



LAND USE SERVICES DEPARTMENT

PLANNING COMMISSION STAFF REPORT

HEARING DATE: December 3, 2020

AGENDA ITEM # 3

Project Description

Applicant: County of San Bernardino Land Use Services Department

Community: Countywide

Location: Countywide

Project No: PMISC-2020-00005

Staff: Irene Romero

Proposal: Development Code Amendment to correct text errors and add clarification to various sections of the County Development Code. This amendment includes minor text revisions related to the following topics: overlay zones, in-home daycare, mini-storage facilities, lodging services, hillside grading, landscaping standards, accessory dwelling units, short-term residential rentals and related definitions.

Newspaper Publication Date: November 22, 2020 Report Prepared By: Irene Romero

PROJECT DESCRIPTION

The proposal is an amendment to Title 8 of the San Bernardino County Code (Development Code) to correct errors and add clarification to various sections of the Development Code (Project or Development Code Amendment). The Development Code Amendment includes revisions to the following topics: overlay zones, in-home daycare, mini-storage facilities, lodging services, hillside grading, landscaping standards, accessory dwelling units, short-term residential rentals and related definitions and other corrections to spelling and reference errors.

BACKGROUND

The Land Use Services Department (Department) has an on-going program of identifying minor inconsistencies and unnecessary complications within the Development Code, Countywide Plan, and other documents prepared by the Department, and periodically proposing clarifications to address those issues. Suggestions for document corrections are submitted by staff and other users to improve these documents, making them more readable, functional, and complete.

ANALYSIS OF PROPOSAL

Content of the Proposed Ordinance: The Development Code Amendment identifies several sections of the Development Code that could benefit from clarification or correction. The Development Code Amendment represent staff's recommendations to correct these issues, and are summarized as follows:

- **Overlay Zones** – Table 82-2, located in paragraph (3) of subsection 82.01.030(d), is amended to correct the Applicable Development Code Chapter/Section numbers and overlay names.
- **In-Home Daycare** – Table 82-7, located in subsection 82.04.040(b), is amended to replace “Child care – Small family daycare home” and “Child care – Large family daycare home” with one category of “Child care – Family daycare home (up to 14 children)”. The definitions section, subsection 810.01.060(e) is amended to eliminate the definition of “Large family day care home” and “Small family day care home”, keeping the definition for “Family day care home” with modified title of “Day Care Home – Family”.
- **Personal Storage (mini-storage) Facilities** – Table 82-11, located in subsection 82.05.040(b), is amended to allow “Storage – Personal storage (mini-storage)” in the General Commercial (CG) land use zoning designation with a Minor Use Permit or a Condition Use Permit. Staff recommends that this land use be added to Table 82-11 because it is considered to be similar and compatible with other uses permitted in the zone.
- **Lodging Services** – Table 82-11, located in subsection 82.05.040(b), is further amended to allow “Lodging – Bed and breakfast inn (B&B)” with a Special Use Permit and a “Lodging – Hotel or motel – 20 or fewer guests” with a Site Plan Permit in the Neighborhood Commercial (CN) land use zoning designation in order to be consistent with subsection 82.01.020(c)(3)(B), which states that the zone provides sites for lodging services.
- **Hillside Grading Review** – Section 83.08.030 is amended by including subparagraph (D) to paragraph (1) of subsection 83.08.030(b) and adding paragraphs (6) and (7) to subsection 83.08.030(b), all related to submittal requirements for hillside grading plans. Specifically, the proposed amendments will require the submission of the most recent rough and/or precise grading plans for hillside grading that exceeds 50 cubic yards and will impose additional slope design and dust control requirements.
- **Landscape Standards** – Chapter 83.01 is amended to reflect the recent adoption of the Model Water Landscape Ordinance (MWELO) by reference in Title 6 of the San Bernardino County Code to provide consistency and ensure compliance with

MWELO. The MWELO provides water efficiency standards for new and retrofitted landscapes and Chapter 83.01 will supplement the efficiency standards with zoning regulations associated with landscape area requirements and landscaping standards, such as setbacks and applicable plant materials for the various regions of the County.

- **Accessory Structures and Uses** – Chapter 84.01 is amended to provide clarifications regarding accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Clarifications include the type of ADUs (e.g., attached, detached or converted), size limitations, and occupancy requirements. Subsection 84.01.060(g) is also amended to reflect the recent changes required by Assembly Bill 3182, which authorizes up to one ADU and one JADU per lot if certain requirements are met.
- **Short-Term Residential Rentals** – Chapter 84.28 is amended to provide minor clarifications related to applicability, definition of “Inspections – Renewal”, permit requirements, application process, and trash/refuse conditions of operation.

ENVIRONMENTAL DETERMINATION

The Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be determined with certainty that the Development Code Amendment will not have a significant effect on the environment.

FINDINGS

The following findings and the evidence to support such findings must be made by the Planning Commission in its recommendation to the Board of Supervisors to approve the proposed Development Code Amendment:

1. The proposed ordinance amending the Development Code is consistent with the Countywide Plan and any applicable specific plan because it will allow the Department to more effectively enforce the provisions of the Development Code. The proposed ordinance will amend the Development Code to correct minor errors, add allowed uses, clarify existing language, remove and update references, expand a use definition, and update department decisions or actions no longer required or performed. Moreover, various amendments to the requirements of ADUs are required to reflect recent changes in the law.
2. The proposed ordinance amending the Development Code would not be detrimental to the public interest, health, safety, convenience or welfare of the County. The proposed ordinance is designed specifically to enhance the public interest, health, safety, convenience and welfare of the County by providing needed clarification in the regulations imposed on development and authorize a community benefit by

allowing the additional use of personal storage facilities and lodging services in various land use zoning districts.

3. The proposed ordinance amending the Development Code is internally consistent with other applicable provisions of the Development Code. For the purpose of maintaining consistency throughout the Development Code, multiple sections of the Development Code are included in the proposed ordinance.
4. The proposed amendment is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be determined with certainty that implementation of the proposed ordinance would not have a significant effect on the environment.

RECOMMENDATION

That the Planning Commission take the following actions:

1. **DIRECT** staff to prepare an ordinance amending Title 8 of the County Code as recommended in the staff report and as illustrated in the draft ordinance, presented in Exhibit A as red-line changes to the existing Development Code text (the Ordinance).
2. **RECOMMEND** that the Board of Supervisors take the following action:
 - A. **FIND** that the Ordinance is exempt from CEQA.
 - B. **ADOPT** the findings as contained in the staff report.
 - C. **ADOPT** the Ordinance amending Title 8 of the County Code related to the corrections of minor errors, additions and clarifications regarding overlays, in-home daycare, mini-storage facilities, lodging services, hillside grading, landscaping standards, accessory dwelling units, short-term residential rentals and related definitions and other corrections to spelling and reference errors in the various sections listed in the Ordinance.
 - D. **DIRECT** the Clerk of the Board to file a Notice of Exemption.

ATTACHMENTS

Exhibit A: Proposed County Development Code Section Changes (Red-lined Version)

EXHIBIT A

Proposed County Development Code Section Changes (Red-lined Version)

Table 82-2

<i>Overlays</i>		
<i>Overlay Symbol</i>	<i>Overlay Name</i>	<i>Applicable Development Code Chapter/Section</i>
Overlays		
AA ⁽¹⁾	Additional Agriculture	82.07
AP ⁽¹⁾	Agricultural Preserve	82.08
AR ⁽²⁾	Airport Safety	82.09
AH ⁽²⁾	Alternate Housing	82.10
BR ⁽²⁾	Biotic Resources	82.11
CP ⁽²⁾	Cultural Resources Preservation	82.12
FS ⁽²⁾	Fire Safety	82.13
FP ⁽²⁾	Flood Plain Safety	82.14
GH ⁽²⁾	Geologic Hazard	82.15
HW ⁽²⁾	Hazardous Waste	82.16
MR ⁽²⁾	Mineral Resources	82.17
NH ⁽²⁾	Noise Hazard	82.18
OS ⁽²⁾	Open Space	82. <u>19</u> 23
PR ⁽²⁾	Paleontologic Resources	82. <u>20</u> 19
SR ⁽²⁾	Scenic Resources	82.20
SC ⁽¹⁾	Sign Control	82.21
SS ⁽³⁾	Sphere Standards	82.22
Notes:		
(1) Included as a suffix to the land use designation on the Land Use Zoning District Maps.		
(2) Not included on the Land Use Zoning District Map, but a separate map.		
(3) Only applied to the city sphere of influence area designated in Chapter 82.22.		

(Ord. 4011, passed - -2007; Am. Ord. 4057, passed - - 2008; Am. Ord. 4098, passed - -2010)

§ 82.04.040 Residential Land Use Zoning District Allowed Uses and Permit Requirements.

(a) *General Permit Requirements.* Table 82-7 identifies the uses of land allowed by this Development Code in each residential land use zoning district established by Chapter 82.01 (Land Use Plan, and Land Use Zoning Districts, and Overlays), in compliance with § 82.02.030 (Allowed Land Uses and Planning Permit Requirements).

(b) *Requirements for Certain Specific Land Uses.* Where the last column in Table 82-7 (Specific Use Regulations) includes a Section number, the referenced Section may affect whether the use requires Land Use Review, or Conditional Use Permit or Minor Use Permit, or other County approval, and/or may establish other requirements and standards applicable to the use.

Table 82-7

Allowed Land Uses and Permit Requirements for Residential Land Use Zoning Districts				
Land Use See Division 10 (Definitions) for land use definitions	Permit Required by District			Specific Use Regulations
	RL⁽¹⁾	RS	RM	
Agricultural, Resource & Open Space Uses				
Accessory crop production	A ⁽²⁾	A ⁽²⁾	A ⁽²⁾	84.01
Agricultural accessory structure - 1,000 sf max.	A	A	A	
Agricultural accessory structure - up to 10,000 sf max. on 5 ac. or less	A	—	—	
Agricultural accessory structure - greater than 10,000 sf. on 5 ac. or less	M/C	—	—	
Agricultural support services	CUP	—	—	
Animal keeping	S	S	S	84.04
Crop production, horticulture, orchard, vineyard, nurseries	A	—	—	
Community Gardens	A	TUP	A	
Livestock operations	CUP	—	—	84.04
Natural resources development (mining)	CUP	—	—	88.03
Nature preserve (accessory uses)	M/C	—	—	
Lake	M/C	CUP	—	
Pond	A	A	M/C	
Industry, Manufacturing & Processing, Wholesaling				
Composting operations	CUP	—	—	
Recycling facilities - reverse vending machine, accessory	S	—	—	84.19
Recreation, Education & Public Assembly Uses				

Agritourism enterprises	S	—	—	84.03
Campgrounds ⁽³⁾	CUP	—	—	
Commercial entertainment - Indoor ⁽³⁾	CUP	—	—	
Conference/convention facility ⁽³⁾	CUP	—	—	
Equestrian facility ⁽³⁾	M/C	S ⁽⁴⁾	—	
Golf course ⁽³⁾	CUP	—	—	
Library, museum, art gallery, outdoor exhibit ⁽³⁾	M/C	M/C	M/C	
Meeting facility, public or private ⁽³⁾	CUP	CUP	CUP	
Park, playground ⁽³⁾	P	P	P	
Places of worship	CUP	CUP	CUP	
Rural sports and recreation ⁽³⁾	M/C	—	—	
School - College or university	CUP	CUP	—	
School - Private	CUP	CUP	—	
School - Specialized education/training	CUP	—	—	
Sports or entertainment assembly ⁽³⁾	CUP	—	—	
Residential⁽¹⁰⁾				
Accessory structures and uses	A	A	A	84.01
Group residential (sorority, fraternity, boarding house, private residential club, etc.)	—	—	M/C	—
Guest house	A	A	A	84.01
Mobile home park/manufactured home land-lease community	CUP	CUP	CUP	84.14
Multiple dwelling, 2 to 3 units, attached or detached	—	—	A	84.16
Multiple dwelling, 4 to 19 units, attached or detached	—	—	A	84.16
Multiple dwelling, 20 to 49 units, attached or detached	—	—	MUP	84.16
Multiple dwelling, 50 or more units, attached or detached	—	—	CUP	84.16
Parolee and/or probationer home	—	—	CUP	
Accessory dwelling unit	A ⁽⁵⁾	A ⁽⁵⁾	A ⁽⁵⁾	84.01
Junior accessory dwelling unit	A ⁽⁵⁾	A ⁽⁵⁾	A ⁽⁵⁾	84.01
Single dwelling	A	A	A ⁽⁶⁾	

Retail				
Produce stand	A ⁽⁷⁾	A ⁽⁷⁾	A ⁽⁷⁾	
Services - General				
Cemetery, including pet cemeteries	CUP	CUP	—	84.06
Child care - Small-Family day care home (up to 14 children)	A	A	A	
Child care - Large family day care home	MUP	MUP	MUP	
Child care - Day care center	M/C	M/C	M/C	
Commercial Kennels and Catteries - min lot 2.5 acres (over 15 animals)	M/C/S	—	—	84.04
Emergency shelter	—	—	CUP	84.33
Home occupation	SUP	SUP	SUP	84.12
Licensed Residential Care Facility of 6 or fewer persons	A	A	A	84.23
Licensed Residential Care Facility of 7 or more persons	—	—	CUP	84.23
Lodging - Bed and breakfast inn (B&B)	SUP ⁽⁸⁾	SUP ⁽⁸⁾	SUP ⁽⁸⁾	84.05
Public safety facility	M/C	M/C	M/C	
Short-Term Residential Rentals	SUP	SUP	SUP	84.28
Unlicensed Residential Care Facility with 6 or fewer persons	RCP	RCP	RCP	84.32
Unlicensed Residential Care Facility with 7 or more persons	—	—	CUP	
Transportation, Communications & Infrastructure				
Broadcasting antennae and towers	M/C	—	—	
Electrical power generation	CUP	—	—	
Pipelines, transmission lines, and control stations ⁽⁹⁾	(9)	(9)	(9)	
Renewable Energy Generation Facilities	CUP	—	—	84.29
Sewage treatment and disposal facility	CUP	CUP	CUP	
Solid waste disposal	CUP	CUP	CUP	
Telecommunications facility	S	S	S	84.27
Transportation facility	M/C	M/C	M/C	
Utility facility	CUP	CUP	CUP	

Wind energy accessory	S	S	S	84.26
Wireless telecommunications facility	S	S	S	84.27
Other				
Accessory structures and uses	A	A	A	84.01
Temporary special events	TSP	TSP	TSP	84.25
Temporary structures and uses	TUP	TUP	TUP	84.25

Key				
A	Allowed use (no planning permit required)	P D	Planned Development Permit required (Chapter 85.10)	
P	Permitted Use; Site Plan Permit required (Chapter 85.08)	S U P	Special Use Permit required (Chapter 85.14)	
M/ C	Minor Use Permit required; unless a Conditional Use Permit required in compliance with § 85.06.050 (Projects That Do Not Qualify for a Minor Use Permit)	S	Permit requirement set by Specific Use Regulations (Division 4)	
		T S P	Temporary Special Events Permit required (Chapter 85.16)	
		R C P	Unlicensed Residential Care Facilities Permit (Chapter 85.20)	
CU P	Conditional Use Permit required (Chapter 85.06)	T U P	Temporary Use Permit required (Chapter 85.15)	
MU P	Minor Use Permit required (Chapter 85.06)	—	Use not allowed	

Notes:
(1) For projects within the Oak Glen Community Plan Area, all non-agritourism uses shall comply with the - agritourism hours of operation standard [§ 84.03.030(b)(3)] and the agritourism noise/amplified sound regulations [§ 84.03.030(b)(5)].
(2) Use allowed as an accessory use only with standards, on the same site as a residential use allowed by this table.
(3) For projects within the Oak Glen Community Plan Area, these uses shall comply with the agritourism development standards provided in Table 84-1 in § 84.03.030. The permit requirements presented this table shall prevail over any permit requirement listed in Table 84-1.
(4) A boarding facility only with a Home Occupation Permit.
(5) Use allowed as an accessory use only, on the same site as a residential use allowed by this table.
(6) Single dwellings will only be allowed within an RM Land Use Zoning District when sewer service is not available or the lot is less than $\frac{1}{2}$ acre.
(7) In the Phelan/Pinon Hills Community Plan area on lots greater than 10,000 sq. ft. with a maximum 200 sq. _u ft. _u structure for

storage and sales and a maximum 6 sq._u ft._u advertising sign; in RS and RM, can only operate for 72 hours per month.

(8) A CUP shall be required for three or more rooms.

(9) These uses are regulated and approved by the Public Utilities Commission. See alternate review procedures in Chapter 85.02.

(10) Supportive housing or transitional housing that is provided in single-, two-, or multi-family dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house ~~-uses~~ shall be permitted, conditionally permitted or prohibited in the same manner as the other single-, two- or multi-family dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house uses under this Code.

(Ord. 4011, passed - -2007; Am. Ord. 4043, passed - -2008; Am. Ord. 4057, passed - - 2008; Am. Ord. 4085, passed - -2009; Am. Ord. 4098, passed - -2010; Am. Ord. 4162, passed - -2012; Am. Ord. 4230, passed - - 2014; Am. Ord. 4251, passed - -2014; Am. Ord. 4304, passed - -2016; Ord. 4331, passed - -2017; Am. Ord. 4341, passed - -2018)

§ 82.05.040 Commercial Land Use Zoning District Allowed Uses and Permit Requirements.

(a) *General Permit Requirements.* Table 82-11 identifies the uses of land allowed by this Development Code in each commercial land use zoning district established by Chapter 82.01(Land Use Plan, and Land Use Zoning Districts, and Overlays), in compliance with § 82.01.020 (Allowed Land Uses and Planning Permit Requirements).

(b) *Requirements for Certain Specific Land Uses.* Where the last column in Table 82-11 (Specific Use Regulations) includes a Section number, the referenced Section may affect whether the use requires Land Use Review, or Conditional Use Permit or Minor Use Permit, or other County approval, and/or may establish other requirements and standards applicable to the use.

Table 82-11

Allowed Land Uses and Permit Requirements for Commercial Land Use Zoning Districts

Land Use See Division 10 (Definitions) for land use definitions	Permit Required by District						Specific Use Regulations
	CR	CN	CO	CG	CS	CH	
Agricultural, Resource & Open Space Uses							
Agriculture support services	P ⁽²⁾	—	—	P ^(1, 2)	P ⁽²⁾	—	
Industry, Manufacturing & Processing, Wholesaling							
Construction contractor storage yard	M/C	—	—	—	M/C	—	
Firewood contractor	P ⁽²⁾	—	—	—	P ⁽²⁾	—	84.09
Manufacturing Operations I	M/C ⁽³⁾	—	—	—	P ⁽²⁾	—	
Motor vehicle storage/Impound facility	CUP	—	—	—	CUP	CUP	
Recycling facilities - Small collection facility	SUP	SUP	SUP	SUP	SUP	SUP	84.19
Recycling facilities - Large collection facility	CUP	—	CUP	CUP	CUP	CUP	84.19
Recycling facilities - Light processing facility	CUP	—	—	CUP	CUP	—	84.19
Recycling facilities, reverse vending machine (accessory only)	A	A	A	A	A	A	84.19
Salvage operations - within enclosed structures	M/C ⁽⁴⁾	—	—	—	M/C	—	
Storage - Personal storage (mini-storage)	M/C	—	—	M/C	P ⁽²⁾	—	
Storage - Recreational vehicles	CUP	—	—	—	CUP	CUP	
Storage Warehouse, Indoor Storage	M/C	—	—	—	—	—	
Wholesaling and distribution	M/C ⁽⁴⁾	—	—	P ^(1,2)	P ⁽²⁾	—	
Recreation, Education & Public Assembly							
Adult business	—	—	—	ABP	—	—	84.02
Commercial entertainment - Indoor	P ⁽²⁾	P ⁽²⁾	—	P ⁽²⁾	P ⁽²⁾	P ⁽²⁾	

Commercial entertainment - Outdoor	P ⁽²⁾	—	—	P ⁽²⁾	P ⁽²⁾	P ⁽²⁾	
Conference/convention facility ^(4, 5)	M/C	—	M/C	M/C	M/C	M/C	
Equestrian facility	M/C	—	M/C	M/C	M/C	M/C	
Fitness/health facility ⁽⁵⁾	P ⁽²⁾	P ⁽²⁾	—	P ⁽²⁾	P ⁽²⁾	P ⁽²⁾	
Golf course	M/C	—	—	—	M/C	M/C	
Library, museum, art gallery, outdoor exhibit ⁽⁵⁾	M/C	—	—	M/C	M/C	M/C	
Meeting facility, public or private ⁽⁵⁾	CUP	CUP	CUP	CUP	CUP	CUP	
Park, playground	M/C	—	—	—	—	—	
Places of worship	CUP	CUP	CUP	CUP	CUP	CUP	
Recreational vehicle park	M/C	—	—	—	M/C	M/C	
Rural sports and recreation	CUP	—	—	—	CUP	CUP	
School - College or university ⁽⁵⁾	M/C	—	M/C	M/C	M/C	M/C	
School - Private ⁽⁵⁾	M/C	—	M/C	M/C	M/C	M/C	
School - Specialized education/training ⁽⁵⁾	M/C	—	M/C	M/C	M/C	M/C	
Sports or entertainment assembly	CUP	—	—	CUP	CUP	CUP	
Theater ⁽⁵⁾	M/C	—	—	M/C	M/C	M/C	
Residential⁽¹⁰⁾							
Accessory dwelling (caretakers residence, etc.)	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	84.01
Accessory use or structure - Residential (conforming and non-conforming uses)	A	P ^(6, 7)	84.01				
Group residential (sorority, fraternity, boarding house, private residential club, etc.)	M/C	—	—	M/C	M/C	M/C	
Guest housing	P ⁽⁷⁾	—	—	—	—	—	84.01
Live/work unit	M/C	M/C	M/C	M/C	M/C	M/C	
Mobile home park/manufactured home land-lease community	CUP	—	—	—	—	—	84.14
Multiple dwelling, up to 19 units, attached or detached	A	—	—	—	—	—	84.16
Multiple dwelling, 20 or more units	CUP	—	—	—	—	—	84.16
Parolee and/or probationer home	CUP	—	—	CUP	CUP	CUP	
Residential use only as part of a mixed use project	PD	—	PD	PD	PD	PD	84.16
Accessory dwelling unit	A	—	—	—	—	—	84.01
Junior accessory dwelling unit	A	—	—	—	—	—	84.01
Single dwelling	A	—	—	—	—	—	

Retail

Auto and vehicle sales and rental	P ⁽²⁾	—	—	P ⁽²⁾	P ⁽²⁾	—	
Bar, tavern	P ⁽²⁾	M/C	—	P ⁽²⁾	P ⁽²⁾	—	
Building and landscape materials sales - Indoor	M/C	—	—	M/C	M/C	—	
Building and landscape materials sales - Outdoor	M/C	—	—	M/C	M/C	—	
Construction and heavy equipment sales and rental	M/C	—	—	—	M/C	—	
Convenience store	P ⁽²⁾						
Fuel dealer (propane for home and farm use, etc.)	M/C	—	—	—	M/C	—	
General retail	M/C	—	—	P ⁽²⁾	P ⁽²⁾	—	
Groceries, specialty foods	M/C	M/C	—	P ⁽²⁾	P ⁽²⁾	—	
Manufactured home, boat, or RV sales	P ⁽²⁾	—	—	M/C	M/C	—	
Night club	P ⁽²⁾	M/C	—	M/C	P ⁽²⁾	—	
Restaurant, café, coffee shop	P ⁽²⁾						
Service station	M/C	M/C	—	M/C	M/C	M/C	
Second hand stores, pawnshops	P	—	—	P	P	—	
Shopping center	M/C	M/C	—	M/C	M/C	M/C	
Swap meet, outdoor market, auction yard	M/C	—	—	M/C	M/C	—	
Warehouse retail	P ⁽²⁾	—	—	P ⁽²⁾	P ⁽²⁾	—	

Services - Business, Financial, Professional

Medical services - Hospital	—	—	CUP ⁽⁵⁾	—	—	—	
Medical services - Rehabilitation center	—	—	CUP	—	—	—	
Office - Accessory	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	
Professional services	P ⁽²⁾	P ⁽²⁾	P	P ⁽²⁾	P ⁽²⁾	—	

Services - General

Bail bond service within 1 mile of correctional institution	P	—	P	P	P	P	
Cemetery including pet cemeteries	CUP	CUP	CUP	CUP	CUP	CUP	84.06
Child care - Day care center	M/C	M/C	M/C	M/C	M/C	—	
Convenience and support services	P ⁽²⁾	P ⁽²⁾	—	P ⁽²⁾	P ⁽²⁾	P ⁽²⁾	
Emergency shelter	CUP	CUP	CUP	A	A	CUP	84.33
Equipment rental	P ⁽²⁾	—	—	P ⁽²⁾	P ⁽²⁾	—	
Home occupation	SUP	SUP	SUP	SUP	SUP	SUP	84.12
Kennel or cattery - 2.5-acre minimum lot area	M/C/S	—	—	—	M/C/S	—	84.04

Licensed Residential Care Facility of 6 or fewer persons	M/C	—	—	M/C	M/C	M/C	84.23
Licensed Residential Care Facility of 7 or more persons	M/C	—	—	M/C	M/C	M/C	84.23
Lodging - Bed and breakfast inn (B&B)	SUP	<u>SUP</u>	—	—	—	—	84.05
Lodging - Hotel or motel - 20 or fewer guest rooms	P ⁽²⁾	<u>P^(2,8)</u>	—	P ^(2,8)	P ^(2,8)	P ⁽²⁾	
Lodging - Hotel or motel - More than 20 guest rooms	M/C	—	—	M/C	M/C	M/C	
Personal services	P ⁽²⁾	P ⁽²⁾	—	P ⁽²⁾	P ⁽²⁾	P ⁽²⁾	
Public safety facility	M/C	M/C	—	—	M/C	M/C	
Unlicensed Residential Care Facility of 6 or fewer persons	RCP	—	—	RCP	RCP	RCP	84.32
Unlicensed Residential Care Facility of 7 or more persons	M/C	—	—	M/C	M/C	M/C	
Vehicle services - Major repair/body work	M/C	—	—	—	M/C	M/C	
Vehicle services - Minor maintenance/repair	P ⁽²⁾	—	—	P ⁽²⁾	P ⁽²⁾	P ⁽²⁾	
Veterinary clinic, animal hospital	M/C	—	—	M/C	M/C	—	
Transportation, Communications & Infrastructure							
Ambulance, taxi, or limousine dispatch facility	P ⁽²⁾	—	—	—	P ⁽²⁾	P ⁽²⁾	
Broadcasting antennae and towers	M/C	—	—	M/C	M/C	—	
Broadcasting studio	P ⁽²⁾	—	—	P ⁽²⁾	P ⁽²⁾	—	
Parking lots and structures, accessory	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	
Pipelines, transmission lines, and control stations ⁽⁹⁾	(9)	(9)	(9)	(9)	(9)	(9)	
Renewable Energy Generation Facilities	CUP	CUP	CUP	CUP	CUP	CUP	84.29
Sewage treatment and disposal facility	CUP	—	—	—	—	CUP	
Transportation facility	M/C	M/C	M/C	M/C	M/C	M/C	
Truck Stop	M/C	—	—	—	M/C	M/C	
Truck Terminal	—	—	—	—	M/C	—	
Utility facility	CUP	—	—	—	CUP	—	
Wind energy system, accessory	S	S	S	S	S	S	84.26
Wireless telecommunications facility	S	S	S	S	S	S	84.27
Other							
Accessory structures and uses	P	P	P	P	P	P	84.01
Off-Site Signs	—	—	—	CUP	—	CUP	83.13.060
Off-Site Signs (Freeway Oriented)	—	—	—	CUP	—	CUP	83.13.060
Temporary special events	TSP	TSP	TSP	TSP	TSP	TSP	84.25
Temporary uses and activities	TUP	TUP	TUP	TUP	TUP	TUP	84.25

Key			
A	Allowed use (no planning permit required)	PD	Planned Development Permit required (Chapter 85.10)
A B P	Adult Business Regulatory Permit	SUP	Special Use Permit required (Chapter 85.14)
P	Permitted Use; Site Plan Permit required (Chapter 85.08)	S	Permit requirement set by Specific Use Regulations (Division 4)
M /C	Minor Use Permit required; unless a Conditional Use Permit required in compliance with § 85.06.050 (Projects That Do Not Qualify for a Minor Use Permit)	TSP	Temporary Special Events Permit required (Chapter 85.16)
C U P	Conditional Use Permit required (Chapter 85.06)	RCP	Unlicensed Residential Care Facilities Permit (Chapter 85.20)
M U P	Minor Use Permit required (Chapter 85.06)	TUP	Temporary Use Permit required (Chapter 85.15)
		—	Use not allowed

Notes:
(1) Not allowed in the Phelan planning area.
(2) CUP required if maximum building coverage exceeds 10,000 sq. ft., the use will have more than 20 employees per shift, or if not exempt from CEQA; may qualify for a MUP in compliance with § 85.06.020 (Applicability).
(3) The use shall be allowed in Lucerne Valley with a Site Plan Permit.
(4) The use is allowed in Lucerne Valley with a MUP.
(5) A MUP shall not be allowed if the use requires more than 200 parking spaces.
(6) Use allowed as an accessory use only, on the same site as a retail, service, or industrial use allowed by this table.
(7) Use allowed as an accessory use only, on the same site as a residential use allowed by this table.
(8) A CUP shall be required for this use in the Phelan planning area.
(9) These uses are regulated and approved by the Public Utilities Commission. See alternate review procedures in § 85.02.050.
(10) Supportive housing or transitional housing that is provided in single-, two-, or multi-family dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house uses shall be permitted, conditionally permitted or prohibited in the same manner as the other single-, two- or multi-family dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house uses under this Code.

(Ord. 4011, passed - -2007; Am. Ord. 4043, passed - -2008; Am. Ord. 4085, passed - -2009; Am. Ord. 4098, passed - -2010; Am. Ord. 4230, passed - -2014; Ord. 4239, passed - -2014; Am. Ord. 4245, passed - -2014; Am. Ord. 4251, passed - -2014; Am. Ord. 4341, passed - -2018)

§ 83.08.030 Hillside Grading Review.

A subdivision, land use permit, or Building Permit application for a site or development that meets or exceeds the thresholds in § 83.08.020 (Applicability) shall require a Hillside Grading Review.

(a) *Procedure.* The review shall be conducted concurrently with any required discretionary review or in conjunction with an application for a Grading Permit for any project that meets or exceeds the thresholds listed in § 83.08.020 (Applicability).

(b) *Submittal Requirements.* An application for a Hillside Grading Review shall require the following documents, reports, maps and such others as determined appropriate by the Director. Exceptions to the filing requirements shall require a written justification supported by factual information submitted to the Director for consideration. Some of the required submittals listed below may be displayed on a single map or plan.

(1) *Natural Features Map.* A natural features map shall identify all existing slope banks, ridgelines, canyons, natural drainage courses, Federally recognized blue line streams, rock outcroppings, and existing vegetation. When a geology report is required, landslides and other existing geologic hazards shall also be depicted.

(2) *Grading Plan.* A conceptual grading plan shall include the following items:

(A) A legend with appropriate symbols shall include the following items: change in direction of drainage, elevation of regulated trees subject to the provisions of § 88.01.070(b) (Regulated Trees), estimated volumes proposed to be cut and/or filled, finished floor elevations, high point, low point, pad elevations, spot elevations, top of curb, and top of wall.

(B) A separate map, with proposed fill areas colored in green and cut areas colored in red, with areas where cut and/or fill exceed depths established in compliance with this Chapter. If custom foundations are proposed, this shall be noted on the map. Additionally, the area of cut and/or fill, calculated as a percentage of the total surface area of the site, shall be included on the plan; and

(C) Contours for existing and natural land conditions and proposed work. Existing contours shall be depicted with a dashed line with every fifth contour line darker; and proposed contours shall be depicted similarly with solid lines. Contours shall be shown at maximum five-foot intervals above 20 percent slope.

(D) For the efficient use of water, grading of the project site shall be designed so that soil erosion, runoff, and water waste are minimized. As part of the landscape document package, if a project's grading exceeds 100 cubic yards, then the project developer shall submit the most recent rough and/or precise grading plan(s) that have been prepared and signed by a licensed professional to the extent authorized by law.

(3) *Drainage Map.* A conceptual drainage and flood control facilities map describing planned drainage improvements.

(4) *Slope Analysis Map.* A slope analysis map for the purpose of determining the amount and location of land as it exists in its natural state falling into each slope category as specified in this subdivision. This map shall be prepared and signed by a registered civil engineer or licensed land surveyor, and shall have a scale of not less than one inch to 100 feet and a contour interval of not more than two feet, provided that the contour interval may be five feet when the slope is more than 20 percent. A scale of not less than one inch to 200 feet may be used for developments greater than 100 acres in size. This map shall show the closest structures on all contiguous properties. It shall delineate slope bands in the range of zero to less than 15 percent, 15 to less than 30 percent, 30 percent to less than 40 percent, and 40 percent or greater. Also included shall be a tabulation of the land/area in each slope category specified in acres.

(5) *Slope Profiles.* A sufficient number of slope profiles shall be provided as required by the Director to clearly illustrate the extent of the proposed grading. The slope profiles shall:

(A) Be drawn at the same scale and indexed, or keyed, to the grading plan, and project site map.

(B) Show existing and proposed topography, structures, and infrastructure. Proposed topography, structures, and infrastructure shall be drawn with a solid, heavy line. Existing topography and features shall be drawn with a thin or dashed line.

(C) The slope profile shall extend far enough from the project site boundary to clearly show impact on adjacent property, within at least 150 feet.

(D) The profiles shall be drawn along those locations of the project site where:

- (I) The greatest alteration of existing topography is proposed;
- (II) The most intense or dense development is proposed;

- (III) The site that is most visible from surrounding land uses; and
 - (IV) At all site boundaries illustrating maximum and minimum conditions.
- (E) At least two of the slope profiles shall be roughly parallel to each other and roughly perpendicular to existing contour lines. At least one other slope profile shall be roughly at a 45-degree angle to the other slope profiles and existing contour lines.

(6) Slope Design. Slopes with a 5:1 ratio or greater; cut slopes with a five-foot vertical height or greater; and fill slopes with a three-foot vertical height or greater shall be protected against damage from erosion. In addition to the stabilizing mulch, drought-tolerant plant material and hardscape features shall be utilized on slopes to promote water retention and erosion control. Decorative boulders and other suitable hardscape materials may be utilized on slopes, but the dominant visual character of the slope shall be made up of drought-tolerant plant materials. Shrubs shall be used in combination with lateral spreading groundcovers; trees shall be used where slope exceeds 15 feet vertical height. Trees and shrubs shall be planted in visually attractive groupings that provide a more natural appearance

(7) Dust Control. If grading takes place, then a dust control plan shall be submitted for review. All grading and dust control measures shall be conducted in compliance with the provisions of Section 88.02.040 (Dust Control Desert Region).

(Ord. 4011, passed - -2007)

CHAPTER 83.10: LANDSCAPING STANDARDS

Section

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§ 83.10.010 Purpose.

The purpose of this Chapter is to:

- (a) Enhance the aesthetic appearance of the County by providing standards related to the quality and functional aspects of landscaping and to recognize that landscapes are essential to the quality of life within the County by providing areas for active and passive recreation. Additionally, landscapes are an enhancement to the environment by benefitting air and water quality, helping to prevent and manage erosion, offering fire protection, and helping to replace valuable ecosystems that may be lost during development.
- (b) Increase the compatibility between abutting land uses and public rights-of-way by providing landscape screening and buffers.
- (c) Protect public health, safety, and welfare by preserving property values and enhancing pedestrian and vehicular traffic and safety.
- (d) Provide for the conservation and protection of water resources through the efficient use of water; appropriate use of plant materials suitable for climate and location; regular maintenance of landscaped areas; and provide regional standards ~~that are as effective in conserving water as in addition to those required by~~ the State Model Water Efficient Landscape Ordinance (MWELO), as adopted by reference in Title 6 of the San Bernardino County Code of Ordinances, ~~and recognize the following:~~

- ~~(1) The waters of the State of California are of limited supply and are subject to ever increasing demands from new land uses, existing land uses, residents of the State, and more;~~
- ~~(2) The continuation of the economic prosperity of the State and the County is dependent upon the availability of adequate water supplies for the future and future development;~~
- ~~(e) Retain the land's hydrological role within the County's three main watersheds; Santa Ana, Lahontan, and Colorado and promote the infiltration of surface water into the groundwater tables.~~
- ~~(f) Preserve existing natural vegetation, while incorporating the use of native plants, plant communities, and ecosystems into landscaping design, where possible.~~
- ~~(g) Establish effective coordination with neighboring and local agencies, which promote benefits of consistent landscape ordinances and standards in accomplishing the common goal of managing the County's water supply and quality.~~
- ~~(h) Promote the conservation of potable water by utilizing recycled water and other water conserving technology, where possible.~~
- ~~(i) Promote public education about water conservation and efficient water management.~~

(Ord. 4011, passed - 2007; Am. Ord. 4136, passed - 2011; Am. Ord. 4245, passed - 2014)

§ 83.10.020 Applicability.

- (a) A landscape document package shall be submitted ~~when required by and in accordance with the requirements of the MWELO, for review and approval for the following projects:~~
 - ~~(1) All new and rehabilitated landscapes associated with homeowner installed residential uses (including single residential units/projects) with a total landscape area that is 5,000 square feet or greater.~~
 - ~~(2) All new and rehabilitated landscapes associated with any developer installed residential uses (including single and multiple residential projects) with a total landscape area that is 2,500 square feet or~~

greater.

(3) All new and rehabilitated landscapes associated with any owner and/or developer installed commercial, institutional, and/or industrial uses with a total landscape area that is 2,500 square feet or greater.

(4) *All New and Rehabilitated Landscapes within Cemeteries.* These projects need only prepare a water budget that specifies the facilities Maximum Applied Water Allowance (MAWA) and Estimated Annual Water Use (EAU), and they must meet the provisions set forth in §§ 83.10.100 and 83.10.120 of this Chapter.

(5) *Existing Uses and Structures.* If existing physical constraints on the site (e.g., structures, parking, circulation, etc.) limit the amount of landscaping that can be provided, whatever additional landscaping the site can accommodate towards meeting the landscape area requirements of this Chapter shall be provided.

(b) *Local Agencies.* If a local agency, such as a water purveyor, has adopted and implemented specific water efficient landscaping requirements, as outlined by State Title 23, Division 2, Chapter 2.7 Model Water Efficient Landscape Ordinance, then those requirements may be used for properties located within its service area in lieu of this Chapter. If the local agency has not adopted and implemented specific water efficient landscape requirements, then the water efficient requirements outlined in this Chapter shall be used when developing landscape plans for properties within its service area.

(Ord. 4011, passed - 2007; Am. Ord. 4136, passed - 2011)

§ 83.10.030 Exemptions from the Landscaping Requirements.

The following projects shall be exempt from landscaping requirements:

- (a) Those properties that have been registered as local, State, and/or Federally historical sites.
- (b) Undisturbed portions of residential subdivisions, such as areas which are to remain natural for native plant protection and/or management, for the protection of a wildlife corridor, or for other natural resource management approach, all of which will not require supplemental water or the approval as a viable landscape by the Director.
- (c) Undisturbed portions of nonresidential project sites.
- (d) Those properties that are currently in agricultural production are exempt from the requirements of this Chapter. Commercial agriculture production requiring more intense water usage shall be subject to separate water efficiency standards as regulated by the State of California and local water resource agencies.
- (e) Those properties that are part of an ecological restoration project(s) and do not require the use of a permanent irrigation system.
- (f) Those properties that are part of a mined land reclamation project(s) and do not require the use a permanent irrigation system.
- (g) Those plant collections, as part of botanical gardens and arboretums that are open to the public.

(Ord. 4011, passed 2007; Am. Ord. 4136, passed 2011)

§ 83.10.0340 Modification to the Landscaping Requirements.

(a) *Director Approval.* The Director may approve modifications to the requirements of this Chapter. The modifications shall be limited to the following:

(1) Minor modifications to the approved landscape documentation package that comply with the spirit and intent of the requirements, including, but not limited to, revising or substituting plant varieties, container sizes, plant locations, irrigation specifications, hardscape components, berm heights and/or locations, slope features, and other similar changes.

(2) Any minor modifications of planting, installation, and/or soil preparation details as listed within the approved landscape documentation package.

(3) The occupancy of structures prior to the installation of landscaping due to exceptional and unforeseen circumstances when a bond or other surety is provided ~~in compliance with § 83.10.060(e) (Statement of Surety).~~ When required by the Director, a statement of surety in the form of cash, performance bond, letter of credit, or certificate of deposit in an amount equal to 120 percent of the total value of all plant materials, irrigation equipment, installation, and maintenance shall be posted with the County for a two-year period. The Director may require statements of surety for phased development projects, a legitimate delay in landscape installation due to seasonal requirements (including adverse weather conditions) and similar circumstances where it may not be advisable or desirable to install all of a project's landscaping before occupancy of a site.

(b) *Conditions Imposed in Connection with Modifications.* In granting modifications to any approved landscape documentation package, the Director may impose conditions as deemed necessary to comply with the spirit and intent of these regulations.

(c) *Fire Safety (FS) Overlay.* The standards in this Chapter may be modified by Chapter 82.13 (Fire Safety (FS) Overlay).

(Ord. 4011, passed - 2007; Am. Ord. 4136, passed - 2011)

§ 83.10.050 Landscape Documentation Package.

(a) *Landscape Documentation Package Requirements.* A landscape documentation package shall be submitted for review and approval for those projects specified in § 83.10.020 (Applicability), consisting of the following:

(1) *Title Sheet.* Pertinent project information (i.e. applicant contact information, representative contact information if applicable, assessor's parcel number, etc.) shall be included on a title sheet. The following statement is to be placed on the title sheet of the landscape documentation package:

"I agree that this landscape documentation package complies with the landscaping requirements as outlined by Chapter 83.10 of the County of San Bernardino Development Code; as well as any other requirements as outlined in supporting documentation regarding water efficient landscaping requirements provided by the County of San Bernardino."

The title sheet shall bear the signature of a licensed professional authorized to design landscape plans.

(2) *Demolition Plan.* The landscape demolition plan, if applicable, shall show all landscape elements, and/or hardscape elements, that will affect the proposed landscaped areas, and identify each element to be removed or protected in place. Any existing native or protected tree species with a six inch or greater stem diameter and/or 19 inches in circumference measured at four and half feet above the average ground level from the base of the tree base shall not be removed without a tree removal permit. The issuance of the tree removal permit and the removal of any native or protected tree on site shall comply with Chapter 88.01 (Plant Protection and Management). Within the Valley Region, native trees are defined as three or more palm trees in linear plantings that are 50 feet or greater in height in established windrows, or parkway plantings, which are considered heritage trees.

(3) *Construction Plan.* The landscape construction plan shall detail the hardscape elements, i.e. sidewalks, mowcurbs, aesthetic elements, etc., that are proposed as part of the landscape design.

(4) *Water Budget.* A project's water budget shall be based on the following calculations and shall be included on the irrigation plan:

(A) *Maximum Applied Water Allowance (MAWA).* The MAWA for the project shall be calculated using the following formula:

MAWA (in gallons) = (ET_o)(0.62)[(0.7 × LA) + (0.3 × SLA)]

Where:

(I) ET_o: The project area specific reference evapotranspiration rate (inches), as outlined in the California Irrigation Management Information System (CIMIS), other equivalent data, or soil moisture sensor data.

(II) 0.62: The conversion factor, which converts acre-inches per acre per year to gallons per square foot per year.

(III) 0.70: The ET adjustment factor, that, when applied to the ET_o, adjusts for plant factors and irrigation efficiency, which are two major influences upon the amount of water that needs to be applied to the project's landscaped areas. Those areas using non-potable/recycled water for irrigation purposes may use the ET adjustment factor, which shall not exceed 1.0. The ET adjustment factor is figured by dividing the average site wide plant factor, found in the Water Use Classifications of Landscape Species, third edition (WUCOLS III), with the average irrigation efficiency of 0.71, as defined by State law.

(IV) LA: The project's total landscaped area (including SLA) in square feet.

(V) SLA: The project's total special landscaped area (i.e. areas dedicated to edible plants, areas irrigated with non-potable/recycled water, and publicly accessible areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing field or where turf is needed for high-traffic activities) in square feet.

(B) *Estimated Annual Water Use (EAUW).* The EAUW for project specific hydrozones shall be calculated using the following formula:

EAUW (in gallons) = (ET_o)(0.62)[((PF × HA)/IE) + SLA]

Where:

- (I) ETo: The project area specific reference evapotranspiration rate (inches), as outlined in the California Irrigation Management Information System (CIMIS), other equivalent data, or soil moisture sensor data.
- (II) 0.62: The conversion factor, which converts acre inches per acre, per year to gallons per square foot, per year.
- (III) PF: The plant factor found in the Water Use Classifications of Landscape Species, third edition (WUCOLS III) publication, available from the Department of Water Resources. The plant factors range from: low (0 to 0.3), medium (0.4 to 0.6), and high (0.7 to 1.0).
- (IV) HA: The hydrozone area in a square foot number based on water usage areas within the particular landscaping area (i.e. high, medium, and low, see above). If plants with low water requirements are used within a medium water use hydrozone (those plants that can also survive/flourish in a medium water use application), they shall be counted as a medium water use in the water budget calculations. The same requirement applies for those plants that can also be utilized in a high water use application.
- (V) IE: The irrigation efficiency of the projects irrigation systems. For the purposes of determining the EAWU, the average irrigation efficiency is assumed to be 0.71, based on State law. All project irrigation systems shall be designed, maintained, and managed to meet or exceed an average irrigation efficiency of 0.71, as defined by State law.
- (VI) SLA: The project's total special landscaped area (i.e. areas dedicated to edible plants, areas irrigated with non potable/recycled water, and publicly accessible areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing field or where turf is needed for high-traffic activities) in square feet.
- (VII) The landscaping plans shall provide the EAWU (in the same units as the MAWA is provided) for each valve stationed on the project specific irrigation controller. The sum of the projected EAWU shall not exceed the projected MAWA for the project.

(5) Landscape Planting Plan.

- (A) *Plant Groupings.* Plants selected for the landscape planting plan shall have similar water needs and be grouped together in distinct hydrozones for water maximum efficiency.
- (B) *Plant Hardiness.* Plants selected for the landscape planting plan shall be selected based upon their adaptability to the climate in which the project is located, as well as the geologic and topographical conditions. Where possible, the preservation and protection of existing native plant species and natural areas shall be encouraged.

(6) Landscape Irrigation Plan. The plan shall include all components of the irrigation system (i.e., valves, heads, sensors, etc.). The water budget information shall be used in the preparation of the irrigation plan and shall be included on the plan.

(7) Hydrozone Plan. A separate hydrozone plan shall be prepared in conjunction with the irrigation plan calling out the distinct hydrozone plant groupings.

(8) Landscape Grading Plan. If the proposed grading exceeds 50 cubic yards, the developer shall submit the most recent rough/precise grading plans and elevations for the project site. These plans shall bear the signature of a licensed professional authorized by law.

(9) Soil Management Report. To help further reduce runoff and help encourage healthy plant growth, a project specific soil management report with soil amendment recommendations shall be submitted as part of the landscape documentation package.

(b) Review and Approval. Prior to the issuance of permits, the developer shall submit a complete Landscape Documentation Package for review and approval.

(c) Statement of Surety. When required by the Director, a statement of surety in the form of cash, performance bond, letter of credit, or certificate of deposit in an amount equal to 120 percent of the total value of all plant materials, irrigation equipment, installation, and maintenance shall be posted with the County for a two year period. The Director may require statements of surety for phased development projects, a legitimate delay in landscape installation due to seasonal requirements (including adverse weather conditions) and similar circumstances where it may not be advisable or desirable to install all of a project's landscaping before occupancy of a site.

(d) Local Water Purveyor. If special provisions have been arranged for a local water purveyor to review and approve a specific project's landscape documentation package, a stamped set of plans approved by the

~~local water purveyor shall be provided.~~

(Ord. 4011, passed - 2007; Am. Ord. 4136, passed - 2011)

§ 83.10.0460 Landscape Area Requirements.

(a) General Requirements.

(1) *Setbacks.* Setback and open space areas required by this Development Code shall be landscaped based on the requirements of this Chapter and MWELO, except the portion where a sidewalk or driveway occur in the required setback. Required setbacks that are screened from public view in commercial and industrial zones, and are not adjacent to residentially-zoned property, are exempt from the provisions of this Chapter.

(2) *Unused Areas.* Areas of a project site not intended for a specific use shall be landscaped based on the requirements of this Chapter, unless exempt in compliance with § 83.10.030 (Exemptions from the Landscaping Requirements)MWELO.

(3) *Parking Areas.* Parking areas shall be landscaped in compliance with §Chapter 83.11.080 (Landscape Requirements for Parking Areas) and the water-efficient landscaping requirements of this Chapter. Areas dedicated to parking lots shall not be counted as part of the total lot area needed when computing the minimum landscaped area in compliance with Table 83-12, nor shall the parking lot landscaping be counted as part of the minimum landscaping required.

(4) *Minimum Area.* Projects specified in § 83.10.020 (Applicability) shall provide and maintain landscaped areas in compliance with Table 83-12 (Minimum Landscaped Area). No landscaped area having a width of less than five feet shall be considered in the minimum landscaping requirement.

<i>Table 83-12</i>		
<i>Minimum Landscaped Area</i>		
<i>Land Use</i>	<i>Minimum Landscape Area</i>	
	<i>The factor resulting in the larger landscaped area shall be used.</i>	
	<i>As a Percentage of Lot Area</i>	<i>Area in Sq. Ft.</i>
Residential		
Single-Family	Front and street side setbacks	900
Multi-Family (4 or more units)	40 percent	N/A
Nonresidential		
Industrial/Warehouse	15 percent	1,000
Institutional	20 percent	500
Office	20 percent	1,000
Retail	20 percent	1,000

(b) *Area Increase in Lieu of Parking Spaces.* In addition to required landscaping areas, landscaping may be provided in lieu of 10 percent of the total number of parking spaces required, provided the landscaping is arranged so that parking may be installed at a later date if a demand arises, and further provided, that the owner agrees to provide parking at the request of the reviewing agency.

(c) *Variation of Area Coverage in Planned Developments.* Variation of landscape coverage may be allowed for individual parcels within planned developments established in compliance with Chapter 85.10 (Planned Development Permits) when the development as a whole meets the required coverage and the landscape documentation package is consistent with the purpose and water-efficient requirements of this Chapter.

(Ord. 4011, passed - 2007; Am. Ord. 4043, passed - 2008; Am. Ord. 4136, passed - 2011)

§ 83.10.070 Landscape Standards.

~~(a) *Design Standards.* The elements within the landscape documentation package (i.e. planting, irrigation, construction, etc.) shall incorporate the following:~~

(1) *Cohesive Landscape Design.* Landscaped areas shall be made an integral part of the overall project design and shall not be simply located in excess space after parking areas and structures have been planned on site. Additionally, landscaped areas should have a coordinating design that blends with the architectural influence of the site. Larger developments may utilize a variety of themes throughout landscaped areas to distinguish key areas and elements within the development, yet these design concepts shall be consistent with the unifying concept established for the development.

(2) *Scale and Character.* Landscape materials (i.e. planting and hardscape) shall be selected so that the scale and character are appropriate to the site architecture and/or use of the site.

(3) *Functional Landscapes.* Landscaped areas shall be utilized to enhance and define entrances, sidewalks, and pedestrian areas. Additionally, landscaped areas shall be utilized to control microclimates as well as enhance views. Plant materials that provide seasonal color via flowers or foliage shall be provided as an accent to entrances and sidewalks, and shall be considered throughout the landscape.

(4) *Landscape Design Features.* Aesthetic landscape design features such as sculptures, decorative paving, benches, trellises, arbors, etc. shall be strongly encouraged within landscaped areas. Aesthetic landscape design features do not include driveways, parking areas, and/or storage areas.

(5) *Sidewalks.* All sidewalks shall be shown on the landscape plans (i.e., planting, irrigation, construction, etc.). This will ensure proper planting and irrigation design around proposed sidewalks.

(6) *Alternative Hardscape Materials.* Decomposed granite, pea gravel, mulch, bark, recycled tire mulch, play area surfacing, and other similar materials may be used in functional activity areas (i.e., patios, rear entry walks, trails, etc.).

(7) *Water Features.* If a water feature such as a pond or fountain is used within a project's landscape then the project's water budget calculations (MAWA) will need to include the surface area of the water feature with the evaporation rate equivalent to that of a high water use plant. Where available, if not utilized by the public as a recreation source, a non potable/recycled water source shall be used for any decorative water features. Decorative water features shall be on a recirculating system and shall be maintained on a regular basis.

(8) *Screening.* Planting material and/or hardscape material, such as block walls, wood fencing, vinyl fencing, etc., shall be required to screen storage areas, trash enclosures, parking areas, air conditioning units, and other such elements (except residential driveways). Additionally, any above ground public utilities, such as, but not limited to electrical substations, water storage facilities, and treatment plants shall also be provided with perimeter landscape screening to the extent possible.

(9) *Bio Swales.* Where possible, bio swales shall be incorporated into landscaped areas to help maintain, manage, and prevent run off. All bio swales shall be a mixture of hardscape materials, i.e. rocks, boulders, rip rap, and plant materials suitable for bio swales; impermeable surfacing shall be avoided in all bio swales.

(10) *High Maintenance Landscaping.* High maintenance landscaped areas shall be kept to a minimum. If high maintenance landscaped areas are proposed as part of a project's landscaping, these areas shall be located near primary uses and high activity areas.

(11) *Maximum Height for Clear Sight Triangles.* Any planting material and/or hardscape elements over 30 inches in height shall not be allowed within a clear sight triangle formed by the intersection of public rights of way, parking lot entrances and exits, pedestrian rights of way, driveways, or alleys as described in § 83.02.030 (Clear Sight Triangles).

(12) *Phased Development.* Disturbed nonresidential project sites, including those that have been approved with phasing, where future development is intended within six months of approval, or intended to begin within six months after the completion of a previous phase shall be hydro seeded with a non irrigated mix of annuals and natives. Supplemental water shall be provided to the hydro seeded areas to establish plant health. The hydro seeded areas shall be maintained in a weed free condition until development occurs on site. The proposed hydro seed mix shall be submitted for review and approval.

(b) *Planting Plan Requirements.* Planting plans shall include the following:

(1) *Plant Material Varieties.* Plant materials shall include water conserving trees (deciduous and evergreen), shrubs, and groundcover that are attractive and useful for erosion control. The use of one predominant species shall be avoided to prevent spread of disease and pests.

(2) *Plant Material Selection.* Plant material shall be selected based on mature width and spreads, level of maintenance, durability, aesthetic appeal, thematic qualities, horticulture attributes, resistance to pests and

~~diseases, soil type, slope coverage, topography, and geologic conditions. Plant materials shall also be selected based on their appropriate plant hardiness climate zones as defined by Sunset Western Garden Book and their classifications per the WUCOLS III publication.~~

~~(3) Coordination of Plant Materials.~~ Plant types shall be grouped together based on their water, soil, sun, and shade requirements, as well as their relation to natural watercourses on site, existing vegetation that is to remain, and their relationship to building orientation. Plant types with different water needs shall be placed on separate irrigation valves within specific hydrozones. Plant types with similar classifications such as high and moderate, moderate and low, low and very low, per the WUCOLS III publication, shall be grouped together in planting areas.

~~(4) Existing Plant Materials.~~ To the extent feasible, mature plant materials that are existing on site and are deemed to be healthy shall be protected and preserved. Protected plant material shall be retained on site or be protected in place, unless otherwise approved in writing by the Director or the proper removal permit is granted in compliance with Chapter 88.01 (Plant Protection and Management).

~~(5) Native and Drought Tolerant Plant Materials.~~ Native and drought tolerant plant materials capable of surviving with a minimal amount of supplemental water shall be utilized.

~~(6) Mature Trees.~~ Mature trees should be incorporated into landscape plans, because specimen trees or groupings of existing trees can provide a new development with immediate character, and should be considered as design elements.

~~(7) Shade Trees.~~ Shade trees, a mixture of deciduous and evergreen, shall be provided for residential, commercial, institutional, and industrial buildings, parking lots, open space areas, etc. The trees shall be incorporated to provide natural cooling opportunities and water conservation.

~~(8) Invasive Plants.~~ The use of invasive plant materials shall be avoided in areas near parks, buffers, greenbelts, water bodies, conservation areas/reserves, and other open space areas because of the potential to cause harm to environmentally sensitive areas.

~~(9) Vines.~~ To aid in the prevention of graffiti, self clinging vines shall be planted to help ensure full coverage of the public facing side of all walls.

~~(10) Edible Plants.~~ If edible plant material is proposed as part of the landscape design, it shall be clearly defined and kept separate from all other plant material. Non-potable/recycled water shall not be used to irrigate edible plant material areas.

~~(11) Fire Prone Plants.~~ Plant materials that are fire prone and highly flammable shall be avoided.

~~(12) Plant Material Spacing.~~ Trees proposed within the road right of way shall be planted 30 linear feet on center from one another, unless another on center spacing is specified within the project's conditions of approval. In open space areas, trees shall be planted in odd number groupings to allow for a more natural look and feel. The on center spacing for shrub and groundcover materials shall be based on the size of the specific plant species at maturity. Careful consideration shall be given to proposed plant materials height and spreads so that at maturity they do not interfere with service lines, a driver's or pedestrian's view of public rights of way (e.g., the view of approaching, merging, or intersecting traffic, etc.), or otherwise impair public safety, or interfere with the safe operation of a motor vehicle on public streets.

~~(13) Plant Material Container Sizes.~~ Plant materials shall be provided in an array of several of container sizes. Container sizes for plant material shall include:

~~(A) Trees:~~ 15 gallon, 24 inch box, 36 inch box, 48 inch box, and 52 inch box, 72 inch box, 96 inch box, and field dug.

~~(B) Palms:~~ six to 15 foot brown trunk height (BTH).

~~(C) Shrubs:~~ one gallon, two gallon, five gallon, and 15 gallon.

~~(D) Groundcovers:~~ flats and one gallon.

~~(14) Plant Solar Orientation.~~ Plant materials shall be planted in a manner considerate of solar orientation to help maximize summer shade and water conservation.

~~(15) Turf.~~ Turf areas shall be used in response to functional needs of the project, not solely for aesthetic purposes, and shall be in compliance with the project's water budget calculations (MAWA). Where turf is installed, the use of warm season turf shall be strongly encouraged. To help minimize irrigation runoff and overspray landscape designs shall avoid proposing small, irregularly shaped turf areas. Furthermore, unless subsurface or other low flow or non-spray irrigation is proposed, all turf areas shall be a minimum 24 inches away from non-permeable surfaces as to minimize irrigation runoff and overspray.

~~(A) Turf on Slopes.~~ Turf shall not be allowed on slopes that are greater than 25 percent and/or where

~~the toe of the slope is adjacent to an impermeable hardscape surface.~~

~~(B) *Turf in Rights of Way.* The placement of turf within County road rights of way shall be minimized. If turf is to be used in County road rights of way, there shall be no runoff or overspray from irrigation systems located in the turf areas. If irrigation runoff and overspray cannot be obtained, than turf shall not be used in that application.~~

~~(16) *Mulch.* All non-turf planting areas (except those areas that have been hydro-seeded) shall be mulched to help in the retention of moisture, suppress weeds, to help moderate damage to trees and shrubs, and help moderate soil temperature. All non-turf planting areas shall be mulched with a two-inch minimum layer of mulch. In those areas where groundcover has been planted from flats, the mulch layer shall be one and one half inches.~~

~~(A) *Mulch on Revegetation Projects.* The requirement for mulch may be omitted for native revegetation projects upon the recommendation of the project biologist.~~

~~(B) *Hydro Seeding Mulch Requirement.* The mulching portion of the seed/mulch slurry mix for hydro seeding applications shall meet the mulching requirements.~~

~~(C) *Mulch on Slopes.* The application of a stabilizing mulch product shall be used on all slopes to help with water retention and erosion control.~~

~~(17) *Slope Design.* Slopes with a 5:1 ratio or greater; cut slopes with a five foot vertical height or greater; and fill slopes with a three foot vertical height or greater shall be protected against damage from erosion. In addition to the stabilizing mulch, drought tolerant plant material and hardscape features shall be utilized on slopes to promote water retention and erosion control. Decorative boulders and other suitable hardscape materials may be utilized on slopes, but the dominant visual character of the slope shall be made up of drought tolerant plant materials. Shrubs shall be used in combination with lateral spreading groundcovers; trees shall be used where slope exceeds 15 feet vertical height. Trees and shrubs shall be planted in visually attractive groupings that provide a more natural appearance.~~

~~(18) *Root Barriers.* Any tree planted within five feet of hardscape material shall incorporate the use of a root barrier to help minimize hazards to the public. Where possible, trees shall be planted in areas of public view adjacent to structures, either individually or in groupings.~~

~~(c) *Irrigation Plan Requirements.* Irrigation plans shall include the following:~~

~~(1) *Efficiency.* Irrigation systems shall be designed, installed, maintained, and managed to achieve the highest efficiency rate as possible, and shall meet and maintain an average efficiency rate of 0.71, as defined by State law. High efficiency methods of irrigation (i.e., drip irrigation, efficient rotators, rotary nozzles, micro sprays, etc.) are recommended within the irrigation design.~~

~~(2) *Water Pressure.* Static water pressure, dynamic, or operating pressure and flow reading of the water supply shall be measured at the point of connection (POC). These pressure and flow measurements shall be conducted at the design stage to help aid in the design of the irrigation systems. If these measurements are not available at the design stage, the measurements shall be obtained at time of construction and the irrigation design adjusted accordingly. The design of the irrigation systems will ensure that each emission device is within the manufacturer's recommended dynamic pressure range for optimal performance.~~

~~(3) *Variables in Static Pressure.* If the measured static pressure is above or below the required dynamic pressure for optimal performance of the irrigation system then pressure regulating devices (i.e. inline pressure regulators, booster pumps, etc.) shall be specified and installed in order to meet the dynamic pressure required for optimal performance of the irrigation systems.~~

~~(4) *Matched Precipitation Rates.* Irrigation heads (i.e., spray heads, rotors, etc.) and other emission devices shall have matched precipitation rates unless otherwise directed by the manufacturer's specifications.~~

~~(5) *Capacity.* The capacity of the irrigation system shall not exceed the capacity required based on the water budget calculations for peak water demand, meter capacity, and/or the backflow preventer type and device capacity. If the project is served by a local water purveyor then it is recommended that the project developer contact the water purveyor and inquire about peak water demands (on the main water supply system) and any known water restrictions that could possibly impact the effectiveness of the irrigation systems.~~

~~(6) *Runoff and Overspray.* Soil types and infiltration rates shall be taken into account when irrigation systems are designed and installed. Irrigation systems shall be designed and installed to prevent runoff, low-head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, sidewalks, roadways, or structures. The use of check valves shall be required on all irrigation systems.~~

~~to prevent low head drainage. Proper irrigation design, equipment, and schedules, including repeating cycles, shall be used in order to match application rates and help minimize runoff.~~

~~(7) Head to Head Coverage. Irrigation systems shall be designed to utilize head to head coverage with matched precipitation rate nozzles. Rotors and spray heads shall be zoned separately. When using rotors, half arc rotors and full rotors shall be zoned separately, unless matched precipitation rate nozzles are utilized.~~

~~(8) Water Waste. Water waste is the result of inefficient irrigation due to runoff, overspray, low head drainage, and other similar conditions that causes flows to run onto adjacent non-irrigated areas, walks, roadways, parking lots, etc. It shall be the responsibility of the property owner to prevent water waste on their property by properly maintaining, managing, and replacing irrigation equipment per the regular maintenance schedule. Restrictions in regards to overspray may be considered and modified if the following occur:~~

~~(A) The landscaped area is directly adjacent to a permeable surface and no runoff occurs; or~~

~~(B) If the directly adjacent non-permeable surfaces have been designed and installed to drain entirely into a landscaped area on site.~~

~~(9) Meters. For irrigated landscape areas in excess of 2,500 square feet, separate water meters shall be installed for landscaping, which will help facilitate water management. This requirement shall not apply to single family residential projects or those projects that utilize a well source for water on site. Lettered lots or easements for landscaping or recreational purposes shall have a separate meter.~~

~~(10) Valves. Separate valves shall be provided for those planting areas with similar water uses, so plantings with similar water needs are on the same irrigation valve. All turf areas shall be placed on a separate valve from non-turf areas. Where feasible, trees shall be placed on a separate deep root watering system with its own valve.~~

~~(11) Equipment. All irrigation systems shall be equipped with the following:~~

~~(A) "Smart" Irrigation Controller. All irrigation systems shall be equipped with a smart irrigation control, which automatically adjusts the frequency and/or duration of irrigation events in response to changing environmental conditions. Landscaped areas shall be zoned together in relation to moisture control zones, which shall be based on similarity of water needs (i.e., turf separate from shrubs and groundcovers, sun exposure areas separate from shade areas, top of slope separate from toe of slope, etc.).~~

~~(B) Weather Sensing Devices. All irrigation systems shall be equipped with weather sensing devices (i.e., rain, wind, freeze, etc.), either integral or auxiliary, that suspend or alter system operations during unfavorable weather conditions.~~

~~(C) Flow Sensor. A flow sensing device is recommended for all irrigation systems so that irregular flows within the system can be detected and repaired.~~

~~(D) Manual Shut Off Valves. All irrigation systems shall be equipped with manual shut off valves (i.e., gate valve, ball valve, butterfly valve, etc.) that are located as close as possible to the irrigation systems point of connection (POC) and also where jointed transitions occur on the mainline to minimize water loss in case of an emergency and/or scheduled routine repair.~~

~~(E) Pressure Regulator. All irrigation systems shall be equipped with a pressure regulator that regulates when the static pressure is above or below the recommended operating pressure for the designed irrigation system.~~

~~(F) Backflow Preventers. All irrigation systems shall be equipped with a backflow prevention device. Upon approval from the Land Use Services Department in residential settings, an anti-siphon valve maybe used in lieu of a backflow prevention device.~~

~~(G) Swing Joints/Riser Protection. In order to prevent damage that maybe caused to irrigation heads adjacent to hardscape and high traffic areas, all irrigation systems shall utilize swing joints and other riser protection.~~

~~(12) Soils. Relevant information provided in the soil management report, such as soil types and infiltration rates shall be utilized when irrigation systems are designed.~~

~~(13) Non Permeable Surfaces. Conventional spray irrigation shall not be permitted within 24 inches of any non-permeable surface. Irrigation systems that are allowed within the 24 inch setback from a non-permeable surface range from drip, drip line, other low flow or non-spray technology. If the landscape area is adjacent to permeable surfacing and no overspray or run off occurs, then there shall be no restrictions on the irrigation system type.~~

~~(14) Irregular Shaped Areas. Those areas that are long, narrow, and/or irregular shaped, including turf~~

~~areas, less than eight feet in any direction shall be irrigated with low volume irrigation or subsurface irrigation technology.~~

~~(15) *Irrigation on Slopes.* Non turf areas located on slopes greater than 25 percent shall be irrigated with a drip irrigation system or other low volume irrigation technology. This requirement may be modified and an alternative design and/or technology proposed if that design/technology demonstrates that no run off or erosion will occur.~~

~~(16) *Mulched Planting Areas.* In planting areas that utilize a form of mulch, the use of a low volume irrigation system shall be required in order to maximize water infiltration into the plants root zone.~~

~~(17) *Non Potable/Recycled Water.* Where available, the use of non potable/recycled water to irrigate planting areas shall be utilized. If facilities are made available, water systems for common open spaces (i.e., parks, preserves, etc.) shall use non potable/recycled water. If non potable/recycled water is used for irrigation systems then all systems shall be designed to meet all applicable local agency and State codes regarding the use of non potable/recycled water.~~

~~(18) *Hydrozones.* Irrigation systems shall be zoned in accordance to plant water use, slope aspects, and sun/shade microclimates.~~

~~(d) *Hydrozone Plan.* Each irrigation design plan shall include a separate hydrozone plan outlining the hydrozones that are valved separately within all landscaped areas.~~

~~(e) *Grading Plan Requirements.* For the efficient use of water, grading of the project site shall be designed so that soil erosion, runoff, and water waste are minimized. As part of the landscape document package, if a project's grading exceeds 50 cubic yards, then the project developer shall submit the most recent rough and/or precise grading plan(s) that have been prepared and signed by a licensed professional as authorized by law.~~

~~(f) *Soil Management Report.* A soil management report is required as part of the landscape documentation package when mass grading is not proposed. When mass grading is proposed, the soil management report shall be submitted with the certificate of completion.~~

~~(1) *Development of the Soil Management Report.* The steps listed below are intended to help guide the developer in the preparation of the soil management report:~~

~~(A) Perform a preliminary site inspection.~~

~~(B) Obtain the necessary sample, determine the appropriate level of soil sampling and sampling method.~~

~~(C) Determine the soil in the landscape area has sufficient depth to support proposed plants perform a soil probe test.~~

~~(D) Obtain appropriate soil sample.~~

~~(2) *Soil Sample(s).* Once a soil sample(s) has been obtained from the project site it shall be submitted to the appropriate laboratory for analysis and recommendations. Minimum requirements for the soil analysis should include soil texture, infiltration rate determined by lab tests or soil texture infiltration rate table, pH, total soluble salts, sodium, and any recommendations.~~

~~(Ord. 4011, passed 2007; Am. Ord. 4043, passed 2008; Am. Ord. 4057, passed 2008; Am. Ord. 4136, passed 2011)~~

§ 83.10.0580 Regional Landscaping Standards.

~~(a) *Valley Region.* In the Valley Region, the following additional landscaping standards shall apply:~~

~~(1) *Existing Trees.* Where possible, trees that are existing on a site shall remain and be protected in place. If existing trees are removed to accommodate development, those trees shall be replaced at the rate of 2:1. Fruit or nut bearing trees planted in groves shall be exempt from this provision. Replacement trees shall be a mixture of 15 gallon and 24-inch box container sizes. Wherever possible, preservation of existing trees and shrubs shall be used to meet site landscaping requirements.~~

~~(2) *Plant Materials.* Plant materials shall be a cohesive mix of deciduous and evergreen trees, shrubs, groundcovers, native plant material, and, where applicable, turf. A list of acceptable plant materials for the Valley Region is available from the Land Use Services Department to assist developers and their landscape professionals in preparing the landscape documentation package. If existing plant material is used as part of the site landscaping requirements, it shall be included into the sites water budget calculations. ~~If any local, State, and/or Federally protected plant material is found on-site, removal and/or protection shall be in compliance with Chapter 88.01 (Plant Protection and Management).~~~~

~~(3) *Tree Removal Permit.* ~~If any local, State, and/or Federally protected plant material is found on-site,~~~~

removal and/or protection shall be in compliance with Chapter 88.01 (Plant Protection and Management).

(4) *Landscaped Setbacks.* The front yard and street side yard setback areas of a parcel shall be landscaped, except for sites where no disturbance of the natural terrain within a setback is proposed or the natural terrain precludes setback landscaping (i.e., mountainsides or hillsides). Landscaping of interior side yard setbacks may be required in compliance with § 83.02.060 (Screening and Buffering).

(b) *Mountain Region.* In the Mountain Region, the following additional landscaping standards shall apply:

(1) *Forest Conservation Plan and Insect Infestation Prevention Program.* Any landscaping proposed shall be in conjunction with a forest conservation plan and insect infestation prevention program. These plans shall be prepared by a Registered Professional Forester (RPF), and submitted with the landscape documentation package by the developer. The plan shall include guidelines for tree preservation, both during and after construction.

(2) *Existing Trees.* Any existing trees that are removed to accommodate development shall be replaced according to the recommendations of the forest conservation plan submitted with the landscape documentation package by the developer. Wherever possible, preservation of existing trees and shrubs shall be used to meet site landscaping requirements.

(3) *Plant Materials.* Plant materials shall be a cohesive mix of evergreen and deciduous trees, shrubs, groundcovers, native plant materials that are drought and infestation tolerant, and fire-resistant; turf shall be minimized and be installed in compliance with this Chapter. A list of acceptable plant materials for the Mountain Region is available from the Land Use Services Department to help assist developers and their landscape professionals in the preparation of the landscape document package. If existing plant material is used as part of the site landscaping requirements, it shall be included into the site's water budget calculations. If any local, State, and/or Federally protected plant material is found on-site, removal and/or protection shall be in compliance with Chapter 88.01 (Plant Protection and Management). Seedlings may be considered a viable container size as part of the planting plan.

(4) *Landscaped Setbacks.* The front yard and street side yard setback areas shall be landscaped except for sites where no disturbance of the natural terrain is proposed. Landscaping of interior side yard setbacks may be required in compliance with § 83.02.060 (Screening and Buffering).

(c) *Desert Region.* In the Desert Region, the following additional landscaping standards shall apply:

(1) *Existing Plant Material.* Any existing native desert plant material, or any part thereof, except the fruit, shall not be removed without the issuance of a tree removal permit in compliance with Chapter 88.01 (Plant Protection and Management). Additionally, if native desert plant materials are to be replaced, then the replacement of those materials are to be in compliance with Chapter 88.01 (Plant Protection and Management), except as provided for in this Subdivision. If Joshua trees (*Yucca brevifolia*) exist on-site and are proposed to be relocated, they shall be relocated on-site in the landscaped areas; unless, in writing, the Director of the Land Use Services Department specifically allows another option.

(2) *Plant Materials.* Plant materials shall be a cohesive mix of evergreen and deciduous trees, shrubs, groundcovers, succulents, and native plant material that are drought and infestation tolerant; turf shall be minimized and be placed in compliance with this Chapter. A list of acceptable plant materials for the Desert Region is available from the Land Use Services Department to help assist developers and their landscape professionals in preparing their landscape documentation package. If any local, State, and/or Federally protected plant material is found on-site, removal and/or protection shall comply with Chapter 88.01 (Plant Protection and Management).

(3) *Landscaped Setbacks.* The front yard and street side yard setback areas of a parcel shall be landscaped using xeriscape landscaping techniques, which combines drought tolerant plant and hardscape materials in a variety of aesthetically pleasing designs. For sites where no disturbance of land within setbacks is proposed, landscaping shall not be required. Landscaping of side-yard setbacks may be required in compliance with § 83.02.060 (Screening and Buffering).

(4) *Unpaved Parking Lots.* Those parking lots not requiring paving shall not be required to be landscaped, nor will they count as part of the overall landscape total needed for the project. Only those parking lots required to be paved shall be landscaped in compliance with this Chapter and with § 83.11.080 (Landscape Requirements for Parking Areas). Parking lot landscaping shall not be counted as part of the minimum landscaping requirement for a project.

(5) *Dust Control.* If grading takes place, then a dust control plan shall be submitted for review. All

grading and dust control measures shall be conducted in compliance with the provisions of ~~Chapters~~ § 88.02.040 (Dust Control Desert Region).

(Ord. 4011, passed - -2007; Am. Ord. 4043, passed - -2008; Am. Ord. 4136, passed - -2011)

§ 83.10.090 Irrigation Scheduling and Maintenance Required.

~~(a) Landscape Maintenance. All landscaped areas shall be properly maintained to ensure water use efficiency and overall plant health. A regular maintenance schedule shall be submitted to the Land Use Services Department and the local water purveyor, if applicable, with the Landscape Certificate of Completion for all projects subject to the provisions of this Chapter.~~

~~(1) Responsibilities of Property Owners. Property owners shall be responsible for the installation and the regular maintenance and management of landscaped areas on their property and within the contiguous landscaped rights of way/parkways. Those rights of way/parkways that are maintained by the County shall not be the responsibility of the property owner.~~

~~(2) Maintenance Practices. The following maintenance practices shall be part of the regular maintenance schedule and shall be performed on a regular basis to ensure water use efficiency and overall plant health:~~

~~(A) For the overall health of plant material pruning, cultivating, weeding, fertilizing, watering, and replenishing mulch on a regular basis shall be part of a regular maintenance schedule. All pruning shall be in compliance with the adopted pruning standards of the Western Chapter of the International Society of Arboriculture.~~

~~(B) The removal of dead, decayed, diseased, or hazardous trees and/or shrubs, weeds, and debris constituting unsightly appearance, dangerous to public safety and welfare or detrimental to neighboring properties or property values shall be accomplished on a regular basis. Any dead or dying plant material shall be removed and replaced as quickly as possible. Any accumulation of leaves, twigs, bark, and other similar materials shall be removed on a regular basis. All landscaped areas shall be kept in a weed free fashion at all times.~~

~~(C) Litter removal from all landscaped areas shall be performed on a regular basis.~~

~~(D) All turf areas shall be mowed, aerated, and dethatched on a regular basis to ensure the overall health of the turf.~~

~~(E) Plantings shall be irrigated as often as necessary to maintain healthy growing conditions. Damage to the landscaping and irrigation systems shall be corrected as quickly as possible.~~

~~(F) All irrigation systems, and components, shall be routinely inspected, adjusted, and repaired. Any obstructions to emission devices shall be removed. If repair to the irrigation equipment is necessary, the replacement parts shall conform to all standards that govern the original irrigation installation and/or approved landscaping plans.~~

~~(G) Mulch shall be routinely replenished as part of the regular maintenance schedule. The depth, type, and replenishment frequency of all mulch within landscaped areas shall be listed as part of the regular maintenance schedule.~~

~~(H) The operation of the irrigation systems outside of the normal watering window shall only be allowed for system auditing and maintenance.~~

~~(I) The property owner is encouraged to implement sustainable and/or environmentally friendly practices for overall landscape maintenance. If sustainable and/or environmentally friendly landscape maintenance practices are utilized then those practices shall be outlined within the regular maintenance schedule.~~

~~(3) Trimming to Prevent Encroachment or Obstruction. Plant material (i.e., trees and shrubs), when established, shall be trimmed so that they do not encroach upon sidewalks, property lines, or streets. Plant materials shall not encroach, impede and/or interfere with vehicle or pedestrian traffic, or obstruct the illumination from any streetlight to the street or sidewalk or sidewalk. Refer to § 83.02.030 concerning clear sight triangles and § 83.02.080 concerning projections into yards.~~

~~(4) Trees.~~

~~(A) In residential subdivisions, the developer shall guarantee street trees for a minimum of one year after acceptance of the tract or until 80 percent of the units are occupied, whichever is later. Maintenance of all trees shall become the responsibility of the homeowner upon occupancy.~~

~~(B) As necessary, all tree guys, stakes, etc. shall be adjusted on a regular basis and replaced in order to maintain a neat appearance and to prevent damage to trees. All tree guys, stakes, etc. shall be removed after~~

~~the first growing season to ensure the continuing health of the plant.~~

~~(b) Irrigation Schedule.~~ An irrigation schedule shall be developed for all landscaped areas in order to ensure the efficient use of water. The site specific irrigation schedule shall be developed, managed, and evaluated to utilize the least amount of water required to ensure plant health. The site specific irrigation schedule shall meet the following criteria:

~~(1) Two Separate Irrigation Schedules.~~ Two site specific irrigation schedules shall be prepared. The first schedule shall be for the initial establishment period of six months and the second schedule shall be for the established landscape, and shall incorporate the specific water needs of on-site plant material throughout the calendar year.

~~(2) Watering Window for Conventional (Overhead) Spray Systems.~~ All conventional (overhead) spray systems shall be scheduled to run between the hours of 8:00 p.m. to 9:00 a.m. The project developer shall check with the local water purveyor, if applicable, to determine its suggested watering window, and the stricter of the two shall apply. The operation of the irrigation systems outside of the normal watering window shall only be allowed for system auditing and maintenance.

~~(3) Maximum Applied Water Allowance (MAWA).~~ The total water applied to the site landscaping shall be less than or equal to the site specific Maximum Applied Water Allowance (MAWA).

~~(4) Copies of Irrigation Schedule.~~ A copy of the project specific irrigation schedule shall be located within the irrigation controller enclosure for maintenance purposes. Additionally, a copy of the schedule shall be given to the property owner prior to occupancy.

(Ord. 4011, passed 2007; Am. Ord. 4136, passed 2011)

§ 83.10.100 Landscape Certificate of Completion.

~~Landscape Certificate of Compliance Submittal.~~ Prior to the issuance of the certificate of occupancy or final inspection for a project that is subject to the requirements within this Chapter, a Landscape Certificate of Completion shall be submitted to the Land Use Services Department, Planning Division certifying that the landscape has been installed in accordance with the approved project specific landscape documentation package. The Landscape Certificate of Completion shall be signed and dated by the licensed professional who prepared the plans and shall include the following information:

~~(a) Date.~~

~~(b) Project information to include project name, project applicant name, telephone and mailing address, project address, location, and Assessor's Parcel Number, and property owner name and mailing address.~~

~~(c) A statement certifying that the landscaping has been installed in accordance with the approved project specific landscape documentation package.~~

~~(d) Evidence that the party who is responsible for the installation of the irrigation systems has conducted a preliminary field inspection prior to backfilling, and that the irrigation systems are in working order (evidence of field inspection shall be attached).~~

~~(e) An irrigation audit report indicating that a certified irrigation auditor has performed and completed an irrigation audit on the installed irrigation systems, and has ensured water efficiency, and that the irrigation systems are not in excess of the site specific Maximum Applied Water Allowance (MAWA) per the water budget.~~

~~(f) Documentation that the specified "smart" irrigation controller has been set according to the correct irrigation schedule. MWELO~~

~~(g) Documentation that all on-site irrigation systems have been adjusted to maximize irrigation efficiency and eliminate irrigation runoff and overspray.~~

~~(h) Documentation that a copy of both of the project specific irrigation schedules have been given to the property owner for future maintenance and management obligations.~~

~~(i) If mass grading occurred on the site, a soil management report shall be included.~~

(Ord. 4136, passed 2011)

§ 83.10.110 Non-Potable/Recycled Water.

~~Where available, the installation of non-potable/recycled water irrigation systems (i.e., dual distribution systems, purple pipe, and interchangeable components) shall be required to allow for the current and future use of non-potable/recycled water. See Subdivision 83.10.070(c)(17) for additional requirements.~~

(Ord. 4136, passed 2011)

§ 83.10.120 Stormwater Management.

~~—Stormwater management combines practices to help minimize runoff and water waste while increasing infiltration, which helps to recharge groundwater tables and improve water quality. The implementation of stormwater best management practices into the landscape documentation package (i.e., planting, irrigation, grading plans, etc.) will help minimize runoff and increase retention and infiltration on site. Refer to Chapter 85.11 (Pre Construction Flood Hazard and Soil Erosion Pollution Prevention Inspection) for more information regarding stormwater management, and to Title 3, Division 5, Chapter 1, Pollutant Discharge Elimination Systems Regulations.~~

(Ord. 4136, passed — 2011)

§ 84.01.050 Residential Accessory Structures and Uses.

This Section provides standards for Accessory Structures and Uses that are related to residential single-family and multi-family dwelling units (e.g., play yards, pools, storage sheds, etc.) or that are residential in nature (e.g., guest housing, accessory dwelling units, etc.).

(a) *Number of Accessory Residential Units.* In addition to a single-family or multi-family dwelling unit, a combination of two of the following additional accessory units shall be allowed on parcels less than five acres in size; parcels five acres in size or greater shall be allowed to have one of each of the following:

a. (1) Accessory Dwelling Unit. An accessory dwelling unit shall be located on the same parcel as the primary dwelling unit and may be attached, detached or converted from an existing accessory structure. Refer to §84.01.060 (d) for additional information on types of accessory dwelling units and their standards, may be attached to, or located within, or detached from the primary dwelling units, and is no more than 1,200 square feet in size. An accessory dwelling unit shall be smaller than the proposed or an existing single family dwelling. Only one accessory dwelling unit shall be allowed per parcel. Additional accessory dwelling units may be allowed on parcels with multi-family dwelling structures pursuant to § 84.01.060 (g).

(2) (2) Junior Accessory Dwelling Unit. -A junior accessory dwelling unit shall be located on the same parcel as the primary dwelling unit. Refer to §84.01.060 (d) for additional information on junior accessory dwelling units and their standards, , is attached to, or located within, the primary dwelling or accessory dwelling unit and is no more than 500 square feet in size. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. Only one junior accessory dwelling unit shall be allowed per parcel.

(3) (3) Guest House. Guest housing shall be located on the same parcel as the primary dwelling unit and shall be separated from it by at least ten feet. Guest housing shall be for use by temporary guests of the occupants of the primary dwelling unit and shall not be rented or otherwise used as a separate dwelling. Only one guest house shall be allowed. In the Single Residential (RS) or the Multiple Residential (RM) land use zoning districts on parcels less than 2.5 acres in size, the guest housing unit shall not extend in front of the primary structure. The provisions of § 84.21.030(i) shall apply to a manufactured home used as guest housing.

(b) *Parking.* Except as otherwise provided in this chapter, parking for accessory residential dwelling units shall comply with Chapter 83.11 (Parking and Loading Standards).

(c) *Carport and/or Garage.* Detached carports or garages shall be limited to 1,200 square feet when located on parcels that are less than 20,000 square feet in size.

(d) *Other Residential Accessory Structures and Uses.* Except in the Mountain Region, structures and uses such as cabanas, tennis courts, ramadas, water towers and wells, swimming pools, storage buildings shall not extend in front of the primary structure where the primary structure faces a street right-of-way. See § 83.02.080 (Allowed Projections into Setbacks).

(e) *Detached Storage Structures.* Parcels that are one acre or less in size shall be limited to only one detached storage structure that exceeds 120 square feet and the storage structure shall not exceed 1,000 square feet. Except in the Mountain Region, detached storage structures shall not extend in front of the primary structure where the primary structure faces a right-of-way.

(f) *Freight Containers and Similar Storage-Type Structures.*

(1) Freight containers, railroad cars, intermodal containers, and other similar storage-type structures shall be allowed as accessory structures in the RS (Single Residential) or RM (Multiple Residential) land use zoning districts provided that they are compatible with the appearance of the on-site primary structure and the surrounding neighborhood and setting. A Compatibility Determination application shall be approved by the Planning Division of the Land Use Services Department to allow such a structure. Screening such a structure from view from the street or the physical alteration of such a structure, such as painting or otherwise altering the structure, may be considered in the approval of the application. Such railroad car, container or similar storage-type structure shall be placed behind the primary structure and not prominently visible from

the street.

(2) Freight containers, railroad cars, intermodal containers, and other similar storage-type structures shall be allowed as accessory structures in the Agriculture (AG) or Rural Living (RL) land use zoning districts provided that they shall be altered, either painted or structurally altered, to appear to be similar to, and compatible with, the appearance of the on-site primary structure and the surrounding neighborhood or to blend in with the surrounding environment. Such railroad car, container or similar storage-type structure shall be allowed provided that the container can be placed behind the primary structure and not prominently visible from the street.

(g) *Animal Keeping.* Accessory animal keeping shall be conducted as specified in Chapter 84.04 (Animal Keeping).

(h) *Exterior Storage.* Exterior storage shall be fully and solidly screened and kept below the level of the fence or other screening mechanism. Exterior storage shall comply with Title 3 (Health and Sanitation and Animal Regulations) of the County Code. Screening of exterior storage shall comply with § 83.02.060 (Screening and Buffering).

(i) *Residential Crop Production.* Accessory crop production shall be allowed on parcels of 10,000 square feet or more, with a temporary sales facility for plant or animal products grown on the subject property. The sales facility shall not be larger than 200 square feet in area and shall display produce for sale for no longer than 72 hours in any calendar month. Standards for produce stands are provided in Chapter 84.03 (Agritourism Enterprises). This does not include wholesale or retail nurseries.

(j) *Private Office.* A private office shall be for the sole use of the dwelling unit occupants within a primary structure and shall have no external advertising or signs.

(k) *Compatibility.* In the RS (Single Residential) and RM (Multiple Residential) land use zoning districts, the appearance of an accessory structure shall be similar to, and compatible with, the appearance of the primary structure and the surrounding neighborhood and setting.

(l) *Storage of Firewood.* The storage of firewood shall comply with Chapter 84.09 (Firewood Storage). (Ord. 4011, passed - -2007; Am. Ord. 4043, passed - -2008; Am. Ord. 4057, passed - - 2008; Am. Ord. 4245, passed - -2014; Am. Ord. 4341, passed - -2018)

§ 84.01.060 Accessory Dwelling Units and Junior Accessory Dwelling Units.

(a) *General Provision.* Accessory dwelling units and junior accessory dwelling units shall comply with all provisions of this Chapter as well as the underlying zoning district.

(b) *Location Criteria.* Accessory dwelling units and junior accessory dwelling units shall be permitted where allowed in compliance with Division 2 (Land Use Zoning Districts and Allowed Land Uses) and on any lot that contains a proposed or an existing dwelling. Accessory dwelling units and junior accessory dwelling units shall not be permitted in those areas where a development moratorium has been imposed, including a moratorium for water or sewer connection, whether imposed by the County or another public agency.

(c) *Common Ownership, Occupancy and Rental Terms.*

(1) Accessory dwelling units ~~and junior accessory dwelling units~~ are not intended for sale separate from the primary residence but may be rented separately from the primary residence in all regions of the County for a term longer than 30 days, or in the Mountain and Desert Regions for a term less than 30 days provided the short-term rental unit complies with Chapter 84.28 (Short-Term Residential Rentals) and is not a unit constructed pursuant to subdivision (g), below.

(2) Junior accessory dwelling units require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization. If the owner chooses not to reside in the junior accessory dwelling unit, then the recordation of a deed restriction, which shall run with the land, shall be filed with the County and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(d) *Types of Units.*

(1) Attached unit. An accessory dwelling unit ~~may either be~~~~that is~~ attached to, or located within, the

proposed or existing primary dwelling unit, or an accessory structure, including garage, storage area or similar use. A junior accessory dwelling unit shall be located entirely within a proposed or existing primary dwelling or accessory dwelling unit. Attached units may have a separate entrance or share a common entrance with the primary dwelling. The maximum size of an attached accessory dwelling unit is 1,200 square feet of livable space and shall not exceed 50 percent of the existing primary dwelling.

(2) Detached Unit. An accessory dwelling unit that is separated may be detached from the proposed or existing primary dwelling unit. The detached accessory dwelling unit shall be considered the primary unit if it is a larger size than the primary dwelling. The maximum size of a detached accessory dwelling unit is 1,200 square feet of livable space.

(3) Converted Existing Accessory Structure or Space. An accessory dwelling unit that is created from an existing accessory structure or space (e.g. garage, storage area, barn, or similar structure) on the lot of the primary residence that is converted into an independent living unit. This may also include an existing primary residence that is converted to an accessory dwelling unit when a larger dwelling is established. The accessory dwelling unit may exceed 1,200 square feet of livable space when converted the created from an existing structure but may not be expanded the physical dimensions of the existing structure unless otherwise authorized by Section 65852.2 of the Government Code.

(4) Junior Accessory Dwelling Unit. A specific type of conversion of existing space that is contained entirely within an existing or proposed single-family residence (primary dwelling or accessory dwelling unit). A junior accessory dwelling units is no more than 500 square feet in size for livable space. The maximum size may include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing or proposed single-family residence if necessary to allow for ingress and egress to the unit. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. A junior accessory dwelling unit shall have a minimum of an efficiency kitchen as defined by Section 65852.22 of the Government Code. –

(e) *Development Standards for Accessory Dwelling Units and Junior Accessory Dwelling Units.* The development standards for an accessory dwelling unit and junior accessory dwelling unit shall comply with the following additional requirements:

(1) Except as otherwise provided in this Chapter, the accessory dwelling units and junior accessory dwelling units shall comply with all development standards of the land use zoning designation in which the lot is located.

(2) Written confirmation from the sewer district having jurisdiction of the availability of sewer service for the accessory dwelling unit or written approval from the Division of Environmental Health Services for use on an existing or new septic system shall be obtained. Holding tanks shall not be permitted for accessory dwelling units.

(3) Written confirmation from the water district having jurisdiction of the availability of water service for the accessory dwelling unit or written approval from the Division of Environmental Health Services for use of an existing or new well shall be obtained.

(4) In addition to the requirements of Section 84.01.020 (General Development Standards), the minimum accessory dwelling unit size will be determined by the current edition of the California Residential Code or as certified by California Department of Housing and Community Development. In no event shall the minimum square footage for either an attached or detached accessory dwelling unit prohibit an efficiency unit as defined in Section 17958.1 of the Health and Safety Code.

(5) Approval for setbacks from the applicable Fire Department shall be required prior to the issuance of a building permit for an accessory dwelling unit.

(6) Approval for site drainage, egress, and exit requirements from the Building and Safety Division shall be required prior to the issuance of a building permit for an accessory dwelling unit.

(f) *Development Standard Exemptions.* An accessory dwelling unit and junior accessory dwelling unit are exempt from the following development standards:

(1) Lot Coverage. Lot coverage requirements shall not preclude the construction of either an attached or detached accessory dwelling units that is at least 800 square feet in size.

(2) Setbacks.

(A) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is

converted to an accessory dwelling unit or to a portion of an accessory dwelling unit or junior accessory dwelling unit.

- (B) A setback of more than 4 feet or rear and interior side yards shall be required for an accessory dwelling unit not otherwise constructed in accordance with subparagraph (A), above.

(3) Fire Sprinklers. Accessory dwelling units and junior accessory dwelling units are not required to provide fire sprinklers if they are not required for the primary dwelling.

(4) Utility Connections. Unless an accessory dwelling unit is constructed with a new single-family dwelling, an applicant is not required to install new or separate utility connections and shall not be subject to separate utility connection fee or capacity charge for an accessory dwelling unit described in paragraph (1) of subdivision (g), below.

- (5) Parking. The parking requirements for accessory dwelling units, as set forth in Chapter 83.11 (Parking and Loading Standards), shall not apply in any of the following instances:
- (A) The unit is considered a junior accessory dwelling unit.
 - (B) The accessory dwelling unit is located within one-half mile walking distance of public transit.
 - (C) The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - (D) The accessory dwelling unit is part of the proposed or existing primary residence or a converted accessory structure.
 - (E) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - (F) When a car share vehicle located within one block of the accessory dwelling unit.
 - (G) When a garage, carport or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted into an accessory dwelling unit, the off-street covered parking does not need to be replaced.

(g) *By-Right Permitting Exemptions.* Notwithstanding anything to the contrary, an application for a building permit for a use authorized by Division 2 (Land Use Zoning Districts and Allowed Land Uses) shall be approved to create any of the following:

- (1) One accessory dwelling unit ~~and/or~~ one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
 - (A) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - (B) The space has exterior access from the proposed or existing single-family dwelling.
 - (C) The side and rear setbacks are sufficient for fire and safety.
 - (D) The junior accessory dwelling unit, if applicable, complies with the requirements of Section 65852.22 of the Government Code.

(2) One detached, new construction, accessory dwelling unit that does not exceed four-foot rear and interior side setbacks for a lot with a proposed or existing single-family dwelling, provided the total floor area is not more than 800 square feet and a height of 16 feet. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in paragraph (1) of this subdivision.

(3) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings. The County shall allow at least one accessory dwelling unit and a maximum of 25 percent of the existing multifamily dwelling units.

(4) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear and interior side setback.

CHAPTER 84.28: SHORT-TERM RESIDENTIAL RENTALS

Section

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§ 84.28.010 Purpose.

The purpose of this Chapter is to establish a permit procedure, and maintenance and operational standards, for the use of legal residential dwelling units located in the Mountain and Desert Regions as transient occupancies, to ensure the health and safety of occupants, guests, and the surrounding residential neighborhood, and to minimize negative secondary effects associated with such use.

(Ord. 4011, passed - -2007; Am. Ord. 4331, passed - -2017; Am. Ord. 4371, passed - -2019)

§ 84.28.020 Applicability.

The standards and permit procedures of this chapter apply to all persons involved, and at all times, as more fully set forth herein, in the short-term rental of residential dwelling units as a single housekeeping unit where allowed in the Mountain and Desert Regions in compliance with Division 2 (Land Use Zoning Districts and Allowed Land Uses) or in connection with a legal nonconforming residential structure located in a non-residential land use zoning district. “Short-term” means ~~less than~~ 30 days or less.

(Ord. 4011, passed - -2007; Am. Ord. 4230, passed - -2014; Am. Ord. 4331, passed - -2017; Am. Ord. 4371, passed - -2019)

§ 84.28.030 Definitions.

The definitions in this Section are intended to apply to this Chapter only. Any term which is not specifically defined herein shall have the definition as provided by Division 10 of the Development Code or elsewhere within the County Code.

(a) **BOOKING TRANSACTION.** Means any reservation or payment service provided by a person who facilitates a short-term rental unit transaction between a prospective short-term residential rental unit renter and a short-term residential rental unit owner.

(b) **HOSTING PLATFORM.** Means a marketplace in whatever form or format, which facilitates rental of a short-term residential rental unit through advertising, match-making or any other means, using any medium or facilitation, and from which the operator of the hosting platform derives revenues from providing or maintaining the marketplace.

(c) **INSPECTIONS—INITIAL.** Means any inspection incident to the review of an application for an initial short-term residential rental unit permit. The responsible department shall inspect the subject property, ~~including the exterior and interior of the residential dwelling unit,~~ to determine maximum occupancy and parking capacity for the property, and to verify compliance with the standards of this Chapter and of other applicable County Code provisions.

(d) **INSPECTIONS—RENEWAL.** Means the re-inspection, upon the application for renewal of a short-term residential unit permit, ~~the subject property shall be inspected of the subject property and the residential dwelling unit and other structures or improvements on the property, based on standards established by the responsible department,~~ to ensure continued compliance with the standards of this Chapter and of other applicable County Code provisions. Notwithstanding anything to the contrary, an applicant ~~for the seeking~~ renewal of ~~an expiring a~~ short-term residential rental unit permit ~~is in the same position as a person seeking a permit in the first place and~~ shall comply with all applicable standards of this Chapter at the time of renewal.

(e) **POTENTIALLY AFFECTED PROPERTY OWNER.** Means the owner of property that is located

within the applicable distance from the short-term residential rental unit as set forth in Table 85-2 of § 85.03.080.

(f) **RESPONSIBLE DEPARTMENT.** Means the department or subdivision thereof designated by the Chief Executive Officer of the County of San Bernardino to implement this Chapter.

(g) **SHORT-TERM RESIDENTIAL RENTAL UNIT OWNER.** Means the owner of a property, as defined in § 810.01.170, with a single-family dwelling unit that is being used as a short-term residential rental unit; any individual or organization working on behalf of such property owner; or any individual or organization that has the legal right to rent out, or allow the occupancy of a single-family residential dwelling unit as a short-term residential rental unit.

(h) **SHORT-TERM RESIDENTIAL RENTAL UNIT RENTER.** Means an individual who enters into an agreement or is authorized by the short-term residential rental unit owner, regardless of remunerations, the use of property as a short-term residential rental unit. Such renter is not considered a tenant or a person who hires a dwelling unit under Civil Code § 1940.

(i) **SHORT-TERM RESIDENTIAL RENTAL UNIT.** Means a residential dwelling unit or portion thereof rented or otherwise used for residential transient occupancy, as defined in § 14.0203. A short-term residential rental unit shall not be used for any commercial activity, which includes but is not limited to weddings, wedding receptions, corporate retreats, business meetings or conferences, filming photography shoots, a fraternity party, or any other similar gathering, unless regulated under an approved County-issued permit. Transient occupancy generally means occupancy for 30 consecutive calendar days or less.

(Ord. 4331, passed - 2017; Am. Ord. 4371, passed - 2019)

§ 84.28.040 Permit Required.

(a) A short-term residential rental unit owner may use a single-family dwelling unit as a short-term residential rental unit only if such owner has a current valid short-term residential unit permit and complies with the requirements of this Chapter and other applicable provisions of the County Code and other laws. A separate permit shall be required for each dwelling unit used as a short-term residential rental unit when there is more than one legal single-family dwelling unit or a duplex on the parcel. ~~With the exception of a parcel two acres or greater, an An~~ accessory dwelling unit, ~~primary dwelling unit~~, guesthouse, casita, or other residential accessory structure may be permitted as a separate short-term residential rental unit when at least one of the dwelling units (primary dwelling, accessory dwelling unit, or caretaker dwelling) is occupied by the property owner or legal agent. This An owner-occupancy requirement shall not apply to a parcel two (2) acres or greater. A maximum of two (2) legal dwelling units per parcel of land may be approved for separate individual short-term residential rental unit permits. An individual unit, such as an apartment or condominium, located within a multi-family residential project, is not eligible for a short-term residential rental unit permit.

(b) Short-term residential unit renters are subject to the uniform transient occupancy tax of § 14.0203.

(c) A short-term residential rental unit permit is transferrable to the new owner of the rental unit in question, provided that the new owner informs the County of its desire to assume the responsibilities of holding the short-term residential rental unit permit in question within 30 days of taking title to the property. Within 30 days of taking title to the property, the new owner is also responsible to provide the County with the information necessary to satisfy the requirements of §§ 84.28.050(a)(1) through (7), so that the County may be assured that the new owner understands its duties and responsibilities as the owner of a short-term residential rental unit. The County may also charge a fee for changing the permit record, as set forth in the schedule of fees in Division 6 of Title 1 of the County Code.

(Ord. 4011, passed - 2007; Am. Ord. 4331, passed - 2017; Am. Ord. 4371, passed - 2019)

§ 84.28.050 Application Process.

(a) *Application.* An application for a short-term residential rental unit permit shall be submitted to the responsible department on a pre-approved form. The required content of the form may be revised from time to time, but at a minimum shall require the following:

- (1) Property owner name and contact information.
- (2) Applicant name and contact information, if different from the property owner.
- (3) Address and Assessor's parcel number for the property containing the single-family dwelling unit, accessory dwelling unit or other permitted structure to be used as a short-term residential rental unit.
- (4) Total square footage of the single-family dwelling unit, accessory dwelling unit or other permitted

structure to be used as a short-term residential rental unit.

(5) Total square footage of habitable space to be used for overnight sleeping purposes.

(6) The name of the managing agency, agent, or property manager, if different from the property owner, and a telephone number at which that party may be immediately reached on a 24-hour basis.

(7) Acknowledgment that the ~~property owner and applicant have read, and permittee understands, and agrees to operate the short-term residential rental unit in compliance with the regulations and requirements set forth in~~ this Chapter.

(8) A fee amount to cover an initial inspection and one additional inspection, as set forth in the schedule of fees in Division 6 of Title 1 of the County Code. If further additional inspections are required, then the owner or applicant shall be required to pay additional inspection fees.

(b) *Notification Requirements.*

(1) The responsible department shall provide notice of the application to all potentially affected property owners in the following circumstances:

(A) The application is submitted as a result of the issuance of a notice of violation due to the advertising of a dwelling unit for short-term residential rental use or use of a property as a short-term residential rental unit without a short-term residential rental unit permit.

(B) During the processing of the application, the responsible department is made aware of circumstances that would lead it to reasonably believe that the property has been used in violation of this Chapter, including but not limited to that the property was used as a short-term residential rental unit without a short-term residential rental unit permit.

(2) If there are additional costs to the County in providing notice to all potentially affected property owners, the cost of the permit application shall be changed to allow the County to recover those costs. The notice shall provide that comments may be submitted to the responsible department up to 20 calendar days after the date of said notice.

(3) The responsible department shall notify the applicant if the application is approved or denied at the applicant's mailing address as shown on the most recent application or otherwise filed with the responsible department. Within ~~7~~10 calendar days of the issuance or renewal of a short-term residential rental permit, the responsible department shall send notice to ~~all potentially affected contiguous~~ property owners and others if previously notified, informing them that a permit was issued. This notice shall contain, at a minimum, the following information:

(A) The name of the managing agency, agent, property manager, or owner of the unit, and a telephone number at which that party may be immediately reached on a 24-hour basis;

(B) The phone number of the County's 24/7 short-term rental complaint line;

(C) The maximum number of occupants allowed in the unit;

(D) The maximum number of vehicles allowed to be parked on the property.

(c) *Operation During Application Process.* Notwithstanding § 84.28.040, while a new application for a short-term residential rental unit permit is pending, a dwelling may be used as a short-term residential rental unit provided that the unit has passed a physical inspection by the County and otherwise complies with the requirements of §§ 84.28.060 and 84.28.070 and any applicable requirements set forth in Chapter 1 of Division 3 of Title 6 and Chapter 19 of Division 3 of Title 6 of the County Code and other law.

(d) *Application Denial.* An application for a short-term residential rental unit permit or renewal of a permit under this Chapter shall be denied by the responsible department upon one or more of the following grounds:

(1) The application is incomplete or the applicant has otherwise failed to comply with the requirements of this Chapter.

(2) The applicant or permittee provided material information that was knowingly incorrect, or provided material information that the applicant should have reasonably known was incorrect, in the application for a permit under this Chapter.

(3) The short-term residential rental unit or property is not in compliance with the standards of this Chapter or other applicable County Code provisions and has failed to pass the initial or renewal inspection.

(e) *Applicant Appeals.* An applicant may appeal the denial or conditional acceptance of an application for a short-term residential rental permit. Such appeal must be in writing and submitted to the responsible department within ten days of the date of the notice provided pursuant to § 84.28.050(b)(3). When the tenth day is not a County business day, the time frame is extended to the second consecutive County business day.

following the tenth day. The appeal shall follow the procedure set forth in § 84.28.090(c).

(f) *Affected Property Owners' Appeals.* Potentially affected property owners may appeal the granting of a new short-term residential rental unit permit. All such appeals must be submitted to the responsible department within ten days of the date of the notice provided pursuant to § 84.28.050(b)(3). When the tenth day is not a County business day, the time frame is extended to the second consecutive County business day following the tenth day. The ground for such appeal is limited to the claim that past use of the property as a short-term residential rental unit has not complied with one or more requirements of §§ 84.28.060(b) through (d), or § 84.28.070, or that, based on competent evidence, any prospective use for such purpose will likely not comply with one or more of such requirements. Such appeal shall be heard in the same manner as specified in § 84.28.090(c). The applicant shall be provided notice of the hearing. If the potentially affected property owner prevails in the appeal, then the applicant's application shall be deemed to be denied and such decision shall be the final decision of the County. No further appeal shall be available at the administrative level.

(g) *Permit Renewal.* The short-term residential rental unit permit shall be renewed biennially. Permit renewal shall be approved if the current conditions of operation and other standards in this Chapter have been met, the subject property, ~~residential dwelling unit, and other structures or improvements on the property~~ passes the renewal inspection, and the applicable renewal fee as set forth in the San Bernardino County Code schedule of fees is paid. Renewal payments submitted after permit expiration are subject to a delinquent fee pursuant to the schedule of fees. Continued use of a short-term residential rental unit is prohibited following permit expiration until renewal payment, including any delinquent fee, has been received by the County. Failure to submit renewal payment within 45 days of permit expiration, including any delinquent fee, shall result in closure of the short-term residential rental unit permit. The short-term residential rental unit owner shall be required to submit a new application, pay the applicable new permit application fee, and be subject to the application process in Subdivision (a) above.

(Ord. 4011, passed - -2007; Am. Ord. 4331, passed - -2017; Am. Ord. 4371, passed - -2019)

§ 84.28.060 Occupancy Standards.

(a) *Compliance with Uniform Codes and Other Laws.* At the time of issuance of a short-term residential rental unit permit and thereafter, the short-term residential rental unit shall be in compliance with the California Fire Code, California Building Code, the National Fire Protection Association Standards or regulations, and any other applicable uniform codes, as adopted by the County of San Bernardino, and other applicable laws and codes.

(b) *Occupancy Limits.* Occupancy limits per room for all short-term residential rental units shall be determined as follows:

(1) In order for a room to be considered habitable space for overnight sleeping purposes, it must be a minimum of 70 square feet. A 70 square foot room may sleep one person. Each sleeping room occupied by more than one person shall contain not less than 50 square feet of floor area for each additional person.

(2) Kitchens, bathrooms, toilet rooms, halls, closets, storage or utility spaces, and similar areas are not considered habitable rooms for sleeping purposes, thus the square footage represented by these rooms shall not be used in the calculation for determining the maximum number of occupants.

(c) *Maximum Occupancy Limits.* Maximum occupancy limits per short term residential rental unit shall be determined as follows:

(1) Notwithstanding the allowances per Subdivision (b) above, the maximum occupancy of a short-term residential rental unit shall not exceed six persons if the rental unit is smaller than 800 square feet.

(2) Notwithstanding the allowances per Subdivision (b) above, the maximum occupancy of a short-term residential rental unit shall not exceed eight persons if the rental unit is smaller than 1,200 square feet.

(3) Notwithstanding the allowances per Subdivision (b) above, on parcels smaller than one-quarter acre, the maximum occupancy of a short-term residential rental unit shall not exceed ten persons.

(4) Notwithstanding the allowances per Subdivision (b) above, on parcels smaller than one-half acre, the maximum occupancy of a short-term residential rental unit shall not exceed 12 persons.

(5) Notwithstanding the allowances per Subdivision (b) above, on parcels one-half acre to one acre, the maximum occupancy of a short-term residential rental unit shall not exceed 15 persons.

(6) Notwithstanding the allowances per Subdivision (b) above, on parcels ~~one acre or greater than one acre~~, the maximum occupancy of a short-term residential rental unit shall not exceed 20 persons.

(7) Notwithstanding the allowances per Subdivisions (b) and (c)(1) through (6) above, the maximum

occupancy of a short-term residential rental unit shall not exceed the occupancies supported by the on-site parking spaces as required by Subdivision (d) below.

(d) *Parking*. All vehicles of short-term residential rental unit renters must be parked on the short-term residential rental unit property. No vehicle of renters shall be parked on neighboring properties or within the transportation right-of-way, or in any manner that would create an obstruction. Parking shall be provided on-site at a ratio of not less than one parking space for every four renters. Short-term residential rental properties with occupancy limits of two renters shall be limited to two vehicles. Parking spaces may include garage, carport, and driveway spaces, and may allow for tandem parking. On-site parking areas shall be kept free from any obstructions, including but not limited to excessive amounts of snow, which would prevent use for vehicle parking. Only the approved parking areas/spaces pursuant to the short-term residential rental unit permit shall be used for vehicle parking. Pursuant to § 84.28.080(a)(2), violations of the parking requirements of this Chapter may result in vehicles being towed without notice.

(Ord. 4011, passed - -2007; Am. Ord. 4230, passed - -2014; Am. Ord. 4331, passed - -2017; Am. Ord. 4371, passed - -2019)

§ 84.28.070 Conditions of Operation.

The following are minimal requirements for short-term residential rental units. These are in addition to any other applicable requirements of this Chapter, other applicable provisions of the County Code, or other law.

(a) *Prohibited Uses of Property*. A short-term residential rental unit may not be used for any transient occupancy other than the purposes described in the definition of short-term residential rental unit set forth in § 84.28.030(i), and in conformity with the requirements of this Chapter. A short-term residential rental unit shall not be used for any commercial activity, which includes but is not limited to weddings, wedding receptions, corporate retreats, business meetings or conferences, filming photography shoots, a fraternity party, or any other similar gathering, unless regulated under an approved County-issued permit.

(b) *Record Keeping*. The property owner or property manager shall maintain records sufficient to prove compliance with this Chapter and other applicable laws. These records shall be maintained so that they can be readily provided to the County, and provided in such a manner that establishes that the property owner or property manager is routinely maintaining such records.

(c) *Registration*. The short-term residential rental unit owner, as defined in § 84.28.030(g), shall administer registration prior to allowing occupancy of the rental unit. The registration shall include review of the short-term residential rental unit regulations with at least one adult renter of the rental unit. At the time of such registration, the renter shall be provided a complete written or digital copy of the rental unit rules and regulations, as well as disclosure of the penalties associated with violations. The registration material shall advise the renter of the occupancy and vehicle/parking limitations, responsibility to avoid nuisance behavior, and that the use of the rental unit for commercial activity, which includes, but is not limited to weddings, wedding receptions, corporate retreats, business meetings or conferences, fraternity parties, or any other similar gatherings shall be prohibited unless authorized by a County-issued permit. The registration material shall contain a space for an acknowledgement to be signed by the renter as having read, understood and agreed to all provisions. Registration materials shall be preserved for the term of the short-term residential rental unit permit, and shall be provided to the County, when requested, to confirm compliance with short-term residential rental unit permit conditions of operation and regulations set forth in this Chapter. If the owner fails to provide adequate directions to the unit or fails to confirm acknowledgement and understanding of the rental unit rules and regulations, the conditions of operation of the short-term residential rental unit permit may be amended by the County to require in-person registration.

(d) *Advertising*.

(1) Advertising that promotes a short-term residential rental unit for a use that is not permitted or could not be permitted by this code or other law, is prohibited.

(2) All advertising, including real-estate magazines, fliers, newspapers, television or radio commercials, internet pages, or coupons, that promote the use of a short-term residential rental unit prior to approval of a short-term residential rental unit permit pursuant to § 84.28.040(a), shall be prohibited. All advertisements featuring a permitted short-term residential rental unit shall specify the maximum permitted number of occupants and vehicles for the rental unit.

(e) *Posted Notices within Unit*. The County-issued short-term residential rental unit permit shall be posted inside the unit on or adjacent to the front door, along with an exit/emergency evacuation map. In

addition, each short-term residential rental unit shall have a clearly visible and legible notice posted in a prominent location within the unit, containing the following information:

- (1) The address of the short-term residential rental unit.
- (2) The name of the managing agency, agent, property manager, or owner of the unit, and a telephone number at which that party may be immediately reached on a 24-hour basis.
- (3) The maximum number of occupants permitted to stay overnight in the unit.
- (4) The maximum number of vehicles allowed to be parked on the property.
- (5) The contact person or agency, and phone number for snow removal.
- (6) Notification of the arrangements that the owner has made to allow the renter to properly store and dispose of trash or refuse in accordance with the requirements of this Chapter.
- (7) Notification that failure to comply with the requirements of this Chapter, including parking and occupancy standards, as well as public and private nuisance standards, is a violation of the County Code, and that such violation may result in enforcement actions to address the violation. These may include actions to abate the nonconformity, the institution of criminal, civil, or administrative actions, or, under certain circumstances, the calling of law enforcement for the removal of guests and their vehicles from the property to the extent authorized by law. The notification shall state in a prominent format that users of the unit are prohibited from disturbing the peace of the surrounding neighborhood and that doing so is a violation of this Chapter and the rental agreement.
- (8) Location of utility service connections, including how to access service connections and instructions and any tools necessary to disconnect the short-term residential rental unit from utility services in the event of an emergency.
- (9) Phone numbers of local emergency medical and law enforcement services.
- (10) Property boundary map for the purpose of deterring trespassing on other privately owned properties and identification of the approved parking area(s).

(f) *Call Response.*

- (1) The short-term residential rental unit owner or agent shall be personally available by telephone on a 24-hour basis and maintain the ability to be physically present at the property within one hour in order to respond and remedy calls or complaints regarding the condition or operation of the unit or the behavior of persons on the property in violation of this Chapter or other law.
- (2) On a 24-hour basis, within one hour of receiving a call or a complaint, the short-term residential rental unit owner must confirm whether or not the complaint is valid. If the complaint is valid the short-term residential rental unit owner shall immediately take corrective action within the lawful authority of the owner to abate the violation, or to cause the nuisance behavior that disturbs the peace of the neighboring properties to stop, for the entire duration of the occupancy of the person causing or allowing such violation or nuisance behavior. Such corrective action may necessarily include, under certain circumstances, the contacting of law enforcement, County officials, or other appropriate officials for the removal of guests and their vehicles from the property to the extent authorized by law.
- (3) Calls or complaints about physical conditions or circumstances that constitute an immediate threat to the public health and safety shall obligate the owner to immediately contact the appropriate law enforcement, fire, or other authority.
- (4) Each owner shall keep a written record of the times and type of complaints received, what response was undertaken by the owner, and when such complaints were resolved. This written record shall be made available to the County upon request, and shall be retained by the owner for the term of the short-term residential rental unit permit.

(g) *Responsibilities of Owner to Prevent Nuisance Behavior and Maintain Neighborhood Peace and Quiet.* The owner shall take all lawful action necessary to ensure that renters and occupants abide by the terms of this Chapter and other applicable provisions of the County Code and law. The owner must inform renters and occupants that they are not to violate any noise standards, parking standards, or otherwise create a public or private nuisance.

(h) *Loud and Disturbing Noise.*

- (1) It is unlawful for any owner, renter, occupant, or guest located at a short-term residential rental unit to make, cause to be made, or allow to be made, either willfully or through failure to exercise control, any loud, excessive, impulsive, or intrusive noise that disturbs the peace or quiet or that causes discomfort or annoyance to any reasonable person of normal sensitivities in the area. Such types of noises or actions

causing noises include, but are not limited to, yelling, shouting, hooting, whistling, singing, playing a musical instrument, emitting or transmitting any loud music or noise from any mechanical or electrical sound making or sound amplifying device, and the habitual barking, howling, or crowing of animals.

(2) The standard for enforcement of this subdivision is the “reasonable person” standard. The inquiry is whether the noise would disturb the peace or quiet or cause discomfort or annoyance to a reasonable person under the same or similar circumstances.

(3) Factors that may be considered in determining whether a violation of this Subdivision has been committed include, but are not limited to, the following:

- (A) The level of noise;
- (B) The level and intensity of the background (ambient) noise, if any;
- (C) The proximity of the noise to the residential unit in question;
- (D) The time of day or night the noise occurs;
- (E) The duration of the noise;
- (F) Whether the noise is constant, recurrent, or intermittent; and
- (G) Whether the noise is produced by a mechanical or electronic device.

(i) *Safety.*

(1) Solid fuel burning outdoor fireplaces, chimineas, barbeques, and fire pits are prohibited in the Mountain Region.

(2) The interior and exterior of the short-term residential rental unit shall be kept free of hazardous conditions at all times.

(3) Spas/hot tubs shall be covered and locked when not in use.

(j) *Sanitation.*

(1) Every short-term residential rental unit shall be cleaned after each occupancy change in order to make the unit sanitary.

(2) If linens are provided for use by renters, said linens will be exchanged for clean linens after each occupancy.

(3) The exterior of the short-term residential rental unit shall be maintained and kept ~~fee-free~~ of debris.

(4) Spas/hot tubs shall be maintained and cleaned as frequently as needed to preserve sanitary conditions.

(k) *Trash/Refuse.* Trash shall be deposited in approved trash collection containers on the short-term residential rental unit property. Trash containers shall be kept closed when not in use, never be permitted to overflow, and kept in a clean condition without excessive build-up of encrusted wastes in or on the container.

(1) In the Mountain Region, short-term residential rental unit owners shall ~~procure pull out trash collection service and use~~ animal-proof trash containers ~~and procure trash collection service~~ from the County-approved refuse collection hauler when said service is available. ~~Pull-out trash service shall also be established with the County approved refuse collection hauler when said service is available.~~ A sufficient number of trash containers based on occupancy levels of the rental unit shall be procured.

(2) In the Desert Region, short-term residential rental unit owners shall procure trash collection service and trash collection containers from the County-approved refuse collection hauler when said service is available. A sufficient number of containers based on occupancy levels of the rental unit shall be procured.

(3) Trash shall be removed from the premises after each occupancy unless routine commercial trash collection is provided to the premises.

(l) *Animals.*

(1) *License.* No person shall have, keep, or maintain any dog on the property of a short-term residential rental unit unless he or she is able to provide proof of a current license or license tag issued by the County or other applicable municipal dog licensing agency.

(2) *Control of Animals.* No person owning or having control of any animal shall permit such animal to stray or run at large upon any unenclosed area on or off the short-term residential rental unit property. No person may lawfully bring his or her dog off a short-term residential rental property unless the dog is restrained by a leash and the person is competent to restrain the dog, or the dog is properly restrained and enclosed in a vehicle, cage, or similar enclosure.

(3) *Noise.* It shall be unlawful for any person owning or having control of any animal to be allowed to create excessive noise in violation of Subdivision (h) of this section.

(Ord. 4011, passed - -2007; Am. Ord. 4331, passed - -2017; Am. Ord. 4371, passed - -2019)

§ 84.28.080 Enforcement.

(a) General.

(1) Owners and renters of short-term residential rental units shall comply with the requirements of this Chapter and all other applicable sections of the County Code and other law. A hosting platform shall comply with the requirements of § 84.28.110 and all other applicable sections of the County Code and other law.

(2) In addition to any enforcement action and remedy authorized by this Chapter, a violation of any requirement of this Chapter may result in remedial action by appropriate members of County staff or any enforcement officer as defined in Chapter 2 of Division 1 of Title 1 of the County Code without notice if providing notice is not reasonable considering the need for immediate remedial action, and/or if prior notice to the property owner or the renters, either verbal or written, has not resulted in appropriate remedial action by the property owner. If the violation consists of a violation of any of the parking requirements of this Chapter, then the remedy may include the towing of the vehicle or vehicles causing the violation of the parking requirement. Remedial actions taken under this Section, other than any criminal citations, are subject to appeal pursuant to Chapter 2 of Division 1 of Title 1 of the County Code or other applicable provision, but no request for appeal shall stay the remedial actions taken pursuant to this Section.

(3) In addition to any enforcement action and remedy authorized by this Chapter, a violation of any requirement of this Chapter may be subject to the enforcement and remedy provisions of Chapter 2 of Division 1 of Title 1 of the County Code and any other applicable enforcement and remedy provisions of the County Code or provided under the law.

(b) *Uniform Transient Occupancy Tax—Failure to Pay.* Failure by the owner, or when applicable, a hosting platform to collect and remit to the Tax Collector the Uniform Transient Occupancy Tax may result in the Tax Collector pursuing any remedy against the owner or hosting platform, including imposing and collecting said tax from the owner or hosting platform, authorized under Chapter 2 of Division 4 of Title 1 of the County Code or other applicable law. Notwithstanding the duty imposed by § 84.28.110(a), the use of a hosting platform to facilitate the rental of a short-term residential rental unit shall not relieve an owner of liability for violations of this Subdivision.

(c) *Administrative Subpoena.* The County may issue and serve an administrative subpoena as necessary to obtain specific information identified in § 84.28.110 regarding short-term residential rental unit listings located in the unincorporated areas of San Bernardino County. Any subpoena issued pursuant to this Subdivision shall not require the production of information sooner than 30 days from the date of service. A person that has been served with an administrative subpoena may seek judicial review during that 30-day period.

(Ord. 4331, passed - -2017; Am. Ord. 4371, passed - -2019)

§ 84.28.090 Suspension of Permit.

(a) *Suspension of Permit.* A short-term residential rental unit permit may be suspended for the following reasons:

(1) *Substandard Building or Property or Unsafe Building or Structure.* Any violation of the requirements of Chapter 1 of Division 3 of Title 6 or Chapter 19 of Division 3 of Title 6 of the County Code that results in the issuance of a notice of defect or notice and order to repair. Notice of such suspension shall be provided pursuant to the requirements of Chapter 1 of Division 3 of Title 6 of the County Code.

(2) *General Violations.* Any failure to comply with, or respond to, any notice of violation or other notice from the County requiring compliance with one or more requirements of this Chapter or other applicable provision of the County Code or other law. Property owners shall be informed of such suspension in a written notice mailed using both certified mail with return receipt and first class service. In addition, although not required, the notice may also be posted on the property and/or mailed to any additional individuals or companies listed on the permit application.

(b) Use of Property During Suspension and Stays.

(1) When a short-term residential rental unit permit is suspended, the property or properties affected by the suspension shall not be used as a short-term residential rental until such time as the suspension is stayed or lifted.

(2) Permits suspended pursuant to § 84.28.090(a)(1) will remain suspended until such time as the Building Official or his or her designee confirms that all violations have been corrected or the Building Appeals Board has ruled in favor of the appellant.

(3) Permits suspended for general violations, i.e., those under § 84.28.090(a)(2), will remain suspended until such time as the violations are abated, or the property owner can reasonably demonstrate substantive changes in the property management practices that would mitigate or correct these violations, or a hearing officer has ruled in favor of the appellant. If an appeal hearing for a general violation cannot be scheduled within 14 calendar days after an appeal was filed or if the hearing is scheduled but, through no fault of the appellant, not held within 30 days after the appeal was filed, the suspension must be stayed through the date a ruling on the appeal is issued.

(c) *Appeals of Suspensions.* An appeal must be filed no later than ten days of the date the notice of suspension is issued. When the tenth day is not a County business day, the time frame is extended to the second consecutive County business day following the tenth day.

(1) The suspension of a permit pursuant to § 84.28.090(a)(1) may be appealed for a hearing before the Building Appeals Board. The format and process of the appeal shall be as required by § 63.0107. A decision by the Building Appeals Board shall be final and no further appeal within the County shall be available.

(2) The suspension of a permit for a general violation may be appealed to a County-designated hearing officer. The decision by the hearing officer shall be final and no further appeal within the County shall be available. The hearing procedure shall include the following:

(A) At least ten days written notice of the hearing shall be given to the permit holder prior to the hearing date. The hearing date may be postponed or continued by stipulation of the parties. If the permit holder does not respond or appear, no further hearing procedure shall be required.

(B) Witnesses shall swear or affirm to tell the truth. The oath or affirmation shall be taken by the hearing officer. The County shall present its case first, with oral testimony and documentary evidence or other evidence. The County shall have the right of cross-examination. The permit holder shall have the right to be represented and shall have the right of cross-examination. The permit holder may present his or her response after the County has presented its case. Both parties may thereafter present argument.

(C) No determination or order shall be based solely on hearsay evidence. The hearing officer shall make his or her determination within five working days of the end of the hearing, unless a party requests a greater period of time. The determination shall be in writing, and shall state the findings upon which the determination is made. The decision by the hearing officer shall be final and no further appeal within the County shall be available.

(3) The failure to appeal a suspension in a timely manner shall render the action to suspend final and no further appeal within the County shall be available.

(Ord. 4331, passed - -2017; Am. Ord. 4371, passed - -2019)

§ 84.28.100 Revocation of Permit.

(a) *Revocation of Permit.* A short-term residential rental unit permit may be revoked for the following reasons:

(1) The severity of a violation of a requirement of Chapter 1 of Division 3 of Title 6 or Chapter 19 of Division 3 of Title 6 of the County Code necessitated the immediate vacation of the property.

(2) The conditions or actions that resulted in the suspension of the permit have not been abated, or addressed by a demonstrable change in the business practices associated with the short-term residential rental unit, within 60 days of the suspension being upheld on appeal or otherwise deemed final.

(3) The condition or the business practice that resulted in the suspension of the permit re-occurs within 12 months of the date the suspension was upheld on appeal or otherwise deemed final.

(4) A permit is suspended two times in a consecutive 24-month period, where said suspensions are either upheld on appeal or otherwise deemed final.

(5) The permit was obtained through fraud or deceit.

(6) The permit was issued in error.

(b) *Appeals of Revocation of Permit.*

(1) The revocation of a permit pursuant to § 84.28.100(a)(1) may be appealed for a hearing before the Building Appeals Board. The format and process of the appeal shall be as required by § 63.0107. A decision by the Building Appeals Board shall be final and no further appeal within the County shall be

available.

(2) The revocation of a permit pursuant to §§ 84.28.100(a)(2), (a)(3), or (a)(4), where the underlying violation or violations are based on a failure to comply with the requirements of Chapter 1 of Division 3 of Title 6 or Chapter 19 of Division 3 of Title 6 of the County Code, may be appealed for a hearing before the Building Appeals Board. The format and process of the appeal shall be as required by § 63.0107. A decision by the Building Appeals Board shall be final and no further appeal within the County shall be available.

(3) The revocation of a permit pursuant to §§ 84.28.100(a)(2), (a)(3), or (a)(4), where the underlying violation or violations are general violations, or pursuant to § 84.28.100(a)(5) or (a)(6), may be appealed for a hearing before a County appointed hearing officer as defined by §§ 12.2701, 12.2702, 12.2703, and 12.2705. The procedure for such hearing is set forth in §§ 84.28.090(c)(2)(A) through (C) and (c)(3). A decision by the hearing officer shall be final and no further appeal within the County shall be available.

(4) The revocation of a permit pursuant to §§ 84.28.100(a)(2), (a)(3), or (a)(4), where the underlying violations include a general violation or violations and a violation or violations based on a failure to comply with the requirements of Chapter 1 of Division 3 of Title 6 or Chapter 19 of Division 3 of Title 6 of the County Code, shall be heard by the Building Appeals Board in the form and manner defined by § 63.0107. A decision by such body shall be final and no further appeal within the County shall be available.

(c) *New Application After Revocation of Permit.* No application for a permit shall be permitted within 12 months after a revocation is made final.

(d) *Suspensions or Revocations of Permits for Multiple Properties.* If it is determined that the conditions or the business or management practices cause violations of this Chapter to occur on multiple properties of the same owner, the short-term residential rental unit permits for all of those properties may be suspended and/or revoked at the same time. In such circumstance all affected parties must be provided notice and the opportunity to appeal the suspension and/or revocation of the permit for every affected property.

(Ord. 4331, passed - -2017; Am. Ord. 4371, passed - -2019)

§ 84.28.110 Hosting Platform Requirement.

(a) For purposes of this Chapter a hosting platform shall be responsible for collecting all applicable uniform transient occupancy tax required by § 14.0203 and remitting the same to the County. The hosting platform shall be considered an agent of the short-term residential rental owner for purposes of transient occupancy tax collections and remittance, as set forth in § 14.0203, if the hosting platform collects payment for the rental. If a hosting platform does not collect payment for rentals, the short-term residential rental unit owner is solely responsible for the collection of all applicable transient occupancy taxes.

(b) Subject to applicable laws and procedures provided in § 84.28.080(c), when requested by the County, a hosting platform shall disclose, in a commonly used electronic format, the address of each short-term residential rental unit within the unincorporated San Bernardino County listed on the hosting platform, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

(c) A hosting platform operating exclusively on the internet, which operates in compliance with Subdivisions (a) and (b) above, shall be presumed to be in compliance with this Chapter, except that the hosting platform remains responsible for compliance with the administrative subpoena provisions of this Chapter.

(d) The provisions of this Section shall be interpreted in accordance with otherwise applicable state and federal laws and will not apply if determined by the County to be in violation of, or preempted by, any such laws.

(Ord. 4371, passed - -2019)

§ 88.01.040 Regulated Trees and Plants and General Permit.

(a) *Regulated Trees and Plants.* A regulated tree or plant shall be any of the ~~those~~-trees or plants identified in:

- (1) Section 88.01.060(c) (Regulated Desert Native Plants);
- (2) Section 88.01.070(b) (Regulated Trees); or
- (3) Section 88.01.080(b) (Regulated Riparian Plants).

(b) *Permit for Removal Required.* A Tree or Plant Removal Permit issued in compliance with § 88.01.050 (Tree or Plant Removal Requirements) shall be required for the removal of regulated trees and plants.

(c) *Conditions of Approval.* The permits required by this Chapter may be subject to conditions imposed by the applicable review authority as identified in § 88.01.050(e) (Tree or Plant Removal Permits - Condition of approval).

(Ord. 4011, passed - 2007)

§ 810.01.060 Definitions, D.

- (a) **DAIRY.** Any premises where milk is produced for sale or distribution and where ten or more cows or goats are in lactation.
- (b) **DAY.** Any reference to day or days shall mean calendar days, unless otherwise specified.
- (c) **DAY, BUSINESS.** Any day a specified Office, Department or other agency is open to the public for normal business. This term shall normally exclude all Saturdays, Sundays and any holiday that is recognized and observed by the specified Office, Department or other agency.
- (d) **DAY CARE, ADULT.** (See Land Use Tables.) A state-licensed facility that provides nonmedical care and supervision for adult clients for periods of less than 24 hours for any client.
- (e) **DAY CARE, CHILD.** (See Land Use Tables.) Facilities that provide non-medical care and supervision of minor children for periods of less than 24 hours. These facilities include the following, all of which are required to be licensed by the California State Department of Social Services.
 - (1) **DAY CARE CENTER.** Commercial or non-profit child day care facilities designed and approved to accommodate 15 or more children. Includes infant centers, preschools, sick-child centers, and school-age day care facilities. These may be operated in conjunction with a school or church facility, or as an independent land use.
 - (2) **FAMILY DAY CARE HOME - FAMILY.** As defined by Health and Safety Code § 1596.78, a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, ~~and is either a large family day care home or a small family day care home.~~
 - (3) **LARGE FAMILY DAY CARE HOME.** ~~As defined by Health and Safety Code § 1596.78, a day care facility in a single family dwelling where an occupant of the residence provides family day care for seven to 14 children, inclusive, including children under the age of ten years who reside in the home.~~
 - (4) **SMALL FAMILY DAY CARE HOME.** ~~As defined by Health and Safety Code § 1596.78, a day care facility in a single family residence where an occupant of the residence provides family day care for eight or fewer children, including children under the age of ten years who reside in the home.~~
- (f) **DEBRIS FLOW (MUDFLOW).** The downhill movement of saturated debris often a mixture of mud, rock and vegetation.
- (g) **DECIBEL (dBA).** A measure of sound pressure on a logarithmic scale, with respect to a standard reference value.
- (h) **DECISION.** Any decision to approve, disapprove, or modify a request to develop, divide, or otherwise utilize land or to alter or establish land use regulations.
- (i) **DENSITY BONUS.** A density increase over the otherwise maximum allowable residential density under the applicable land use plan designation and land use zoning district. Also, see Government Code § 65915.
- (j) **DEPARTMENT.** The Department of Land Use Services of the County of San Bernardino.
- (k) **DEPENDENT MOBILE HOME.** See **MOBILE HOME, DEPENDENT.**
- (l) **DESERT BOTANICAL GARDENS.** (See Land Use Tables.) A public or private facility for the demonstration and observation of the cultivation of desert flowers, fruits, vegetables, or ornamental desert plants.
- (m) **DESERT NATIVE PLANT.** See **PLANT, DESERT NATIVE.**
- (n) **DESERT NATIVE PLANT EXPERT.** See **PLANT EXPERT, DESERT NATIVE.**
- (o) **DESERT REGION.** **DESERT REGION** shall mean and include all of the unincorporated area of San Bernardino County lying north and east of the Mountain Region as defined in this Division.
- (p) **DESIGN.** Includes the planning and engineering of the following:
 - (1) Street alignments, grades and widths;
 - (2) Drainage and sanitary facilities and utilities, including alignment and grades thereof;
 - (3) Location and size of all required easements and rights of way;
 - (4) Fire roads and firebreaks;
 - (5) Lot size and configuration;
 - (6) Traffic access;
 - (7) Grading;

- (8) Land to be dedicated for park or recreational purposes;
 - (9) Location of proposed and existing structures and improvements; and
 - (10) Other specific physical requirements in the plan and/or configuration of a subdivision as may be necessary to ensure consistency with, and implementation of this Development Code, the General Plan, and any applicable specific plan.
- (q) **DETAILED SITE PLAN.** See **SITE PLAN, DETAILED.**
 - (r) **DESIGN FLOOD.** See **FLOOD HAZARD.**
 - (s) **DEVELOPER.** Any person, association, firm, corporation, partnership and other business entity or public agency installing or constructing a development. This includes any person, business entity or public agency seeking to perform earthwork grading on any project or development for which the conditions of approval require any specific or general features to be incorporated in the earthwork or which restrict or limit the earthwork grading in any way, other than in compliance with the grading provisions as prescribed in the California Building Code.
 - (t) **DEVELOPMENT.** The use to which land shall be put, the buildings to be constructed on it, and all alteration of the land and construction incident thereto. This shall include but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
 - (u) **DEVELOPMENT APPLICATION.** Any application, review and/or process acted upon by the Department. See **LAND USE APPLICATION.**
 - (v) **DEVELOPMENT CODE.** A set of land use regulations adopted by San Bernardino County in conformance with the General Plan. All actions and undertakings necessary for project planning, land acquisition, demolition or construction of a project must conform with the County Code before approval. The Development Code is Title 8 of the San Bernardino County Code.
 - (w) **DEVELOPMENT MORATORIUM.** A **DEVELOPMENT MORATORIUM** shall include a water or sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, other than the authority of the County to approve or conditionally approve the Tentative Map, which prevents, prohibits, or delays the approval of a Final or Parcel Map. A **DEVELOPMENT MORATORIUM** is also deemed to exist for any period of time during which a condition imposed by the County could not be satisfied because the condition was one which, by its nature, necessitated action by the County, and the County either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the Tentative Map.
 - (x) **DEVELOPMENT PERIMETER.** A line that indicates the outer perimeter of structural development or proposed structural development of one structure or a group of structures within a development project. For the purposes of this Section, structures within 100 hundred feet of another structure shall be considered as part of the same group of structures. The **DEVELOPMENT PERIMETER** may be derived from one of the following methods:
 - (1) A line formed by interlinking the exterior walls or exterior building envelope boundaries of a series of proposed or existing structures that form the perimeter of a development project;
 - (2) Where a development project indicates the location of buildings or building envelopes on a site plan, a composite development plan or a final development plan, the **DEVELOPMENT PERIMETER** may be delineated by the outer limit of the location of each building. The **DEVELOPMENT PERIMETER** between the planned location of each building shall be delineated by the shortest line between the outer faces of adjacent buildings or building envelopes or;
 - (3) The **DEVELOPMENT PERIMETER** may be derived through alternate means provided they meet or exceed the limitations described in Subdivisions (1) and (2) above.
 - (y) **DEVELOPMENT PERMIT.** A permit issued by the Building Official, Fire Marshall, or Chief of the Environmental Health Services Division for construction or land disturbance, including, but not limited to, Building Permits, Mobile Home Setdown Permits and Grading Permits.
 - (z) **DEVELOPMENT PLAN.** A detailed, comprehensive plan of development for a Special Development. The development plan applies limits and parameters for development derived from a development suitability analysis to a specific development scheme. **DEVELOPMENT PLANS** shall include a detailed description of the proposed development and its effects including, but not limited to, a written text, diagrams or maps describing the program for development and the functional arrangement of structures and

uses, the effect of such arrangement upon the physical characteristics of the site, available public services, the capacity of the existing circulation system and the existing and planned land use of adjacent properties. It includes a dimensioned site plan showing the location of all structures and lots in sufficient detail to permit recordation and the preparation of construction drawings.

(aa) **DEVELOPMENT PROJECT.** Any one or a series of related development applications that constitute a single development proposal.

(bb) **DEVELOPMENT RESTRICTIONS.** Include, but are not limited to, any of the following restrictions on property:

- (1) Open space easements.
- (2) Transfer of development rights.
- (3) Conveyance of development rights to the County.
- (4) Land Use Zoning District restrictions on development.

(cc) **DEVELOPMENT REVIEW COMMITTEE.** A committee consisting of representatives from various public agencies whose functions are to review and make recommendations on development proposals.

(dd) **DEVELOPMENT SUITABILITY ANALYSIS.** A comprehensive examination of the opportunities and constraints affecting development of a given site.

(ee) **DEVIATIONS.** Authorized variances from required distances, setbacks, areas or physical improvements.

(ff) **DIRECTIONAL SIGN.** See **SIGN**.

(gg) **DIRECTOR.** The Director of Land Use Services or authorized designee.

(hh) **DIRECTOR OF AIRPORTS.** The Director of the County Airports Department or an authorized designee.

(ii) **DIRECTOR OF DEPARTMENT OF PUBLIC WORKS.** The Director of the County Department of Public Works or an authorized designee.

(jj) **DIRECTOR OF SPECIAL DISTRICTS.** The Director of the Special Districts Department or an authorized designee.

(kk) **DISABLED OR HANDICAPPED PERSON.** An individual who has a physical or mental impairment as defined by Titles II and III of the Americans with Disabilities Act and applicable state law.

(ll) **DISMANTLERS.** See **MOTOR VEHICLE DISMANTLING FACILITY**.

(mm) **DISPLAY SIGN.** See **SIGN**.

(nn) **DISTRIBUTION.** See **WHOLESALING AND DISTRIBUTION**.

(oo) **DRAINAGE COURSE.** A natural or man-made water course that could convey runoff either year around or intermittently.

(pp) **DRAINAGE PLAN, LOCAL AREA.** A drainage plan adopted for a particular drainage area. These plans shall include a map of the area showing its boundaries, the location of existing and future drainage facilities and an accompanying text that contains an estimate of the total costs of constructing the local drainage facilities.

(qq) **DRIPLINE.** A line that may be drawn on the ground around a tree directly under its outermost branch tips which is projected vertically down to the ground and which identifies that area where rainwater tends to drop from the tree.

(rr) **DWELLING, MULTIPLE FAMILY.** (See Land Use Tables.) A building or portion thereof used and/or designed as two or more independent dwelling units.

(ss) **DWELLING, SINGLE FAMILY.** (See Land Use Tables.) A detached building designed and/or used as one dwelling unit.

(tt) **DWELLING, SINGLE FAMILY ATTACHED.** (See Land Use Tables.) A single family dwelling that is attached to not more than one other single family dwelling.

(uu) **DWELLING UNIT.** Any building or portion thereof, including a manufactured home or portion thereof, that contains living facilities, including provisions for sleeping, eating, cooking and sanitation as required by the California Building Code, for not more than one family, including domestic employees of the family.

(vv) **DWELLING USE IN CONJUNCTION WITH COMMERCIAL USE.** One or more dwelling units developed along with one or commercial uses in a mixed-use project.

(Ord. 4011, passed - -2007; Am. Ord. 4057, passed - - 2008; Am. Ord. 4065, passed - -2008; Am. Ord. 4163,

passed - -2012; Am. Ord. 4169, passed - -2012; Am. Ord. 4189, passed - -2012; Am. Ord. 4341, passed - -2018)

§ 810.01.070 Definitions, E.

- (a) **EARTH MATERIAL.** Rock, natural soil or combination thereof.
- (b) **EASEMENT.** A grant of one or more property rights by the property owner to and/or for the use by the public, a corporation, or another entity, including:
 - (1) **ROAD EASEMENT.** Any property that is reserved for or in general use for road purposes to provide access for the public to otherwise inaccessible parcels of land, provided that the easements are not included in the definition herein of **STREET**.
 - (2) **ROAD EASEMENT, PRIVATE.** Any property that is reserved for road purposes to provide access for property owners to their private property, provided that the easements are not included in the definition of **STREET** herein.
 - (c) **EDUCATIONAL ANIMAL PROJECT.** An animal husbandry project under the supervision of an educationally oriented youth program or organization connected to a school or non-profit organization (e.g., 4-H, Future Farmers of America, etc.)
 - (d) **EDUCATIONAL INSTITUTIONS.** See **SCHOOLS**.
 - (e) **EFFICIENCY KITCHEN.** An area that includes (1) a cooking facility with appliances and (2) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of unit.
 - (f) **ELECTRICAL POWER GENERATION.** (See Land Use Tables.) A facility that generates and distributes electrical energy for sale. The electricity may be generated from oil, gas, coal or fuels or from "alternate" sources including water, wind, the sun, bio gas, municipal or agricultural wastes. This includes **COGENERATION**, which means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by electric power production or the reverse. See also **WIND ENERGY SYSTEM**.
 - (g) **EMERGENCY ACCESS ROUTE.** See **ROAD SYSTEM**.
 - (h) **EMERGENCY SHELTER.** (See Land Use Tables.) Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.
 - (i) **ENDANGERED ANIMALS.** See **ANIMALS**.
 - (j) **ENDANGERED SPECIES.** See **RARE OR ENDANGERED SPECIES**.
 - (k) **ENFORCEMENT.** For the purposes of this Code, certain words relative to enforcement are defined as follows:
 - (1) **ABATEMENT COSTS.** Any and all costs or expenses reasonably related to the abatement or removal of conditions which violate any provision of this Code or any permit or any condition of land use approval granted pursuant thereto or the correction of such violation, and shall include, but not be limited to, enforcement, investigation, collection, and administrative costs; and attorney's fees.
 - (2) **ADMINISTRATIVE COSTS.** All costs incurred by or on behalf of the County from the first discovery of the violation of the this Development Code or any permit or condition of land use approval granted pursuant thereto through the appeal process and until compliance is achieved, including but not limited to, staff time in investigating the violation, inspecting the property where the violation occurred, preparing investigation reports, sending notices, preparing for and attending any appeal hearing, telephone contacts, and correspondence.
 - (3) **CODIFIED ORDINANCES OF THE COUNTY OF SAN BERNARDINO** and **SAN BERNARDINO COUNTY CODE** and **THIS CODE**. The San Bernardino County Development Code (Title 8 of the San Bernardino County Code), including all pertinent provisions of State codes as adopted therein, enacted by the Board of Supervisors of the County of San Bernardino acting pursuant to authority granted under the County Charter, Government Code §§ 25126, 25127, and 25128; or other applicable law.
 - (4) **ENFORCEMENT OFFICER.** Any County employee or agent of the County with the authority to enforce any provision of the Development Code, specifically:
 - (A) The Deputy Director, each Code Enforcement Supervisor, and each Code Enforcement Officer or other designated employee of the Code Enforcement Division of the Land Use Services Department;
 - (B) The Fire Chief/Fire Warden, each Deputy Chief, each Assistant Chief, each Division Chief, the Fire Marshal, Assistant Fire Marshal, each Fire Prevention Supervisor, and each Fire Prevention Officer or other designated employees of the County Fire Department;

- (C) The Director and each Inspector or other designated employees of the Environmental Health Services Division of the Department of Public Health;
- (D) The Program Manager and each Animal Control Officer or other designated employees of the Animal Care and Control Program of the Environmental Health Division of the Department of Public Health;
- (E) The Sheriff-Coroner and each Deputy Sheriff (all ranks) or other designated employee of the Department of the Sheriff-Coroner;
- (F) Any other Director and other designated employee of a County department as designated by the County Administrative Officer.

(5) **PERSON.** Any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity, which is recognized by law as the subject of rights or duties.

(6) **RESPONSIBLE PARTY.** For the purpose of this Chapter shall mean each person committing or allowing the violation or causing a condition on a parcel of real property located within the unincorporated area of the County of San Bernardino to violate any provision of this Development Code or any permit or any condition of land use approval granted pursuant thereto; each person who has an ownership interest in that property; and each person who, although not an owner, nevertheless has a legal right or legal obligation to exercise possession and control over that property. In the event the person who commits the violation or causes the violating condition is a minor, then the minor's parents or legal guardian shall be deemed the responsible party for that violation. In the event the violation or violating condition is most reasonably attributable to a business and not to an employee, then that business, to the extent it is a legal entity such that it can sue and be sued in its own name, and each person who is an owner of that business shall be deemed responsible parties.

(lk) **ENHANCED SPECIALIZED MOBILE RADIO SERVICE.** See **WIRELESS TELECOMMUNICATION FACILITY.**

(ml) **ENTERTAINMENT ASSEMBLY.** See **SPORTS OR ENTERTAINMENT ASSEMBLY.**

(nm) **ENTERTAINMENT SERVICES.** See **RECREATION AND ENTERTAINMENT SERVICES.**

(op) **ENVIRONMENTAL CONSTRAINTS.** Environmental factors that limit or inhibit the potential for land development, including, but not limited to, flood hazards, seismic hazards, air quality and water supply.

(pe) **ENVIRONMENTAL IMPACT.** Projected long-term or short-term effects (adverse or beneficial) that a development project or plan may have on the natural and built environment if the project is carried out.

(q) **ENVIRONMENTAL IMPACT REPORT (EIR).** An environmental impact report (EIR) is the public document used by a governmental agency to analyze the significant environmental effects of a proposed project, to identify alternatives, and to disclose possible ways to reduce or avoid possible environmental damage.

(rq) **ENVIRONMENTAL REVIEW GUIDELINES.** Written procedures adopted by the Board of Supervisors for the purpose of implementing the requirements of the California Environmental Quality Act (CEQA).

(sf) **EQUESTRIAN FACILITY.** (See Land Use Tables.) A commercial facility for horses, donkeys, and/or mules. Examples include horse ranches, boarding stables, riding schools and academies, horse exhibition facilities (for shows or other competitive events), and barns, stables, corrals and paddocks accessory and incidental to these uses. Does not include the simple pasturing of horses, donkeys, and/or mules, which is instead included in **ANIMAL KEEPING**. Does not include rodeo arenas, which are under **RURAL SPORTS AND RECREATION**.

(ts) **EQUIPMENT RENTAL.** A service establishment that may offer a wide variety of household and business equipment, furniture, and materials for rental. Does not include construction equipment rental, which is separately defined.

(ut) **EROSION.** The wearing away of the ground surface as a result of the movement of wind or water or machine.

(vu) **EROSION, ACCELERATED.** Erosion caused by a human induced alteration of the vegetation, land surface, topography or runoff pattern. Evidence of accelerated erosion is often indicated by exposed soils, gullies, rills, sediment deposits or slope failures caused by human activities.

(wv) **EROSION HAZARD.** The susceptibility of a site to erode based on condition of slope, rock type, soil and other site factors. Hazard may be determined based on a site-specific investigation and the soil disturbance may be caused by wind, water or machine.

(xw) **ESTABLISHED LANDSCAPE.** The Point at which plant material within the landscaped areas have

established a significant root growth. A typical timeframe for plant material establishment ranges between one to two years of growth.

(yx) **ESTIMATED ANNUAL WATER USE (EAWU).** The estimated total water use per year for a landscape, as calculated with the formula found in County Code § 83.10.050(a)(4)(B).

(zy) **EXOTIC ANIMAL.** Any warm-blooded or cold-blooded animal of the biological kingdom *Animalia* generally considered as wild, exotic, dangerous, venomous or not normally domesticated and as determined by County veterinarian. Includes genetically engineered animals.

(aa2) **EXPANSIVE SOILS.** See *SOIL*.

(bbaa) **EXPLORATION or PROSPECTING.** The search for minerals by geological, geophysical, geochemical, or other techniques. These include but are not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of mineral present.

(Ord. 4011, passed - -2007; Am. Ord. 4043, passed - -2008; Am. Ord. 4136, passed - -2011; Am. Ord. 4230, passed - -2014)