

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 9, CHAPTER 3 (ENVIRONMENTAL PROTECTION) AND TITLE 10, CHAPTER 1 (ZONING) OF THE BURBANK MUNICIPAL CODE TO IMPLEMENT BURBANK 2021-2029 HOUSING ELEMENT PROGRAM NO. 22 RELATED TO THE UPDATE OF PROJECT APPEAL PROCEDURES, AND MAKING OTHER RELATED AMENDMENTS

(PROJECT NUMBER 24-0001518, ZONE TEXT AMENDMENT AND CODE TEXT AMENDMENT)

City Attorney's Synopsis

This Ordinance amends Burbank Municipal Code, Title 9, Chapter 3, Environmental Protection, and Title 10, Chapter 1, Zoning, to implement Burbank 2021-2029 Housing Element Housing Program No. 22 related to the update of project appeal procedures. This Ordinance also makes other minor procedural amendments to align the City's environmental review and Planning Commission notice of public hearing procedures with State law.

THE COUNCIL OF CITY OF BURBANK FINDS, DETERMINES, AND DECLARES THAT:

A. On September 27, 2022, the City Council adopted the 2021-2029 Housing Element, which lists 27 implementation programs to further the goals and polices outlined in the Housing Plan. Program No. 22 calls for the update to project appeal procedures listed in Burbank Municipal Code (BMC) Sections 10-1-1907.1 through 10-1-1907.3, with the objective to streamline the project review and approval process.

B. BMC Title 9, Chapter 3 (Environmental Protection) outlines the City's local process to implement the procedural requirements of the California Environmental Quality Act (CEQA). The BMC provides a process to appeal the City's environmental decisions that differs from the appeal process outlined in state law, which can create confusion, uncertainty and add unnecessary time and expense to final project approvals.

C. In order to implement Program No. 22 of the City's 2021-2029 Housing Plan, the Council desires to update project appeal procedures, including environmental appeal procedures, to streamline project review and approvals by: (1) making the Planning Commission the final reviewing body on appeals of entitlement decisions that originate with the Community Development Director (Director); (2) making the City Council the final reviewing body on appeals of entitlement decisions that originate with the Planning Commission; (3) modifying the entitlement process for projects involving

multifamily residential with nonresidential uses (commonly known as “mixed-use” projects) so that they are approved by the Director through an Administrative Use Permit (AUP) and appealable to the Planning Commission; and (4) establishing a process in accordance with California Public Resources Code Section 21151(c) for appeals of certain environmental decisions made by the Director or the Planning Commission to be directly submitted to the City Council.

D. On January 1, 2025, Assembly Bill (AB) 2904 became effective, requiring notice of Planning Commission public hearings on proposed zoning ordinances and amendments to the zoning ordinance that affect permitted uses of real property to be published, posted, mailed, delivered, or advertised, as applicable, at least 20 days before the hearing (Cal. Gov’t. Code § 65854(b)(2)). The BMC currently requires notices of such hearings to be posted 10 business days in advance of the Planning Commission hearing.

E. The Council desires to update the notice requirements for certain Planning Commission hearings to align with the new requirements under AB 2904.

F. On January 13, 2025, the Planning Commission held a duly noticed public hearing on this Ordinance (Project No. 24-0001518) and at such hearing recommended that the City Council of the City of Burbank (“Council”) approve the Ordinance, including the Zone Text Amendments to BMC Title 10, required to implement Program No. 22 of the 2021-2029 Housing Element Housing Plan.

G. On February 25, 2025, the Council at its regular meeting, held a public hearing on Project No. 24-0001518, a Zone Text Amendment and Code Text Amendment.

H. Said hearing was properly noticed in accordance with the provisions of BMC Section 10-1-1994.

I. The Council considered the report and recommendations of the City Planner, the action and recommendations of the Planning Commission as evidenced by its Resolution 3475, and the evidence and testimony presented at such hearing.

J. In accordance with California Government Code Section 65860, the proposed Ordinance, including the Zone Text Amendment, has been determined to be consistent with the Burbank2035 General Plan and is compatible with the objectives, policies, general land uses and programs specified therein, and more specifically, the General Plan Housing Element.

K. This Ordinance has been evaluated under the California Environmental Quality Act (CEQA) and requires no further CEQA review. The proposed Zone Text Amendments to the City’s appeal procedures and initial and final reviewing bodies for multifamily residential housing with nonresidential use projects (mixed use projects) are consistent with the 2021-2029 Burbank Housing Element and as such, were contemplated and studied in the Program Environmental Impact Report for the 2021-2029

Housing Element (SCH No. 2021020393), certified in September 2022. Pursuant to CEQA Guidelines Section 15183(a), no further environmental review is required for the Zone Text Amendments. Furthermore, none of the proposed BMC amendments within the Ordinance require CEQA review because they only involve administrative and procedural updates to the BMC. Adoption of the Ordinance is covered by the common-sense exemption that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA (CEQA Guidelines § 15061(b)(3)). Additionally, pursuant to CEQA Guidelines Section 15378, this Ordinance is not considered a “project” subject to the requirements of CEQA because the Ordinance has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Instead, the Ordinance involves modifications to administrative noticing requirements and procedural updates to internal review and approval bodies that will result in no direct or indirect physical changes to the environment.

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

Section 1. Findings. All the findings set forth above are true and correct and are incorporated herein as if restated in their entirety.

Section 2. Amendment to Burbank Municipal Code (“BMC”) Title 9, Chapter 3, Environmental Protection. Sections 9-3-105, 9-3-107, and 9-3-108 of BMC Title 9, Chapter 3, Environmental Protection, are hereby amended and restated as shown in Exhibit A to this Ordinance, attached and incorporated herein.

Section 3. Amendment to BMC Section 10-1-502, Uses in All Zones. Table 10-1-502 is hereby amended as shown in Exhibit B to this Ordinance, attached and incorporated herein.

Section 4. Amendment to BMC Title 10, Chapter 1, Zoning. Sections 10-1-607, 10-1-631, 10-1-635, 10-1-640, 10-1-641, 10-1-1907.1, 10-1-1907.2, 10-1-1907.3, 10-1-1908.5, 10-1-1909, 10-1-1910, 10-1-1911, 10-1-1912, 10-1-1928, 10-1-1929, 10-1-1959, 10-1-1964, 10-1-1969, 10-1-1994, 10-1-19127, 10-1-19200, 10-1-19201, 10-1-2603 of BMC Title 10, Chapter 1, Zoning, are hereby amended and restated as shown in Exhibit C of this Ordinance, attached and incorporated herein.

Section 5. Severability. If any provision of this Ordinance or its application is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, sections, or applications of the Ordinance, which can be given effect without the invalid provision or application, and to this end each phrase, section, sentence, or word is declared to be severable.

Section 6. Environmental Assessment. This Ordinance has been evaluated under the California Environmental Quality Act (CEQA) and requires no further CEQA

review. The proposed Zone Text Amendments to the City's appeal procedures and initial and final reviewing bodies for multifamily residential housing with nonresidential use projects (mixed use projects) are consistent with the 2021-2029 Burbank Housing Element and as such, were contemplated and studied in the Program Environmental Impact Report for the 2021-2029 Housing Element (SCH No. 2021020393), certified in September 2022. Pursuant to CEQA Guidelines Section 15183(a), no further environmental review is required for the Zone Text Amendments. Furthermore, none of the proposed BMC amendments within the Ordinance require CEQA review because they only involve administrative and procedural updates to the BMC. Adoption of the Ordinance is covered by the common-sense exemption that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA (CEQA Guidelines § 15061(b)(3)). Additionally, pursuant to CEQA Guidelines Section 15378, this Ordinance is not considered a "project" subject to the requirements of CEQA because the Ordinance has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Instead, the Ordinance involves modifications to administrative noticing requirements and procedural updates to internal review and approval bodies that will result in no direct or indirect physical changes to the environment. The City Planner shall file a Notice of Exemption with the Los Angeles County Clerk and the State Clearinghouse, within 5 days of the City Council's approval.

Section 7. Effective Date. This Ordinance shall become effective at 12:01 a.m. on the thirty-first (31st) day after the date of adoption.

PASSED AND ADOPTED this 11th day of March, 2025.

s/Nikki Perez
Nikki Perez
Mayor

Approved as to Form:
Office of the City Attorney

Attest:

s/Kimberley Clark
Kimberley Clark, City Clerk

By: s/Lisa Kurihara
Lisa Kurihara
Senior Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Kimberley Clark, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. 25-4,024 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 11th day of March, 2025, by the following vote:

AYES: Anthony, Mullins, Rizzotti, Takahashi, and Perez.

NOES: None.

ABSENT: None.

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California within 14 days following its March 11, 2025 adoption.

s/Kimberley Clark
Kimberley Clark, City Clerk

EXHIBIT A TO ATTACHMENT 1

9-3-105: RESPONSIBILITY:

- A. The Director shall:
1. Generate and keep a list of exempt projects.
 2. Conduct initial studies.
 3. Prepare Negative Declarations.
 4. Prepare draft and final EIRs.
 5. Consult with and obtain comments from other public agencies and members of the public with regard to the environmental effect of projects, including “scoping” meetings when deemed necessary or advisable.
 6. Assure adequate opportunity and time for public review and comment on the draft EIR or Negative Declaration.
 7. Determine adequacy of an EIR or Negative Declaration.
 8. Submit the final appropriate environmental document or recommendation that a project is exempt from CEQA to the Council or other decision making person or body who will approve or disapprove a project. The decision making person may be the Director if provided in this Code or other applicable law or regulation.
 9. File documents required or authorized by CEQA and the State CEQA Guidelines.
 10. Collect fees and charges necessary for the implementation of this article shall be designated in an amount in the Burbank Fee Resolution as may be amended by Council from time to time.
 11. Formulate rules and regulations as the Director may determine are necessary or desirable to further the purposes of this article.
- B. The decision making body or person who is responsible for approving or disapproving a project shall:
1. Certify the adequacy of and adopt the environmental document or issue a final determination that the project is exempt from CEQA.
 2. Immediately notify the Director of the final environmental determination so that the Director may timely file or post related environmental documents.

9-3-107: PUBLIC NOTICE OF ENVIRONMENTAL DECISION:

A. Posting: Notice of the decision of whether to prepare an EIR, Negative Declaration, Mitigated Negative Declaration, or declare determination that a project is exempt from CEQA review shall be provided and filed as may be required by state law or regulations, including but not limited to California Public Resources Code Section 21152, as may be amended. Notices of exemption that are optional under state law will be filed in accordance with the process outlined in California Public Resources Code Section 21152(b), however failure to file such optional notice will not constitute grounds to invalidate the environmental decision or the related project.

B. Additional Notice: Additional notices required by CEQA will be provided as required by applicable law or regulations.

9-3-108: APPEAL OF ENVIRONMENTAL DECISION:

A final environmental decision made by a decision making body or person other than the City Council may be appealed to the City Council by filing an appeal within fifteen (15) days after the decision is made in accordance with the process outlined in Section 10-1-1907.3.

The hearing shall be limited to considerations of the environmental or procedural issues raised by the appellant in the written notice of appeal. The original decision shall be presumed correct, and the burden of proof shall be on the appellant to establish otherwise. The City Council may uphold or reverse the environmental decision, or remand the decision back to the original decisionmaker for reconsideration if substantial evidence of procedural or significant new environmental issues are presented. The decision of the City Council will be final.

EXHIBIT B TO ATTACHMENT 1

10-1-502: USES IN ALL ZONES (EXCEPT RESIDENTIAL ZONES):

P = permitted

CUP = Conditional Use Permit required

AUP = Administrative Use Permit required

[blank] = prohibited

[CUP] = CUP required if residentially adjacent as defined in 10-1-203

[AUP] = AUP required if residentially adjacent as defined in 10-1-203

[PRH] = prohibited if residentially adjacent as defined in 10-1-203

S = When required by State preemption law

LAND USE	C-2	C-3	C-4	M-1	M-2	MDM-1	MDC-2	MDC-3	MDC-4	NB	GO	RC	C-R	RBP	BCC-1	BCC-2	BCC-3	BCCM	MPC-1	MPC-2	MPC-3	OS	AP	RR	AD
RESIDENTIAL AND LODGING																									
Accessory dwelling unit and Junior accessory dwelling unit	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S				
Convalescent home	CUP	CUP	CUP	CUP			CUP	CUP	CUP		CUP					CUP	CUP	CUP		CUP	CUP		CUP	CUP	
Emergency Shelter				CUP	P													CUP							
Hotel - including incidental commercial uses	P [CUP]	P [CUP]	P [CUP]	CUP	CUP	CUP	CUP	P [CUP]	P [CUP]						P [CUP]	P [CUP]	P [CUP]	P [CUP]	CUP	CUP	CUP		CUP	CUP	
Motel	P [CUP]	P [CUP]	P [CUP]	CUP	CUP	CUP	CUP	P [CUP]	P [CUP]						P [CUP]	P [CUP]	P [CUP]	P [CUP]		CUP	CUP		CUP	CUP	
Multifamily Residential with nonresidential use	AUP/S	AUP/S	AUP/S	S	S	S	AUP/S	AUP/S	AUP/S	S	S	S	S	S	AUP/S	AUP/S	AUP/S	S	AUP/S	AUP/S	AUP/S				

EXHIBIT C TO ATTACHMENT 1

10-1-607: HILLSIDE DEVELOPMENT PERMITS:**A. APPLICABILITY AND AUTHORITY.**

1. This Section outlines the process requirements and findings for Hillside Development Permit, applicable to the single family residential zones located within the designated hillside area of the City. Except as otherwise stated herein, the permit shall be processed and approved or denied in accordance with the Administrative Use Permit process set forth in Division 4.1 and with Article 19 of this Code, which authorizes the Director of Community Development, or their designee, to grant these permits, which may be appealed to Planning Commission. The required findings shall be as set forth in this Section, and the noticing must be mailed to all property owners and occupants within a 300-foot radius of the property rather than a 1,000-foot radius.

B. SECTION RESERVED.**C. SECTION RESERVED.****D. HILLSIDE DEVELOPMENT PERMIT.**

1. Intent and purpose. The intent and purpose of the Hillside Development Permit is to protect, to the extent feasible, views in the hillside area and to ensure neighborhood compatibility. The Hillside Development Permit is intended to balance the reasonable development of property consistent with high land values in the hillside area with the values placed upon views of Burbank and surrounding communities from hillside properties.

2. Applicability. Hillside Development Permit is required in accordance with Section 10-1-606(H).

3. Required Findings. In lieu of the finding required by Section 10-1-1956, the Director, or Planning Commission if appealed, may not approve a Hillside Development Permit unless the following findings are made:

a. The vehicle and pedestrian access to the house and other structures do not detrimentally impact traffic circulation and safety or pedestrian circulation and safety and are compatible with existing traffic circulation patterns in the surrounding neighborhood. This includes, but is not limited to: driveways and private roadways, access to public streets, safety features such as guardrails and other barriers, garages and other parking areas, and sidewalks and pedestrian paths.

b. The house and other structures are reasonably consistent with the natural topography of the surrounding hillside.

c. The house and other structures are designed to reasonably incorporate or avoid altering natural topographic features.

d. The house and other structures will not unnecessarily or unreasonably encroach upon the scenic views from neighboring properties, including both downslope and upslope views.

e. For the purpose of evaluating required finding (d) above, a view study must be submitted with all Hillside Development Permit applications documenting the impacts of the proposed structure(s) on views from adjacent properties. The view study must be prepared in a manner approved by the Director or their designee and contain all information and documentation deemed necessary by the Director for the purpose of analyzing view impacts and establishing setback lines for view determination pursuant to Section 10-1-606(E). This study is separate from the Ridgeline setback analysis required by Section 10-1-606(D).

f. The view impacts of the proposed project must be considered by the Director, or Planning Commission if appealed, and may be used as a basis for requiring modifications to a project or denying a Hillside Development Permit due to inability to make the required findings.

4. Conditions may be necessary for the purpose of satisfying the required findings, ensuring conformance with the applicable development standards, mitigating environmental or other impacts of the project, and/or protecting the public health, safety, convenience, or welfare. Such conditions may be imposed.

10-1-631: NEIGHBORHOOD CHARACTER AND COMPATIBILITY:

A. DEVELOPMENT REVIEW APPROVAL.

Unless specifically exempted by Section 10-1-1914 of this Code, no structure shall be erected on any multiple family lot, nor shall any permits be issued until a Development Review has been submitted to and approved by the Director, as provided in Division 2, Article 19 of this chapter. These permits include but are not limited to site preparation permits such as demolition and grading permits. In addition to other requirements of Development Review, the Director is further authorized to require modifications to any project in a multifamily residential zone as a condition of Development Review approval, or to deny a Development Review application, if the Director finds and determines either of the following:

1. The project would conflict with, or would have an adverse impact on, the existing or intended neighborhood character; or
2. The project would have an adverse impact on nearby single family residential structures located in any single family residential zone.

B. PROJECT FEATURES.

In making the determination authorized by Subsection (A), the Director shall consider specific project features, including but not limited to the following:

1. Building height

2. Building size and massing
3. Proportions of elements within a building and buildings within a project
4. Roof style and pitch
5. Parking and circulation areas and vehicle access points
6. Building orientation including design and location of entries, windows, and balconies and their relationship to the street and neighboring properties
7. Pedestrian access points, entry locations, and circulation
8. Location and orientation of common and private open space areas

C. APPEALS.

Any discretionary Development Review decision, which includes the determination or lack of determination by the Director pursuant to this Section, may be appealed per the procedures set forth in Division 2 of Article 19 of this Chapter. Any decision to disapprove a ministerial Development Review application may be appealed pursuant to Section 10-1-1907.2.

10-1-635: CALCULATION OF DENSITY BONUS AND NUMBER OF INCENTIVES AND CONCESSIONS:

A. The City shall grant a Density Bonus to a developer of a Housing Development of five (5) or more dwelling units who seeks a Density Bonus in accordance with this Division and agrees to construct at least one of the following:

1. Ten percent of the total units of the Housing Development as Affordable Units affordable to low income households; or
2. Five percent of the total units of the Housing Development as Affordable Units affordable to very low income households; or
3. A Senior Citizen Housing Development; or
4. Ten percent of the total units of a newly constructed Condominium Project or Planned Development as Affordable Units which are affordable to moderate income households.

B. In determining the number of Density Bonus Units to be granted pursuant to Subsection (A) of this Section, the maximum residential density for the site shall be multiplied by 0.20 for Subsections (1), (2), and (3) and 0.05 for Subsection (4), unless a lesser number is selected by the developer.

1. For each one percent increase above ten percent in the percentage of units affordable to low income households, the Density Bonus shall be increased by 1.5 percent up to a maximum of 35 percent.

2. For each one percent increase above five percent in the percentage of units affordable to very low income households, the Density Bonus shall be increased by 2.5 percent up to a maximum of 35 percent.

3. For each one percent increase above ten percent of the percentage of units affordable to moderate-income households, the Density Bonus shall be increased by one percent up to a maximum of 35 percent.

When calculating the number of permitted Density Bonus Units, any calculations resulting in fractional units shall be rounded to the next larger integer.

C. The Density Bonus Units shall not be included when determining the number of Affordable Units required to qualify for a Density Bonus. When calculating the required number of Affordable Units, any calculations resulting in fractional units shall be rounded to the next larger integer.

D. The developer may request a lesser Density Bonus than the project is entitled to, but no reduction will be permitted in the number of required Affordable Units pursuant to Subsection (A) above. Regardless of the number of Affordable Units, no Housing Development may be entitled to a Density Bonus of more than 35 percent.

E. Subject to the findings included in Section 10-1-641, when a developer seeks a Density Bonus, the City shall grant incentives or concessions listed in Section 10-1-641 as follows:

1. One (1) incentive or concession for projects that include at least ten percent of the total units for low income households, at least five percent for very low income households, or at least ten percent for persons and families of moderate income in a condominium or Planned Development.

2. Two (2) incentives or concessions for projects that include at least 20 percent of the total units for low income households, at least ten percent for very low income households, or at least 20 percent for persons and families of moderate income in a condominium or Planned Development.

3. Three (3) incentives or concessions for projects that include at least 30 percent of the total units for low income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a condominium or Planned Development.

F. A Housing Development may be entitled to more than one (1) Density Bonus, but in no event can the total Density Bonus for any Housing Development exceed 35 percent. For example, if a Developer provides ten percent of the Housing Units for Low Income Households and an additional five percent Very Low Income, Developer shall be entitled to two (2) Density Bonuses. Multiple Density Bonuses will only be allowed where the affordable units are separately and independently counted; however, in any event, the maximum Density Bonus for any Housing Development is 35 percent.

G. In accordance with state law, neither the granting of a concession or incentive nor the granting of a Density Bonus shall be interpreted, in and of itself, to require a General Plan Amendment, zoning change, or other discretionary approval.

H. If the Director makes any of the findings set forth in Government Code Section 65915 (d)(1), the written findings shall be provided to the developer, who may within 20 days of the postmarked findings, appeal the decision to the Planning Commission in accordance with Section 10-1-1907.2.

10-1-640: DEVELOPMENT STANDARDS MODIFIED AS INCENTIVE OR CONCESSION:

A. Incentives or concessions that may be requested pursuant to Section 10-1-635 and Section 10-1-637 may include the following:

1. A reduction of site Development Standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards provided in Part 2.5 (commencing with Section 18901. of Division 13 of the California Health and Safety Code and which result in identifiable, financially sufficient, and actual cost reductions, including, but not limited to:

- a. Reduced minimum lot sizes and/or dimensions.
- b. Reduced minimum lot setbacks.
- c. Reduced minimum outdoor and/or private outdoor living area.
- d. Increased maximum lot coverage.
- e. Increased maximum building height and/or stories.
- f. Reduced minimum building separation requirements.
- g. Reduced street standards, such as reduced minimum street widths.

2. Approval of mixed use zoning in conjunction with the Housing Development if non-residential land uses will reduce the cost of the Housing Development and if the City finds that the proposed non-residential uses are compatible with the Housing Development and with existing or Planned Development in the area where the proposed Housing Development will be located.

3. Deferred development impact fees (e.g., capital facilities, parkland in-lieu, park facilities, fire, or traffic impact fees).

4. Expedited processing of application.

5. Incentives pursuant to an Inclusionary Housing Development Standard Ordinance in Title 10 including off-site construction of Affordable Units, provided that the necessary findings required under that Ordinance are made;

6. Other regulatory incentives or concessions proposed by the Developer or the City which result in identifiable, financially sufficient, and actual cost reductions.

B. Developers may seek a waiver or modification of Development Standards that will have the effect of precluding the construction of a Housing Development meeting the criteria of Section 10-1-635 at the densities or with the concessions or incentives permitted by this Division. The Developer shall show that the waiver or modification is necessary to make the Housing Development, with the Affordable Units, economically feasible.

C. The Director shall establish implementing procedures or regulations to implement the provisions of this part, including application form requirements as well as the processing requests for certain concession and incentives (“Implementing Regulations”). The Regulations, and any substantive changes thereto, shall be subject to approval by the Council by resolution. The Implementing Regulations may provide more specific detail regarding the Incentives or Concessions that the City may grant pursuant to this Division. The Regulations shall provide a tiered approval process for the Incentives and Concessions based upon the level of review: administrative approval by the Director, approval by the Planning Commission, or approval by the City Council. The Regulations shall establish which Incentives or Concessions require which tier of approval. The City Clerk shall maintain a copy of the current Implementing Regulations.

D. If the Director makes any of the findings set forth in Government Code Section 65915(d)(1) or (e), the written finding shall be provided to developer who may within 20 days of the postmarked findings, appeal the decision to the Planning Commission in accordance with Section 10-1-1907.2.

10-1-641: APPLICATION REQUIREMENTS AND REVIEW:

A. An application for a Density Bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this Division shall be submitted with the first application for approval of a Housing Development and processed concurrently with all other applications required for the Housing Development. To the extent feasible, a developer may submit its application for a Density Bonus and Incentives or Concessions with its Inclusionary Housing Plan in accordance with Division 14 of this Article in the event Division 14 is applicable to the Housing Development. The application shall be submitted on a form provided by the City Planner and shall include all information required on the Implementing Regulations. The Development Review (“DR”) Application shall be processed together with the concession and incentives and no DR shall be final until such concession and incentives have been final. Appeal of concession and incentives shall comply with DR appeal procedures.

B. An application for a Density Bonus, Incentive or Concession, waiver, modification, or revised parking standard pursuant to this Division shall be considered by and acted upon by the approval body with authority to approve the Housing Development. Any decision regarding a Density Bonus, Incentive or Concession, waiver, modification, or revised parking standard may be appealed as provided in Sections 10-1-1907.1 et seq.

C. Before approving an application for a Density Bonus, Incentive or Concession, or other waiver, or modification, the approval body, whether the Director, Planning Commission, or Council, shall make the following findings:

1. If the Density Bonus is based all or in part on donation of land, the findings included in Section 10-1-636.
2. If the Density Bonus, incentive, or concession is based all or in part on the inclusion of a Child Care Facility, the findings included in Section 10-1-637.
3. If the incentive or concession includes mixed use development, the finding included in Section 10-1-640.
4. If a waiver or modification is requested, the developer has shown that the waiver or modification is necessary to make the Housing Development with the Affordable Units economically feasible.

D. If a request for an Incentive or Concession is otherwise consistent with this Division, the approval body may deny a concession or incentive if it makes a written finding, based upon substantial evidence, of either of the following:

1. The concession or incentive is not required to provide for Affordable Rents or affordable ownership costs.
2. The concession or incentive would have a specific adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.

E. If a request for a waiver or modification other than required Incentives or Concessions is otherwise consistent with this Division, the approval body may deny a concession or incentive only if it makes a written finding, based upon substantial evidence, of one of the following:

1. The waiver or modification would have a specific adverse impact upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.
2. The additional waiver(s) or modification(s) would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
3. The additional waiver(s) or modification(s) do not preclude the use of the Density Bonus and granted Incentives or Concessions.

F. If a Density Bonus or Incentive or Concession is based on the provision of child care facilities, the approval body may deny the bonus or concession if it finds, based on substantial evidence, that the City already has adequate child care facilities.

10-1-1907.1: APPLICABILITY:

This Division provides procedures for appeals of decisions on project applications for all land use entitlements and permits processed pursuant to the provisions of this Article. This includes applications for entitlements and permits that are established in other Articles of this Chapter, but which refer to this Article for processing procedures. Any hearing before the Planning Commission and/or the City Council shall be conducted as a de novo hearing. In the event a zoning application sets forth a specific procedure which differs from this Division, the specific procedure shall apply.

10-1-1907.2: APPEAL OF DIRECTOR'S DECISION:

A. DECISION PROCEDURE.

1. Unless otherwise provided, a decision that requires the Director to approve, conditionally approve, or deny a project application or element thereof may be appealed to the Planning Commission as provided in this section. A Director's decision is not final unless and until the specified appeal period passes and no appeal is filed, or all appeals are withdrawn per Subsection (E).

2. If an appeal of a Director's decision is timely filed, the Planning Commission must hold a de novo hearing to consider and act on the project application and appeal pursuant to the procedures established for each application type. The Planning Commission's decision will be final and will not be subject to any further appeal.

3. Upon the timely filing of an appeal, the Director will set the appeal for hearing before the Planning Commission within a reasonable time after the date of filing the appeal. Unless otherwise provided in this Code, notice of the time and place of the hearing, including a general description of the location of the property involved, shall be given at least ten (10) business days before the hearing by mailing, through the United States mail, to the project applicant and to each person designated in any appeal to receive such notice, every person filing with the Director a written request for a notice with respect to the project application, and to all property owners and occupants within 1000 feet of the property unless a different distancing radius applies to the original project approval or the appeal. Additionally, one four (4) foot by eight (8) foot sign, approved by the Community Development Director, shall be posted on the subject property no less than ten (10) business days prior to the hearing. Notwithstanding the foregoing, if different noticing requirements apply to an appeal as stated elsewhere in this Code, those noticing provisions will supersede the noticing requirements in this subsection.

B. PERSONS WHO MAY APPEAL.

1. Any person, including the project applicant, may appeal a decision by the Director to approve, conditionally approve, or deny a project application or element thereof.
2. If a Planning Commission member files an appeal, the Planning Commission member may not participate as a decision maker in the Planning Commission public hearing.
3. Although individual Planning Commission and City Council members may file appeals as individuals, the Planning Commission and City Council are not authorized as bodies to appeal or otherwise request to review a Director's decision.

C. TIME AND MANNER OF APPEAL.

1. Unless otherwise provided, an appeal of the Director's decision must be submitted by 5:00 p.m. on the 15th day following the date that the Director's decision is issued. If the 15th day following the Director's decision date occurs on a day when City offices are closed, the appeal must be submitted by 5:00 p.m. on the next day that City offices are open.
2. An appeal must be submitted in person to the office of the Planning Division on a form provided by the City Planner, and must include the legal basis for the appeal. Mailed, emailed or faxed appeal forms will not be accepted.
3. The form must be accompanied by the appeal fee specified in the City of Burbank Fee Resolution, as may be amended from time to time, except that Planning Commission and City Council members are not required to pay the appeal fee.

D. MULTIPLE APPEALS.

1. No one should forego filing an appeal in reliance on another individual's appeal. Anyone who objects to a Director's decision, or any conditions placed upon a conditional approval, should file an appeal to ensure that its concerns are heard in the event that other appeals are withdrawn per Subsection (E).
2. Multiple individuals may collectively act as one appellant, and submit a single appeal form with a single set of reasons for appeal. In such case, payment of only one (1) appeal fee is required, and the appellants may divide the cost of the fee among themselves at their discretion.
3. Alternatively, multiple individuals may act as individual appellants, and each file its own individual appeal form. In such case, payment of the full appeal fee is required for each individual form submitted.
4. All appeals filed, whether on one (1) appeal form or multiple forms, must be considered together at a single hearing and acted upon by the Planning Commission at the same time.

E. WITHDRAWAL OF APPEAL.

1. Any person who has filed an appeal may withdraw the appeal as a matter of right, until the City Planner has scheduled the Planning Commission hearing. In such case, an appeal may not be withdrawn on or after the 20th day prior to the scheduled Planning Commission hearing.
2. A request to withdraw an appeal must be submitted in person to the office of the Planning Division in writing and signed by the appellant. Mailed, emailed or faxed requests for withdrawal will not be accepted.
3. If multiple individuals collectively submitted a single appeal form, all individuals signing the appeal form must sign and submit a written request to withdraw the appeal within the time specified in Subsection (1) for the appeal to be considered withdrawn.
4. If all appeals are withdrawn and no subsequent appeals are filed within the times specified in Subsections (C) and (F), then the application will be removed from the Planning Commission scheduled agenda, and the Planning Commission will not consider or act upon the application. The Director's decision thereafter becomes final and may not be further appealed.

F. SECONDARY APPEAL PERIOD.

1. Upon the withdrawal of an appeal (and only if no other appeals remain outstanding), a secondary ten (10)-day appeal period shall automatically commence to provide an additional opportunity to appeal (the "Secondary Appeal Period").
2. The first day of the Secondary Appeal Period is the latter of the following: 1) first day after the appeal was withdrawn, whether or not that day is a business day, or 2) the first day after the expiration of the initial 15-day appeal period provided in Subsection (C), whether or not that day is a business day. The latter date only applies to those appeals which are withdrawn during the initial appeal time period.
3. Appeals submitted during the Secondary Appeal Period must be submitted in accordance with this Section, including but not limited to the 5:00 p.m. deadline for the filing of any appeal. If the last day of the Secondary Appeal Period occurs on a day City offices are closed, then the last day for filing shall be extended to 5:00 p.m. on the next day that the City offices are open.
4. Appeals submitted during this Secondary Appeal Period may be withdrawn in accordance with Subsection (E); however, only one (1) Secondary Appeal Process is allowed on any application. Withdrawal of an appeal made during the Secondary Appeal Period will not lead to any additional appeal periods.
5. Notice of the Secondary Appeal Period will be provided to any person who requests in writing such notice. A request shall be made to the City Planner on any individual application at any time; however, only those individuals on record at the time of a withdrawal that triggers a Secondary Appeal Period shall receive notice.

Notice may be provided in the manner specifically requested (telephone or electronic mail), and must also be posted at the City Planning Division counter. Additional notice may be provided through any other additional means deemed appropriate by the Director.

10-1-1907.3: APPEAL OF PLANNING COMMISSION'S DECISION:

A. DECISION PROCEDURE.

1. A decision that requires the Planning Commission to approve, conditionally approve, or deny a project application or element thereof, except when such decision is in response to an appeal of a Director decision, may be appealed to the City Council as provided in this section. A Planning Commission decision is not final unless and until the specified appeal period passes and no appeal is filed, or all appeals are withdrawn per Subsection (E).

2. If an appeal of a Planning Commission decision is timely filed, the City Council must hold a de novo hearing to consider and act on the project application and appeal pursuant to the procedures established for each application type. The City Council's decision will be final and will not be subject to any further appeal.

3. Upon the timely filing of an appeal, the City Clerk will set the appeal for hearing before the City Council within a reasonable time after the date of filing the appeal. Unless otherwise provided in this Code, notice of the time and place of the hearing, including a general description of the location of the property involved, shall be given at least ten (10) business days before the hearing. Such notice shall be given by publication once in a newspaper of general circulation in the City. Such notice shall also be given by mailing, through the United States mail, to the project applicant and to each person designated in any appeal to receive such notice, every person filing with the Director a written request for a notice with respect to the project application, and to all property owners and occupants within 1000 feet of the property unless a different distancing radius applies to the original project approval or the appeal. Notwithstanding the foregoing, if different noticing requirements apply to an appeal as stated elsewhere in this Code, those noticing provisions will supersede the noticing requirements in this subsection.

B. PERSONS WHO MAY APPEAL.

1. Any person, including the project applicant, may appeal a decision by the Planning Commission to approve, conditionally approve, or deny a project application or element thereof.

2. If a City Council member files an appeal, the Council member may not participate as a decision maker in the City Council public hearing.

3. In lieu of individual City Council members filing appeals as individuals, the City Council may as a body vote to review a Planning Commission decision per Subsection (F).

C. TIME AND MANNER OF APPEAL.

1. An appeal of a Planning Commission decision must be submitted by 5:00 p.m. on the 15th day following the date that the Planning Commission adopts the resolution regarding the decision or otherwise makes the decision. If the 15th day following the Planning Commission resolution or decision date occurs on a day when City offices are closed, the appeal must be submitted by 5:00 p.m. on the next day that City offices are open.
2. An appeal must be submitted in person to the office of the Planning Division on a form provided by the City Planner, and must include the legal basis for the appeal. Mailed, emailed or faxed appeal forms will not be accepted.
3. The form must be accompanied by the appeal fee specified in the City of Burbank Fee Resolution, as may be amended from time to time, except that Planning Commission and City Council members are not required to pay the appeal fee.

D. MULTIPLE APPEALS.

1. No one should forego filing an appeal in reliance on another individual's appeal. Anyone who objects to a Planning Commission decision, or any conditions placed upon a conditional approval, should file an appeal to ensure that its concerns are heard in the event that other appeals are withdrawn per Subsection (E).
2. Multiple individuals may collectively act as one appellant and submit a single appeal form with a single set of reasons for appeal. In such case, payment of only one appeal fee is required, and the appellants may divide the cost of the fee among themselves at their discretion.
3. Alternatively, multiple individuals may act as individual appellants, and each file its own individual appeal forms. In such case, payment of the full appeal fee is required for each individual form submitted.
4. All appeals filed, whether on one (1) appeal form or multiple forms, must be considered together at a single hearing and acted upon by the City Council at the same time.

E. WITHDRAWAL OF APPEAL.

1. Any person who has filed an appeal may withdraw the appeal as a matter of right until the City Council hearing has been scheduled. In such case, an appeal may not be withdrawn on or after the 20th day prior to the scheduled City Council hearing.
2. A request to withdraw an appeal must be submitted in person to the office of the Planning Division in writing and signed by the appellant. Mailed, emailed or faxed requests for withdrawal will not be accepted.
3. If multiple individuals collectively submitted a single appeal form, all individuals signing the appeal form must sign and submit a written request to withdraw the

appeal within the time specified in Subsection (1) for the appeal to be considered withdrawn.

4. If all appeals are withdrawn and no subsequent appeals are filed within the time specified in Subsections (C) and (G), then the application will be removed from the City Council scheduled agenda, and the City Council will not consider or act upon the application. The Planning Commission's decision thereafter becomes final and may not be further appealed.

F. CITY COUNCIL REVIEW.

1. As an alternative to the appeal process, the City Council may as a body vote to set the matter for a public hearing and conduct the hearing in the same manner as an appeal. Any City Council member may request that the City Council consider setting the matter for a hearing. This alternative review process applies to all applications which can be appealed from Planning Commission to the City Council.

2. Such request to set a matter for a hearing must be made on or before the 15th day following the date that the Planning Commission adopted the resolution regarding the decision or otherwise made the decision.

3. The request to set a matter for hearing must be made orally during the appropriate time at a City Council meeting. In the event that no City Council meeting is scheduled between the date of the Planning Commission decision and the 15th day thereafter, such request must be submitted in writing to the City Clerk, signed by an individual Council member. No fees shall be required under this process.

4. After a request is made per Subsection (3), the City Clerk must place the matter on the next regular City Council meeting agenda for consideration by the City Council. The meeting need not occur by the 15th day following the Planning Commission resolution or decision date.

5. At the time the matter is heard by the City Council, the Council must vote whether to hold a hearing to review the Planning Commission's decision. If a majority of Council members vote to review the Planning Commission's decision, a public hearing must be scheduled. The hearing is de novo, and the Council considers the application in the same manner as if an appeal had been filed.

6. If the Council fails to set the application for a hearing and no appeals are filed within the time specified in Subsection (C), there is no City Council hearing and the City Council does not consider or act upon the application. The Planning Commission's decision thereafter becomes final and may not be further appealed.

G. SECONDARY APPEAL PERIOD.

1. Upon the withdrawal of an appeal (and only if no other appeals remain outstanding), a secondary ten (10)-day appeal period shall automatically commence to provide an additional opportunity for the public to appeal (the "Secondary Appeal Period").

2. The first day of the Secondary Appeal Period is the latter of the following: 1) first day after the appeal was withdrawn, whether or not that day is a business day, or 2) the first day after the expiration of the initial 15-day appeal period provided in Subsection (C), whether or not that day is a business day. The latter date only applies to those appeals which are withdrawn during the initial appeal time period.

3. Appeals submitted during the Secondary Appeal Period must be submitted in accordance with this Section, including but not limited to the 5:00 p.m. deadline for the filing of any appeal. If the last day of the Secondary Appeal Period occurs on a day City offices are closed, then the last day for filing shall be extended to 5:00 p.m. on the next day that the City offices are open.

4. Appeals submitted during this Secondary Appeal Period may be withdrawn in accordance with Subsection (E); however, only one (1) Secondary Appeal Process is allowed on any application. Withdrawal of an appeal made during the Secondary Appeal Period will not lead to any additional appeal periods.

5. Notice of the Secondary Appeal Period will be provided to any person who requests in writing such notice. A request shall be made to the City Planner on any individual application at any time; however, only those individuals on record at the time of a withdrawal that triggers a Secondary Appeal Period shall receive notice. Notice may be provided in the manner specifically requested (telephone or electronic mail), and must also be posted at the City Planning Division counter. Additional notice may be provided through any other additional means deemed appropriate by the Director.

10-1-1908.5: ENVIRONMENTAL REVIEW:

A. PROJECTS OF STATEWIDE, REGIONAL, OR AREA WIDE SIGNIFICANCE.

Projects meeting the criteria in California Environmental Quality Act ("CEQA") Guidelines Section 15206, and as amended from time to time, shall be deemed to be of statewide, regional, or areawide significance, and shall be processed in accordance with this division. In addition to the following requirements, the Project shall undergo environment assessment pursuant to CEQA because such Projects may significantly impact the environment. Pursuant to this process, additional conditions required to mitigate adverse environmental effects may be imposed.

B. MULTIPLE FAMILY RESIDENTIAL PROJECTS AND CERTAIN NON-RESIDENTIAL PROJECTS.

Each application for Development Review for:

1. any multiple family project (in accordance with Section 10-1-631);
2. a non-residential project within 150 feet of property zoned R-1, R-1-H;

shall be deemed a "project" pursuant to the CEQA and shall be subject to a review of its potential impact on the environment as set forth in Title 9 Chapter 3 of this Code and by

this Section. Prior to any decision regarding project approval, a determination of the project's status under CEQA shall be made in accordance with the provisions of CEQA. If it is determined that the project is not exempt from CEQA, an Initial Study shall be prepared to evaluate the significance of potential impacts and to identify appropriate mitigation measures. All subsequent determinations and processes shall be made and followed in conformity with the provisions of CEQA. Prior to approving the Development Review application, all notice procedures for environmental decisions shall be followed in accordance with Title 9 Chapter 3 of this Code. The Director shall approve any Negative Declaration or certify any Environmental Impact Report prior to approval of such Development Review application.

10-1-1909: SUBMISSION OF DEVELOPMENT REVIEW:

Applications for Development Review shall be processed as provided in this section.

A. PREAPPLICATION CONFERENCES.

Prior to filing an application for Development Review, the applicant may meet with the Director or their designee to discuss possible development design and dedication requirements, applicable processing procedures, and other information the Director may require. In order to determine the information needed for application submittal, the Director may share the preapplication information with other City departments.

B. APPLICATION SUBMITTAL.

Applicant shall submit an application for Development Review, including the application fee in an amount designated by the Burbank Fee Resolution and as amended from time to time, and all other information required by the Director or designee.

C. COMPLETION AND ACCEPTANCE OF PLANS FOR PROCESSING.

Not later than 30 calendar days after application submittal, the Director or designee shall determine whether such application is complete and accepted for processing. In the event the application is determined not to be complete, the Director/designee shall transmit such determination in writing to the applicant. The determination shall specify those parts of the application which are incomplete and shall indicate the manner in which such application may be made complete. After the Director accepts an application as complete, the Director shall not subsequently require a developer to furnish any new or additional information which was not required as a part of the application; provided that nothing shall limit the Director from requesting additional information from the applicant to complete the project's environmental review pursuant to CEQA. The Director may, in the course of processing the application, require the developer to clarify, amplify, correct, or otherwise supplement the information required for the application. In the event the Director's decision to approve or deny a Development Review application is appealed to the Planning Commission, the Director may require the applicant to provide revised project plans prior to the Planning Commission hearing that demonstrate compliance with Code and/or conditions of approval imposed by the Director. Conditions of approval may require additional information to be submitted in conjunction with future applications for project construction.

D. DEVELOPMENT REVIEW PROCEDURES.

The Director shall prepare, and regularly maintain procedures to implement this division and assist the public understanding of the Development Review process, and to assist applicant preparation of adequate plans for submittal. These procedures may provide for alternative processing requirements for minor projects that the Director or designee finds conform to the requirements of the Code and which are consistent with adopted plans and policies of the City.

E. STREAMLINED MINISTERIAL APPROVAL PROCESS.

Development projects submitted pursuant to California Government Code Sections 65913.4 and 65912.100, as may be amended from time to time, and projects that otherwise require streamlined ministerial review, shall be processed through a streamlined ministerial approval process as outlined in Article 19, Division 12, entitled STREAMLINED MINISTERIAL APPROVAL PROCESS, commencing with Section 19300, et. seq.

10-1-1910: APPEAL OF DIRECTOR'S DECISION:

The Director's decision regarding a discretionary Development Review application or the Director's decision to disapprove a ministerial Development Review application may be appealed pursuant to Section 10-1-1907.2.

10-1-1911: APPEAL OF PLANNING COMMISSION'S ACTION:

A. RIGHT OF APPEAL.

When initially considered in conjunction with another discretionary permit, the Planning Commission's decision regarding a Development Review application may be appealed pursuant to Section 10-1-1907.3.

10-1-1912: REQUISITES FOR APPROVAL:

A. All projects. Except for those Development Review applications which require additional findings as set forth herein, a Development Review application shall be approved if the Director or if appealed, the Planning Commission, finds that the application/project is consistent with all provisions of this Code. Any application not meeting code may be approved with conditions that assure code compliance.

B. Multiple Family Projects. Development Review applications for all projects in Multiple Family Residential Zones are also subject to the Neighborhood Character and Compatibility requirements in Section 10-1-631. That section is incorporated herein by this reference.

C. Non-residential projects within 150 feet of single family zoned property. Development Review applications for non-residential projects within 150 feet of single family zoned property shall be approved if the Director, or if appealed, the Planning Commission finds:

1. All provisions of the Code will be satisfied.

2. The environmental document prepared for this project was considered prior to project approval and found to satisfy the requirements of CEQA.
3. The project, as conditioned, will not have a significant adverse effect on the environment; or, that any remaining significant effects are acceptable due to overriding considerations as provided by CEQA.
4. The following are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, and surrounding property is protected from adverse effect:
 - a. Facilities and improvements.
 - b. Vehicular ingress, egress and internal circulation.
 - c. Setbacks.
 - d. Height of buildings.
 - e. Location of services.
 - f. Walls.
 - g. Landscaping.
 - h. Lighting.
 - i. Signs.

D. Regionally Significant Projects. Projects/applications which meet the criteria identified in Section 10-1-1908.5, shall comply with additional conditions required to mitigate adverse environmental effects.

E. Conditions. For Development Review applications subject to Subsections (B),(C), and (D), if the Director finds that minor revisions to a project are needed to satisfy the requirements, the Director may approve the application subject to conditions of approval. If the Director finds that an application does not meet the requirements or that major revisions to a project are needed to satisfy the requirements, the Director may disapprove the application. Any conditions imposed must be deemed to be appropriate or necessary to assure compliance with the requirements of Subsections (B), (C), and (D); the intent and purpose of the Burbank Municipal Code; or to protect the public health, safety or welfare.

The owners of the land may be required to execute a covenant running with the land, in a form approved by the City Attorney, which shall contain the conditions imposed and shall be recorded in the Office of the County Recorder. The Director shall issue releases from such covenants when such covenants are no longer applicable to a property.

10-1-1928: RESERVED.**10-1-1929: RESERVED.****10-1-1959: DETERMINATION ON ADMINISTRATIVE USE PERMIT; NOTICE AND HEARING:****A. DIRECTOR TO INVESTIGATE.**

Upon the submission of a complete application for an Administrative Use Permit, the Director shall investigate the application and make a determination within 30 days of such submission.

B. DECISION AND NOTICE.

1. At the conclusion of the 30 day period or at any time prior thereto, the Director shall render a decision in writing to approve, approve with conditions, or disapprove the application. Except for a decision involving a large family day care home, notice of the Director's proposed decision to approve the application, with or without conditions, shall be mailed to the applicant and to all property owners and occupants within 1000 feet of the property for which the Administrative Use Permit is being sought and to all other parties who request notice. With respect to a proposed decision involving a large family day care, the Director's proposed decision to approve the application, with or without conditions, shall be mailed to the applicant and to all property owners and occupants within 1000 feet of the property for which the Administrative Use Permit is being sought; however, this notice shall specifically state in bold letters that any appeals are limited to individuals residing or owning property within 100 feet of the property.

Said notice shall advise all parties to whom it is mailed that unless a public hearing is requested within 15 days of the date of mailing, the decision will become final.

2. Additionally, one four (4) foot by eight (8) foot sign, approved by the Community Development Director, shall be posted on the subject property. The sign shall be posted no less than ten (10) business days prior to the scheduled decision date.

C. APPEAL.

The Director's decision regarding an Administrative Use Permit application may be appealed pursuant to Section 10-1-1907.2. Except that in the case of an Administrative Use Permit for a large family day care home, an appeal may be filed only by the applicant or by property owners or residents within 100 feet of the parcel on which the large family day care home is proposed.

D. DECISION OF PLANNING COMMISSION.

After the public hearing on the permit, the Planning Commission shall approve the issuance of the permit if it finds that all requirements for the issuance of the permit have been met. The decision shall be mailed to the applicant and reported to the Council

according to procedures established by the Director and approved by the City Manager. The decision of the Planning Commission shall be final.

10-1-1964: NOTICE OF HEARING:

The City Planner shall give notice of public hearings held by the Planning Commission. Notice of the hearing shall contain the date, time and place of the hearing and a general description of the property proposed to be zoned or rezoned and shall be:

1. Published once in a newspaper of general circulation in the City at least twenty (20) days before the date of the hearing, or other time period as may be required by applicable law.
2. Notice shall be mailed, postage prepaid, at least twenty (20) days before the date of the hearing, or other time period as may be required by applicable law, to owners of property to be rezoned and to the owners of property within a radius of 1000 feet of the exterior boundaries of the property to be rezoned.
3. If the number of owners to whom notice would be mailed or delivered as required by this section is greater than 1,000, then the City may provide notice by placing a display advertisement of at least one-eighth (1/8) page in at least one newspaper of general circulation within the City not later than twenty (20) days before the date of the hearing, or other time period as may be required by applicable law, in lieu of Subsections (1) and (2) above.

10-1-1969: CITY CLERK SETS HEARING BY COUNCIL:

Following issuance of the Planning Commission's recommendation per Section 10-1-1967, the City Clerk shall promptly fix the date for a public hearing by the Council and shall give notice of the hearing as prescribed in Section 10-1-1964 of this article, except such notices shall be published, mailed, or displayed (as applicable) at least ten (10) business days before the date of the hearing.

10-1-1994: PUBLIC HEARINGS; NOTICE:

Public hearings required by this division shall be set by the body holding the hearing. Notice of the hearing shall be given by publication once in a newspaper of general circulation in the City not later than ten (10) business days before the date of the City Council hearing, and not later than twenty (20) days before the date of the Planning Commission hearing, or other time period as may be required by applicable law.

10-1-19127: PLANNED DEVELOPMENT REVIEW PROCESS:

Proposals for Planned Developments shall be processed as provided in this section.

A. PROJECT CONFERENCES.

1. Prior to filing a project report for a Planned Development, the applicant, their engineer and their planning consultant shall meet with the Director and such other persons as the Director may deem appropriate in order to 1) discuss property

development standards and public improvement standards which may be proposed for the Planned Developments; 2) acquaint the applicant with the substantive and procedural requirements of this article; and 3) identify policies and issues which may create opportunities or pose significant constraints for the proposed Planned Development.

2. Nothing in this section shall be construed as precluding any other conference, meeting, or discussion which the applicant or the Director deems appropriate.

B. COMPLETION AND ACCEPTANCE OF A PROJECT REPORT.

No later than 30 calendar days after the Director has received a project report for a Planned Development, the Director shall determine in writing whether such project report is complete and accepted for processing, and shall immediately transmit such determination to the applicant. In the event the project report is determined not to be complete, the Director's determination shall specify those parts of the project report which are incomplete and shall indicate the manner in which such project report may be made complete. After the Director accepts a project report as complete, the Director may, in the course of processing the project report, require the applicant to clarify, amplify, correct, or otherwise supplement the information required for the project report.

C. FEES.

Prior to the time a project report for a Planned Development is determined to be complete and accepted for processing, the applicant shall pay such fees as provided in the Burbank Fee Resolution.

D. DISTRIBUTION OF PROJECT REPORT.

The Director shall distribute copies of the project report for a Planned Development, including the Development Plan, Development Schedule, and Development Program Statement, and all accompanying materials to other City departments and officials, government agencies, public utilities and private organizations, who are directly concerned with the Planned Development.

E. ENVIRONMENTAL REVIEW.

Prior to Planning Commission and Council review of the project report and proposed Planned Development, appropriate environmental review in compliance with the California Environmental Quality Act of 1970, as amended, and applicable State guidelines, must be completed and submitted to the Director pursuant to Article 1 of Title

9 Chapter 3 of this Code. A project report for a Planned Development shall not be deemed complete until such review has been completed and accepted by the Director.

F. PREPARATION OF REPORT AND ANALYSIS.

1. The Director shall cause to be prepared a written report and analysis on the proposed Planned Development for presentation to the Planning Commission and Council. Such report and analysis shall contain appropriate staff recommendations and shall be served on the applicant at least ten (10) business days prior to any hearing on the proposed Planned Development before the Planning Commission.

2. The Director shall develop and implement appropriate administrative procedures for the participation of interested persons, affected property owners, private organizations, public agencies, and other City departments and officials in the preparation of the report and analysis on the Planned Development.

G. PLANNING COMMISSION HEARING.

Within 30 days of completion of the Draft Environmental Impact Report, if required, or within 90 days of the date the project report is accepted as complete, whichever date is later, the Planning Commission shall hear and consider the proposed Planned Development.

1. Notice of the time, place, and purpose of such hearing shall be published once in a local newspaper of general circulation, not less than twenty (20) days prior to the date of the hearing, or other time period as may be required by applicable law, and shall be mailed by first class mail to all persons, organizations, and agencies which participated in the preparation of the Director's report and analysis. The Director may also give such additional notice as they deem desirable and practicable.

2. Notice of the time, place, and purpose of the hearing for purpose of the consideration for the Planned Development proposal shall be given at least twenty (20) days in advance of such hearing, or other time period as may be required by applicable law, to all property owners and occupants within 1000 feet of such proposed Planned Development.

3. One four (4) foot by eight (8) foot sign, approved by the Community Development Director, shall be posted on the subject property. The sign shall be posted no less than twenty (20) days prior to the scheduled hearing, or other time period as may be required by applicable law.

4. The hearing may be continued for a period not to exceed 30 days unless a Draft Environmental Impact Report has been prepared, in which event the hearing may be continued for a period not to exceed 60 days for the purpose of allowing for the completion of the Final Impact Report. In the event the Planning Commission, for

any reason, fails to make a recommendation within the time limits established by this subsection, the Planned Development proposal shall be referred to Council and set for hearing pursuant to Subsection (H) of this section.

5. At the conclusion of the hearing, the Planning Commission shall recommend to the Council approval, disapproval or modification of the proposed Planned Development. Such recommendation shall include specific regulations to be applied to the proposed Planned Development, including, but not limited to the following:

- (i) Permitted uses,
- (ii) Conditioned uses,
- (iii) Property development regulations,
- (iv) Public improvement standards,
- (v) Special requirements where applicable,
- (vi) Development plan and schedule.

H. COUNCIL HEARING.

Within 30 days of Planning Commission action on a proposed Planned Development, a public hearing shall be set by the City Clerk, noticed in accordance with Subsection (F)(1) and (F)(2) of this section, and commenced by the Council.

1. Following such hearing the Council shall adopt, modify, or reject the proposed Planned Development and the specific regulations which shall govern such Planned Development.
2. The hearing may be continued at the discretion of the Council.
3. Prior to approval of a Planned Development, the Council must find such Planned Development is consistent with the General Plan and applicable community plans

and that the design criteria identified in Section 10-1-19124 of this article have been satisfied.

4. Any decision of the Council shall be final.
5. A Planned Development shall be adopted by uncodified ordinance.
6. Approval of any Planned Development shall include such conditions and specific regulations to be applied to the proposed Planned Development, including, but not limited to, the following:
 - (i) Permitted uses,
 - (ii) Conditioned uses,
 - (iii) Property development regulations,
 - (iv) Public improvement standards,
 - (v) Special requirements where applicable,
 - (vi) Development plan and schedule.

I. RULES GOVERNING CONDUCT OF HEARING.

Public hearings before the Planning Commission and Council on a proposed Planned Development shall be conducted in accordance with the procedural standards prescribed in this article for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant shall have the burden of proof at each public hearing on the proposed Planned Development.

J. IRREGULARITY IN PROCEEDINGS.

No action, inaction, or recommendation regarding the proposed Planned Development shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect, or omission as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result

would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury resulted in error or is shown.

K. APPLICANT MODIFICATIONS.

Whenever the applicant initiates or proposes a modification, change, or amendment to an accepted project report for a Planned Development, the time limits specified in this section shall be tolled for a period of 30 days following submission of such modification, change, or amendment, unless otherwise agreed to by the Director.

10-1-19200: MINOR FENCE EXCEPTION PERMIT:

A. INTENT AND PURPOSE.

The intent and purpose of the Minor Fence Exception Permit is to allow exceptions to the standards for fences, walls, and hedges in the single and multiple family residential zones. The minor exception permit allows for administrative exceptions to the standards where the fence or wall is six (6) feet or less in height or where the requested exception would otherwise be expected to have a lesser visual impact on surrounding properties and the neighborhood and not pose the same potential safety concern than a feature taller than six (6) feet.

B. PROCESS AND PUBLIC NOTICE.

Minor fence exception permits must be processed and approved or denied in the same manner as an Administrative Use Permit per Division 4.1 of Article 19 of this Chapter, including public notice of decision, appeals, and hearings; except that notice of the decision must be mailed to all property owners and occupants within a 150-foot radius of the property rather than a 1,000-foot radius and that applicants are not required to pay a fee when appealing a denial of a Minor Fence Exception Permit.

C. CONDITIONS.

The Director, or Planning Commission if appealed, is authorized to attach conditions to the approval of a Minor Fence Exception Permit. Such conditions may include, but are not limited to, conditions requiring physical changes to the proposed structure or object. All conditions imposed must be for the purpose of satisfying the required findings, mitigating environmental or other impacts, and/or protecting the public health, safety, convenience, or welfare.

D. REQUIRED FINDINGS.

In lieu of the findings required by Section 10-1-1956, the Director, or Planning Commission if appealed, may not approve a Minor Fence Exception Permit unless the following findings are made. An applicant may propose measures to mitigate or abate any safety concerns for the purpose of making the required findings.

1. The feature does not obstruct the visibility of motorists at a street or alley intersection or exiting a driveway or otherwise affect a motorist's ability to safely operate their vehicle.

2. The feature is not constructed of any materials that may pose a danger to motorists, pedestrians, or other persons.
3. The feature is structurally sound and is adequately maintained.
4. The feature does not affect the ability of emergency personnel to respond to an emergency on the property or to adequately view the property and structures upon it from the public right-of-way.
5. The feature is compatible in size, scale, proportion, and location with other yard features in the neighborhood, or is otherwise consistent with the prevailing neighborhood character.
6. The scale and proportion of the feature are consistent and compatible with structures on the same property and in the general area.
7. The feature does not encroach upon neighboring properties or structures in a visual or aesthetic manner through its size, location, orientation, setbacks, or height.
8. The feature does not impose detrimental impacts on neighboring properties or structures, including but not limited to impacts related to light and glare, sunlight exposure, air circulation, privacy, scenic views, or aesthetics.

10-1-19201: MAJOR FENCE EXCEPTION PERMIT:

A. INTENT AND PURPOSE.

The intent and purpose of the Major Fence Exception Permit is to allow exceptions to the standards for fences and walls in the single and multiple family residential zones that could not otherwise be approved through the Minor Fence Exception Permit process. The major exception permit allows for additional public notice and Planning Commission review of requested exceptions to the standards where the fence or wall is more than six (6) feet in height and therefore may have a noticeable impact on surrounding properties and the neighborhood and may pose a greater potential safety concern.

B. PROCESS AND PUBLIC NOTICE.

Major fence exception permits must be processed and approved or denied in the same manner as a Variance per Division 3 of Article 19 of this Chapter, including public notice, appeals, and hearings; except that notice of the public hearing must be mailed to all property owners and occupants within a 300-foot radius of the property rather than a 1,000-foot radius and that applicants are not required to pay a fee when appealing a denial of a Major Fence Exception Permit.

C. CONDITIONS.

The Planning Commission, or City Council if appealed, is authorized to attach conditions to the approval of a Major Fence Exception Permit. Such conditions may include, but are not limited to, conditions requiring physical changes to the proposed structure or object. All conditions imposed must be for the purpose of satisfying the required findings,

mitigating environmental or other impacts, and/or protecting the public health, safety, convenience, or welfare.

D. REQUIRED FINDINGS.

In lieu of the findings required by Section 10-1-1917, the Planning Commission, or Council if appealed, may not approve a Major Fence Exception Permit unless the following findings are made. An applicant may propose measures to mitigate or abate any safety concerns for the purpose of making the required findings.

1. The feature does not obstruct the visibility of motorists at a street or alley intersection or exiting a driveway or otherwise affect a motorist's ability to safely operate their vehicle.
2. The feature is not constructed of any materials that may pose a danger to motorists, pedestrians, or other persons.
3. The feature is structurally sound and is adequately maintained.
4. The feature does not affect the ability of emergency personnel to respond to an emergency on the property or to adequately view the property and structures upon it from the public right-of-way.
5. The feature is compatible in size, scale, proportion, and location with other yard features in the neighborhood, or is otherwise consistent with the prevailing neighborhood character.
6. The scale and proportion of the feature are consistent and compatible with structures on the same property and in the general area.
7. The feature does not encroach upon neighboring properties or structures in a visual or aesthetic manner through its size, location, orientation, setbacks, or height.
8. The feature does not impose detrimental impacts on neighboring properties or structures, including but not limited to impacts related to light and glare, sunlight exposure, air circulation, privacy, scenic views, or aesthetics.
9. The feature is reasonable and appropriate to mitigate demonstrated impacts related to noise, light or glare, dust, or privacy resulting from special circumstances or conditions that apply to the individual property and/or the surrounding neighborhood that could not be adequately mitigated with a feature permitted by the applicable zoning regulations or through the Minor Fence Exception Permit process. Such special circumstances or conditions are related to one (1) or more of the following:
 - a. Location of the property on or in proximity to a major or secondary arterial street
 - b. Location of the property in proximity to a non-residential use or property or a multiple family residential use or property in the case of single family property

- c. The shape, size, configuration, or topography of the property
- d. The location or configuration of structures upon the property

10-1-2603: PROPERTY DEVELOPMENT STANDARDS:

The following property development standards shall apply in the MPC-1 and MPC-2 Zones, except as noted:

A. STRUCTURE HEIGHT.

1. The maximum height of any structure shall be 27 feet from grade; except that at distances of less than 25 feet from a residential (or entirely residential Planned Development) lot line, no part of the structure, including roof and/or architectural features, shall exceed one (1) foot in height for each one (1) foot of distance.
2. If the structure is 25 or more feet from a residential (or entirely residential Planned Development) lot line, roof and architectural features may exceed the maximum height, up to 35 feet, if a 45 degree angle, as depicted in Diagram No. 1 in Section 10-1-705 is maintained.
3. Structure height shall be measured from grade as defined by this chapter.
4. Maximum building height shall be measured to the ceiling height of the highest room permitted for human occupancy.
5. By Conditional Use Permit, or by Planned Development if the structure is higher than 35 feet, the following stair-step height standard may be applied to the development of a structure located on any of the four (4) corner sites at the intersection of Magnolia Boulevard and Hollywood Way:

DISTANCE FROM RESIDENTIAL LOT LINE (OR ENTIRELY RESIDENTIAL PD ZONE	MAXIMUM HEIGHT
(i) 0 - 25 feet	1 foot per 1 foot distance (for any part of the structure)
(ii) 25 - 50 feet	25 feet (roof and architectural features may exceed the maximum height, up to 15 additional feet, if a 45 degree angle, as depicted in Diagram No. 1 in Section 10-1-705 , is maintained)
(iii) 50 - 150 feet	35 feet (roof and architectural features may exceed the maximum height, up to 15 additional feet, if a 45 degree angle, as depicted in Diagram No. 1 in Section 10-1-705 , is maintained)
(iv) over 150 feet	50 feet, if pursuant to a Planned Development (roof and architectural features may exceed the maximum height, up to 15 additional feet, if a 45 degree angle, as

**DISTANCE FROM
RESIDENTIAL LOT
LINE (OR ENTIRELY MAXIMUM HEIGHT
RESIDENTIAL PD
ZONE**

depicted in Diagram No. 1 in Section [10-1-705](#), is maintained)

B. OPEN SPACE.

1. Distance Requirements

Each lot that abuts or is adjacent to an R-1 or R-2 lot shall provide an open space area not less than 20 feet wide along the abutting or adjacent property line. Lots abutting R-3 or R-4 lots shall provide a minimum of ten (10) feet of open space along the property line.

2. Determination of Open Space

The open space area shall be measured from the residential lot line to the commercial structure. Public rights-of-way may be included within the calculation of such area.

3. Landscaping of Open Space

When the commercial property abuts or is adjacent to R-1 or R-2 property, a five (5) foot strip of the open space nearest to the residential property shall be landscaped, unless a public street or alley is utilized in the calculation of the open space. The landscaping is intended to provide screening between the different zones.

4. Parking Allowed in Open Space

Where the commercial property abuts an R-3 or R-4 property, the entire open space area may be utilized for surface parking.

C. BUILDING PLACEMENT AND ORIENTATION.

1. Build-to Line

The ground levels of all structures shall be built at the front property lines for a minimum of 80 percent of the linear frontage of the property within the MPC-1 Zone, and for a minimum of 80 percent of the linear frontage of the structure in the MPC-2 Zone. This requirement is intended to allow design flexibility, while at the same time promoting pedestrian activity by maintaining streetscape continuity. This requirement shall not apply where open-air restaurants are located between the building face and the front or side-street property line.

2. Orientation to Sidewalk

All structures and businesses therein, shall have a primary access way from the front sidewalk, except in multi-use buildings or where accesses to businesses are from a paseo or other such internal passageway.

3. Visibility

A minimum of 50 percent of the ground floor facade facing the front sidewalk shall be constructed of glass or other material that permits the interior of the business to be visible from a height of three (3) feet above the level of the adjacent sidewalk.

4. Parking Areas

Surface parking areas in the MPC-1 Zone shall be located behind the commercial structure and accessed solely from the adjacent side street or rear alley. In the MPC-2 Zone, surface parking areas may be located adjacent to and accessed from Hollywood Way if alternate access is not available; in which case, landscaping and walls shall be provided in accordance with other applicable code sections.

The design of parking structures shall follow the same standards and guidelines as are applicable to other structures. In the MPC-1 Zone, the ground-floor frontage of the parking structure shall be utilized for retail or other permitted uses, and shall have direct access to the sidewalk. While the incorporation of pedestrian-oriented uses on the ground level of a parking structure adjacent to the sidewalk is also encouraged in the MPC-2 Zone, such enclosed building space may be utilized for parking; in such case, the requirement to provide visibility to the inside of the building from the sidewalk shall not apply. In both zones, parked vehicles shall be screened from public view.

In the MPC-1 Zone, vehicular access to parking structures shall be solely from the adjacent side street or rear alley. In the MPC-2 Zone, direct vehicular access from Hollywood Way to a parking structure shall be permitted only if the Traffic Engineer determines that other vehicular access is infeasible.

D. CENTRAL MAGNOLIA PARK PARKING AREA (MPC-1).

Within the MPC-1 Zone, required off-street parking spaces may be provided through one (1) or a combination of the following methods:

1. Provide the spaces on the same property as the use for which it is required.
2. Off-street parking spaces that are not required by other uses may be utilized in accordance with Article 14, Division 3 of this Chapter (location of parking areas).
3. Off-street parking spaces located on a single parcel may be shared between two (2) or more uses occupying that same parcel, or between uses on two (2) or more parcels; provided that:
 - a. A parking study prepared by a licensed traffic engineer, and approved by the City Planner, is submitted which finds that (i) the uses which are proposed to be served by the parking have traffic-generation characteristics that justify the expectation that adequate parking will be available; or (ii) that the characteristics and proximities of the businesses are such that multiple-destination trips would be expected to occur, which would reduce the number of spaces required; and,

- b. All parties to a shared parking arrangement granted under this section, shall enter into a covenant with the City which shall be recorded in the Office of the County Recorder. This covenant shall bind this parking arrangement until such time that it can be demonstrated, to the satisfaction of the City Planner, that other off-street parking has been provided in compliance with the Burbank Municipal Code requirements, or that the use that necessitated the arrangement has ceased or has been altered so as to no longer require the recorded off-street parking.
4. By Administrative Use Permit, the Director of Community Development may allow a reduction in the minimum off-street parking space requirement of a business located within the MPC-1 Zone, based upon a study that proves to the satisfaction of the Director (or the Planning Commission, if appealed) that the demand for parking generated by the subject use can be accommodated by the existing supply of available parking within the zone. Restaurants up to 2,000 square feet in size may have their parking requirement reduced per Section 10-1-1408.
5. Restaurants providing valet parking at no charge to customers may provide required off-street parking spaces within a 300-foot radius of the site, upon demonstrating to the satisfaction of the City Planner that such off-site parking is available during the restaurant's business hours.

E. BUILDING DESIGN.

The following guidelines are intended to encourage and reinforce the pedestrian orientation of the commercial streets through the establishment of a "traditional" relationship of storefronts to the street. Some of the following building design provisions are requirements and some are only voluntary guidelines. A "traditional" pedestrian-oriented architectural form includes the following:

1. Storefronts

In addition to the other building design requirements of this section which are intended to strengthen and reinforce the pedestrian-oriented qualities of the area (i.e., transparency, build-to line, height, and access), all new development shall incorporate the use of canopies and/or awnings into the design of the storefront elevation.

Various other design features are encouraged to be used to achieve a pedestrian-oriented development, including: the modest use of architectural ornamentation, such as decorative cornices, belt molding, and contrast banding; a simple parapet roof type; the placement of signage at the pedestrian level; recessing the building entryway; and incorporating a bulkhead with tile or other decorative or enhanced materials into the building design.

2. Building Style, Materials and Colors

The style and texture of new buildings are encouraged to be consistent with the guidelines included in the Magnolia Park Study, and to be compatible with surrounding buildings through the use of the predominant materials found in the area. Materials such as slump

stone, board and batten, wood or composition shingles, and expanded metal screening, which have been added to some of the older buildings in the area, are not encouraged in new construction.

In general, it is encouraged that colors recall natural materials (e.g., brick, stone) and be generally subdued. The use of simple color schemes involving a maximum of three colors is recommended, as is the use of monochromatic and complementary accent and trim colors. The use of bold primary colors (pure reds, yellows, blues) is not recommended for building facades except for accent elements, and bright or garish colors should not be used in any application.

3. Building Access and Circulation

The sidewalk entry to all new buildings shall be designed to provide a direct and convenient access to all ground level uses, and shall include a recessed area to provide a small transitional space from the sidewalk to the business.

The incorporation of pedestrian pass-throughs, or paseos, is encouraged as a means of providing areas where outdoor pedestrian activities may occur, and for direct access to the street from rear parking areas. Larger projects are encouraged to include small court spaces, plazas, fountains and landscape features, and other common spaces.

F. ADDITIONAL STANDARDS.

The standards contained in Articles 11 through 16 of this Chapter also apply to the MPC-1 and MPC-2 zones. In the event of any conflict between the requirements contained in Articles 11 through 16 and the other requirements of this Section, the requirements of this Section rule.

G. Mixed-Use and Multifamily Residential-Only Development.

Notwithstanding the foregoing, this Section shall not apply to the following projects:

1. Mixed-use developments (multifamily residential with nonresidential use) allowed as set forth in Section 10-1-502. These projects shall be governed by the provisions of Article 9, Division 4 of this Code, commencing with Section 10-1-915.
2. Multifamily residential-only developments allowed as set forth in Section 10-1-502. These projects shall be governed by the provisions of Article 6, Division 3.5 of this Code, commencing with Section 10-1-621.