TITLE 19. ZONING
ARTICLE 6. DISCRETIONARY PERMITS AND PROCEDURES

Chapter 19.98. GENERAL PROCEDURES

19.98.010. Purpose.

The purpose of this chapter is to identify and prescribe general procedures and requirements for the filing, processing and consideration of planning related actions and permit applications. These provisions shall be used in conjunction with requirements or procedures unique to a specific process or permit type which are found in the chapter concerning that specific process or permit.

19.98.020. Applications.

(a) Consideration of a permit or process is initiated by the filing of an application signed by the owner of the land to which the permit or process would be applicable. The application shall be filed with the director of community development on forms furnished for this purpose. The application shall be accompanied by the required fee, plans, elevations and other supporting data set forth in this section, or determined necessary by the director of community development.

(b) Design review and miscellaneous plan permit filings shall include:

(1) Written explanation of project;

(2) Site plan; except that a site plan is not required for landscape/irrigation for single-family, duplexes, triplexes or fourplexes.

(3) Architectural elevations of all sides of all buildings indicate exterior materials and colors. Where appropriate, a color and material board may be required.

(4) Floor plans of all buildings.

(c) Mobile vendor permit filings shall:

(1) Be signed by the property owner if requesting a private property location.

(2) Include the names and addresses of each person who will occupy the mobile vending location for purposes of exercising the permit.

(3) Include a certificate of insurance, stating the insurer's name, policy terms, and principal amounts (combined single limit) of a policy of insurance against general liability, bodily injury, and property damage arising from the permitted activity. Each such policy shall be amendable only upon thirty days' advance written notice to the city.

(d) Variance, use permit and special development permit filings shall include:

(1) Written explanation of project;

(2) Site plan;

(3) Architectural elevations of all sides of all buildings indicating exterior materials and colors. A color and material board is required.

(e) General plan amendment and change of zone filings shall include:

(1) A detailed project description.

(2) Following denial of an application to amend the precise zoning plan, any owner who desires to file an application within the following year shall present a petition to the

planning commission or city council containing a statement that there are changed circumstances in relation to the property which is the subject of the proposed precise zoning plan amendment, and shall set forth each of the changed circumstances which in the applicant's opinion justifies consideration of the reapplication for amendment by the planning commission and city council.

(f) Tree removal permits shall be filed at least ~~seven~~ ten ~~calendar~~ working days prior to the proposed date of tree removal and shall include:

(1) The number, location(s), size(s), quality, species and variety of tree(s) to be removed;

(2) A written explanation about why the tree(s) must be removed;

(3) A time schedule for the proposed work;

(g) Heritage resources and heritage resource district designation filings shall include:

(1) Description detailing the proposed heritage resource's special aesthetic, cultural, architectural, or engineering interest or value of a historic nature;

(2) Sketches, drawings, photographs, or other descriptive material;

(3) Statement of condition of structure;

(h) Landmark alteration permit filings shall include:

(1) Written explanation of project;

(2) Site plan;

(3) Architectural elevations of all sides of all buildings indicating exterior materials and colors. A color and material board is required.

(4) Landscape and irrigation plans;

(5) Colored site plan and elevations;

(6) Justification for the necessity to demolish where the application is for demolition.

19.98.030. Fees.

(a) Payment of a fee established by resolution of the city council shall be made at the time of application filing.

(b) The fees for city review of tree surveys, replanting and protection plans for sites which are undergoing development or modification shall be included in the fee for the discretionary permit for which the applicant has applied.

19.98.040. Notice requirements.

(a) For design review, miscellaneous plan permits and tree removal permits, the director of community development may take an action without public notice or hearing.

(b) For a mobile vendor permit, notice of an approval of a permit shall:

(1) Be posted at the permit location within five days of approving a permit.

(2) Sent to all occupants and owners of immediately adjacent properties.

(c) For special development permits, use permits and variances determined to be exempt from the California Environmental Quality Act (minor permits), notice of the time and place of each public hearing required as a condition precedent to the consideration of the

approving or revocation of a permit shall be given at least ten calendar days prior to the day of the hearing in the following manner:

(1) By posting a copy of the notice of hearing:

(A) At a conspicuous location on each frontage of the property which is the subject of the application;

(B) On the public notice bulletin board at the Sunnyvale City Hall.

(2) By mailing a copy of the notice to:

(A) The owner and applicant; and

(B) The owners of all adjacent properties.

(3) By publishing at least once in a newspaper of general circulation in the city, a copy of the notice.

(d) For use permits, special development permits, and variances determined not to be exempt from the California Environmental Quality Act (major permits), notice of the time and place of each public hearing required as a condition precedent to the consideration of the approving or revocation of a permit shall be given as prescribed by the California Environmental Quality Act prior to the day of the hearing in the following manner:

(1) By posting a copy of the notice of hearing:

(A) At a conspicuous location on each frontage of the property which is the subject of the application;

(B) On the public notice bulletin board at the Sunnyvale City Hall.

(2) By mailing a copy of the notice to:

(A) The owner and applicant; and

(B) The owners of all property located within three hundred feet of the property under consideration.

(3) By publishing at least once in a newspaper of general circulation in the city, a copy of the notice.

(e) For amendments to the general plan and precise zoning plan, notice of the time and place of each public hearing by the planning commission and city council required as a condition precedent to the consideration of the approval or revocation shall be given at least ten calendar days prior to the day of the hearing in the following manner:

(1) By publishing at least once in a newspaper of general circulation in the city a copy of the notice;

(2) Published notice of an amendment to the precise zoning plan shall include a map showing the subject property, surrounding properties and the nearest street intersection.

(f) For heritage resource and heritage resource district designation, notice of the time and place of each public hearing by the heritage commission required as a condition precedent to the consideration of any action shall be given in the following manner:

(1) By publishing at least once in a newspaper of general circulation, at least thirty calendar days prior to the hearing, a copy of the notice;

(2) By registered mail to the owners of the property at least ten calendar days prior to the hearing.

(g) For a landmark alteration permit, notice of the time and place of each public hearing by the heritage commission as a condition precedent to the consideration of the approval or revocation of a permit shall be given at least ten days prior to the day of the hearing by publication at least once in a newspaper of general circulation.

(h) Appeal of an action to the heritage commission, planning commission or city council shall be made ten calendar days prior to the appeal hearing as follows:

(1) Minor permits;

(A) By mailing a copy of the notice to the owner of the subject property;

(B) By mailing a copy of the notice to the appellant;

(C) By mailing a copy of the notice to the owner of adjacent properties;

(D) Notice for an appeal of a waiver of proximity to a similar use for a large family day care home shall also include mailing a copy of the notice to all property owners within one hundred feet of the property under consideration.

(2) Major permits;

(A) By mailing a copy of the notice to the owner of the subject property.

(B) By mailing a copy of the notice to the appellant.

(C) By mailing a copy of the notice to all property owners within three hundred feet of the property under consideration.

(i) For all demolition permits authorizing the complete demolition of a residential structure in the R-0, R-1 and R-2 zoning districts, which are issued separately and unconnected to any other type of discretionary permit, notice of such demolition shall be given at the time the permit is issued by mailing a copy of the notice to all occupants and owners of immediately adjacent properties.

(j) All mailed notice shall be with postage prepaid. Failure to give or receive notice by mailing or by posting shall not affect the appropriateness of the person or body holding the public hearing to proceed with the hearing.

19.98.050. Continuance of public hearing.

The director of community development, heritage preservation commission, planning commission or city council, at the time and place set for a required public hearing, may continue a public hearing from time to time when it is determined that such a continuance, to a date and time certain, would not be detrimental to the public interest. Published or posted notice of the time and place of the continued public hearing is not required.

19.98.060. Failure to act—Director of community development—Planning commission—City council.

(a) Failure of the director of community development to act within forty days of a determination that a project is exempt from the California Environmental Quality Act, or of the planning commission to act within forty days of the date of adoption of a negative declaration, or within such extended period of time as may be mutually agreed upon by the applicant and the director of community development or planning commission, shall be deemed a denial of the requested permit and for purposes of appeal shall be deemed an action. The director of community development shall send notice of such denial to the applicant postage prepaid,

however, failure to send such notice shall not effect the denial or extend any period of time within which an appeal may be taken.

(b) Failure of the city council to act on an appeal of a mobile vendor permit within thirty days shall be considered as a final denial of the permit appeal.

19.98.070. Appeals.

(a) Appeal of Design Review and Tree Removal Permits.

(1) An applicant, or the owner of the subject property, aggrieved by a design review decision of the director of community development with regard to nonconformance with the "City Wide Design Guidelines" may file an appeal to the planning commission after the date of such decision. All proceedings initiated by the decision of the director of community development shall be suspended pending a determination by the planning commission on the merit of the appeal. The decision of the planning commission is final.

(2) An applicant, or the owner of the subject property, or the owner of an adjacent property, aggrieved by a design review decision of the planning commission made pursuant to Section 19.80.040(c) with regard to nonconformance with the "City Wide Design Guidelines" may file an appeal to the city council after the date of such decision. All proceedings initiated by the decision of planning commission shall be suspended pending a determination by the city council on the merit of the appeal. The decision of city council is final.

(3) The owner of the subject property, aggrieved by a tree removal permit decision of the director of community development may file an appeal to the planning commission after the date of such decision. All proceedings initiated by the decision of the director of community development shall be suspended pending a determination by the planning commission on the merit of the appeal. The decision of the planning commission is final.

(b) Appeal of All Other Permits and Actions. Any person aggrieved, including a member of the planning commission or city council, by the decision of the director of community development, heritage preservation commission or planning commission may file an appeal after the date of such decision. The appeal shall be in writing stating the grounds therefor. All proceedings initiated by the decision of the director of community development or planning commission shall be suspended pending a determination on the merit of the appeal.

(1) Any decision by the director of community development may be appealed to the planning commission and city council, except:

(A) Miscellaneous plan permits, where the decision of the planning commission is final; except that decisions by the director on findings of convenience or necessity may be appealed directly to the city council.

(B) A decision by the director on a tree removal permit, where the decision by the planning commission is final.

(C) A decision by the director on a variance request on the maximum height of a ground sign, where the decision by the planning commission is final.

(D) A decision by the director on a use permit for a large family day care where a waiver of proximity to a similar use is not requested.

(E) A decision by the director on a mobile vendor permit where the appeal is directed to the city council.

(2) Any action by the planning commission may be appealed to the city council, other than those noted in this section as final with the planning commission.

(3) The following decisions by the heritage preservation commission may be appealed to the city council.

(A) A determination made of whether to recommend designation as a proposed heritage resource or heritage resource district;

(B) The decision to approve, approve as modified, or to deny a landmark alteration permit.

(4) Appeals of decisions by the director of community development to the planning commission shall be filed with the department of community development:

(A) By five p.m. on the fifteenth calendar day following such decision:

(B) By the fifteenth calendar day by a planning commission or city council member on the record at a public hearing. A meeting which extends past midnight is considered to occur on the day it began.

(5) Appeals to the city council shall be filed with the city clerk:

(A) By five p.m. on the fifteenth calendar day following such action:

(B) By the fifteenth calendar day by a planning commissioner or city council member on the record at a public hearing. A meeting which extends past midnight is considered to occur on the day it began.

(c) Appeal of arts commission permit for installation of artwork. Any person aggrieved by an action of the arts commission under Section 19.52.060, including any arts commissioner or city council member, may appeal such action to the city council by filing a written appeal with the city council within fifteen calendar days after the date of such action, in accordance with the procedures for filing appeals to the city council, as set forth in subsection (b)(5) of this section.

19.98.090. Conditions of approval.

(a) The director of community development, planning commission or city council may approve any permit, or approve the same upon such conditions in addition to those expressly provided in applicable provisions of this code, as it finds desirable in the public interest.

(b) For appurtenant, temporary, hazardous materials storage or emergency shelter container uses conditions may include those determined to be reasonably necessary in connection with the hours of operation, visual screening, cleanup of the location or premises, use of lights or lighting or other means of illumination, or operation of any loudspeaker or sound amplification or any other aspect of the project, in order to prevent the creation of any nuisance or annoyance to the occupants of or commercial visitors to adjacent buildings or premises or any public nuisances.

(c) In addition to any other conditions imposed, the director of community development may require the posting of a cash security in an amount sufficient to guarantee the removal of any fixtures, equipment or stands and the cleanup of the location or premises immediately upon the expiration of any temporary use.

19.98.100. Revisions or modifications.

Except as otherwise specified in conditions of approval, major changes to an approved project must be reviewed by the original approving authority through the applicable application process.

19.98.110. Expiration.

A permit shall expire and become null and void in the event that the permit has not been exercised:

(a) Within two years after the date such permit was approved by the final review authority except that miscellaneous plan permits and tree removal permits shall expire after one year.

(b) If the use is discontinued for more than one year.

19.98.120. Extension.

Reasonable extensions of time not exceeding one year may be approved by the director of community development by miscellaneous plan permit if it is determined that there have been no changes of circumstances or that no substantive changes have been made to the application since the permit was approved. Extensions are only valid if approved before the pending expiration date, and are measured from that date. An extension may be approved for any time length up to a maximum of one year. Additional extensions may be approved, provided that the total of all extensions shall not exceed one year from the date of the expiration of the original approval, except that the director of community development may approve an additional one-year extension (for a total of two years) of such permit, and the planning commission, after a public hearing thereon, may approve subsequent one-year extensions of miscellaneous plan permits issued for:

(a) A mobile or motor home in any nonresidential zone or in conjunction with a church in any zone for demonstrated security purposes.

(b) Portable offices used for nonresidential purposes in industrial and office zoning districts.

19.98.130. Revocation.

A permit may be revoked by the city council, after a public hearing thereon, by an affirmative vote of a majority of its voting members, when the city council finds a violation of or noncompliance with the conditions of approval of such permit.

19.98.140. Violations.

(a) Any person violating or permitting the violation of or who fails to comply with the terms and conditions of a permit approved pursuant to this title shall be guilty of an infraction, and upon conviction thereof shall be punishable as set forth in Chapter 1.04 of this code.

(b) The remedy provided for in this section is in addition to and does not supersede or limit any and all other remedies, civil or criminal.

19.98.150. Certificate of use and occupancy required—Exceptions.

No vacant land or building shall be occupied or used, nor shall any buildings hereafter erected, constructed, converted, vacated, or moved, be occupied or used until a certificate of use and occupancy shall have been issued by the building official; provided, however, that no certificate shall be required for agricultural or residential uses or for public utility transmission and distribution lines.

19.98.160. Certificate of use and occupancy—Issuance—Notice of deficiencies.

A certificate of use and occupancy shall be issued for buildings and uses which conform with the provisions of this title within three working days after written notice to the building official that the premises are ready for use and occupancy. In the event the director cannot find that the proposed use or building conforms with the provisions of this title, the building official shall give written notice to the applicant of the general deficiencies in such building or use.

19.98.170. Amendment of title.

Amendments of this title may be initiated and adopted in the manner provided for the amendment of any precise zoning plan.

19.98.180. Enforcement—Issuance of permits, licenses or approvals to comply.

It shall be the duty of the director of community development to enforce the provisions of this title. All officers, officials and employees of the city who are vested with the duty or authority to issue permits or licenses shall conform with the provisions of this title, and shall not issue any permit or license or approve any use or building which would be in conflict with this title. Any permit, license or approval issued in conflict with this title shall be null and void.

19.98.190. Examinations and surveys—Entry upon land.

In the performance and discharge of any responsibility imposed by this title, any official, officer or employee of the city may enter upon any land and make examinations and surveys; provided, however, that such entries, examinations and surveys do not interfere with the use of the land by those persons lawfully entitled to the possession thereof, and do not conflict with any applicable state or federal law.

19.98.200. Public nuisance defined—Abatement.

Any use or building set up, erected, constructed, converted, altered, added to, enlarged or caused to exist contrary to the provisions of this title shall and the same is hereby declared to be a public nuisance. The director of community development, upon order of the city council, shall immediately commence action or proceedings for the abatement and removal or enjoinment thereof in the manner provided by law. The director of community development shall take such other steps and apply to such courts as may have jurisdiction to approve such relief, as will abate and cause removal of such use or building and restrain and enjoin any person, firm or corporation from erecting, constructing, converting, altering, adding to, enlarging or causing to exist any use or building contrary to this title.

19.98.210. Interim ordinance—Urgency measure.

Without following the procedures otherwise required preliminary to the adoption or amendment of a special plan, precise zoning plan, or addition thereto, and if the council,

planning commission, or the planning division of the department of community development is considering or studying, or intends to study within a reasonable time any specific plan, precise zoning plan, or amendment thereof, or addition thereto, and in order to protect the public safety, health and welfare, the city council may adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with the contemplated specific plan, precise zoning plan or amendment or addition thereto. Such urgency measure shall require a two-thirds vote of the city council for adoption. Such interim ordinance shall be of no further force and effect one hundred eighty days from the date of adoption thereof; provided, however, that after notice pursuant to Section 19.98.040 and a public hearing, the city council by a two-thirds vote may extend such interim ordinance for one year. Not more than two such extensions may be adopted. When such interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first such ordinance or any extension.

19.98.220. Exclusionary zoning.

When a use is not specifically listed as a primary or conditional use, it shall be assumed that such use is prohibited unless it is determined by the director of community development that the use is similar to and not more objectionable or intensive than the uses listed. Uses are permitted and conditions of use are established within each district in conformance with Section 19.98.090. Requests for determinations for specific uses shall be submitted to the department of community development in writing with a detailed description of the proposed use, its proposed location, and intended hours of operation. Additional information may be required by the director of community development in order to prepare the determination for individual uses. Any decision by the director of community development regarding a requested determination shall be in writing and shall be final.