

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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**W 17a**

July 19, 2007

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director, Orange/San Diego County
Teresa Henry, District Manager, South Coast District
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area
Meg Vaughn, Coastal Program Analyst

SUBJECT: Major Amendment Request No. 1-07B to the City of Laguna Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the August 8–10, 2007 meeting in San Francisco).

SUMMARY OF LCP AMENDMENT REQUEST NO. 1-07B

Request by the City of Laguna Beach to amend the Implementation Plan (IP) portion of the Local Coastal Program (LCP) by incorporating the changes contained in numerous City of Laguna Beach Ordinances (see exhibit 1). The changes proposed under LCPA 1-07B involve primarily changes to Section 25.05 of the City's Zoning Code (Title 25). Title 25 comprises a large part of the City's certified Implementation Plan. Section 25.05 is titled "Administration" and provides standards for most of the City's permitting processes. Section 25.05 includes procedures for processing the City's Administrative Use Permits, Variances, Conditional Use Permits, Temporary Use Permits, Design Review, as well as public notice requirements, appeals, and revocations of those permits. Section 25.07 provides the standards for the City's coastal development permitting process. No changes are proposed as part of this LCPA to Section 25.07.

Most of the changes proposed are clarifications and/or procedural in nature and do not raise issues with regard to consistency with the City's certified Land Use Plan. However, staff is recommending two suggested modifications to assure continued consistency between the certified LUP and the IP as amended.

The Local Coastal Program Amendment 1-07B effects only the Implementation Plan portion of the certified LCP and will not change the existing zoning of any land areas.

As described in more detail below, amendment 1-07B was previously characterized as containing changes related to fuel modification, parking requirements, regulation of short term lodging, lot divisions/combinations, and telecommunications facilities, among other issues. At the request of the City, these other provisions have now been separated out from 1-07B and will be considered by the Commission at a later hearing. The City requested this separation so that Commission staff and City staff have more time to work on these more controversial issues, while allowing the less controversial matters to be resolved.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

Deny the amendment request to the Implementation Plan **as submitted**.
Approve the amendment request to the Implementation Plan **if modified as recommended**.

The proposed amendment, if modified as recommended, is in conformance with and adequate to carry out the provisions of the certified Land Use Plan. **The motions to accomplish this are found on pages 4 and 5.**

STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementation Plan is conformance with and adequacy to carry out the provisions of the certified Laguna Beach Land Use Plan.

SUMMARY OF PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

The public hearing for Planning Commission action on Resolution No. 04.068, requesting Commission action on this amendment request, was held on May 26, 2004. The City Council public hearing on this Resolution was held on July 6, 2004. There were no public comments at these public hearings. Numerous public hearings were held over the last 15 years on the various ordinances that make up this amendment request.

STAFF NOTE: The proposed amendment was submitted as part of a larger amendment, Laguna Beach Local Coastal Program Amendment 1-07. That amendment request was originally submitted as LCPA 1-04. A portion of LCPA 1-04 (LGB LCPA 1-04A) was approved by the Commission at the November 2006 hearing. LCPA 1-04A, which reflected the changes contained in Laguna Beach City Council Resolution Nos. 1416 and 1456, established regulations to moderate the size of new homes and remodels in order to be more compatible with the neighborhoods in which they are located, and provided more detail regarding the requirement to erect staking poles for projects subject to design review. The remainder of LCPA 1-04, LCPA 1-04B was withdrawn and resubmitted by

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the City in order to provide more time to review the amendment request. When LCPA 1-04B was resubmitted it was given the number LGB LCPA 1-07. A portion of LCPA 1-07 was separated and assigned number LCPA 1-07A and was approved by the Commission at the April 2007 hearing. LCPA 1-07 A modified Chapter 25.45 (Historic Preservation) of Title 25 (Zoning Code) of the City's Implementation Plan portion of the City's certified LCP by: 1) clarifying that when a conditional use permit is required, the approval authority for existing parking incentive benefits is the City Council (previously the Design Review Board); and, 2) clarifying that the historic character of the building includes interior features that are visible from outside the structure, if integral to the historic building design. LCPA 1-07A was processed and approved as a minor amendment.

The overall amendment submittal for LCPA 1-07 is quite extensive. This LCPA submittal results from Commission staff's review of a previous LCPA submittal, where it became apparent that changes had been made to the City's Implementation Plan that had not been forwarded for review and action by the Coastal Commission. In order to rectify that situation, City staff prepared and submitted the current amendment request (originally LCPA 1-04). An LCP amendment, as submitted by a local government, may bundle any number of related and/or unrelated ordinances/resolutions together in a single amendment submittal. Such is the case in the current amendment request. The Commission may act on separate segments of such a "bundled" amendment independently of the other ordinances submitted together as a single amendment request. However, changes contained within a single ordinance cannot be separated out and heard separately.

LCPA 1-07 includes a total of 45 City Council Resolutions/Ordinances which propose to incorporate changes made over the course of the last 15 years (see exhibit 1). Due to the extent of time covered, many of the changes made in the various ordinances overlapped and/or superseded one another. Changes made in one ordinance may include changes to various parts of the Implementation Plan, so separating portions of the amendment into related categories has been difficult. In any case, Commission staff has bundled the changes effecting Section 25.05 together to form LCPA 1-07B. Thus, this package includes a few changes to other areas of the Implementation Plan, but the changes outside 25.05 included herein are relatively minor and can stand alone.

LCPA 1-07 is expected to be processed in at least two other "bundles". The only change proposed to the LUP portion of the certified LCP proposes changes to the City's fuel modification standards. That is expected to be presented separately at a future Commission hearing. In addition, over the course of the last 15 years, numerous changes have been made to the City's parking standards contained in Section 25.52. The changes proposed to the parking standards are also expected to be presented separately. In addition to the fuel modification changes and the parking changes, there are numerous other changes proposed throughout the Implementation Plan that will also be presented at a future hearing.

At this same hearing, but subsequent to this item, the City's most recent changes to Chapter 25.05 are proposed under LGB LCPA 2-06. The final results of that amendment will constitute the most recent, and final certified version of Chapter 25.05.

ADDITIONAL INFORMATION

Copies of the staff report are available on the Commission's website at www.coastal.ca.gov and at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact *Meg Vaughn* in the Long Beach office at (562) 590-5071. . The City of Laguna Beach contact for this LCP amendment is Carolyn Martin, Principal Planner, who can be reached at (949) 497-3311.

I. STAFF RECOMMENDATION

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings.

A. Denial of the IP Amendment as Submitted

MOTION: *I move that the Commission reject the Implementation Plan Amendment No. 1-07B for the City of Laguna Beach as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PLAN AS SUBMITTED:

The Commission hereby denies certification of the Implementation Plan Amendment No. 1-07B submitted for the City of Laguna Beach and adopts the findings set forth below on grounds that the Implementation Plan amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan as submitted

B. Approval of the IP Amendment with Suggested Modifications

MOTION: *I move that the Commission certify the Implementation Plan Amendment No. 1-07B for the City of Laguna Beach if it is modified as suggested by staff.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Plan with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PLAN WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Plan Amendment 1-07B for the City of Laguna Beach if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. SUGGESTED MODIFICATIONS

Certification of City of Laguna Beach LCP Amendment Request No. 1-07B is subject to the following modifications.

The Commission's suggested additions are shown in **bold, italic, underlined text**.

The Commission's suggested deletions are shown in **bold, italic, underlined, strike out text**.

Note: The numbering used in the suggested modification below may be re-numbered as necessary to conform to the format of the existing certified LCP document.

Suggested Modification No. 1

Revise Section 25.05.040 Design Review, as follows:

(A) Intent and Purpose The design review process is intended to provide the following:

(1) That development projects comply ...

No intervening changes.

(6) That there is effective implementation ...

(7) That development projects comply with the policies of the certified Local Coastal Program Land Use Plan including, but not limited to, the shoreline access, open space, environmentally sensitive habitat, hillside protection and visual resource policies.

Suggested Modification No. 2

Add the following new sub-section to Section 25.05:

Section 25.05.050 Coastal Development Permits.

In addition to any other permits required, any development within the coastal zone that constitutes development as defined in Section 25.07.006(D) that is not exempt pursuant to 25.07.008, requires approval of a coastal development permit pursuant to Section 25.07.

III. FINDINGS

The following findings support the Commission's denial of the proposed LCP Implementation Plan amendment as submitted and approval if modified as suggested by staff. The Commission hereby finds and declares as follows:

A. Amendment Description

Proposed Amendment request No. 1-07B includes changes to Section 25.05 (Administration) of the City's Zoning Code (Title 25), as well as a few changes elsewhere in Title 25. Section 25.05 includes procedures for processing the City's Administrative Use Permits, Variances, Conditional Use Permits, Temporary Use Permits, Design Review, as well as public notice requirements, appeals, and revocations of those permits. Chapter 25.07 addresses coastal development permit procedures, when they are required and how they are processed. No changes are proposed to Chapter 25.07 (Coastal Development Permits).

The more substantive of the proposed changes in Section 25.05 include:

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The “Design Review – Intent and Purpose” section is proposed to be reorganized and changed. The amendment would delete existing discussion in this section that states that the design review process is intended to “assist in implementing the shoreline access, open space, environmentally sensitive habitat, hillside protection and visual resource policies of the city’s certified local coastal program.”

The amendment proposes changes to the existing standard for time extensions for City issued permits that consist of: 1) new limits on extensions to one two-year extension and only one additional extension for only one more year (previously was open ended); and 2) a new requirement that specific findings are necessary in order to grant an extension.

Reorganization, additions and clarifications to Section 25.05.040(B) “List of Development Subject to Design Review” are proposed. The proposed additions to the list of developments that require design review action include landscaping, certain changes to structures listed on the City’s historic register, modifications to existing approved design review plans, swimming pools, spas, and water features, outlining the outside of buildings with lights, and hedges that exceed maximum allowable fence height. Clarifications proposed include changing “additions above the first or street level” to “additions of fifty percent or more, or that create a new upper story, or that exceed 15 feet above adjacent grade”. Another clarification proposed is to change “metal fences” to “permanent chain link or similar metal fences.” Also proposed are changes to the list of exceptions from the need to obtain Design Review approval. These include additions to single family residences that are less than fifty percent, do not create a new upper story or exceed fifteen feet above adjacent grade, and are in conformance with the zoning regulations, and not within an environmentally sensitive area. Also proposed is clarification that the following projects are exempt from the need to obtain design review approval: repainting existing structures in residential zones, re-roofing buildings and structures with similar materials, retaining walls five feet or less in height; slabs and patios at or below natural grade and modifications to existing driveways or similar structures that comply with Chapter 25.05, wood and wrought iron fences that comply with the zoning regulations, window and door replacement, minor landscaping, elevated decks three feet or less above existing grade.

Public notice changes proposed include: clarification that, when mailed noticing is required, it shall be to property owners within 300 feet of the subject property.

Also proposed is a change that would require a public hearing for Administrative Design Review approval only if requested by a “noticed” person. Currently, a public hearing would be required if requested by an “affected” person.

Section 25.05.040(F)(1) is proposed to be changed as follows (City’s proposed additions show in underline; City’s proposed deletions shown in ~~strike-out~~):

The design review board shall approve or deny, at a noticed public hearing, design review applications based upon the design review criteria set forth in ~~Municipal~~

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~~Code Section 25.05.040(H)(G).~~ Additional review criteria are specified in Section 25.07.012(E) and (F) when an associated coastal development permit is required, substantiated by written findings. Section 25.07.012(G) requires written findings to be made when approving or conditionally approving an associated coastal development permit.

The changes proposed above clarify that review criteria for coastal development permits are found in Chapter 25.07. The proposed changes also refer to the Design Guidelines to be applied when considering design review applications. The Design Guidelines were not previously referenced in this Section.

Design Review Criteria (previously called “Goals and Criteria”) are proposed to be reorganized and updated.

Also proposed are changes that clarify whether a deadline is “calendar” days or “business” days throughout the section.

Section 25.05.075 is proposed to be modified regarding revocation of administrative use permit, conditional use permit, temporary use permit, variance or design review approval.

Changes proposed as part of LCPA 1-07B that are to occur outside Chapter 25.05 include changes to Chapter 25.08 Definitions to add definitions for original gross floor area, adjacent ground elevation, story (Ordinance No. 1334); and spa (Ordinance No. 1400). In addition, the following definitions are proposed to be modified: structure (swimming pool is no longer included as an item excepted from being considered a “structure”), swimming pool (replaces existing definition with a more specific definition), water feature (replaces existing definition with a more specific definition), Ordinance No.1400. In addition, Ordinance No. 1400 proposes to amend Section 25.50.016 (Chapter 25.50 General Yards and Open Space Provisions) to include “spas” as well as swimming pools. Section 25.50.16 currently prohibits (in most cases) pools in front yards or closer than 5 feet from any side or rear property line. As proposed, that prohibition would be extended to apply to spas as well. Ordinance No. 1403, in addition to proposing changes to Chapter 25.50 regarding the allowance of tents or canvas/plastic enclosures subject to approval of a temporary use permit, proposes to amend Section 25.52.008(i)(4) which would prohibit covering driveways with tents or canvas/plastic enclosures. Section 25.52.008 provides standards for the design of driveways. Ordinance No. 1418 proposes to modify Section 25.08.012 (Definitions) by revising/updating the definition of “fence” and newly includes “hedges” as something to be considered as a fence. It also modifies Section 25.50.12 (General Yard and Open Space Provisions) to include hedges, latticework, and screens in the section that addresses fences and walls.

Though the changes proposed are relatively extensive, only the proposed change to delete the existing reference in the “Design Review Intent and Purpose” section that states that the design review process is intended to “assist in implementing the shoreline access, open space, environmentally sensitive habitat, hillside protection and visual resource

policies of the city's certified local coastal program" raises issues with consistency with and adequacy to carry out the policies of the certified Land Use Plan portion of the City's Local Coastal Program.

The City's approved Ordinances that make the changes included in this portion of the IP amendment are: No. 1295, No. 1334, No. 1382, No. 1400, No. 1403, and No. 1418 (see exhibits 2-7). Some of these ordinances, in addition to making changes to Section 25.05, also include changes to other areas of the IP. Although the focus of this amendment is 25.05, these other changes included in the Ordinances are also part of this amendment.

Ordinance No. 1312 included changes to Section 25.05.015(A)(1), which were later modified by Ordinance No. 1416. Ordinance No. 1416 relocated language regarding information to be submitted with applications for Design Review to Section 25.05.040, which is the Design Review section of Section 25.05. Ordinance No. 1390 included changes to Section 25.05.040(C), which were later modified by Ordinance No. 1416, regarding requirements for staking a site for Design Review purposes. Ordinance No. 1416 was approved as submitted by the Commission as Laguna Beach LCPA 1-04A in November 2006.

Ordinance No. 1271 includes changes to Section 25.05, specifically Section 25.05.030(D) regarding public notice requirements for Conditional Use Permits. However, that Section was later changed further by Ordinance No. 1334. The final language as reflected in Ordinance No. 1334 is what is being considered under the current Commission action (LGB LCPA 1-07B). Ordinance No 1271 includes changes to other areas of the IP (including 25.12.006(J)(2), 25.50.012(A), 25.50.12(B)(1), and 25.50.012(B)(3). Although the changes to Section 25.05.030(D) are included in the current amendment consideration, the changes are those as reflected in Ordinance No. 1334. The changes included in Ordinance No. 1271, outside of Chapter 25.05, will be considered by the Commission at a future hearing.

B. Findings for Denial of Implementation Plan Amendment 1-07B as Submitted

1. Land Use

The standard of review for changes to the Implementation Plan of a certified LCP is whether the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP).

The City's certified Land Use Plan contains policies regarding shoreline access, open space, environmentally sensitive habitat, hillside protection, and visual resources, among other coastal resources. These policies are necessary to protect coastal resources listed. The existing reference in Section 25.05.040(A) is an appropriate specific reference to the requirement that these resources be protected during the review process. The reference is particularly important because Section 25.07.012(D) in the

Coastal Development Permits Chapter 25.07 of the certified Implementation Plan requires that coastal development permit applications be reviewed in conjunction with whatever other City permits are required, and that all approving bodies refer all coastal development permit applications either to the Design Review Board or the Planning Commission. When a coastal development permit is the only permit required, it is reviewed by the Director of Community Development.

In most cases, projects that require a coastal development permit also require design review approval from the City. The most common avenue for review of coastal development permits is through the design review process. Thus, the specific reference currently in the "Intent and Purpose" section of the Design Review section is important in assuring that coastal resources are considered and protected during the City's review process. The proposal to delete this reference that requires consideration of coastal resources weakens the Implementation Plan's effectiveness in carrying out the LUP policies. Therefore, the proposed IP amendment is inconsistent with and inadequate to carry out the policies of the City's certified Land Use Plan and must be denied.

In addition, Chapter 25.05 Administration lists the various approvals and permits that the City administers. However, it does not include a section regarding coastal development permits. Coastal development permits are covered in detail in a separate chapter of the IP. However, because Chapter 25.05 includes all other permits/approvals processed by the City it would be appropriate to include in this chapter an acknowledgement that coastal development permits may also be required for projects proposed within the City. In order to make clear early in the review process that in addition to any of the permits/approvals described in Chapter 25.05, a coastal development permit, as described in Chapter 25.07, may also be required. However, as proposed the amendment would not do that. Therefore, the proposed IP amendment is inconsistent with and inadequate to carry out the policies of the City's certified Land Use Plan and must be denied.

C. Findings for Approval of Implementation Plan Amendment 1-07B if Modified as Recommended

1. Incorporation of Findings for Denial of Implementation Plan Amendment 1-07B as Submitted

The findings for denial of the Implementation Plan amendment as submitted are incorporated as if fully set forth herein.

2. Land Use

As described previously, the proposed amendment would delete existing language that reinforces that part of the intent and purpose of the design review process is to assist in implementing the shoreline access, open space, environmentally sensitive habitat, hillside protection and visual resources policies of the certified Land Use Plan. The proposed

deletion weakens the existing Implementation Plan and thus is inconsistent with and inadequate to carry out these policies of the certified LUP. However, if the proposed amendment were modified to retain this language it could be found to be consistent with and adequate to carry out the policies of the certified Land Use Plan. Thus, a modification is suggested to retain the language regarding the LUP policies. Therefore the Commission finds that only if modified as suggested, is the proposed Implementation Plan amendment consistent with and adequate to carry out the certified Land Use Plan.

Also as described previously, the proposed amendment does not include a reference to the need to obtain a coastal development permit, even though the subject Chapter 25.05 describes all other permits/approvals processed by the City. Even though Chapter 25.07 contains the procedures for coastal development permits, it is appropriate to include a section in Chapter 25.05 that makes clear that coastal development permits may also be required in addition to any of the permits/approvals described in Chapter 25.05. As proposed the amendment does not include a reference to the potential need to obtain a coastal development permit. However, if the proposed amendment were modified to add such a reference, it could be found to be consistent with and adequate to carry out the policies of the certified Land Use Plan. Thus, a modification is suggested to add a reference to coastal development permits in Chapter 25.05. Therefore the Commission finds that only if modified as suggested, is the proposed Implementation Plan amendment consistent with and adequate to carry out the certified Land Use Plan.

IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended IP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b). The City of Laguna Beach LCP amendment 1-07B consists of an amendment to the Implementation Plan (IP) only.

As outlined in this staff report, the proposed IP amendment is inconsistent with the policies of the certified Land Use. However, if modified as suggested, the amendment will be consistent with the policies of the Land Use Plan. Thus, the Commission finds that the IP amendment, if modified as suggested, is in conformity with and adequate to carry out the land use policies of the certified LUP. Therefore, the Commission finds that approval of

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the LCP amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP amendment request 1-07B if modified as suggested herein.

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EXHIBIT # 1

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RESOLUTION NO. 04.068

CALIFORNIA

A RESOLUTION OF THE CITY COUNCIL OF LAGUNA BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. 04-03 AND REQUESTING ITS CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Laguna Beach held public hearings to consider the adoption of Laguna Beach Local Coastal Program Amendment No. 04-03, and such amendment was recommended to the City Council for adoption; and

WHEREAS, the City Council, after giving notice as described by law, held at least one public meeting regarding the proposed Laguna Beach Local Coastal Program Amendment No. 04-03, and the City Council finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

WHEREAS, the City Council of the City of Laguna Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act.

NOW, THEREFORE, the City Council of the City of Laguna Beach does hereby resolve as follows:

SECTION 1. That Laguna Beach Local Coastal Program Amendment No. 04-03 is hereby approved, consisting of certain Ordinances pertaining to Municipal Code Amendments and a certain Resolution pertaining to a General Plan Safety Element Amendment, as listed below:

<u>Ord./Reso.</u>	<u>Subject</u>	<u>Description</u>
No. 1271	Zoning Ord. Amendment	Various
No. 1282	Zoning Ord. Amendment	Parking and Non-Conforming Uses
No. 1283	Zoning Ord. Amendment	Architectural Projections
No. 1295	Zoning Ord. Amendment	CC Reversal of PC or DRB Decision

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	<u>Ord./Reso.</u>	<u>Subject</u>	<u>Description</u>
1	No. 1303	ZOA/Muni. Code 21.14	R-HP Zone; PRDs
2	No. 1305	Zoning Ord. Amendment	Parking Incentive for Outdoor Cafes
3	No. 1306	Zoning Ord. Amendment	Parking Modifications
	No. 1309	Zoning Ord. Amendment	Historic Preservation Incentives
4	No. 1312	Zoning Ord. Amendment	Design Review App. Requirements
	No. 1316	Zoning Ord. Amendment	Flood Protection Measures-Downtown
5	No. 1320	Zoning Ord. Amendment	Telecommunications Facilities
	No. 1326	Zoning Ord. Amendment	Prohibition of Mechanical Parking Lifts
6	No. 1332	Zoning Ord. Amendment	Murals and Sign Definitions
	No. 1333	Zoning Ord. Amendment	Parking Related to Food Service
7	No. 1334	Zoning Ord. Amendment	Administration Chapter and Definitions
	No. 1342	ZOA/GPA-Land Use Elemt.	Permanent Open Space until 12/20/28
8	No. 1344	Muni. Code-Chptr. 12.08	Heritage Trees
9	No. 1346	Zoning Ord. Amendment	Bed and Breakfast Inns
	No. 1347	Zoning Ord. Amendment	Arch Beach Heights – Lot Combinations
10	No. 1351	Zoning Ord. Amendment	Library Impact Fee
	No. 1352	Muni. Code – Title 21	Subdivision Park In-Lieu Fee
11	No. 1353	Zoning Ord. Amendment	Short-Term Lodging
	No. 1354	Zoning Ord. Amendment	Parking for SFR/Duplex and Definitions
12	No. 1359	Zoning Ord. Amendment	Drive-In/Full Svc./Take-Out Restaurants
	No. 1360	Zoning Ord. Amendment	SFR Lot Coverage in R-2 Zone
13	No. 1361	Zoning Ord. Amendment	Off-site Parking
	No. 1373	Zoning Ord. Amendment	Garage Door Size Requirements
14	No. 1382	Zoning Ord. Amendment	Administration – Automatic Appeals
	No. 1386	Zoning Ord. Amendment	Telecommunication Facilities
15	No. 1390	Zoning Ord. Amendment	Staking Certification Requirements
	No. 1400	Zoning Ord. Amendment	Design Review for Pools/Spas
16	No. 1403	Zoning Ord. Amendment	Tents or Canvas/Plastic Enclosures
	No. 1407	Zoning Ord. Amendment	Transportation Demand Management
17	No. 1408	Zoning Ord. Amendment	Sign Regulations
	No. 1415	Zoning Ord. Amendment	Repealing Off-Site and Compact Parking
18	No. 1416	Zoning Ord. Amendment	Various – Addressing Mansionization
	No. 1417	ZOA/Muni. Code - 21	Vehicular Access, Building Site Access
19	No. 1418	Zoning Ord. Amendment	Hedges Considered Fences in Yards
	No. 1419	Muni. Code – Title 21	Subdivision Improvements
20	No. 1424	Zoning Ord. Amendment	Sign Regulations
	No. 1427	Zoning Ord. Amendment	Second Residential Units
21	No. 1433	Zoning Ord. Amendment	M-1A & M-1B (Annexation Area)
	No. 1435	Zoning Ord. Amendment	Special Flood Hazard Areas
22	No. 1436	Zoning Ord. Amendment	Sign Regulations
	No. 95.047	General Plan Amendment	Safety Element Update

Copies of the aforesaid Ordinances and Resolution are attached hereto as Exhibits 1 through 45, respectively, and are incorporated by this reference as though fully set forth herein.

Ex. 1₂

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ORDINANCE NO. 1295

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, AMENDING CHAPTER 25.05 OF THE LAGUNA BEACH MUNICIPAL CODE REGARDING CITY COUNCIL VOTING REQUIREMENTS TO REVERSE OR MODIFY A DECISION OF THE PLANNING COMMISSION OR BOARD OF ADJUSTMENT/DESIGN REVIEW BOARD REGARDING VARIANCES, CONDITIONAL USE PERMITS, TEMPORARY USE PERMITS OR DESIGN REVIEW APPLICATIONS.

WHEREAS, the Planning Commission conducted a legally noticed public hearing regarding this matter on June 15, 1994 and on June 29, 1994 and recommended approval to the City Council with a 5 to 0 vote; and

WHEREAS, on September 6, 1994 the City Council conducted a legally noticed public hearing on Ordinance Amendment 94-03, and after reviewing all documents and testimony on said Ordinance Amendment, desires to approve Ordinance Amendment 94-03.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Laguna Beach does ordain as follows:

Section 1. A Notice of Exemption has been prepared which determined that this ordinance amendment is exempt under Section 15061(b)(3) of the Guidelines for implementing the California Environmental Quality Act in that there is not a possibility that the ordinance amendment may have a significant effect on the environment.

Section 2. Section 25.05.070(B)(7), on Appeals, shall be amended to read as follows:

25.05.070(B)

(7) Upon the hearing of the appeal, the city council shall conduct a de novo review of the underlying application and shall not be limited to the grounds stated for the appeal, if any. The city council may reverse, wholly or partly, or may modify any decision, determination or requirement of the planning commission, board of adjustment/design review board or director of community development. A reversal or modification shall be approved by the city council upon the adoption of a resolution which sets forth in writing the findings relied on to conclude that the appealed decision was in error. ~~A majority vote of the city council shall be required to reverse or modify an appealed decision; provided, however, that~~ The affirmative votes of four members of the city council shall be required to adopt a resolution reversing a denial or

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approval or to modify an appealed decision of a variance, conditional use permit, temporary use permit or design review application.

Section 3. The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the same manner required by law in the City of Laguna Beach. This Ordinance shall become effective thirty days after the final approval by the City Council.

Section 4. This ordinance is intended to be of citywide effect and application. All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

ADOPTED this 20th of September, 1994.

Mayor

ATTEST:

City Clerk

I, Verna Rollinger, City Clerk of the City of Laguna Beach, certify that the foregoing Ordinance was introduced at a regular meeting of the City Council held on September 6, 1994, and was finally passed and adopted at a regular meeting of the City Council of said City held on September 20, 1994 by the following vote:

AYES: COUNCILMEMBER(S):

NOES: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

City Clerk, Laguna Beach, California

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EX. 2₂

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COASTAL COMMISSION
LG B LCPA 1-07B

EXHIBIT # 3

ORDINANCE NO. 1382

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South Coast Region

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CALIFORNIA
COASTAL COMMISSION

**AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING
SECTION 25.05.070 OF THE MUNICIPAL CODE CONCERNING
AUTOMATIC APPEALS OF SELECTED PROJECTS REVIEWED BY
THE PLANNING COMMISSION AND DESIGN REVIEW BOARD
WHEN A MEMBER HAS AN OWNERSHIP INTEREST IN A PROJECT**

WHEREAS, on July 10, 2001, the City Council conducted a legally noticed public hearing and has reviewed and considered all documents, testimony and other evidence presented;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN, as follows:

SECTION 1. Section 25.05.070 of the Municipal Code shall be amended by adding the following subsection (7) to Section 25.05.070 (B) Procedures and renumbering the former subsection (7) as subsection (8):

(7) Notwithstanding the foregoing and any other provisions of Chapter 25.05, any decision, determination and requirement of the Planning Commission and Board of Adjustment/Design Review Board shall be automatically appealed to the City Council where a member of the Commission or Board has an ownership, leasehold or consulting interest in the property or project which is the subject of the decision, determination or requirement. The appeal shall be set for a public hearing before the City Council no less than twenty business days nor more than fifty-five business days after the date of the decision, determination or requirement. Notice of the hearing for the appeal shall be subject to the provisions of Section 25.05.065(B) and (C), except that posting shall not be required.

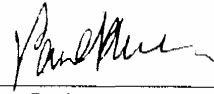
SECTION 2. This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA).

SECTION 3. The City Clerk of the City of Laguna Beach shall certify to the

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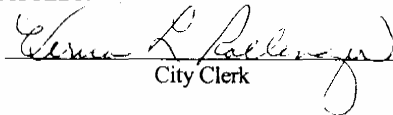
passage and adoption of this Ordinance, and shall cause the same to be published in the same manner required by law in the City of Laguna Beach. This Ordinance shall become effective thirty (30) days after the final approval by the City Council.

ADOPTED this 7th day of August, 2001.



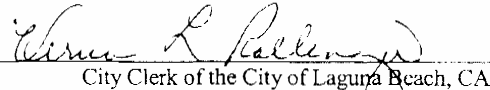
Paul P. Freeman, Mayor

ATTEST:


City Clerk

I, Verna Rollinger, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. 1382 was **introduced** at a regular meeting of the City Council on **July 10, 2001** and was finally **adopted** at a regular meeting of the City Council of said City held on August 7, 2001 by the following vote:

AYES: COUNCILMEMBER(S): Kinsman, Iseman, Baglin, Freeman
NOES: COUNCILMEMBER(S): None
ABSENT: COUNCILMEMBER(S): Dictierow


City Clerk of the City of Laguna Beach, CA

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South Coast Region
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CALIFORNIA
COASTAL COMMISSION

ORDINANCE NO. 1400

AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING THE DESIGN REVIEW REGULATIONS OF THE CITY - MUNICIPAL CODE SECTION ~~25.05.040(B)(1)~~ REQUIRING DESIGN REVIEW FOR SWIMMING POOLS, SPAS AND WATER FEATURES; AMENDING CODE SECTION ~~25.05.040(H)(14)~~ ADDING DESIGN REVIEW CRITERIA FOR SWIMMING POOLS, SPAS AND WATER FEATURES; AMENDING THE DEFINITIONS OF STRUCTURE AND SWIMMING POOL IN CODE SECTION ~~25.08.034~~; ADDING THE DEFINITION OF SPA IN CODE SECTION ~~25.08.034~~; ADDING THE DEFINITION OF WATER FEATURE IN CODE SECTION ~~25.08.048~~; AND ADDING SPAS TO THE SWIMMING POOL REGULATIONS OF MUNICIPAL CODE SECTION ~~25.50.016~~

WHEREAS, the City Council conducted a legally noticed public hearing and has reviewed and considered all documents, testimony and other evidence presented.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN, as follows:

SECTION 1. Municipal Code Section 25.05.040(B)(1) regarding the City's Design Review regulations is hereby amended to read in its entirety as specified below. This amendment requires design review for all swimming pools, spas and water features in residential zoning districts.

Municipal Code Section 25.05.040(B)(1)

(B) Development Subject to Design Review.

(1) All new buildings, structures and physical improvements and relocations, additions, extensions and exterior changes of or to existing buildings, structures and physical site improvements, including landscaping, shall be subject to design review, except as otherwise provided in Section 25.05.040(B)(2). Examples of physical improvements and site developments subject to design review include, but are not limited to, the following:

- (a) Commercial or industrial parking and loading areas;
- (b) New vehicular access to streets or alleys;
- (c) Retaining walls in excess of five feet in height;
- (d) Signs, as specified in Chapter 25.54, Sign Regulations;
- (e) Permanent chain link or similar type metal fences;
- (f) Telecommunication facilities subject to the provisions of Chapter 25.55. (The two classes of satellite antennas exempt from the design review requirements are as follows: (1) a satellite antenna that is one meter (39.37 inches) or less in diameter; or (2) a satellite antenna that is two meters (78.74 inches) or less in diameter and is located in any commercial or industrial land use zoning district);
- (g) Garbage and trash enclosures associated with a commercial use or structure;
- (h) Sidewalks associated with a commercial use or structure;
- (i) Underground utilities;

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- (j) Solar energy collectors which may adversely impact neighboring properties as determined by the director of community development;
- (k) Additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of fifteen feet above the adjacent ground elevation;
- (l) Shore protective devices;
- (m) All buildings, structures and physical improvements in environmentally sensitive areas and on lots with a slope greater than thirty percent as specified in Section 25.50.040;
- (n) Grading in excess of twenty cubic yards, except as specified in Section 22.10.010(e);
- (o) Clearing of native vegetation on undeveloped parcels, except for annual weed abatement and similar maintenance programs;
- (p) Fuel modification programs; provided, that once a program has received approval from the design review board, subsequent approval for maintenance of the fuel modification may be granted by the director of community development, if that maintenance is in conformance with the intent and objectives of the originally approved program;
- (q) All city projects within the scope of this section shall be submitted to the design review board for its review and recommendations. The city council may waive the requirement of design review if it determines that there are special circumstances applicable to such projects, which require that the project proceed without delay;
- (r) Any instance where a coastal development permit is required to be issued by the city;
- (s) Landscaping review for new development or additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of fifteen feet above the adjacent ground elevation, and for structural improvements within environmentally sensitive areas;
- (t) Exterior alterations or additions to structures listed on the historic register per Chapter 25.45, Historic Preservation;
- (u) Proposed demolition of structures listed on the historic register and those structures listed on the historic resources list, which are located in commercial zones per Chapter 25.45, Historic Preservation;
- (v) Modifications of existing approved design review plans, including approved landscape plans;
- (w) Swimming pools, spas and water features.

SECTION 2. Municipal Code Section 25.05.040(H)(14) regarding the list of Design Review Criteria is hereby amended to read in its entirety as specified below:

Municipal Code Section 25.05.040(H)(14)

(14) Swimming Pools, Spas and Water Features. Swimming pools, spas and water features shall be located, designed and constructed where a) geology conditions allow; b) noise produced by circulatory mechanical pumps and equipment is mitigated; and c) any associated fencing or other site improvements are compatible with neighboring properties.

(15) View Equity. The development, including its landscaping, shall be designed to protect existing views from neighboring properties without denying the subject property the reasonable opportunity to develop as described and illustrated in the City's "Design Guidelines." The "Design Guidelines" are intended to balance preservation of views with the right to develop property.

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SECTION 3. The definition of "Spa" is hereby added to Municipal Code Section 25.08.034 and reads in its entirety as specified below:

"Spa" means a hydro-massage pool or tub intended for recreational bathing or therapeutic use designed for immersion of users, usually having a filter, heater and motor-driven blower and contains water over 18 inches deep. This definition includes, but is not limited to, hot tubs and spas which are self-contained or non self-contained.

SECTION 4. The definition of "Structure" in Municipal Code Section 25.08.034 is hereby amended to read in its entirety as specified below:

"Structure" means anything constructed or built, any edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some defined manner, which requires location on the ground or is attached to something having a location on the ground, except outdoor areas such as patios, paved areas, walks, ~~swimming pools~~, tennis courts and other similar recreation areas.

SECTION 5. The definition of "Swimming Pool" in Municipal Code Section 25.08.034 is hereby amended to read in its entirety as specified below:

"Swimming Pool" means any permanent structure intended for swimming or recreational bathing that contains water over 18 inches deep. This definition includes, but is not limited to, permanent in-ground, aboveground and on-ground swimming pools, and permanent fixed-in-place wading pools.

SECTION 6. The definition of "Water Feature" in Municipal Code Section 25.08.048 is hereby amended to read in its entirety as specified below:

"Water Feature" means any permanent structure that contains 300 gallons or more of water and contains water over 18 inches deep, and has non-submersible circulatory mechanical pumps or equipment. [If a water feature has submersible pumps, it is not subject to Design Review per Section 25.05.040(B)(1).]

SECTION 7. Municipal Code Section 25.50.016 is hereby amended to read in its entirety as specified below:

25.50.016 Swimming Pools and Spas.

A swimming pool or spa and its accessory equipment shall not be located in the required front yard, nor closer than five (5) feet from any side or required rear property line, except that on lots having a slope of twenty-five percent (25%) or greater over the rear one-half (1/2) of such lots, the swimming pool or spa itself may be permitted to within ten (10) feet of the front property line.

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SECTION 8. This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to Section 15061(3) of the State CEQA Guidelines.

SECTION 9. If any portion of this Ordinance, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

SECTION 10. This Ordinance is intended to be of Citywide effect and application. All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent shall be and the same are hereby repealed to the extent of such inconsistency and no further.

SECTION 11. The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective thirty (30) days from and after the date of its adoption by the City Council.

ADOPTED this 12th day of March, 2002.

Wayne Baglin, Mayor

ATTEST:

City Clerk

EX 4₄

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I, Verna Rollinger, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council on February 5, 2002, and was finally adopted at a regular meeting of the City Council of said City held on March 12, 2002 by the following vote:

AYES: COUNCILMEMBER(S): Dieterow, Freeman, Iseman, Baglin

NOES: COUNCILMEMBER(S): Kinsman

ABSENT: COUNCILMEMBER(S): None

City Clerk of the City of Laguna Beach, CA

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South Coast

FEB 11 2005

ORDINANCE NO. 1403

AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING MUNICIPAL CODE SECTION ~~25.05.035(B)(2)~~ ALLOWING TENTS OR CANVAS/PLASTIC ENCLOSURES IN NONRESIDENTIAL ZONES SUBJECT TO APPROVAL OF A TEMPORARY USE PERMIT; AMENDING SECTION ~~25.05.040(B)(1)~~ AND (2) REQUIRING DESIGN REVIEW FOR THE OUTLINING OF THE OUTSIDE OF BUILDINGS WITH LIGHTS, AND ONLY EXEMPTING ADDITIONS TO RESIDENTIAL STRUCTURES LESS THAN 50% OF THE ORIGINAL FLOOR AREA FROM DESIGN REVIEW; AND ADDING SECTION 25.52.008(i)(4) WHICH PROHIBITS THE COVERING OF ACCESS DRIVEWAYS WITH TENTS OR CANVAS/PLASTIC ENCLOSURES.

CALIFORNIA
COASTAL COMMISSION

WHEREAS, the City Council conducted a legally noticed public hearing and has reviewed and considered all documents, testimony and other evidence presented.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN, as follows:

SECTION 1. Municipal Code Section 25.05.035(B)(2) regarding temporary uses allowed in nonresidential zones is hereby amended to read in its entirety as specified below. This amendment allows temporary tents or canvas/plastic enclosures in nonresidential zones subject to the approval of a Temporary Use Permit.

25.05.035 Temporary Use Permits

- (B) Uses Permitted Subject to Temporary Use Permit.
(2) The following uses may be permitted in nonresidential zones. Uses permitted in the industrial zones shall require special consideration to assure that those uses are compatible with the intent of those zones.
- (a) Art and handcraft shows (out of doors);
 - (b) Carnivals;
 - (c) Christmas tree sales;
 - (d) Concerts;
 - (e) Farmers Market
 - (e)(f) Horse shows and animal exhibitions;
 - (f)(g) Outdoor merchandise and display stands;
 - (g)(h) Sporting events;
 - (h)(i) Street vendors, temporary sales booths, sidewalk sales or enterprises of a similar nature;
 - (i)(i) Farmers market Tents or canvas/plastic enclosures;
 - (i)(k) Those temporary uses permitted in the R-1 Zone Section 25.05.035(B)(1);
 - (k)(l) Such other uses as the Planning Commission may by resolution deem to be within the intent and purpose of this section.

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SECTION 2. Municipal Code Section 25.05.040(B)(1) and (2) regarding the City's Design Review regulations is hereby amended to read in its entirety as specified below. This amendment requires design review for the outlining of the outside of buildings or portions thereof with incandescent lights, and to only exempt additions to single-family homes less than 50% of the original gross floor area.

25.05.040 Design Review

(B) Development Subject to Design Review.

(1) All new buildings, structures and physical improvements and relocations, additions, extensions and exterior changes of or to existing buildings, structures and physical site improvements, including landscaping, shall be subject to design review, except as otherwise provided in Section 25.05.040(B)(2). Examples of physical improvements and site developments subject to design review include, but are not limited to, the following:

- (a) Commercial or industrial parking and loading areas;
- (b) New vehicular access to streets or alleys;
- (c) Retaining walls in excess of five feet in height;
- (d) Signs, as specified in Chapter 25.54, Sign Regulations;
- (e) Permanent chain link or similar type metal fences;
- (f) Telecommunication facilities subject to the provisions of Chapter 25.55. (The two classes of satellite receiving antennas exempt from the design review requirements are as follows: (1) a satellite receiving antenna that is one meter (39.37 inches) or less in diameter; or (2) a satellite receiving antenna that is two meters (78.74 inches) or less in diameter and is located in any commercial or industrial land use zoning district);
- (g) Garbage and trash enclosures associated with a commercial use or structure;
- (h) Sidewalks associated with a commercial use or structure;
- (i) Underground utilities;
- (j) Solar energy collectors which may adversely impact neighboring properties as determined by the Director of Community Development;
- (k) Additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of fifteen feet above the adjacent ground elevation;
- (l) Shore protective devices;
- (m) All buildings, structures and physical improvements in environmentally sensitive areas and on lots with a slope greater than thirty percent as specified in Section 25.50.040;
- (n) Grading in excess of twenty cubic yards, except as specified in Section 22.10.010(e);
- (o) Clearing of native vegetation on undeveloped parcels, except for annual weed abatement and similar maintenance programs;
- (p) Fuel modification programs; provided, that once a program has received approval from the design review board, subsequent approval for maintenance of the fuel modification may be granted by the director of community development, if that maintenance is in conformance with the intent and objectives of the originally approved program;
- (q) All city projects within the scope of this section shall be submitted to the design review board for its review and recommendations. The city council may waive the

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requirement of design review if it determines that there are special circumstances applicable to such project, which require that the project proceed without delay;

(r) Any instance where a coastal development permit is required to be issued by the city;

(s) Landscaping review for new development or additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of fifteen feet above the adjacent ground elevation, and for structural improvements within environmentally sensitive areas;

(t) Exterior alterations or additions to structures listed on the historic register per Chapter 25.45, Historic Preservation;

(u) Proposed demolition of structures listed on the historic register and those structures listed on the historic resources list, which are located in commercial zones per Chapter 25.45, Historic Preservation;

(v) Modifications of existing approved design review plans, including approved landscape plans;

(w) Swimming pools, spa and water features;

(x) Outlining of the outside of buildings or portions thereof with incandescent lights. (If such outlining is proposed on a building listed on the City's Historic Resources Inventory and/or City's Historic Register, then the Heritage Committee shall make a recommendation to the Design Review Board prior to its review.)

(2) Exceptions. The following shall be exempt from design review procedures, except for development proposed on a lot within a watercourse setback area as set in subsection (E) of Section 25.50.030 and interior alterations to historic structures as outlined in Chapter 25.45, Historic Preservation:

(a) Additions to a single-family residence in residential zones that: (i) are less than fifty percent of the original gross floor area; (ii) do not create a new upper story or do not exceed a height of fifteen feet above the adjacent ground elevation; ~~when;~~ (iii) are in conformance with the zoning regulations; and (iv) are not within an environmentally sensitive area;

(b) Interior modifications to existing structures;

(c) Exterior alterations and additions determined by the Director of the Community Development Department or his/her designee to be minor, incidental in complying with the intent and purpose of this section, including, but not limited to:

(i) Repainting existing structures in residential zones;

(ii) Re-roofing buildings and structures with similar materials;

(iii) Retaining wall five feet or less in height;

(iv) Slabs and patios at or below natural grade and modifications to existing driveways or similar structures that comply with all other applicable provisions of Chapter 25.05;

(v) Wood and wrought iron fences that comply with the zoning regulations, except other metal fences as noted above;

(vi) Window or door replacements or minor changes in final design;

(vii) Minor landscaping which does not have the potential to impact views at mature growth height; and

(viii) Elevated decks three feet or less above the existing grade.

(d) Art work approved through the procedures outlined in Chapter 1.09, Art in Public Places.

(e) Signs, in conformance with an approved sign program subject to review and approval by the Director of Community Development;

(f) Elevated decks more than three feet above the existing grade and structural additions within existing residential rooflines, provided that the following conditions are met:

(i) Public Notice (Administrative Design Review). Public notice shall be mailed to the property owners within three hundred feet of the subject property and shall be provided in accordance with Section 25.05.0650(B) and (C), except that the requirement for newspaper advertising shall not be required.

(ii) Public Hearing. No public hearing by the Design Review Board shall be held unless requested by the applicant or other noticed person.

(iii) Administrative Approval. Following a ten-day public comment period, the Director of Community Development may approve the proposed deck and/or addition provided that no objections are raised and it is determined that the deck and/or addition complies with the zoning regulations. At the discretion of the Director of Community Development, such projects may be referred to the Design Review Board.

(g) City public works projects which are limited to replacement-in-kind or maintenance and which are not located in environmentally sensitive or open space areas, the downtown specific plan area, oceanfront properties or public buildings or parks, provided the administrative design review procedures of Section 25.05.040(B)(2)(f)(i) (ii) and (iii) are met.

(h) Minor categories of development, which the design review board by resolution exempts from design review procedures or by resolution authorizes the Director of Community Development to approve.

(i) Variance for existing nonconforming conditions in accordance with Section 25.05.025(J)(2) pertaining to administrative approval for certain variances.

(j) A satellite antenna that is one meter (39.37 inches) or less in diameter; or a satellite antenna that is two meters (78.74 inches) or less in diameter and is located in any commercial or industrial land use zoning district.

SECTION 3. Municipal Code Section 25.52.008(i)(4) regarding the design of parking space facilities, including driveways, is hereby added to Section 25.52.008(i) "Driveways" and reads in its entirety as specified below. This amendment prohibits the covering of access driveways with tents or canvas/plastic enclosures.

25.52.008(i)(4) Design of Parking Space Facilities - Driveway

(4) Driveway Covers.

The covering of access driveways with tents or canvas/plastic enclosures is prohibited.

SECTION 4. This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to Section 15061(3) of the State CEQA Guidelines.

SECTION 5. If any portion of this Ordinance, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

Ex 5₄

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SECTION 6. This Ordinance is intended to be of Citywide effect and application. All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent shall be and the same are hereby repealed to the extent of such inconsistency and no further.

SECTION 7. The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective thirty (30) days from and after the date of its adoption by the City Council.

ADOPTED this ____ day of _____, 2002.

Wayne Baglin, Mayor

ATTEST:

City Clerk

I, Verna Rollinger, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council on _____, 2002, and was finally adopted at a regular meeting of the City Council of said City held on _____, 2002 by the following vote:

AYES: COUNCILMEMBER(S):

NOES: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

City Clerk of the City of Laguna Beach, CA

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South Coast Region

JUL 28 2004

CALIFORNIA
COASTAL COMMISSION

ORDINANCE NO. 1418

AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING
MUNICIPAL CODE SECTIONS 25.05.040(B)(1), 25.08.012, AND
25.50.012 TO LIMIT THE HEIGHT OF HEDGES IN FRONT, SIDE
AND REAR YARDS TO THAT OF FENCES, AND AMENDING
MUNICIPAL CODE SECTION 7.24.010 RELATING TO
NUISANCES

WHEREAS, on August 14 and September 11, 2002, the Planning Commission conducted legally noticed public hearings and, after reviewing and considering all documents, testimony and other evidence presented, voted to recommend that the City Council deny Zoning Ordinance Amendment 02-08, believing that the issue of hedge heights should be addressed in the proposed view preservation regulations currently under study; and

WHEREAS, the City Council conducted a legally noticed public hearing on October 1, 2002, reviewed and considered all documents, testimony and other evidence presented, and determined that hedge height regulations should now be adopted; and

WHEREAS, the City Council considered further testimony and evidence presented at its meetings on October 15 and December 3, 2002;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN, as follows:

SECTION 1. Subdivision (y) is hereby added to Municipal Code Section 25.05.040(B)(1) to read in its entirety as follows:

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(y) A hedge or hedges located within front, side and/or rear yards that is/are proposed to exceed the maximum allowable fence height, as set forth in Chapter 25.50.

SECTION 2. The definition of the term "Fence" in Municipal Code Section 25.08.012 is hereby amended to read in its entirety as follows:

"Fence" A barrier of any material or combination of materials placed in a manner so as to enclose or screen areas of land. "Fence" includes hedges, chain link and wire mesh.

SECTION 3. The definition of the term "Fence, solid" in Municipal Code Section 25.08.012 is hereby repealed and deleted in its entirety.

SECTION 4. Municipal Code Section 25.50.012 is hereby retitled to read in its entirety as "Fences, walls, hedges, latticework and screens," and Subdivision (B) of Section 25.50.012 is hereby amended to read in its entirety as follows:

(B) Permitted Fences, Walls, Hedges, Latticework, and Screens.

- (1) Fences, walls, hedges, latticework or screens not more than four feet in height may be erected, installed or maintained within the front yard, except that on a corner lot a fence or wall no higher than three feet shall be permitted within the front yard. Fence height shall be determined as the height of the top of the fence above the natural grade immediately adjacent to the location of the fence. Hedges may exceed the maximum fence height in the front yard only when they are not a safety hazard and do not adversely impact views from or sunlight to neighboring properties.

(a) Approval of hedge heights greater than three feet on corner lots shall not include hedges or any portion of hedges located within any corner cutback area, as

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described in Section 25.50.006 nor higher than two and one-half feet within an intersection corner cutoff as described in Chapter 11.30.

(b) Decorative features such as fence posts, brick or stone columns may extend up to twelve inches above the maximum allowable height within the front yard subject to design review as provided for in Section 25.05.040.

- (2) Barricades, railings and security fencing required by the building code are permitted in any yard.
- (3) Fences, walls, hedges, latticework or screens not more than six feet in height may be installed, erected or maintained within the rear yard or within the side yard of any lot, provided such obstructions do not project into the required front yard space. The fence height limit of this paragraph shall apply to the height of a retaining wall, the purpose of which is to create an artificial yard elevation. Fence height shall be determined as the height of the top of the fence above the natural grade immediately adjacent to the location of the fence. Hedges may exceed the maximum fence height in the side and rear yards only when they are not a safety hazard and do not adversely impact views from or sunlight to neighboring properties.
- (4) The fences, walls, hedges or obstructions required or permitted by this subsection shall be equipped with gates or openings of at least three feet in width so as to provide free access completely around all main buildings and shall not be so located as to constitute in the opinion of the Director of Community Development a hazard to traffic on public rights-of-way, streets or alleys.
- (5) Chain link fences and other metal fences in residential areas are subject to design review.

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- (6) Pedestrian entry features which only includes arbors, arched entries, arcades or finials may exceed the maximum allowable fence height in any yard subject to design review as provided for in Section 25.05.040 and the following standards:
- (a) The maximum height shall not exceed eight feet;
 - (b) The maximum pedestrian entry width shall not exceed six feet;
 - (c) The maximum width of each side of the pedestrian entry for which there is proposed an architectural transition from the nominal fence height shall not exceed three feet.
- (7) Upon the filing of a challenge by a directly affected person claiming that existing hedge conditions constitute a safety hazard and/or adversely impact views from or sunlight to such person's property, the Director of Community Development shall, using the same notice and hearing procedures prescribed for administrative use permits set forth in Section 25.05.020 except it shall be presumed that a hearing has been requested, determine if the hedge conditions are in compliance with the provisions of this Section. The person filing the challenge shall have the burden of proof that the hedge conditions are not in compliance with the provisions of this Section. All challenges shall be in writing and in the form prescribed by the Community Development Department, and shall be accompanied by the payment of a fee in the same amount established by resolution of the City Council for administrative use permit applications. The determination of the Director of Community Development may be appealed to the Design Review Board in accordance with the procedural provisions of Section 25.05.070(B). The determination of the Design Review Board may be appealed to the City Council

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subject to the provisions of Section 25.05.070. Upon appeal to the Design Review Board or the City Council, a challenge shall be reviewed pursuant to the criteria set forth in Section 25.05.040^(h)~~(H)~~, as applicable.

- (8) Enforcement. In addition to the ordinary remedies available to the City, violations of this section may be enforced pursuant to the provisions of Chapter 7.24, including the abatement of nonconforming hedge heights and the assessment of costs thereof against the property owner.

SECTION 5. Subdivision (13) is added to Municipal Code Section 7.24.010 to read in its entirety as follows:

(13) Any condition or use of property in violation of the provisions of Title 25 (Zoning) of the Municipal Code.

SECTION 6. This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to Section 15304 of the State CEQA Guidelines, and a Notice of Exemption has been prepared.

SECTION 7. If any portion of this Ordinance, or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Ordinance to the extent it can be given effect of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby and to this extent the provisions of this Ordinance are severable.

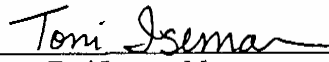
SECTION 8. This Ordinance is intended to be of Citywide effect and application. All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent shall be and the same are hereby repealed to the extent of such inconsistency and no further.

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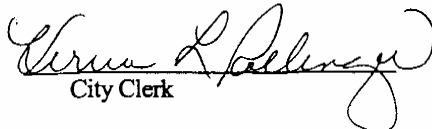
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SECTION 9. The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective thirty (30) days from and after the date of its adoption by the City Council.

ADOPTED this 3rd day of December, 2002.


Toni Iseman, Mayor

ATTEST:

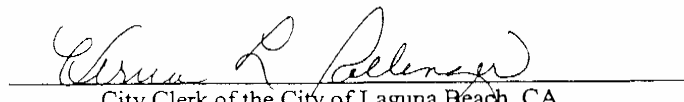

City Clerk

I, Verna Rollinger, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. 1418 was introduced at a regular meeting of the City Council on October 1, 2002, and was finally adopted at a regular meeting of the City Council of said City held on December 3, 2002, by the following vote:

AYES: COUNCILMEMBER(S): Baglin, Pearson, Kinsman

NOES: COUNCILMEMBER(S): Iseman

ABSENT: COUNCILMEMBER(S): Dictterow


City Clerk of the City of Laguna Beach, CA

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ORDINANCE NO. 1334

**AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING
MUNICIPAL CODE CHAPTER 25.05 REGARDING THE
ADMINISTRATION OF THE ZONING REGULATIONS.**

WHEREAS, on February 26, April 9, April 23, May 14, May 28, June 11 and June 25, 1997, the Planning Commission conducted public workshops on Ordinance Amendment 97-03 relating to the administration of the City's zoning regulations; and

WHEREAS, on July 23 1997, the Planning Commission conducted a legally noticed public hearing on Ordinance Amendment 97-03, and after reviewing all documents and testimony voted to recommend approval of said amendments of the Laguna Beach Municipal Code relating to the administration of the City's zoning regulations; and

WHEREAS, on September 16, 1997, the City Council conducted a legally noticed public hearing on Ordinance Amendment 97-03, and after reviewing all documents and testimony on said amendment, desires to approve amendments to the Laguna Beach Municipal Code relating to the administration of the City's zoning regulations.

NOW, THEREFORE, the City Council of the City of Laguna Beach does hereby ordain as follows:

SECTION 1. Chapter 25.05 ("Administration") is hereby amended to read in its entirety as follows:

**Chapter 25.05
ADMINISTRATION**

Sections:

25.05.010	Intent and purpose.
25.05.015	Form of application, fees, and permit compliance.
25.05.020	Administrative Use Permit procedure.
25.05.025	Variances.
25.05.030	Conditional Use Permits.
25.05.035	Temporary Use Permits.
25.05.040	Design Review.

COASTAL COMMISSION
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- 25.05.065 **Public notice.**
- 25.05.070 **Appeals.**
- 25.05.075 **Revocation.**

25.05.010 Intent and purpose.

It is the intent and purpose of this chapter to establish procedures necessary for the efficient processing of planning and development applications and requests.

25.05.015 Form of application, fees, and permit compliance.

(A) Prescribed by the Director of Community Development.

(1) The Director of Community Development shall prescribe the form and scope of all Variances, changes of district boundaries or reclassifications, General Plan amendments and all other planning or development applications as identified in Chapter 25.05, and of accompanying data to be furnished so as to assure the fullest practicable presentation of facts for proper consideration of the matter and for the permanent record. Forms for such purposes may be provided. Applications for Design Review shall include, but not be limited to, a site plan, floor plans, elevations plans, cross-sections, grading plans, material samples, landscape plans and a staking plan. Staking of the proposed project shall accurately represent the proposed building envelope. The applicant may be required to provide a staking plan that is certified by a licensed surveyor, registered engineer or otherwise qualified professional.

(2) Each planning and development application shall include verification by at least one of the owners of property involved or their authorized agent attesting to the truth and correctness of all facts and maps presented with such application.

(3) Applications filed pursuant to this Title shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the Department of Community Development and shall be attached thereto and permanently filed therewith copies of all notices and actions pertaining thereto.

(B) Complete Planning and Development Applications.

(1) No later than thirty days after receipt of a planning or development application, the Department of Community Development shall determine whether the application is complete or incomplete.

(2) In the event an application is determined to be incomplete, the applicant shall be notified as to additional materials required to continue processing the application.

(3) Within thirty business days of receipt of supplemental materials requested for applications previously determined incomplete, the Department of Community Development shall determine whether the application is complete.

(4) A decision determining an application to be incomplete may be appealed to the City Council by the applicant. The fee for said appeal is to be determined by City Council resolution.

(C) Signatures. If signatures of persons other than the applicant are required, or offered in support of or in opposition to the application, they may be received as evidence of notice having been served upon them of the pending application or as evidence of their opinion on the pending issue, but they shall in no case infringe upon or govern in the free exercise of the powers vested in the City of Laguna Beach.

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(D) Filing Fee Collection. Before accepting for filing any request or application submitted relative to Title 25 of this Code, processing of items under the auspices of the California Environmental Quality Act, continuations of public hearings, encroachment permits into the public right-of-way, General Plan amendments, vacation or relinquishment of the public interest in land, rights-of-way or easements, and other requests requiring Planning Commission or Board of Adjustment review, hearing or approval, the Department of Community Development shall charge and collect a filing fee for each such request or application as determined by resolution of the City Council to cover the cost of making maps, sending out notices, and other incidental administrative expenses involved in the handling of the matter, including written staff reports.

(E) Refund of Filing Fees. Refund of all or any portion of the filing fees may be ordered by the Director of Community Development.

(F) Conformance By Officials. All officials or public employees vested with the duty or authority to issue permits or licenses where required by law shall conform to the provisions of this Title.

(G) Application. The provisions of this Title shall apply to all buildings, improvements, lots and premises, or portions thereof, owned, leased, operated or controlled by the City or any Department or officer thereof, or by any other municipal or quasi-municipal corporation or government, or any Department, Board or officer thereof.

25.05.020 Administrative Use Permit procedure.

(A) Application. Application for an Administrative Use Permit shall be made by a property owner or authorized agent for a use which this Title expressly requires an Administrative Use Permit. Applications shall contain such information as may be prescribed by the Director of Community Development.

(B) Filing Fee. Prior to accepting an application, the Department of Community Development shall charge and collect a filing fee as determined by resolution of the City Council.

(C) Public Notice. Public notice shall be mailed to the property owners within 300 feet of the subject property and shall be subject to the provisions of Section 25.05.065(B) and (C), except that the requirement for newspaper advertising is deleted.

(D) Public Hearing. No hearing on the application shall be held unless requested by the applicant or other noticed person. In the event a hearing is requested, the Department of Community Development shall set a hearing date before the Director of Community Development and shall notice said hearing pursuant to the provisions of subsection (C) of this section.

(E) Approval. The Director of Community Development or authorized designee shall approve or deny an Administrative Use Permit based upon compliance or noncompliance with the City's zoning regulations.

(F) Appeal. Appeal is subject to the provisions of Section 25.05.070.

25.05.025 Variances.

(A) Intent and Purpose. It is the intent and purpose of this section to establish procedures whereby parcels or development projects may vary from the provisions of Title 25. Variances may be granted when there are special circumstances applicable to the property involved, including size, shape, topography, location and surroundings, that would

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cause the strict application of the zoning ordinance to deprive the property of the privileges enjoyed by other property in the vicinity and zone.

(B) Application. Application for a Variance shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the Director of Community Development including, but not limited to, a plot plan drawn to scale showing accurate dimensions of the lot and building site, the proposed location of the building(s) on the lot and accurate dimensions of the building(s), yards and setbacks.

(C) Filing Fee. Prior to accepting an application, the Director of Community Development shall collect a filing fee as determined by resolution of the City Council.

(D) Public Notice. Public notice shall be mailed to the property owners within 300 feet of the subject property and shall be subject to the provisions of Section 25.05.065(B) and (C).

(E) Approval.

(1) The Board of Adjustment or Planning Commission as applicable, shall approve, approve in part, conditionally approve or deny at a noticed public hearing a Variance based upon the findings set forth in Section 25.05.025(F).

(2) Board of Adjustment or Planning Commission determinations, including findings, shall be by resolution adopted by a majority of its membership.

(3) Written notice of determination, including findings, shall be mailed to the applicant or authorized agent within ten business days of the date of the Board's or Planning Commission's decision.

(4) The Board of Adjustment or Planning Commission, as applicable, in approving a Variance, may set forth in its decision reasonable terms and conditions necessary to protect the health, safety and welfare of the community and to assure the intent and purpose of these regulations. It may also require such bonds and guarantees as necessary to insure that compliance with such terms and conditions is being or will be achieved.

(5) Any Variance granted shall be subject to such conditions that will assure that the adjustment authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and identical zoning classification.

(F) Findings.

(1) There are special circumstances applicable to the property involved, including size, shape, topography, location or surroundings which cause the strict application of the zoning ordinance to deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

(2) Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the same vicinity and zone.

(3) The granting of the Variance will not be detrimental to the public health, safety, convenience and welfare or injurious to property or improvements in the vicinity in which the property is located.

(4) The granting of such a Variance will not be contrary to the objectives of the zoning ordinance or the General Plan.

(G) Appeals. Appeals are subject to the provisions of Section 25.05.070.

(H) Effective Date/Expiration Date.

(1) Decisions on Variance applications by the Board of Adjustment or Planning Commission, as applicable, shall become effective ten business days after the date of the decision, unless appealed to the City Council.

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(2) A Variance shall lapse and become void two years following the effective date unless a shorter approval period is specified for the project or unless:

(a) A Building Permit is issued and construction is begun and diligently pursued to completion; or

(b) The Planning Commission or Board of Adjustment, as applicable, grants an ~~initial~~ two-year extension of time or, after that initial extension of time, a final one-year extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the ~~initial~~ beginning two-year approval period or any subsequently approved extensions of time.

(3) Extension of Time Findings. An extension of time of the ~~initial~~ beginning two-year ~~effective~~ approval period may be granted by the Planning Commission or Board of Adjustment, as applicable, if each of the following findings can be made:

(i) The zoning codes or standards applicable to the circumstances of the originally approved Variance have not materially changed; and

(ii) The neighborhood character has not changed so as to be materially inconsistent with the findings made when the Variance was originally approved.

(I) Revocation. Revocations are subject to the provisions of Section 25.05.075.

(J) Planning Commission Variances.

(1) The Planning Commission shall act as the Board of Adjustment in hearing and determining the following Variances, subject to the procedures and findings established in Sections 25.05.025, 25.05.065(C) and (D), 25.05.070, and 25.05.075:

(a) Variance requests in conjunction with any matter pending before the Planning Commission for which the Commission has the primary discretionary responsibility.

(b) Variance requests in conjunction with subdivisions relating to lot dimension, area and yard requirements and access requirements may be granted when such requirements are deemed impractical, unreasonable or unnecessary for the proper design of such subdivision;

(c) Variance requests for indirect access;

(d) Variance requests for construction of new residential units on lots taking access from streets with less than standard width.

(2) Administrative Approval for Certain Variances. The Director of Community Development shall approve or deny a Variance application for existing nonconforming conditions, except for nonconforming parking Variances, only when such project application does not require other Variances or is not otherwise subject to Design Review.

(a) The Variance application shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the Director of Community Development.

(b) The Variance application shall be subject to the same procedures set forth in Section 25.05.020(B) through (D), Administrative Use Permit Procedure.

(c) Findings. The determination of the Director of Community Development shall be based on the findings set forth in Section 25.05.025(F). Written notice of the determination including findings shall be mailed to the applicant or authorized agent within ten business days of the date of decision.

(d) Appeal. Appeal is subject to the provisions of Section 25.05.070.

(K) Modifications. Additions or enlargements of structures upon property for which a Variance has been granted shall not be allowed except pursuant to a subsequent Variance as might otherwise be required or granted pursuant to the terms of this Title.

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25.05.030 Conditional Use Permits.

(A) Intent and Purpose. It is the intent and purpose of this section to establish a procedure whereby a Conditional Use Permit may be granted for those uses wherein Title 25 expressly requires such a permit. Uses subject to a Conditional Use Permit are those uses necessary for the development of the community having inherent qualities or characteristics which, unless provided for, would cause such uses to be incompatible or inharmonious with adjacent or nearby permitted uses. Such uses may be modified to the extent that they can be made compatible and harmonious with adjacent uses. This flexibility is intended to provide a necessary means by which certain land uses can be designed and arranged in accord with existing conditions of the neighborhood site, topographic and street conditions, as well as the utilization of various design concepts, and to allow denial of such uses where the required findings cannot be made.

(B) Application. Application for a Conditional Use Permit shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the Director of Community Development.

(C) Filing Fee. Prior to accepting an application, the Department of Community Development shall collect a filing fee as determined by resolution of the City Council.

(D) Public Notice. Public notice shall be mailed to the property owners within 300 feet of the subject property and shall be subject to the provisions of Section 25.05.065(B) and (C), except that the requirements for newspaper advertising shall not be required. For projects located in the Downtown Specific Plan area, the notice shall include all residents and/or tenants within 300 feet of the subject property.

(E) Timing of Approvals. The Planning Commission shall review all Conditional Use Permit applications within 20 business days following the date upon which the applications are accepted as complete. If a project requires approval by both the Planning Commission and Board of Adjustment, the Conditional Use Permit shall be reviewed and approved first.

(F) Findings.

(1) The site for the proposed use is adequate in size and topography to accommodate said use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly adjust such use with the land and uses in the vicinity.

(2) The site for the proposed use has access to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

(3) The proposed use will have no substantial adverse effect upon abutting property.

(4) The proposed use is consistent with the objectives and policies of the City's General Plan.

(5) The conditions stated in the decision are deemed necessary to protect the public health, safety and general welfare.

(G) Conditions of Approval.

(1) Conditions of Approval may include but are not limited to:

(a) Regulation of use;

(b) Special yards, spaces and buffers;

(c) Special fences, solid fences and walls;

(d) Surfacing of parking areas;

(e) Street, service road or alley dedications and improvements or appropriate bonds;

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- (f) Regulation of points of vehicular ingress and egress;
 - (g) Regulation of signs;
 - (h) Landscaping plan, to be reviewed and approved by the Department of Community Development;
 - (i) Maintenance of the grounds;
 - (j) Regulation of noise, vibration and odors;
 - (k) Regulation of hours for certain activities;
 - (l) Time period within which the proposed use shall be developed;
 - (m) Duration of use;
 - (n) Posting of a bond or bonds sufficient to guarantee the removal of any nonconforming structures or uses of the land upon the expiration of the period of the Conditional Use Permit; and
 - (o) Dedication of access rights.
- (2) In addition to special conditions of approval, the following general conditions of approval shall be imposed upon each Conditional Use Permit:
- (a) The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the Conditional Use Permit;
 - (b) All of the special conditions shall constitute restrictions running with the land, and shall be binding upon the owner of the land, and the successors or assigns;
 - (c) All of the special conditions shall be consented to in writing by the applicants and all owners of interests and lien holders;
 - (d) The resolution granting the application, together with all consent forms, shall be recorded by the Recorder of Orange County;
 - (e) The permit shall be subject to review at any time upon receipt of written complaint.
- (H) Appeals. Appeals are subject to the provisions of Municipal Code Section 25.05.070.
- (I) Effective Date/Expiration Date.
- (1) Decisions on Conditional Use Permit applications by the Planning Commission shall become effective ten business days after the date of the decision, unless appealed to the City Council.
- (2) If an established time limit for development expires, or if a time limit for the duration of the use has been established as one of the conditions of approval, then the permit shall be considered to be revoked upon such date of expiration without any notification to the owner thereof.
- (3) A Conditional Use Permit shall lapse and become void two years following the effective date unless a shorter approval period is specified for the project or unless:
- (a) The privileges authorized are established; or
 - (b) A Building Permit is issued and construction is begun and diligently pursued to completion; or
 - (c) The Planning Commission grants an ~~initial~~ two-year extension of time or, after that initial extension of time, a final one-year extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the ~~initial~~ beginning two-year approval period or any subsequently approved extensions of time.
- (4) Extension of Time Findings. An extension of time of the ~~initial~~ beginning two-year ~~effective~~ approval period may be granted by the Planning Commission, if each of the following findings can be made:
- (i) The zoning codes or standards applicable to the circumstances of the originally approved Conditional Use Permit have not materially changed; and

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(ii) The neighborhood character has not changed so as to be materially inconsistent with the findings made when the Conditional Use Permit was originally approved.

(5) If a Conditional Use Permit has been abandoned or terminated for any reason for a period of at least one-year, the permit shall expire and become void.

(J) Revocation. Revocations are subject to the provisions of Municipal Code Section 25.05.075.

(K) Modifications. Additions, enlargements or modifications of uses or structures upon property for which a Conditional Use Permit has been granted shall not be allowed except pursuant to a subsequent Conditional Use Permit as might otherwise be required or granted pursuant to the terms of this Title.

25.05.035 Temporary Use Permits.

(A) Intent and Purpose. The intent of this section is to accommodate reasonable requests for interim or temporary uses when such activities are desirable for the community, or are temporarily required in the process of establishing a permitted use or constructing a public facility. Temporary uses allowed under this section shall be consistent with the health, safety and general welfare of persons residing and working in the community, shall be conducted so as not to cause any detrimental effects on surrounding properties and the community, and shall not violate any other ordinance or regulation of the City.

(B) Uses Permitted Subject to Temporary Use Permit.

(1) The following uses may be permitted in residential zones:

- (a) Construction. Temporary structures, garages or sheds;
- (b) Parking and storage of earthmoving or construction equipment, when that parking or storage is incidental to an ongoing construction activity;
- (c) Storage of materials incidental to a Public Works project, subdivision or construction activity;
- (d) Tract home or lot sales office;
- (e) Events which require closure of public streets to traffic;
- (f) Temporary parking lots other than existing lots;
- (g) Such other uses as the Planning Commission may by resolution deem to be within the intent and purpose of this section.

(2) The following uses may be permitted in non-residential zones. Uses permitted in the industrial zones shall require special consideration to assure that those uses are compatible with the intent of those zones.

- (a) Art and handicraft shows (out of doors);
- (b) Carnivals;
- (c) Christmas tree sales;
- (d) Concerts;
- (e) Horse shows and animal exhibitions;
- (f) Outdoor merchandise and display stands;
- (g) Sporting events;
- (h) Street vendors, temporary sales booths, sidewalk sales or enterprises of a similar nature;

~~(i) Those uses permitted in the R-1 zone;~~

(ji) Farmers market;

~~(j) Those uses permitted in the R-1 Zone;~~

(k) Such other uses as the Planning Commission may by resolution deem to be within the intent and purpose of this section.

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(C) Applications. Applications for a Temporary Use Permit shall be made by the property owner or an authorized agent. Applications shall contain such information as prescribed by the Director of Community Development.

(D) Filing Fee. Prior to accepting an application for a Temporary Use Permit, the Department of Community Development shall collect a filing fee, as determined by resolution of the City Council.

(E) Public Notice. All Temporary Use Permit applications referred to the Planning Commission shall be subject to the public notice provisions of Municipal Code Section 25.05.065(B) and (C) whereby public notice is mailed to property owners within 300 feet of the subject property; except that newspaper advertising shall not be required.

(F) Approvals.

(1) The Director of Community Development shall approve, approve in part, conditionally approve or deny applications for Temporary Use Permits in the R-1 zone, excluding applications for temporary parking lots. At the discretion of the Director of Community Development, such Temporary Use Permit applications may be referred to the Planning Commission. Determination shall be made within twenty business days of receipt of the application unless the matter is referred to public hearing.

(2) The Planning Commission shall approve, approve in part, conditionally approve or deny all other applications for Temporary Use Permits. The Commission shall make written findings that the project is consistent with applicable General Plan policies. Public hearing for Temporary Use Permits shall be scheduled not more than twenty business days following acceptance of a complete application.

(3) Written notice of determination shall be mailed to the applicant or authorized agent within ten business days of the decision of the Director of Community Development or the Planning Commission.

(G) Conditions of Approval. Conditions of approval may include but are not limited to:

- (1) Regulations of hours;
- (2) Requirement of bonds or other guarantees for cleanup or removal of structures or equipment;
- (3) Return of temporary use site to its original state within a specified period of time;
- (4) Regulation of permit duration;
- (5) Regulation of signs and advertising;
- (6) Regulation of lighting;
- (7) Regulation of public-address or sound system;
- (8) Regulation of gas, smoke, noise, fumes, vibrations or other nuisances;
- (9) Referral to Design Review;
- (10) Such other conditions as are deemed necessary to protect the health, safety and welfare of the community and to assure compliance with the intent and purpose of this section.

(H) Appeals. Appeals are subject to the provisions of Municipal Code Section 25.05.070.

(I) Effective Date/Expiration Date. Decisions on Temporary Use Permit applications shall become effective ten business days after the date of the decision, unless appealed to the City Council. Temporary Use Permits may be authorized for a maximum three year time period.

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(J) Revocation. Revocations are subject to the provisions of Municipal Code Section 25.05.075.

25.05.040 Design Review.

(A) Intent and Purpose. The Design Review process is intended to provide the following:

(1) That development projects comply with the applicable standards and design guidelines and criteria;

(2) That development projects focus on quality designs, within a neighborhood context that results in creative design solutions for the City;

(3) That development occurs with an orderly and harmonious appearance, including associated facilities, such as signs, landscaping and parking areas;

(4) That the development review process consider public and private views;

(5) That public health, safety and general welfare throughout the City is considered; and

(6) That there is effective implementation of the applicable General and Specific Plan policies, which encourage the preservation and enhancement of the particular character and unique assets of the City.

(B) Development Subject to Design Review.

(1) All new buildings, structures and physical improvements and relocations, additions, extensions and exterior changes of or to existing buildings, structures and physical site improvements, including landscaping, shall be subject to Design Review, except as otherwise provided in Section 25.05.040(B)(2). ~~The following~~ Examples of physical improvements and site developments subject to Design Review include, but are not limited to, the following: ~~are subject to Design Review:~~

(a) Commercial or industrial parking and loading areas;

(b) New vehicular access to streets or alleys;

(c) Retaining walls in excess of five feet in height;

(d) Signs, as specified in Chapter 25.54 – Sign Regulations;

(e) Permanent chain link or similar type metal fences;

(f) Telecommunication facilities subject to the provisions of Chapter 25.55. (The two classes of satellite antennas exempt from the Design Review requirements are as follows: 1) a satellite antenna that is one meter (39.37 inches) or less in diameter; or 2) a satellite antenna that is two meters (78.74 inches) or less in diameter and is located in any commercial or industrial land use zoning district);

(g) Garbage and trash enclosures associated with a commercial use or structure;

(h) Sidewalks associated with a commercial use or structure;

(i) Underground utilities;

(j) Solar energy collectors which may adversely impact neighboring properties as determined by the Director of Community Development;

(k) Additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of 15 feet above the adjacent ground elevation;

(l) Shore protective devices;

(m) All buildings, structures and physical improvements in environmentally sensitive areas and on lots with a slope greater than thirty percent as specified in Section 25.50.040;

(n) Grading in excess of twenty cubic yards, except as specified in Section 22.10.010(e);

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(o) Clearing of native vegetation on undeveloped parcels, except for annual weed abatement and similar maintenance programs;

(p) Fuel modification programs; provided, that once a program has received approval from the Design Review Board, subsequent approval for maintenance of the fuel modification may be granted by the Director of Community Development, if that maintenance is in conformance with the intent and objectives of the originally approved program.

(q) All City projects within the scope of this section shall be submitted to the Design Review Board for its review and recommendations. The City Council may waive the requirement of Design Review if it determines that there are special circumstances applicable to such project, which require that the project proceed without delay.

(r) Any instance where a Coastal Development Permit is required to be issued by the City.

(s) Landscaping review for new development or additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of 15 feet above the adjacent ground elevation, and for structural improvements within environmentally sensitive areas.

(t) Exterior alterations or additions to structures listed on the historic register per Chapter 25.45 - Historic Preservation.

(u) Proposed demolition of structures listed on the historic register and those structures listed on the historic resources list, which are located in commercial zones per Chapter 25.45 - Historic Preservation.

(v) Modifications of existing approved Design Review Plans, including approved landscape plans.

(2) Exceptions. The following shall be exempt from Design Review procedures, except for development proposed on a lot within a watercourse setback area as set in subsection (E) of Section 25.50.030 and interior alterations to historic structures as outlined in Chapter 25.45 - Historic Preservation:

(a) Additions that are less than fifty percent of the original gross floor area, do not create a new upper story or do not exceed a height of 15 feet above the adjacent ground elevation, when in conformance with the zoning regulations and not within an environmentally sensitive area;

(b) Interior modifications to existing structures;

(c) Exterior alterations and additions determined by the Director of the Community Development Department or his/her designee to be minor, incidental in complying with the intent and purpose of this section, including, but not limited to:

(i) Repainting existing structures in residential zones;

(ii) Re-roofing buildings and structures with similar materials;

(iii) Retaining wall 5 feet or less in height;

(iv) Slabs and patios at or below natural grade and modifications to existing driveways or similar structures that comply with all other applicable provisions of Chapter 25;

(v) Wood and wrought iron fences that comply with the zoning regulations, except other metal fences as noted above;

(vi) Window or door replacements or minor changes in final design; and

(vii) Minor landscaping which does not have the potential to impact views at mature growth height; and

(viii) Elevated decks three feet or less above the existing grade.

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(d) Art work approved through the procedures outlined in Chapter 1.09 - Art in Public Places.

(e) Signs, in conformance with an approved sign program subject to review and approval by the Director of Community Development;

(f) Elevated decks more than three feet above the existing grade and structural additions within existing residential rooflines, provided that the following conditions are met:

(i) Public Notice (Administrative Design Review). Public notice shall be mailed to the property owners within 300 feet of the subject property and shall be provided in accordance with Section 25.05.065(B) and (C), except that the requirement for newspaper advertising shall not be required.

(ii) Public Hearing. No public hearing by the Design Review Board shall be held unless requested by the applicant or other noticed person.

(iii) Administrative Approval. Following a ten-day public comment period, the Director of Community Development may approve the proposed deck and/or addition provided that no objections are raised and it is determined that the deck and/or addition complies with the zoning regulations. At the discretion of the Director of Community Development, such projects may be referred to the Design Review Board.

(g) City Public Works projects which are limited to replacement-in-kind or maintenance and which are not located in environmentally sensitive or open space areas, the Downtown Specific Plan area, oceanfront properties or public buildings or parks, provided the Administrative Design Review procedures of 25.05.040(B)(2)(f)(i)(ii) and (iii) are met.

(h) Minor categories of development, which the Design Review Board by resolution exempts from Design Review procedures or by resolution authorizes the Director of Community Development to approve.

(i) Variance for existing nonconforming conditions in accordance with Section 25.05.025(J)(2) pertaining to administrative approval for certain Variances.

(j) A satellite antenna that is one meter (39.37 inches) or less in diameter; or a satellite antenna that is two meters (78.74 inches) or less in diameter and is located in any commercial or industrial land use zoning district.

(C) Application.

Application for Design Review shall be made by a property owner or authorized agent and shall include, but not be limited to, a site plan, floor plans, elevation plans, cross-sections, grading plans, material samples, landscape plans and a staking plan. Staking of the proposed project shall be required and shall accurately represent the proposed building envelope. The applicant may be required to provide a staking plan that is certified by a licensed surveyor, registered engineer or otherwise qualified professional.

Applications for shore protection devices shall be filed and processed in accordance with the Guidelines For Shoreline Protection, adopted by the City Council in 1988, which may be amended from time to time, and shall be accompanied by landscape plans utilizing natural and drought-resistant plantings.

(D) Filing Fee. Prior to accepting an application, the Department of Community Development shall charge and collect a filing fee as determined by resolution of the City Council.

(E) Public Notice. Public notice shall be mailed to the property owners within 300 feet of the subject property and is subject to the provisions of Municipal Code Section 25.05.065(B) and (C), except that the requirements for newspaper advertising shall not be required, and the public notice for Coastal Development Permits must be in accordance with Section 25.07.014.

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(F) Approval.

(1) The Design Review Board shall approve or deny, at a noticed public hearing, Design Review applications based upon the Design Review Criteria set forth in Municipal Code Section 25.05.040(H). Additional review criteria are specified in Section 25.07.012(F) when an associated Coastal Development Permit is required. Section 25.07.012(G) requires written findings to be made when approving or conditionally approving an associated Coastal Development Permit.

(2) Design Review determinations shall be by majority vote of its voting members present.

(3) Written notice of determination for Design Review applications shall be mailed to the applicant or authorized agent within ten business days of the date of the decision of the Design Review Board or the Director of Community Development. A written notice of denial shall specifically state wherein the application fails to conform to the Design Review Criteria established for approval under Section 25.05.040(H).

(4) Landscaping Conditions. The Design Review Board shall condition all landscaping approvals with mature growth height limits and maintenance schedules (type and frequency of pruning) for all vegetation that potentially impacts views. ~~The installation and maintenance of the landscaping shall be in compliance with the approved landscaping plans.~~ The landscaping shall be installed in accordance with the approved landscape plans. Thereafter, the landscaping shall be continuously maintained (including replanting, as necessary) in compliance with the approved landscaping plans, unless such plans are subsequently revised pursuant to Section 25.05.040(B)(1)(v). Minor landscaping changes may be exempt from Design Review pursuant to Section 25.05.040(B)(2)(c)(vii).

(G) Design Guidelines. "Design Guidelines" is a publication that has been developed by the City to assist designers in understanding the Design Review Criteria. These guidelines complement the zoning regulations provided for in this Title by providing conceptual examples of potential design solutions and design interpretations. The guidelines are general and may be utilized with flexibility in their application to specific projects.

(H) Design Review Criteria. Physical improvements and site developments subject to Design Review shall be designed and located in a manner which best satisfies the intent and purpose of Design Review, the City's Village Atmosphere and the Design Review Criteria specified in this section. Village Atmosphere shall be characterized by appropriately scaled development, diverse and unique architectural designs, pedestrian orientation and sensitivity to the natural conditions of the site. The property development standards as delineated in each zone are intended to provide the City with maximum flexibility and discretion in the decision making process, based upon the particular issues and circumstances in effect at the time development is proposed. These standards shall represent the maximum allowable building envelope for a given property. The actual development allowed might be less than that designated by the general standards for the zone because of localized conditions identified during the Design Review process.

(1) Access. Conflicts between vehicles, pedestrians and other modes of transportation should be minimized by specifically providing for each applicable mode of transportation. Handicapped access shall be provided as required by applicable statutes.

(2) Design Articulation. Within the allowable building envelope, the appearance of building and retaining wall mass should be minimized. Articulation techniques including, but not limited to, separation, off-sets, terracing and reducing the size of any one element in the structure may be used to reduce the appearance of mass.

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(3) Design Integrity. Consistency with the applicant's chosen style of architecture should be achieved by the use of appropriate materials and details. Remodels should be harmonious with the remaining existing architecture.

(4) Environmental Context. Development should preserve and, where possible, enhance the City's scenic natural setting. Natural features, such as existing heritage trees, rock out-croppings, ridgelines and significant watercourses should be protected. Existing terrain should be utilized in the design and grading should be minimized.

(5) General Plan Compliance. The development shall comply with all applicable policies of the General Plan, including all of its Elements, applicable Specific Plans, and the Certified Local Coastal Program.

(6) Historic Preservation. Destruction or alteration to properties with historic significance, as identified in the City's Historic Resources Inventory or Historic Register should be avoided, whenever possible. Special preservation consideration should also be given to any structures over 45 years old.

(7) Landscaping. Landscaping should be incorporated as an integrated part of the structure's design and relate harmoniously to neighborhood and community landscaping themes. View equity shall be an important consideration in the landscape design. The relevant landscaping guidelines contained in the City's 'Landscape and Scenic Highways Resource Document' should be incorporated, as appropriate, in the design and planned maintenance of proposed landscaping.

(8) Lighting and Glare. Adequate lighting for individual and public safety shall be provided in a manner, which does not significantly impact neighboring properties. Reflective materials and appurtenances that cause glare or a negative visual impact (e.g. solar collectors, skylights, white rock roofs, high-gloss ceramic tile roofs, reflective glass, etc.) should be avoided or mitigated to a level of insignificance in those locations where those surfaces are visible from neighboring properties.

(9) Neighborhood Compatibility. New development should be compatible with the existing development in the neighborhood and respect neighborhood character. Neighborhood character is the sum of the qualities that distinguish areas within the City, including historical patterns of development (e.g., structural heights, mass, scale or size) village atmosphere, landscaping themes and architectural styles.

(10) Pedestrian Orientation. Commercial development design shall enhance and encourage pedestrian uses. Incorporation of articulated building masses, compact open spaces and courtyards, mixed use developments, use of landscaping as part of design, and orientation to pedestrian access should be maximized.

(11) Privacy. The placement of activity areas (e.g. decks, picture windows, etc.) in locations that would result in a substantial invasion of privacy of neighboring properties should be minimized.

(12) Public Art. Public art is encouraged and should be displayed where feasible or required by the Art in Public Places Ordinance.

(13) Sign Quality. Signs should be incorporated into the architecture of the structure and should be made of high quality materials, simple in design and be visually compatible with the surrounding physical environment in terms of color, scale and size. Use of natural materials in the construction of signs is encouraged.

(14) View Equity. The development, including its landscaping, shall be designed to protect existing views from neighboring properties without denying the subject property the reasonable opportunity to develop as described and illustrated in the City's "Design Guidelines." The "Design Guidelines" are intended to balance preservation of views with the right to develop property.

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(I) Appeals. Appeals of the Design Review Board are subject to the provisions of Municipal Code Section 25.05.070, and Section 25.07.016 when a Coastal Development Permit is required.

(J) Effective Date/Expiration Date.

(1) A Design Review decision shall become effective ten business days after the date of the decision, unless appealed to the City Council.

(2) Design Review approval shall lapse and become void two years following the effective date, if the privileges authorized by Design Review are not executed or utilized, or, if construction work is involved, such work is not commenced within such two-year period and diligently pursued to completion.

(3) The Design Review Board may grant an ~~initial~~ two-year extension of time and, after that initial extension of time, a final one-year extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the ~~initial~~-beginning two-year approval period or a subsequently approved extension of time.

(4) Extension of Time Findings. An extension of time of the ~~initial~~-beginning two-year ~~effective~~ approval period may be granted by the Design Review Board, if each of the following findings can be made:

(i) The zoning codes or standards applicable to the circumstances of the originally approved Design Review have not materially changed; and

(ii) The neighborhood character has not changed so as to be materially inconsistent with the findings made when Design Review was originally approved.

25.05.065 Public notice.

(A) Intent and Purpose. It is the intent and purpose of this section to provide standardized noticing procedures for discretionary permits or applications which require a public notice.

(B) Public Notice Procedures, Three-hundred-foot Radius.

(1) Upon receipt of a complete application, the Department of Community Development shall set a date, time and place of public hearing at which action shall be taken concerning the application.

(2) Not less than ten days prior to the hearing, public notice shall be mailed or delivered to the property owner or authorized agent, project applicant, affected local agencies, all property owners shown on the last equalized County assessment roll within three hundred feet of the subject property.

(3) Notice of said public hearing shall also be published in a newspaper of general circulation within the City at least ten days prior to the hearing date, and a notice shall be posted on the property.

(C) Public Notice Information. All notices of public hearings shall include:

(1) Date, time and place of public hearing;

(2) Identity of the hearing body or officer;

(3) General explanation of the matter to be considered;

(4) General description of the location of the property subject to public hearing.

25.05.070 Appeals.

(A) Intent and Purpose. It is the intent and purpose of this section to provide standardized appeal procedures for discretionary decisions, determinations and requirements with respect to planning and development applications and requests.

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(B) Procedures.

(1) All decisions, determinations and requirements of the Planning Commission, Board of Adjustment/Design Review Board and Director of Community Development may be appealed to the City Council by the applicant, any other property owner within three hundred feet of the subject property, or by a member of the City Council. In those cases where the City is the applicant or an aggrieved property owner, the decision, determination or requirement may be appealed to the City Council by the City Manager.

(2) Any appeal by the applicant or other property owner within three hundred feet of the subject property shall be in written form specifically stating the grounds for the appeal and shall be filed with the City Clerk within ten business days of the decisions, determinations and requirements.

(3) Any member of the City Council may initiate proceedings for review of any decision, determination or requirement of the Planning Commission, Board of Adjustment/Design Review Board or Director of Community Development by written request to the City Clerk, directly or through the City Manager, within ten business days of the decisions, determinations and requirements. Any such request shall specifically state the grounds for review.

(4) The fee for said appeal shall be as determined by City Council resolution. Except for appeals by a member of the City Council or the City Manager, the filing of any appeal shall be accompanied by payment of the appeal fee as determined by resolution of the City Council, and no appeal shall be deemed filed unless such payment is made.

(5) Upon the City Clerk's receipt of a timely and otherwise proper appeal of a decision, determination or requirement of the Planning Commission, Board of Adjustment/Design Review Board or Director of Community Development, no further appeals shall be accepted for filing and the appeal may thereafter not be withdrawn except upon a majority vote of the City Council allowing a withdrawal of the appeal.

(6) Upon the City Clerk's receipt of a timely and otherwise proper appeal of a decision, determination or requirement of the Planning Commission, Board of Adjustment/Design Review Board or Director of Community Development, the appeal shall be set for a public hearing before the City Council no less than ten business days nor more than forty-five business days after receipt of the appeal. Notice of the hearing for the appeal shall be subject to the provisions of Section 25.05.065(B) and (C), except that posting shall not be required.

(7) Upon the hearing of the appeal, the City Council shall conduct a de novo review of the underlying application and shall not be limited to the grounds stated for the appeal, if any. The City Council may uphold, reverse, wholly or partly, or may modify any appealed decision, determination or requirement of the Planning Commission, Board of Adjustment/Design Review Board or Director of Community Development. A reversal or modification shall be approved by the City Council upon the adoption of a resolution which sets forth in writing the findings relied on to conclude that the appealed decision, determination or requirement was in error. A majority vote of the City Council shall be required to adopt a resolution reversing a denial or approval or modifying an appealed decision, determination or requirement of a Variance, Conditional Use Permit, Temporary Use Permit or Design Review application.

25.05.075 Revocation.

(A) Intent and Purpose. It is the intent and purpose of this section to provide standardized procedures for discretionary decisions subject to revocation.

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(B) Procedures.

(1) Any Administrative Use Permit, Conditional Use Permit, Temporary Use Permit, Variance or Design Review approval may be revoked or modified by the authority which granted the approval, if any one of the following findings can be made:

(a) That the Administrative Use Permit, Conditional Use Permit, Temporary Use Permit, Variance or Design Review approval was obtained by negligent or intentional misrepresentation (e.g., erroneous facts or information was presented by the applicant) or fraud;

(b) That one or more of the conditions of approval have not been met or are not presently in compliance;

(c) That the use is in violation of any statute, ordinance, law or regulation; or

(d) That the use permitted is detrimental to the public health, safety or welfare or constitutes a public nuisance.

(2) In the event a Variance is approved regarding existing nonconformities and the nonconforming structure is removed in the process of construction, a public hearing shall be held by the decision-making body responsible for granting the Variance. If the evidence presented indicates the nonconforming structure was in fact removed as part of construction related to implementation of the Variance, then the decision making body shall proceed with the revocation process as outlined in Sections 25.05.075(B)(3) through (5).

(3) Prior to revocation, a noticed public hearing shall be held in accordance with the provisions of Municipal Code Section 25.05.065(B) and (C).

(4) Not less than 30 days prior to the hearing date a written notice of intention to revoke the permit or privilege granted shall be mailed to the applicant.

(5) Revocations shall be made by resolution, with the exception of revocations by the Director of Community Development, which shall be by written notice.

(6) All revocations made by the Planning Commission, Design Review Board or Director of Community Development may be appealed to the City Council subject to the appeal procedures of Municipal Code Section 25.05.070.

SECTION 2. Section 25.08.012 is hereby amended by adding the following definition

immediately after the "Floor area, gross" definition.

"Floor area, original gross" means the gross floor area (as defined herein) of a separate unattached structure when initially constructed.

SECTION 3. Section 25.08.014 is hereby amended by adding the following definition

immediately after the "Greenhouse" definition.

"Ground elevation, adjacent" means the lowest point of elevation of the existing surface of the ground, within the area between the building and a line 5 feet from the building.

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SECTION 4. Section 25.08.034 is hereby amended by adding the following definition immediately after the "Stable" definition.

"Story" means that portion of building included between the upper surface of any floor and the upper surface of the next floor above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above the adjacent ground elevation (as defined herein) for more than 50 percent of the total perimeter or is more than 12 feet above the adjacent ground elevation at any point, such usable or unused under-floor space shall be considered as a story.

SECTION 5. This Ordinance is exempt from compliance with the California Environmental Quality Act pursuant Section 15301 of the State CEQA Guidelines, and a Notice of Exemption has been prepared.

SECTION 6. This Ordinance is intended to be of City-wide effect and application. All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

SECTION 7. The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published in the same manner required by law in the City of Laguna Beach. This Ordinance shall become effective thirty (30) days after the final approval by the City Council.

ADOPTED this 21st day of October, 1997.

Paul P. Freeman, Mayor

ATTEST:

City Clerk

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I, Verna Rollinger, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council on September 16, 1997, and was finally adopted at a regular meeting of the City Council of said City held on October 21, 1997, by the following vote:

AYES: COUNCILMEMBER(S):

NOES: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

City Clerk, of the City of Laguna Beach, CA

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