhood Electric Vehicles (NEV), as defined in Vehicle Code Section 385.5, may be applied toward the total required parking at a maximum of four percent and not more than eight spaces of the required number of parking spaces for a project through the approval of a Development Permit or Cultural Heritage Permit. Additional NEV spaces can be provided however those spaces will not apply to the required parking. NEV spaces shall be located in areas of parking lots that cannot accommodate a standard parking space, unless the required number of standard spaces has been satisfied.

SECTION 47. Subsection (D) of Section 17.56.090 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- D. **Review Requirements.** Affordable housing projects are a permitted use in the [AH] Overlay. Refer to use tables in Sections 17.36.030 (Commercial Zone Uses) and 17.40.030 (Mixed-Use Zone Uses). Affordable housing projects in commercial and mixed-use zones require the approval of a Development Permit (Section 17.16.100); or a Cultural Heritage Permit (Section 17.16.110) for historic resources and landmarks on the City's designated historic resources and landmarks list.. Additionally, depending on the project, other discretionary processes may apply in compliance with Chapter 17.16.

SECTION 48. Subsection (D)(7) of Section 17.56.100 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

D. **Emergency Shelter Development Standards.**

7. Architectural Review. Emergency Shelters shall comply with the City's Design Guidelines, Specific Plans, and the Zoning Ordinance regarding architectural and development standards to ensure shelters are compatible with their surroundings, provide adequate privacy between uses, and minimize potential impacts of the proposed shelter on adjacent uses.

The process to review emergency shelter compliance with these requirements shall be a ministerial review that shall be considered at the time of building permit review or business license review, whichever comes first. Emergency shelters shall be exempt from all discretionary review processes in compliance with State law.

SECTION 49. Section 17.64.110 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

17.64.110 Off-Site Parking.

Where permitted by this chapter, parking required for nonresidential uses may be provided off-site, within 1,000 feet of a use, through the execution of a legal document. The document shall comply with the following restrictions:

- A. The agreement shall restrict the use of the land on which the off-site parking is located for the duration of the use for which that parking is provided;

- B. The agreement shall be executed by the owner of the property on which the parking is located. Only the property owner may enter into these agreements; and
- C. The agreement shall be submitted for the review and approval of the City Attorney; and
- D. Following its approval of a Minor Conditional Use Permit pursuant to Section 17.16.070, the agreement shall be recorded by the applicant and a copy furnished to the Community Development Department when applying for a permit, for inclusion in any related discretionary application files and the Building Division address files.

SECTION 50. Subsection (A) of Section 17.64.120 of the San Clemente Municipal Code is hereby amended to read as follows:

17.64.120 Shared Parking.

In all nonresidential and mixed-use zones, private parking facilities may be shared by multiple uses whose activities are not normally conducted during the same hours, or when hours of peak use vary. The applicant shall have the burden of proof for a reduction in the total number of required off-street parking spaces.

A. Review Requirements.

- 1. Existing Buildings with Change of Use [Except a Change to a Mixed Use (Residential/Commercial on the Same Site)]. Shared parking may be granted through the approval of a Minor Conditional Use Permit, in compliance with Section 17.16.070, Minor Conditional Use Permits.
- 2. New Mixed Use (Residential/Commercial on Same Site) Buildings. Shared parking may be granted through the approval of a Minor Conditional Use Permit, in compliance with Section 17.16.070, Minor Conditional Use Permits.
- 3. All Other Projects. Shared parking may be granted through the approval of a Conditional Use Permit, in compliance with Section 17.16.070, Minor Conditional Use Permits.

SECTION 51. Subsections (B)(2) and (B)(3) of Section 17.72.030 of the San Clemente Municipal Code are hereby amended to read in its entirety as follows:

B. Exemptions.

- 2. Nonconforming Structures. The following structures are exempt from nonconforming structure regulations in this Chapter:
 - a. Structures that comply with all zoning requirements except landscape standards.
 - b. Single-family dwellings constructed with a single-car garage or carport (“parking structure”) in residential zones prior to April 4, 1962 are exempt from being a Nonconforming Structure due to insufficient parking, except when a project removes or alters the single-family dwelling’s structural frame in 50 percent or greater of the structure’s exterior walls, as described in Section 17.72.050(E). Then, the residence and parking structure shall be made to comply zoning requirements as described in this Chapter.

- c. In-the-bank garages located in residential zones which do not comply with front yard setback regulations.
 - d. National, state or locally designated historic structures may be exempted from this Chapter with the approval of a Cultural Heritage Permit in compliance with Section 17.16.100.
3. Nonconforming Uses. The following land uses are exempt from nonconforming use regulations in this Chapter:
- a. Multiple-family dwellings constructed in the Residential Low Density zoning district prior to April 4, 1962.
 - b. Service stations and vehicle service and repair-related facilities are exempt, provided the uses were lawfully established on or before February 4, 2014 (adoption date of General Plan), the uses have not been discontinued more than 365 consecutive calendar days, and the uses meet any of the criteria below:
 - i. The service station or vehicle service repair-related use is on property fronting El Camino Real, or fronting other arterial streets defined in Section 17.88.030, or
 - ii. The service station use is located on property in gateway areas (identified in the General Plan Urban Design Element) abutting Interstate-5 off-ramps and intersections.
 - c. Nonconforming uses associated with the historical significance of national, state or locally designated historic structures may be exempted from this Chapter with the approval of a Cultural Heritage Permit in compliance with Section 17.16.110.
 - d. Mobilehome Parks in compliance with any applicable Conditional Use Permit shall be exempt from all provisions of Chapter 17.72, except as provided in SCMC Subsection 17.72.060.E.

SECTION 52. Subsection (B) of Section 17.72.040 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- B. **Code compliance of projects.** The expansion and alteration of nonconforming structures shall comply with development standards, unless exceptions are granted with the approval of a Minor Exception Permit, Variance, or other provision in this Title.

SECTION 53. Subsection (A) of Section 17.72.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- A. **Applicability of other review procedures.** This Title may require approval of permits to allow the modification of nonconforming structures according to Chapter 17.16 to projects are consistent with the General Plan, Design Guidelines, and regulations.

SECTION 54. Subsection (I)(2)(a)(i) of Section 17.72.050 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

- a. Nonconforming status shall be terminated. Nonconforming Buildings expanded by 50 percent or greater shall be made to conform to zoning requirements, except as follows:
 - i. Exception for single-family dwellings less than 1,400 square feet. Nonconforming single-family dwellings, smaller than 1,400 square feet, may be expanded to a maximum of 2,100 square feet and continue to be nonconforming with the approval of a Development Permit (Section

17.16.100) or a Cultural Heritage Permit (17.16.110) for historic resources and landmarks on the City’s designated historic resources and landmarks list.

SECTION 55. The rows for “Banner Signs” and “Grand Opening Signs” in Table 17.84.030A in Section 17.87.030 of the San Clemente Municipal Code are hereby amended to read in their entirety as follows:

Table 17.84.030A, Matrix of Sign Types, Banner Signs and Grand Opening Signs

Table 17.84.030A, Matrix of Sign Types

Sign Type	Maximum Number of Signs Permitted	Maximum Size per Sign	Maximum Height per Sign	Sign Permits Required	Other Special Considerations
Banner Signs	One per business	64 sq. ft.	—	Adm. Sign Permit	See Section 17.84.030(H) for criteria
Grand Opening Signs	1 per site	4 sq. ft.	—	Adm. Sign Permit	Will not count toward banner allowance during calendar year. May be displayed for a maximum of 30 days. The application for a Temp. Banner Permit must accompany a new business license application or new certificate of occupancy.

SECTION 56. Subsection (H)(1) of Section 17.84.030 of the San Clemente Municipal Code is hereby amended to read as follows:

H. **Temporary Banner Signs.** Temporary Banner Signs shall be allowed for businesses city-wide, excluding home-occupations.

1. Temporary Banner Sign Criteria.

- a. Each business shall be permitted a maximum of one temporary banner sign per business at any given time.
- b. The temporary banner sign cannot exceed 64 square feet. A temporary banner sign will not count towards a business's total sign area allowance.
- c. The temporary banner sign shall be placed on-site and flush on the building. These banners are prohibited in the following locations: city right-of-way, free-standing walls, fences or

other areas or fixtures not part of the business's primary structure; other locations as determined by the City Planner to be inconsistent with the intent of this section. No portion of the temporary banner sign shall be free-hanging and all corners of the banner shall be secured to the building.

- d. Temporary banner signs shall be constructed of cloth, canvas, fabric, plastic or other similar durable material.
- e. The temporary banner sign shall be maintained in good condition, free of any defects, including cracking, torn or ripped material, or faded copy.
- f. Each business may have up to four permits per calendar year. Each permit allows the display of a banner sign up to 30 calendar days. Renewals of permits are allowed, but in no case shall a business display a temporary banner for more than 120 days per calendar year. Banners may be replaced during the authorized period so long as they are the same or smaller size and installed in the approved location. These provisions are to ensure temporary banner signs are not used as permanent display or in-lieu of permanent signs for the business.

SECTION 57. Section 17.16.150 of the San Clemente Municipal Code is hereby amended to read as follows:

17.16.150 - Temporary Use Permits.

- A. **Purpose and Intent.** The purpose of the Temporary Use Permit process is to provide for the review of certain temporary land use activities on private property, as detailed in Section 17.28.300, Temporary Uses and Structures, to ensure that adverse impacts on surrounding properties, residents and businesses are minimized, that the time limitations for temporary uses are specified and complied with, and that the site of temporary use is restored to its condition prior to establishment of the use.
- B. **Authority.** The table below describes the authority on Temporary Use Permits, subject to the concurrent review and appeal provisions of Section 17.12.090, Consideration of Concurrent Applications, and Section 17.12.140, Appeals of an Action. The City Planner has the discretion to refer applications to the Zoning Administrator for review and final action. If an application is referred to the Zoning Administrator, a public hearing and notification is required per Section 17.12.100.

**Table 17.16.155A
Review Requirements for Temporary Use Permits**

Threshold for review	City Planner	Discretionary – Zoning Administrator
Temporary Uses and Structures Not Specified	X	
Annual and Seasonal Holiday Sales	X	

Threshold for review	City Planner	Discretionary – Zoning Administrator
Temporary Construction Project Uses and Structures	X	
Model Home Complexes and Sales Offices	X	
Temporary Outdoor Displays	X	
Other Temporary Fencing for Security and Screening	X	
Special Activities:		
Parking Lot Sales	X	
Residential uses when providing shuttle/valet services	X	
Non-residential Special Activities and shuttle/valet services:		
Up to 2 consecutive days	X	
Three or more consecutive days and not to exceed 24 days annually		X

- C. **Applicability.** The provisions of this section shall apply to all temporary uses and structures requiring the approval of a Temporary Use Permit, as required in Section 17.28.300, Temporary Uses and Structures.
- D. **Submittal Requirements.** Please refer to the submittal requirements in Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- E. **Review Procedures.** Following the receipt of a complete application, the Review Authority, identified in Table 17.16.155A, shall review a Temporary Use Permit request for compliance with minimum standards and make a decision based on an ability to meet required findings pursuant to 17.16.150(G), Required Findings.

1. If the City Planner is the review authority and an application is not acted upon within 30 days, the application shall be put on the next available agenda for a regularly scheduled Zoning Administrator meeting as a New Business Item.
 2. A public hearing and notification is required when the review authority is the Zoning Administrator. The Zoning Administrator then shall approve, approve with modifications and/or conditions, or deny the Temporary Use Permit.
- F. **Conditions.** Please refer to Section 17.28.300(J), Conditions, for a list of potential conditions of approval for temporary uses.
- G. **Required Findings.**
1. **City Planner Decisions.** For administrative approval of a Temporary Use Permit, the City Planner shall find the application complies with the Zoning Code (Municipal Code Title 17).
 2. **Zoning Administrator Decisions.** For discretionary approval of a Temporary Use Permit, the Zoning Administrator shall find all of the following:
 - a. The proposed use is permitted within the subject zone pursuant to the approval of a Temporary Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed; and
 - b. The site is suitable for the type and intensity of use that is proposed; and
 - c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity; and
 - d. The proposed use will not negatively impact surrounding land uses.
- H. **Appeals.** An appeal of the decision on a Temporary Use Permit shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- I. **Modifications Requested by the Applicant.** Modifications requested by the applicant to approved Temporary Use Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
- J. **Modifications and/or Revocations Initiated by the City.** The City may take code enforcement action when conditions of approval are violated or it is necessary to resolve a nuisance, including but not limited to making changes to conditions of approvals or require activities to cease. If the City finds the application contained incorrect, false, or misleading information, the City may revoke the approval of applications. Refer to Section 17.12.175 for related procedures and required findings. If issues arise from a permitted special activity, the Review Authority may consider such issues as part of the administrative record for decisions on future special activity requests.
- K. **Other Review Requirements.** Refer to Chapter 17.12, Development Review Process, for general application processing requirements, such as time limits on approvals and time extensions.
- L. **Approval Runs with the Land.** The approval of permits shall run with the land, and shall continue to be valid for the specific dates of the approved use or activity upon a change of ownership of the site to which it applies.

SECTION 58. Section 17.28.300 of the San Clemente Municipal Code is hereby amended to read as follows:

17.28.300 - Temporary Uses and Structures.

- A. **Purpose and Intent.** The purpose of this section is to control and regulate land use activities of a temporary nature on private property which may adversely affect the public health, safety and welfare. The intent is to ensure that temporary uses will be compatible with surrounding land uses, to protect the rights of adjacent residences, businesses, and land owners, and to minimize any adverse effects on surrounding properties and the environment.
- B. **Applicability.** This section shall apply to the temporary uses and structures on private property described in subsections (D) through (I) of this section. All other temporary uses and structures not deemed similar by the City Planner shall be prohibited on private property. For temporary uses and activities allowed on public property through Special Events Permits, please refer to SCMC Chapter 12.34 and contact the City's Beaches, Parks and Recreation Department regarding the application process and fees for Special Events Permits.
- C. **Review Requirements.** The review procedures for the temporary uses and structures allowed by this section are specified for each use in subsections (D) through (I) of this section.
- D. **Annual and Seasonal Holiday Sales.** Annual and Seasonal Holiday Sales, including Christmas trees, pumpkins, or temporary uses of a similar nature as determined by the City Planner, shall be permitted, subject to the following regulations:
1. **Elimination of Parking.** Areas used for Annual and Seasonal Holiday Sales shall not eliminate or decrease the number of required parking spaces for the primary use on the site, if there is one, or for any other site.
 2. **Lighting.** All lighting shall be directed away from and shielded from adjacent residential areas.
 3. **Location.** Annual and Seasonal Holiday Sales shall be permitted for any nonresidential use in the City, and on vacant residential property abutting arterial highways.
 4. **Merchandise.** Annual and Seasonal Holiday Sales shall not engage in the sale of any merchandise not directly associated with the holidays with which the seasonal sales is associated.
 5. **Review Requirements.** Annual and Seasonal Holiday Sales shall be permitted without benefit of a Discretionary Permit from the Planning Division, provided the standards of this section are met.
 6. **Signs.** The total temporary signage on the site shall be limited to an aggregate sign area of one times the linear frontage of longest street frontage of the lot. No sign shall exceed 64 square feet. No prohibited signs, as defined in Chapter 17.84, Sign Regulations, shall be allowed.
 7. **Outdoor Storage.** Temporary outdoor storage containers or trailers ancillary to the permitted use are permitted for the storage of merchandise and other materials necessary for the display of Annual and Seasonal Holiday Sales items with review and approval by the City's Building, Planning, and Engineering Divisions.
 8. **Time Limits.** Annual and Seasonal Holiday Sales shall be limited to 55 days of operation per calendar year.

- E. **Temporary Construction Project Uses and Structures.** Construction offices, security quarters, storage yards, large containers, temporary fencing and similar structures on the site of an active construction project shall be conditionally permitted, subject to the following regulations:
1. **Expiration of Permits.** Any permit issued pursuant to this section in conjunction with a construction project shall become invalid upon cancellation or completion of the Building Permit for which the use has been approved, or the expiration of the time for which the approval has been granted.
 2. **Review Requirements.** Construction offices, security quarters, storage yards, large containers, temporary fencing and similar structures on the site of an active construction project shall require the approval of Temporary Uses Permit in accordance with Section 17.16.150, Temporary Use Permits, of this title.
- F. **Model Home Complexes and Sales Offices.** Model home complexes and sales offices shall be conditionally permitted solely for the first sale of homes within a recorded tract or condominium subdivision, subject to the following regulations:
1. **Location.** The model home complex and/or sales office shall be located on the same or adjacent premises as the subdivision or building project.
 2. **Expiration of Permits.** Permits are valid for one calendar year from the permit approval date, or six months after 90 percent or greater of homes are sold, whichever is sooner. The City Planner may approve 180 day time extensions. A maximum of two time extensions may be approved. To receive a time extension, a written request shall be submitted before the expiration date and state justified reasons for delays. For approval, the City Planner must meet required findings for a Temporary Use Permit. When a permit expires, the applicant may submit a new application and fees to request a Temporary Use Permit to maintain a model home complex and sales office use and improvements.
 3. **Review Requirements.** A Temporary Use Permit is required to allow model home complexes and/or sales offices for the sale of homes in any subdivision containing five or more units.
 4. **Use.** The sales office shall be used only for transactions involving the sale, rent or lease of lots or units within the tract or condominium subdivision.
 5. **Other Issues for Consideration.** The decision-making body responsible for reviewing the application for a model home complex and/or sales office shall consider the hours of operation, lighting, landscaping, signage, and any other factors that may affect the model home complexes maintenance and impacts on the surrounding area and shall condition the project accordingly. Please refer to Subsection (J), Conditions, of this section.
- G. **Temporary Outdoor Displays.** Temporary Outdoor Displays. The temporary outdoor display of merchandise shall be permitted, subject to the following regulations.
1. **Authorization.** Written authorization for the sale/display shall be obtained from the property owner.
 2. **Hazards.** No item shall be displayed in a manner that causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.

3. Location. Merchandise cannot be displayed in required parking spaces for a business. Merchandise must be displayed along the front entrance of the store. (Refer to section I, Special Activities, for considerations of parking lot sales.)
 4. Merchandise. Only goods and materials associated with existing, indoor primary uses may be displayed and sold. The displayed item(s) shall not have advertisements or other signs attached. Where there is ambiguity, the Code Compliance Manager or designee shall decide.
 5. Parking. Adequate parking shall be provided and maintained during the course of the activity.
 6. Public Property. No item, or any portion thereof, shall be displayed on public property unless a Special Events Permit has been obtained from the City's Beaches, Parks and Recreation Department.
 7. Review Requirements. The temporary outdoor display of merchandise, including at grocery stores, shall be permitted without benefit of a Temporary Use Permit from the Planning Division, provided the standards of this section are met. Temporary outdoor display of merchandise not specified in this section, shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits.
 8. Time Limits. The temporary outdoor display of goods at a business shall only be displayed during the operating hours of the business displaying merchandise and shall be brought indoors after the closing of the business each day.
 9. Vehicle Ingress and Egress. Safe vehicle ingress and egress shall be provided at all times.
- H. **Other Temporary Fencing for Security and Screening.** Temporary fencing, other than what is required for active construction projects, is allowed for the purpose of providing security and screening to ensure the health, safety and welfare of the community at the discretion of the City Planner, subject to the following regulations.
1. Review Requirements. Temporary fencing and similar structures erected higher than 42 inches and up to six feet in height shall require the approval of a Temporary Use Permit.
 2. Expiration of Permits. Any permit issued pursuant to this section shall become invalid upon the expiration of an approved permit for which the use has been approved.
 3. Minimum Standards. Temporary fencing and similar structures shall not be chain link. Acceptable materials are more permanent in nature and include wrought iron, wood, or similar material and must be compatible with the existing style of surrounding development. Temporary fences and similar structures shall be maintained in good condition with no unintentional rips/tears (except for minimization of wind effects), fading, or general disrepair. Maintenance shall not become so defective, unsightly, or in such condition of deterioration or disrepair to create a public nuisance as set forth in Section 5.82.030.
- I. **Special Activities.** A Special Activity is defined as any activity on private property (commercial or non-commercial) within any zoning district which temporarily intensifies the impacts (i.e., parking, traffic, noise, light and glare, etc.) of an existing permitted use or which create a potential conflict among land uses. Normal sales or functions which are incidental to the existing permitted use (i.e. sales conducted within the structure of an existing retail use, live entertainment if currently permitted under a Conditional Use Permit, etc.) shall not be considered a Special Activity. Special Activities typically include, but are not limited to, art shows, open houses, grand openings, circus/carnivals, food truck and/or music festivals, promotion, entertainment, firework displays, tent sales, farmers

markets selling produce such as strawberries and similar goods, and activities providing shuttle or valet services.

1. Non-Residential Special Activities. Non-Residential Special Activities shall be permitted subject to the following regulations:
 - a. Location. Non-Residential Special Activities shall be permitted in any nonresidential zoning district in the city, except on publicly owned land.
 - b. Number of Occurrences. Non-Residential Special Activities shall be limited to a maximum occurrence of 24 days during a calendar year, including activities allowed by Subsection I.2, with a minimum of 5 days between Special Activities on the same site.
 - c. Notification Requirements. Special Activities proposed for non-residential uses located in residential or mixed-use zoning districts shall require mailing notifications to all property owners within 300-foot radius from the exterior boundaries of the subject property. The applicant shall provide notification materials as part of an application.
 - d. Review Requirements. Non-Residential Special Activities shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits, of this title.
2. Special Activities Providing Valet Parking and/or Shuttle Service. Special Activities providing valet parking and/or shuttle service shall be permitted, subject to the following regulations:
 - a. Location. Special Activities providing valet parking and/or shuttle service shall be permitted upon approval of a Temporary Use Permit in any nonresidential zoning district in the city, except on City property which is subject to the Special Events Permits process referenced in SCMC 12.34 and as implemented by the Beaches, Parks, and Recreation Department.
 - b. Number of Occurrences. Special Activities providing valet parking and/or shuttle service shall be limited to a maximum occurrence of 24 days during a calendar year, including activities allowed by Subsection I.1, with a minimum of 5 days between Special Activities on the same site.
 - c. Parking. Public parking shall not be negatively impacted.
 - d. Notification Requirements. Special Activities proposing shuttle or valet services on residential and non-residential properties require mailing notifications to all property owners within 300-foot radius measured from the exterior boundaries of the subject property.
 - e. Review Requirements. Special Activities providing valet parking and/or shuttle service shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits, of this title.
3. Parking Lot Sales. Special Activities proposing the sale of merchandise by a business in its on-site parking lot shall be permitted, subject to the following regulations:
 - a. Authorization. Written authorization for the sale/display shall be obtained from the property owner.
 - b. Number of Occurrences. Parking Lot Sales shall be limited to a maximum occurrence of 15 days during a calendar year with a minimum of 5 days between Special Activities on the same site.

- c. Hazards. The activity shall not present a hazard to pedestrians or encroach on a required building exit. No item shall be displayed in a manner that causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.
 - d. Merchandise. Only goods and materials associated with pre-existing, indoor primary uses may be displayed and sold.
 - e. Parking. Adequate parking shall be provided and maintained during the course of the activity.
 - f. Public Property. No item, or any portion thereof, shall be displayed on public property unless a Special Events Permit has been obtained from the City's Beaches, Parks and Recreation Department.
 - g. Review Requirements. Parking Lot Sales shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits, of this title.
- J. Conditions.** In approving a Temporary Use Permit, the review authority shall impose conditions deemed necessary to ensure that the permit will be in accordance with the standards prescribed in this section and the findings required for the permit. These conditions may include, but are not limited to:
- 1. Regulation of operating hours and days;
 - 2. Provision for temporary parking facilities, including vehicular ingress and egress;
 - 3. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
 - 4. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
 - 5. Provision for sanitary and medical facilities;
 - 6. Provision for solid, hazardous and toxic waste collection and disposal;
 - 7. Provision for security and safety measures;
 - 8. Regulation of signs;
 - 9. Submission of a performance bond or other surety devices, satisfactory to the review authority, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition;
 - 10. Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, pursuant to the provisions of the Zoning Ordinance. The City may require a bond to ensure this requirement is met.
 - 11. If alcoholic beverages are available in conjunction with a Special Activity, signs shall be placed at each exit with the text, "No alcohol beyond this point." Each sign shall be no smaller than one square foot;

12. The proposed sale and/or service of alcohol at a Special Activity within non-residential uses requires the applicant to obtain a liquor license issued by the California Department of Alcoholic Beverage Control (“ABC Office”);
13. Any other conditions which will ensure the proposed temporary use operates in an orderly and efficient manner and in accordance with the intent and purpose of this section.