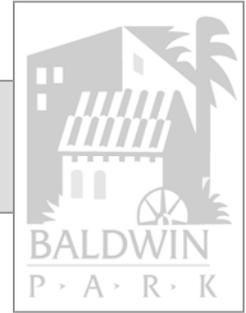

SUBCHAPTER 153.210 ADMINISTRATIVE PROCEDURES



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PART 1 – General Provisions

§ 153.210.010 – Intent and Purpose

The purposes of the provisions set forth in this subchapter, are as follows:

- A. **Discretionary permits and actions.** Establish the overall structure for the review and action of discretionary permits and actions.
- B. **Responsible Approving Authority.** Designate the responsible Approving Authority for the review of such permits and actions.
- C. **Application process.** Outline the application processing procedures for such permits and actions.
- D. **Noticing and hearing requirements.** Establish the noticing and public hearing requirements for such permits and actions.
- E. **Time limits and implementation.** Identify the time limits and implementation requirements of such permits and actions.
- F. **Permit modification and revocation.** Outline the permit modification and revocation restrictions.
- G. **Appeals.** Identify the procedures for filing and processing an appeal.

§ 153.210.020 – Designated Approving Authority

- A. **Approving authorities.** The Approving Authority, as designated in Table 153.210.020, shall approve, conditionally approve or deny applications based upon evidence presented by the applicant, by making the applicable findings required for a particular permit or approval in accordance with the requirements of this chapter and other laws and regulations. The table identifies both recommending (R) and final (F) authorities for each application. An action of the Approving Authority may be appealed to the appeal (A) authority, pursuant to procedures set forth in § 153.210.150.
- B. **Referral authority.** The Zoning Administrator may forward an application for an administrative adjustment, zone variance, conditional use permit, and modification or revocation thereof to the secretary of the Planning Commission in order to set the matter for a hearing before the Planning Commission.

TABLE 153.210.020 Designated Approving Authority	R F A	Recommending Authority Final Action Authority Appeal Authority					
		Approving Authority					
Type of Permit or Action	Design Review Committee	Historic Resources Advisory Committee	City Planner	Zoning Administrator	Director of Public Works	Planning Commission	City Council ⁽¹⁾
Design Review	F					A	A
Zoning Clearance			F	A		A	A
Sign Permit			F	A		A	A
Zoning Code Interpretation			R	F		A	A
Administrative Adjustment				F		A	A
Reasonable Accommodation			F	A		A	A
Variance			R			F	A
Conditional Use Permit			R			F	A
Historic Designation		R					F
Historic Structure Work Permit		F					A
Historic Structure Demolition Permit		F					A
Wireless Facility Encroachment Permit					F	A	A
Specific Plan						R	F
Zoning Code Text or Zoning Map Amendment						R	F
General Plan Amendment						R	F
Development Agreement						R	F
Downtown Overlay			R			F	A
Planned Development Overlay Development Plan			R			F	A
Tree Pruning/Removal Permit			F			A	A

Notes:

(1) Decisions of the City Council may not be appealed

§ 153.210.030 – Exemptions from Permit Requirements

The following activities and uses of land or structures are exempt from the land use and development permit requirements of this chapter. However, activities and uses shall comply with all other relevant provisions of this chapter.

- A. **Interior alterations.** Interior alterations that do not increase the gross floor area within the structure, or change or expand the permitted use of the structure.
- B. **Maintenance.** Ordinary repairs and maintenance, if the work does not change the approved land use of the site, add to, enlarge or expand the area occupied by the floor area of the structure or significantly change the exterior structure and design of the original construction.
- C. **Utilities.** The erection, construction, alteration or maintenance by a public utility or public agency of underground or overhead utilities intended to service existing or nearby approved developments (e.g., water, gas, electric or telecommunication supply or disposal systems, including wires, mains, drains, sewers, pipes, conduits, cables, fire-alarm boxes, police call boxes, traffic signals, hydrants and similar facilities and equipment), but not including new transmission lines and structures.

§ 153.210.040 – Additional Required Permits

A land use that complies with the requirements of this chapter shall also comply with the permit requirements of other provisions of this code and any applicable permit requirements of other agencies before construction or use of the property is commenced. These may include building, grading or other construction permits; a business license; subdivision approval; or any other applicable county, regional, state or federal regulations.

§ 153.210.050 – Burden of Proof

The burden of proof to establish the evidence in support of the required finding for any permit is the responsibility of the applicant.

§ 153.210.060 – Precedence

Each permit shall be evaluated on a case-specific basis. Therefore, granting of a prior permit does not create a precedent and may not provide justification for granting a new permit.

§ 153.210.070 – Concurrent Processing of Permits

When a proposed project requires more than one permit application with more than one Approving Authority, all project permits shall be processed concurrently at the applicant's own risk as interrelated permits for a project and shall not be bifurcated. The highest designated Approving Authority for all requested permits shall take final action on all permits.

§ 153.210.080 – Application Regulations

- A. **Application forms.** The Planning Division will provide all application forms.
- B. **Application submittal.** All applications for land use and development permits and actions shall be submitted to City Planner on a city application form, together with all fees, plans, maps, data, diagrams, photographs and any other required information to provide the Approving Authorities with adequate information on which to base decisions.
- C. **Appeals to City Council.** Notwithstanding subsection B above, appeals to the City Council shall be filed with the City Clerk.
- D. **Authorized to complete application.** The owner, lessee or authorized agent of the property, or a plaintiff in an action of eminent domain, shall complete the application. Any authorized agent shall be formally delegated in writing by the property owner.
- E. **Application package.** Applications will not be accepted by the Planning Division without the required signed application forms, permit fees and required application package.

§ 153.210.090 – General Application Processing Procedures

These procedures are applicable to applications for all land use and development permits and actions. Unique processing procedures are provided with the individual permit regulations in Parts 2 through 16 of this subchapter.

- A. **Application reviewed for completeness.** All applications filed with the Planning Division shall be initially reviewed for application completeness. The City Planner shall determine whether or not the application is complete and shall notify the applicant in writing of the determination that: a) all the submittal requirements have been satisfied and that the application has been accepted as complete; or b) specific information is still necessary to complete the application. For administrative permits and actions, the applicant shall be notified within 7 days and for all other permits and actions, the applicant shall be notified within 30 days.
- B. **California Environmental Quality Act.** After acceptance of a complete application, the project shall be reviewed in accordance with the environmental review procedures of the California Environmental Quality Act (Public Resources Code §21000 et seq.).
- C. **Review and comment.** Application materials shall be circulated to other city departments and agencies for review and comment as determined necessary or appropriate by the City Planner. Planning Division staff shall be responsible for

requesting and incorporating comments into project modifications or conditions of approval to ensure conformance with all provisions of this code and other adopted policies and plans.

- D. **Written report.** The Recommending or Approving Authority, as designated in Table 153.210.020, shall prepare a written report that includes recommendation on the approval, conditional approval or disapproval of the application, taking into account all supplemental application information, provisions of this chapter, other applicable provisions of this code, the General Plan and applicable State law.
- E. **Written notice of decision.** Within 10 days from the final action on an application, the Approving Authority shall send written notice of decision to the project applicant and other affected parties. The notice of decision shall identify the specific action of the Approving Authority, including the date of action, applicable conditions, basis for determination and appeal period if applicable.

§ 153.210.100 – Notice of Public Hearing Regulations

Public hearings shall be required for all quasi-judicial permits and legislative actions. The hearing shall be held before the designated Approving Authority and shall be noticed in accordance with the following provisions:

- A. **Public notice.** The Approving Authority shall give a public notice not less than 10 days before the scheduled date of a hearing.
- B. **Notice content.** The notice shall state the date, time and place of the hearing; identify the hearing body; provide a general explanation of the matter to be considered; and provide a general description of the property (text or diagram), if any, which is the subject of the hearing.
- C. **Notice distribution.** Notice of the public hearing shall be mailed, postage prepaid, to the owners and tenants of property within a radius of 300 feet of the exterior boundaries of the property involved in the application, using for this purpose the last known name and address of such owners as shown upon current tax assessors records. If the number of owners and tenants to whom notices would be mailed or delivered is greater than 500, notice may be given by placing a display advertisement of at least one-eighth page in a newspaper of general circulation in the city in lieu of the above-required mailed or delivered notice.
- D. **Notice mailing.** Notice of the public hearing shall be mailed, postage prepaid, to the owner of the subject property or the owner's authorized agent, and to each local agency

expected to provide water, sewer systems, streets, roads, schools or other essential facilities or services to the proposed project.

- E. **Mailing list.** Any person who requests inclusion on a mailing list for notice of hearing for development projects shall submit such request in writing to the City Clerk. The city may impose a reasonable fee for the purpose of recovering the cost of such notification.
- F. **Failure to receive notice.** Pursuant to California Government Code §65093, failure of any person or entity to receive notice required by law of any hearing shall not constitute grounds for any court to invalidate the actions of a designated Approving Authority for which the notice was given.

§ 153.210.110 – Public Hearing Regulations

- A. **Public hearings held.** Public hearings shall be held at the date, time and place that appear on the notice given for the hearing. The designated Approving Authority shall conduct the public hearing and hear testimony.
- B. **Minutes.** Summary minutes shall be prepared and made part of the permanent file of the case.
- C. **Continuation.** Any hearing may be continued, and further public notice shall not be required unless the hearing is not continued to a specific date and time.

§ 153.210.120 – Permit Implementation and Time Limits

- A. **Permit action effective.** Generally, any action to approve, conditionally approve or deny a permit shall be effective on the twentieth calendar day after the date of action, immediately following expiration of the appeal period.
- B. **Legislative action effective.** Legislative actions of the City Council normally become effective 30 days from the date of final action and may not be appealed. Therefore, administrative and quasi-judicial permits that are processed in conjunction with, or that are contingent upon, a legislative action shall not be acted upon until the effective date of the required legislative action.
- C. **Other approvals.** The approval of a land use or development permit authorizes the applicant to proceed with the proposed project upon the effective date of the permit, subject to all conditions or restrictions imposed by the Approving Authority. However, all other permits, licenses, certificates and other grants of approval to which the proposed development project is subject must be secured before the development or use may commence.

- D. Permit expiration.** Unless conditions of approval or other provisions of this chapter establish a different time limit, any permit or approval not exercised within 6 months from the date of final approval shall expire and become null and void and a new application shall be filed with all requisite fees.
- E. Transfer of permits and approvals.** Land use and development permits and approvals shall be transferable upon a change of ownership of the site, business, service, use or structures, provided that the use and conditions of the original permit or approval are fully complied with, and further provided that the project is not modified, enlarged or expanded.

§ 153.210.130 – Permit Modification

- A. Permit modification or amendment.** Any person holding a permit granted under this subchapter may request a modification or amendment to the permit if it is found that such modification is necessary to protect the public peace, health and safety. The modification of a permit may apply to the terms of the permit itself, project design or the waiver or alteration of conditions imposed when the permit was granted.
- B. Permit modification application.** If the proposed modification fulfills any of the following criteria, the property owner shall submit a permit modification application for consideration and approval by the Zoning Administrator:
1. Criteria established in § 153.210.290.
 2. A maximum 10 percent change in the building floor area, not to exceed 2,000 square feet.
 3. A maximum 2 percent decrease in landscaped area.
 4. No changes in the lot area, parking layout or hours of operation.
 5. A deletion of maximum one design element or substitution of one building material where such element or building material was not required by the Zoning Code or Design Review Committee.
- C. Permit modification public hearing.** If the proposed modification exceeds any of the above mentioned criteria, a public hearing is required for action to modify the permit. The original Approving Authority for the subject permit shall hold the hearing. The hearing shall be noticed in the same manner required for the granting of the original permit.

- D. **Findings.** A permit modification may be granted only when the Approving Authority makes all findings required for the original approval in addition to the finding that changed circumstances sufficiently justify modification of the approval.
- E. **Appeals.** An action on a modification may be appealed in accordance with the provisions of § 153.210.150.

§ 153.210.140 – Permit Revocation

- A. **Permit revocation.** A permit may be revoked upon a finding of any of the following:
1. The permit was obtained or extended by false, misleading or incomplete information.
 2. The use or development for which such approval was granted has ceased to exist by voluntary abandonment.
 3. One or more of the conditions upon which the permit was approved have been violated, or have not been complied with.
 4. The use or development has violated another ordinance or law.
 5. The use or development is being conducted in a manner detrimental to public health, safety, or welfare, or such use or development constitutes a nuisance in accordance with this Chapter.
- B. **Revocation initiation.** The revocation of a permit may be initiated by any of the city departments. The responsible department shall specify in writing to the permittee the basis upon which the action to revoke the permit is to be evaluated.
- C. **Permit revocation public hearing.** A public hearing is required for any action to revoke a permit. The original Approving Authority for the subject permit shall hold the hearing. The hearing shall be noticed in the same manner required for the granting of the original permit. At its discretion, the designated Approving Authority may revoke the permit, refuse to revoke the permit or modify or delete conditions of approval or add new conditions of approval in order to address the issues raised by the revocation hearing.
- D. **Appeals.** An action on a revocation may be appealed in accordance with the provisions of § 153.210.150.

§ 153.210.150 – Appeals

- A. Interpretation or action appeals.** Any person dissatisfied with an interpretation or action of the Approving Authority may appeal such action to the Appeal Authority, as designated in Table 153.210.020. Actions made by the City Council are not subject to appeal. For actions not listed in the table, the Appeal Authority is as follows:
1. The Design Review committee’s decision may be appealed to the Planning Commission.
 2. The City Planner’s decisions may be appealed to the Zoning Administrator.
 3. The Zoning Administrator’s decisions may be appealed to the Planning Commission.
 4. The Planning Commission’s decisions may be appealed to the City Council.
- B. Appeal filing.** Appeals shall be filed within 10 days following the date of determination or action for which an appeal is made and shall be accompanied by a filing and processing fee, as determined by resolution of the City Council. All appeals shall be in writing, identifying the action being appealed, specifically stating the basis or grounds of the appeal, and shall be submitted to the following entity:
1. Submit the appeal and required fee to the City Planner if the Zoning Administrator or Planning Commission is the Appeal Authority.
 2. Submit the appeal and required fee to the City Clerk if the City Council is the Appeal Authority.
- C. Appeal hearings.** Unless otherwise agreed upon by the person filing the appeal and the applicant, appeal hearings shall be conducted within 45 days from the date of the appeal application being complete. Notice of hearing for the appeal shall be provided pursuant to noticing requirements outlined in § 153.210.100.
- D. Public hearing attendance.** The person filing the appeal must be present at the public hearing.
- E. Appeal actions.** Each appeal shall be considered de novo (new), and the Appeal Authority may reverse, modify or affirm the decision in whole or in part based on evidence presented at the hearing and applicable staff reports. In taking its action on an appeal, the Appeal Authority shall state the basis for its action. The Appeal Authority

may modify, delete or add conditions, as it deems necessary. The Appeal Authority may also refer the matter back to the original Approving Authority for further action.

- F. **Written notice of decision.** Following the process, the Appeal Authority shall provide written notice of the decision to the person filing the appeal and other persons requesting the notice.

PART 2 – Design Review

§ 153.210.160 – Intent and Purpose

The design review process is established to improve the general standards and orderly development of the city through review of the design, layout and other features of proposed developments and their environs prior to submission of plans to the Building Division for plan check. The Baldwin Park Design Guidelines Manual establishes standards and policies that will promote and enhance good design, site relationships and other aesthetic considerations in the city. The primary objective of the Design Guidelines is to provide for functional site planning, integrate architectural elements within a project and within streetscapes, protect privacy and ensure the provision of high-quality projects.

§ 153.210.170 – Applicability

- A. **Design review clearance.** Design review clearance must be obtained prior to the issuance of any permit for the construction of any building or structure. Design review is required for the following:
1. All new construction or exterior alteration of any existing building or structure in the R-G, R-3, C-1, C-2, F-C, I-C, I, OS, MU-1 and MU-2 zones.
 2. All new construction or exterior alteration of any existing building or structure in the R-1-7,500 or R-1 zones which also requires a conditional use permit, administrative adjustment or a variance.
 3. All new construction or exterior alteration of any existing building or structure in the R-1-7,500 or R-1 zones that involves 200 square feet or more of floor area or will extend the structure to a second floor.
 4. All new construction of 5 or more single-family dwelling units as part of a subdivision map.
 5. All new construction or exterior alteration of any existing sign which exceeds 40 feet in height or 300 square feet in sign area.

6. All new construction or alteration of any wireless communication facility on private property, including city owned property not located within the public right-of-way.
- B. Design review required for discretionary permits.** For any development project or action requiring the issuance of a discretionary permit pursuant to the requirements of this chapter, design review shall be conducted in conjunction with staff-level review of such permit. The recommendations of the Design Review Committee that is composed of the Director of Community Development, the City Engineer, a representative from the Police Department, a representative from the Fire Department and the City Planner as the chairperson shall be forwarded to the Approving Authority for consideration with the associated development application. Following final Approving Authority action on the application and prior to the issuance of building permits for any approved application, the Design Review Committee shall reserve the authority to ensure final design plans substantially conform to the conditions imposed by the Approving Authority.

§ 153.210.180 – Determination

Design review clearance shall be granted, or conditionally granted or denied when the Design Review Committee finds the proposed use, development or structure to comply with all applicable provisions of the Design Guidelines are compatible with the design of adjacent land uses, and possess acceptable architectural design and aesthetic quality.

§ 153.210.190 – Record of Review

The authorized signature of the Director of Community Development on a designated form, or a stamp approval on a set of plans, shall signify approval of design review.

PART 3 – Zoning Clearance

§ 153.210.200 – Intent and Purpose

The zoning clearance process is an administrative review undertaken by the City Planner that ensures that all proposed new and modified uses and structures that do not require any discretionary actions or approvals otherwise comply with applicable provisions of this chapter.

§ 153.210.210 – Applicability

An administrative zoning clearance is required for any structure or use that requires a building permit or business license. No building permit or business license shall be granted until zoning clearance approval has been issued.

§ 153.210.220 – Determination

Zoning clearance shall be granted only when the City Planner finds the proposed use or development to be in conformance with all applicable provisions of this chapter and other applicable city documents. The City Planner may modify plans in whole or in part, apply conditions of approval or require guarantees to ensure compliance with applicable provisions of this chapter.

§ 153.210.230 – Record of Clearance

The authorized signature of the City Planner on a designated form, or a stamp approval on a set of plans, shall signify approval of zoning clearance.

PART 4 – Sign Permit**§ 153.210.240 – Intent and Purpose**

The sign permit process is an administrative review undertaken by the City Planner that ensures all proposed new and modified signs comply with applicable provisions of this chapter.

§ 153.210.250 – Applicability

A sign permit is required prior to placing, erecting, constructing or physically altering the size, height or location of any permitted sign or advertising display in the city, except for those signs provided in § 153.170.040. A sign permit is required prior to physically altering the sign face of any permitted sign or advertising display in the city, except for those signs provided in § 153.170.040. No building permit for any sign shall be issued and no sign placement or alterations shall be undertaken until a sign permit has been issued.

§ 153.210.260 – Determination

A sign permit shall be granted when the City Planner finds the proposed sign to be in conformance with all applicable provisions of this chapter, the Sign Design Guidelines and other applicable regulations. The City Planner may apply conditions of approval to ensure compliance.

§ 153.210.270 – Record of Permit

The authorized signature of the City Planner on a designated form shall signify approval of a sign permit.

PART 5 – Temporary Use Permit

§ 153.210.280 – Reference

The temporary use permit process is an administrative review undertaken by the City Manager that ensures that all specific, limited-term uses comply with applicable provisions of this code. Chapter 110 of this code outlines applicable activities, fees, exemptions, issuance and denial and application procedures for Temporary Use Permits.

PART 6 – Zoning Code Interpretation

§ 153.210.320 – Intent and Purpose

The Zoning Code interpretation process establishes a means to clarify any ambiguity in the regulations of this chapter and to ensure consistent interpretation and application of this chapter. The Zoning Administrator has the authority to interpret the Zoning Code.

§ 153.210.330 – Determination

A Zoning Code interpretation shall be determined after the Zoning Administrator reviews the pertinent facts and establishes the intent of the particular provision. Once the Zoning Administrator has identified the ambiguity and considered relevant information, an official interpretation shall be established in writing and shall cite the interpreted provisions, together with an explanation of the meaning or applicability of the provision in the particular or general circumstances that caused the need for interpretation.

§ 153.210.340 – Record of Interpretation

The written interpretation shall signify record of interpretation. The Zoning Administrator shall maintain all recorded interpretations and a copy shall be provided to applicable city departments within 30 days of the determination.

PART 7 – Administrative Adjustment

§ 153.210.350 – Intent and Purpose

California Government Code § 65906 establishes the authority of the city to grant exception to the development standards and provisions of this chapter in cases where, because of special circumstances applicable to the property, the strict application of this code deprives such property of privileges enjoyed by other property in the vicinity and under identical land use zoning districts. The administrative adjustment permits limited exceptions to certain development standards to be granted.

§ 153.210.360 – Applicability

An administrative adjustment application shall be filed by a property owner or authorized agent of the property owner whenever any one of the following deviations from the provisions of this Zoning Code is proposed:

- A. **Condition of approval.** Minor deviation from a condition of approval for an approved variance, conditional use permit or development agreement, as detailed in § 153.210.130.
- B. **Lot width.** Reduction in lot width of 5 percent or less.
- C. **Side or rear yard.** Reduction in the dimensions of a side or rear yard of 20 percent or less.
- D. **Street frontage.** Reduction in street frontage of 5 percent or less.
- E. **Distance between buildings.** Reduction in the distance between buildings of 20 percent or less.
- F. **Sign face area.** Increase in sign face area for a monument, freestanding or wall sign of 10 percent or less.
- G. **Fence or wall height.** Adjustment in the height of a fence or wall of 20 percent or less.
- H. **Street side yard fence height – residential zone.** Increase in the height of a street side yard fence of 2 feet or less in a residential zone.
- I. **Street side yard fence height – nonresidential zone.** Increase in the height of a street side yard fence of 2 feet or less in a commercial or industrial zone.
- J. **Parking spaces.** Adjustment in the number of required parking spaces of 10 percent or fewer.
- K. **Other standards.** A reduction in any other numeric development standard, excluding density, lot area or floor area, not exceeding 10 percent.

§ 153.210.370 – Proceedings

Applications for an administrative adjustment shall be processed in accordance with these regulations.

- A. **Review authority.** The Zoning Administrator shall consider the determinations detailed in § 153.210.380, and resolve to approve, conditionally approve or deny the adjustment. Such determination shall be supported by written findings.
- B. **Public hearing.** The Zoning Administrator may also forward the application to the Planning Commission in order to set the matter for a public hearing. The Planning Commission shall then conduct a public hearing, consider the determinations detailed in § 153.210.380, and resolve to approve, conditionally approve or deny the permit by not less than a majority of its voting members. Any action shall be supported by written findings.

§ 153.210.380 – Determination

The Zoning Administrator, or Planning Commission upon referral, may approve and/or modify an administrative adjustment application in whole or in part, with or without conditions, if the applicant can demonstrate that the circumstances of the particular case can justify making the following findings:

- A. **Zone.** The requested adjustment will not interfere with the purpose and intent of the regulations for the zone in which the property is located.
- B. **Adjacent property.** The approval or conditional approval of the adjustment will not be injurious to adjacent property.
- C. **General Plan.** The approval or conditional approval of the adjustment will promote the general welfare and will not adversely affect the general plan of the city.
- D. **Superior design.** The plans for construction and/or development resulting from approval or conditional approval of the adjustment results in a superior design solution which enhances the visual quality, use and function of the site and surrounding area.
- E. **Special circumstances.** There are special circumstances which reduce parking demand associated with the operation of a use and therefore justify a deviation in the minimum required number of parking stalls.

§ 153.210.390 – Record of Permit

The authorized signature of the Zoning Administrator, Planning Commission or the Appeal Authority if the permit was appealed, on a designated form, or a stamp approval on a set of plans, shall signify approval of an administrative adjustment.

PART 8 – Variance

§ 153.210.400 – Intent and Purpose

California Government Code § 65906 establishes the authority of the city to grant exception to development standards and provisions of this chapter in cases where, because of special circumstances applicable to a particular property, the strict application of this code deprives such property of privileges enjoyed by other property in the vicinity and under identical land use zoning districts.

§ 153.210.410 – Applicability

- A. **Deviation from chapter.** A variance application shall be filed whenever any deviation from the provisions of this chapter is proposed, except those minor deviations identified for an administrative adjustment in § 153.210.360.
- B. **Authorized application.** Variances may not be approved for uses or activities not otherwise expressly authorized by this chapter. A variance may not substitute for a Zoning Code text/map amendment or a conditional use permit.

§ 153.210.420 – Proceedings

Applications for a variance shall be processed in accordance with these regulations.

- A. **City Planner recommendation.** The City Planner shall review the application, consider pertinent facts and recommend the approval, approval with modifications or denial of the application for the variance to the Planning Commission.
- B. **Planning Commission decision.** The Planning Commission shall conduct a public hearing, consider the determinations detailed in § 153.210.430 and resolve to approve, conditionally approve or deny the permit by not less than a majority of a quorum.

§ 153.210.430 – Determination

The Planning Commission may impose conditions and/or require guarantees for the variance to ensure compliance and to prevent adverse or detrimental impacts to the surrounding neighborhood. Variances shall be granted only when the Planning Commission determines that the proposed development or activity complies with all of the following findings:

- A. **Special circumstances.** There are special circumstances applicable to the property, including size, shape, topography, location or surroundings, that do not generally apply to other properties in the same district.

- B. **Similar privileges.** The strict application of this chapter deprives such property of privileges enjoyed by other properties in the vicinity and other identical zoning classification.
- C. **Consistent privileges.** The granting of the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

§ 153.210.440 – Record of Permit

The authorized signature of the Planning Commission, or the Appeal Authority if the permit was appealed, on a designated form, or a stamp approval on a set of plans, shall signify approval, conditional approval or denial of a variance.

PART 9 – Conditional Use Permit

§ 153.210.450 – Intent and Purpose

The city recognizes that certain uses, due to the nature of the use, intensity or size, require special review to determine if the use proposed, or the location of that use, is compatible with surrounding uses, or through the imposition of development and use conditions, can be made compatible with surrounding uses. The conditional use permit is provided for this purpose and to ensure compatibility with zoning regulations and surrounding properties.

§ 153.210.460 – Applicability

Applications for conditional use permits may be submitted only for those uses specified as allowable conditional uses in the applicable zone district. A conditional use permit may not substitute for a Zoning Code text/map amendment.

§ 153.210.470 – Proceedings

Applications for a conditional use permit shall be processed in accordance with these guidelines.

- A. **City Planner recommendation.** The City Planner shall review the application, consider pertinent facts and recommend the approval, approval with modifications or denial of the application for the conditional use permit to the Planning Commission.
- B. **Planning Commission decision.** The Planning Commission shall conduct a public hearing, consider the determinations detailed in § 153.210.480 and resolve to approve, conditionally approve or deny the permit by a majority of the quorum present.

§ 153.210.480 – Determination

The Planning Commission may impose conditions and/or require guarantees for the conditional use permit to ensure compliance and to prevent adverse or detrimental impacts to the surrounding neighborhood. Conditional use permits shall be granted when the Planning Commission determines that the proposed use or activity complies with all of the following findings:

- A. **Conditionally permitted.** The use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions of this chapter.
- B. **Zone integrity and character.** The use will not impair the integrity and character of the zone in which it is to be located.
- C. **Site suitability.** The subject site is physically suitable for the type of land use being proposed.
- D. **Existing compatibility.** The use is compatible with any land uses presently on the subject property.
- E. **Future compatibility.** The use will be compatible with existing and future land uses within the zone and the general area in which the proposed use is to be located.
- F. **Utilities and services.** Adequate provisions for water, sewer and public utilities and services are available to ensure that the use will not be detrimental to public health and safety.
- G. **Public access.** Adequate provisions for public access are available to serve the use.
- H. **General Plan consistency.** The use is consistent with the General Plan.
- I. **Safety and welfare.** The use will not be detrimental to the public interest, health, safety, convenience or welfare.

§ 153.210.490 – Limited Time Approval

The Planning Commission may approve a condition specifying a term for which the conditional use permit is valid. The approval may be contingent upon the written acceptance and continued observance of specified conditions, including, but not limited to, any of the following:

- A. **Substantial conformity.** Substantial conformity to approved plans and drawings.

- B. **Streets and public facilities.** Dedication of and improvement of streets and other public facilities.
- C. **Landscaping, fences, and walls.** Special landscaping, fences or walls.
- D. **Signage.** Limitations on signs.
- E. **Hours.** Limitations as to the time of day during which specified activities may be conducted.

§ 153.210.495 – Expiration for Non-use

In the event that the use authorized by an approved conditional use permit ceases operation for a period of 12 consecutive months, that conditional use permit shall become null and void, and any proposal to reinitiate the use following the end of the 12-month period shall require a new conditional use permit. However, prior to the expiration of the 12-month period, the permittee may file with the Planning Division a request for an extension of up to six months for continuance of the conditional use permit. If granted, one additional six-month extension period may be requested, but in not event shall the overall period for allowing for continuance of a dormant conditional use permit exceed 24 months. The City Planner shall be responsible for determining the date upon which the approved use ceased operations.

§ 153.210.500 – Record of Permit

- A. **Record.** The authorized signature of the Planning Commission, or the Appeal Authority if the permit was appealed, on a designated form, or a stamp approval on a set of plans, shall signify approval, conditional approval or denial of a conditional use permit.
- B. **Investigation.** Upon reasonable notice, the city may conduct an investigation to ensure that the permittee is maintaining the use as permitted for and has not converted or modified the use.

PART 10 – Historic Designation

§ 153.210.510 – Intent and Purpose

The historic designation process is established to recognize, protect and ensure proper utilization of the historic resources in the city.

§ 153.210.520 – Applicability

Applications for historic designation may be submitted by a property owner or authorized agent of the property owner. The City Council may also initiate proceedings to designate a building, structure or place as historic, with or without the consent of the owner, by resolution.

§ 153.210.530 – Proceedings

Applications for historic designation shall be processed in accordance with these guidelines.

- A. **Historic Resources Advisory Committee recommendation.** The Historic Resources Advisory Committee shall convene to review an application, consider the determinations detailed in § 153.210.540, and draft a recommendation to approve or deny the application for the historic designation.
- B. **City Council decision.** The City Council shall conduct a public hearing to consider the Historic Resources Advisory Committee’s recommendation, and grant, grant with modifications or deny the designation by resolution.

§ 153.210.540 – Determination

Historic designation shall be granted to a proposed building, structure or place when the City Council finds one or more of the following conditions to exist, based on the recommendation of the Historic Resources Advisory Committee:

- A. **Historical representation.** The building or structure is particularly representative of a distinct historical period, type, style, region or way of life.
- B. **Connection to important personality.** The building or structure was connected with someone renowned, important or who was a local personality.
- C. **Connection to rare business.** The building or structure is connected with a business or use which was once common but is now rare.
- D. **Master work.** The building or structure represents the work of a master builder, engineer, designer, artist or architect.
- E. **Historic event.** The building or structure is the site of an important historic event or is associated with events that have made a meaningful contribution to the nation, state or city.
- F. **Particular architectural style.** The building or structure exemplifies a particular architectural style.
- G. **Best remaining.** The building or structure exemplifies the best remaining architectural type of a neighborhood.

- H. Outstanding design.** The construction materials or engineering methods used in the building or structure embody elements of outstanding architectural or engineering design, detail, material or craftsmanship.

§ 153.210.550 – Record of Designation

The authorized signature of the City Council on a designated form shall signify approval, conditional approval or denial of the designation.

PART 11 – Historic Structure Work Permit

§ 153.210.560 – Intent and Purpose

The historic structure work permit process is a review that ensures that all work proposed to be done to a historic building, structure or place will not be detrimental to the character or value of the building, structure or place.

§ 153.210.570 – Proceedings

Applications for work permits shall be processed in accordance with these guidelines.

- A. Director of Community Development approval or reference.** After the Director of Community Development has received the completed application, the Director shall review the request and conduct a field investigation of the site. If the Director determines that the proposed work will affect only the interior of the building or structure, or will not have more than a minor effect upon the exterior appearance, the Director shall approve the work permit. The Director shall refer all other applications for work permits to the Historic Resource Advisory Committee for determination.
- B. Historic Resource Advisory Committee action.** The Historic Resource Advisory Committee shall conduct a public hearing on all referred work permit applications to consider the Director's recommendation, and shall act to grant, grant subject to conditions or deny the permit. The action shall be by resolution.

§ 153.210.580 – Record of Permit

The authorized signature of the Director of Community Development, the Historic Resources Advisory Committee or the Appeal Authority if the permit was appealed, shall signify approval, conditional approval or denial of the work permit.

PART 12 – Historic Structure Demolition Permit

§ 153.210.590 – Intent and Purpose

The historic structure demolition permit process is a review that ensures that any historic building or structure is preserved to the extent possible prior to unsafe conditions, financial hardships or other conditions require demolition.

§ 153.210.600 – Proceedings

Applications for historic structure demolition permits shall be processed in accordance with these guidelines.

- A. **Application.** The owner of the historic building or structure shall submit a demolition permit application to the Historic Resources Advisory Committee 180 days prior to the planned demolition. No application to the city for a demolition permit will be accepted during the 180-day period.

- B. **Preservation tasks permitted.** Following the receipt of such notice, during the 180-day period, the Historic Resources Advisory Committee may perform any of the following tasks as it determines are necessary to preserve the building or structure:
 - 1. Seek local trusts and other financial sources which may be willing to purchase and restore the historic building.
 - 2. Publicize the availability of the historic building for purchase for restoration purposes.
 - 3. Investigate possible sites for relocation of the historic building.
 - 4. Recommend to the City Council that the city purchase the historic building where it does not appear that private preservation is feasible.

- C. **Historic Resources Advisory Committee action.** Upon completion of any or all of the tasks specified in subsection B above, the Historic Resources Advisory Committee shall conduct a public hearing on the proposed demolitions to consider an action to grant, grant subject to conditions or deny the permit. The action shall be by resolution.

- D. **Waiver of notice.** The Historic Resources Advisory Committee may waive the requirement of a written notice 180 days prior to demolition, if the demolition involves any of the following:

1. An emergency repair or removal of an unsafe condition of the historic building.
2. A relocation of the historic building to a site approved by the Committee.
3. Relief of extreme financial hardship to the owner of the historic building.

§ 153.210.610 – Record of Permit

- A. **Record.** The authorized signature of the Director of Community Development, the Historic Resources Advisory Committee or the Appeal Authority if the permit was appealed, shall signify approval, conditional approval or denial of the demolition permit.
- B. **Local Official Register.** When a historic building has been demolished, the Secretary of the Historic Resources Advisory Committee, upon notice thereof, shall delete the historic building from the Local Official Register.

PART 13 – Wireless Facility Encroachment Permit

§ 153.210.620 – Intent and Purpose

To address the growing proliferation of wireless telecommunication facilities being erected throughout the City, the wireless facility encroachment permit is established to ensure that such facilities will not detract from the overall quality and appearance of the city's commercial and industrial neighborhoods, and will not adversely affect the health, safety and welfare of residents.

§ 153.210.630 – Proceedings

Applications for a wireless facility encroachment permit shall be processed in accordance with these guidelines.

- A. **Written notice.** The Director of Public Works shall be responsible for providing written notice of the application to all property owners within a 300-foot radius of the proposed facility at least 15 days prior to issuing the permit.
- B. **Review.** The Director shall then review the application, considering all comments provided by the public and pertinent facts.

§ 153.210.640 – Determination

The Director of Public Works may impose conditions and/or require guarantees for the wireless facility encroachment permit to ensure compliance and to prevent adverse or detrimental

impacts to the surrounding neighborhood. Wireless facility encroachment permits shall be granted when the Director determines that the proposed use or activity complies with all of the following findings:

- A. **Safety and welfare.** The facility will not be detrimental to the public interest, health, safety, convenience or welfare.
- B. **Aesthetic impacts.** The facility will not significantly result in adverse aesthetic impacts.
- C. **Development standards and permit requirements.** The facility complies with all development standards and permit requirements outlined in subchapter 153.180, Antennas and Other Telecommunications Facilities.

§ 153.210.650 – Record of Permit

The authorized signature of the Director of Public Works, or the Appeal Authority if the permit was appealed, on a designated form, or a stamp approval on a set of plans, shall signify approval, conditional approval or denial of a wireless facility encroachment permit.

PART 14 – Specific Plan

§ 153.210.660 – Intent and Purpose

The city recognizes that certain properties in the City may benefit from focused planning efforts wherein infrastructure, land use relationships, land use intensities, public service needs and resource protection goals can be carefully examined and planned in a comprehensive manner. The specific plan provides a mechanism to carry out such planning efforts. The following regulations establish uniform procedures and guidelines for specific plans prepared pursuant to Title 7, Division 1, Chapter 3, Article 8 of the California Government Code.

§ 153.210.670 – Specific Plan Initiation

- A. The City Council may identify those portions of the city where a specific plan is appropriate by adopting a resolution of intention for a specific plan designation. At the discretion of the City Council, specific plans may be initiated and prepared by the city or by a property owner or owners of any parcels subject to requirements of this chapter.
- B. For any specific plan application submitted by a property owner or owners, or a designated representative, a pre-application meeting with the Director of Community Development shall be required prior to the formal submission of the specific plan application. The purpose of this meeting is to review with the applicant the city's requirements for specific plan content, applicable policies, infrastructure needs and other information as determined by the Director of Community Development.

- C. In addition to a formal application completed pursuant to the requirements of this Chapter, the applicant shall submit a draft specific plan containing text and diagrams containing all information specified in Government Code §§ 65452 and 65452, as well as other information, standards and requirements specified by the city.

§ 153.210.680 – Proceedings

Applications for a specific plan shall be processed in accordance with these guidelines.

- A. The Planning Commission shall review the application, consider pertinent facts, and provide a recommendation to the City Council on the specific plan application, which shall be in the form of an adopted resolution for approval, approval with modifications or denial of the application.
- B. If the City Council proposes any substantial modification to the specific plan not previously considered by the Planning Commission, the Council shall refer the matter back to the Planning Commission for consideration. No public hearing shall be required. Failure of the Commission to act within 45 days of receiving the Council's request shall provide the Council with the authority to act without the recommendation.

§ 153.210.690 – Determination

The City Council shall make the following findings to approve a specific plan and any amendment thereto:

- A. The specific plan is consistent with and provides for the orderly, systematic and specific implementation of the General Plan.
- B. The land use and development regulations within the specific plan are comparable in breadth and depth to regulations contained in this chapter.
- C. The specific plan will not adversely affect the public health and safety or result in incompatible land uses.
- D. The specific plan provides the framework to phase and pace growth within the specific plan area so as to ensure completion of all necessary public facilities concurrently with completion of development entailed in the specific plan.
- E. The specific plan identifies adequate financing mechanisms for the infrastructure and public facilities required to support the development.

§ 153.210.700 – Record of Plan

The final action on the specific plan by the City Council shall be adoption of the plan documents by ordinance or resolution. The rezoning of the subject property to a specific plan district shall be adopted by ordinance of the City Council.

§ 153.210.710 – Specific Plan Amendments

Any specific plan may be amended by the same procedure as the specific plan is adopted. The city may initiate amendments to any portion of a specific plan. The following changes to a specific plan shall require a specific plan amendment:

- A. Changes to the text or maps other than the addition of information that does not change the effect of any regulation.
- B. Changes in any specific plan boundary.
- C. Changes in the specified density for any area.
- D. Changes in standards or regulations, including landscaping and design standards.

PART 15 – Zoning Code Text and Zoning Map Amendments**§ 153.210.720 – Intent and Purpose**

California Government Code § 65853 allows amendments to any provisions of this chapter, including the adoption of new regulations or deletion of existing regulations, and for changes to the zoning designation on any parcel within the city.

§ 153.210.730 – Amendment Initiation

Amendments to the provisions of this chapter may be initiated in any one of the following manners:

- A. Upon resolution of the City Council
- B. Upon resolution of the Planning Commission
- C. Upon application by a property owner, by a property owner's authorized agent or by any public utility who has exercised eminent domain

§ 153.210.740 – Proceedings

Applications for a Zoning Code text or map amendment shall be processed in accordance with these regulations.

- A. A public hearing before the Planning Commission shall be noticed and conducted pursuant to the requirements of this chapter.
- B. At the public hearing, the Planning Commission shall review the application and proposal and receive evidence as to how or why the proposed Zoning Code amendment is consistent with the objectives of this chapter, the General Plan and development policies of the city.
- C. The Planning Commission shall act by resolution to recommend to the City Council approval, approval with modifications or denial of the proposed application. A majority vote of the quorum present is required to recommend approval or approval with modifications.
- D. The Planning Commission's resolution shall include its recommendation and shall be transmitted to the City Clerk for scheduling the matter for consideration by the City Council.
- E. Upon receipt of the Planning Commission resolution for denial of a zoning map amendment (change of zone), the City Clerk shall place the Commission's resolution on the City Council agenda as a receive-and-file item. The Planning Commission's decision shall be considered final and no further action by the City Council will be required unless an appeal is filed, or unless the City Council chooses to set the matter for hearing.
- F. Upon receipt of the Planning Commission resolution for approval of a zoning map amendment (change of zone), zoning code text amendment or denial of a Zoning Code text amendment, the City Clerk shall set the matter for hearing before the City Council.
- G. At the hearing, the City Council shall review the Planning Commission's recommendation and receive evidence as to how or why the proposed amendment is consistent with the objectives of this chapter, the General Plan and development policies of the city.
- H. The City Council shall act to approve or deny the application.
- I. If the City Council proposes any substantial modification to the application not previously considered by the Planning Commission, the City Council shall refer the matter back to the Planning Commission for consideration. No public hearing shall be

required. Failure of the Planning Commission to act within 45 days of receiving City Council's request shall provide the City Council with authority to act without Planning Commission's recommendation.

§ 153.210.750 – Determination

In acting to approve an amendment to the Zoning Code, the City Council shall make the following findings about the proposed Zoning Code amendment:

- A. The amendment is consistent with the goals, policies and objectives of the General Plan.
- B. The amendment will not adversely affect surrounding properties.
- C. The amendment promotes public health, safety and general welfare.
- D. The amendment serves the goals and purposes of the Zoning Code.

§ 153.210.760 – Record of Amendment

The adoption of the Zoning Code text or map amendment shall constitute final action, approval and record of the amendment.

PART 16 – General Plan Text and Map Amendments

§ 153.210.770 – Intent and Purpose

California Government Code § 65358 allows for amendments and modifications to the city's General Plan. Amendments are considered appropriate in response to changes in city policies, economic conditions and other factors affecting Baldwin Park.

§ 153.210.780 – Amendment Initiation

- A. A General Plan amendment may be initiated in any one of the following manners:
 - 1. Upon resolution of the City Council.
 - 2. Upon resolution of the Planning Commission.
 - 3. Upon application by a property owner of any parcel subject to the General Plan, by a property owner's authorized agent, or by any public utility which has exercised eminent domain with regard to such property.

- B. In the case of a proposed amendment to the General Plan land use policy map, if the property owner for which the amendment is proposed is in more than one ownership, all owners or their authorized agents shall be required to sign the application.
- C. Pursuant to Government Code § 65358, no mandatory element of the General Plan may be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time and may include more than one change to the General Plan.

§ 153.210.790 – Proceedings

Applications for a General Plan amendment shall be processed in accordance with these regulations.

- A. A public hearing before the Planning Commission shall be noticed and conducted.
- B. At the public hearing, the Planning Commission shall review the application and proposal and receive evidence as to how or why the proposed General Plan amendment is consistent with the objectives of this chapter, the balance of the General Plan, and development policies of the city.
- C. The Planning Commission shall act by resolution to recommend to the City Council approval, approval with modifications or denial of the proposed application. A majority vote of the entire Planning Commission is required to recommend approval or approval with modifications.
- D. The Commission's resolution shall include its recommendation and such shall be transmitted to the City Clerk for scheduling the matter for consideration by the City Council.
- E. Upon receipt of a Planning Commission resolution, the City Clerk shall set the matter for hearing before the City Council.
- F. At the hearing, the City Council shall review the Planning Commission's recommendation and receive evidence as to how or why the proposed General Plan amendment is consistent with the objectives of this chapter, the balance of the General Plan, and development policies of the city.
- G. The City Council shall act to approve or deny the application. A majority vote of the entire City Council is required to amend the General Plan. The Council's action to amend the General Plan shall be by formal resolution.

- H. If the City Council proposes any substantial modification to the application not previously considered by the Planning Commission, the City Council shall refer the matter back to the Planning Commission for consideration. No public hearing shall be required. Failure of the Planning Commission to act within 45 days of receiving City Council's request shall provide the City Council with authority to act without Planning Commission's recommendation.

§ 153.210.800 – Determination

In acting to approve an amendment to the General Plan, the City Council shall make the following findings about the proposed General Plan amendment:

- A. The amendment is consistent with all other goals, policies and objectives of the General Plan.
- B. The amendment will not adversely affect surrounding properties.
- C. The amendment promotes public health, safety and general welfare.
- D. The amendment serves the goals and purposes of the Zoning Code.

§ 153.210.810 – Record of Amendment

The adoption of the General Plan text and/or map amendment shall constitute final action, approval and record of the amendment.

PART 17 – Development Agreement

§ 153.210.820 – Intent and Purpose

Development agreements are authorized by Government Code § 65864 as a means of providing both the city and property owners with assurances that development projects can be completed under the terms, conditions and regulations in effect at the time that authority is granted to proceed with a project.

§ 153.210.830 – Development Agreement Application

In accordance with Government Code § 65865, any person having a legal or equitable interest in real property for the development of such property, or any authorized agent thereof, may apply to the city for a development agreement.

§ 153.210.840 – Contents of Agreement

- A. All draft and final development agreements shall, at a minimum, contain the following information:
1. The duration of the agreement.
 2. The permitted uses of the property.
 3. The density and intensity of permitted use.
 4. The maximum height and size of proposed buildings.
 5. Provisions for reservation or dedication of lands for public purposes.
- B. The development agreement may also contain the following information:
1. Conditions, terms, restrictions and requirements for subsequent discretionary actions, provided such conditions, terms, provisions and requirements do not prevent development of land for the purposes and level of use set forth in the agreement.
 2. Requirements that construction be commenced within a specified time period, and that the project or any phase thereof be completed within a specified time frame.

§ 153.210.850 – Proceedings

- A. The Planning Commission shall make a recommendation to the City Council on a development agreement application for approval, approval with modifications or denial of the application. The recommendation shall be in the form of a resolution.
- B. Upon receipt of a Planning Commission resolution, the City Clerk shall set the matter for hearing before the City Council.
- C. At the hearing, the City Council shall review the Planning Commission's recommendation and receive evidence as to how or why the proposed development agreement is consistent with the objectives of this chapter, the General Plan, and development policies of the city.
- D. The City Council shall act to approve or deny the development agreement. A majority vote of the entire City Council is required to approve the development agreement.

- E. Development agreements shall be adopted by ordinance of the City Council, which constitutes final action and approval of the agreement. After the effective date of the ordinance approving the development agreement and recording of the agreement pursuant § 153.210.870, the city may enter into the agreement.

§ 153.210.860 – Determination

In acting to grant a development agreement, the City Council shall make the following findings about the proposed development agreement:

- A. The development agreement is consistent with the General Plan objectives, policies, land uses and implementation programs and any other adopted plans or policies applicable to the agreement.
- B. The development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located.
- C. The development agreement is in conformance with the public convenience and general welfare of persons residing in the immediate area and will not be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the city as a whole.
- D. The development agreement is consistent with the provisions of California Government Code §§ 65864 - 65869.5.

§ 153.210.870 – Recordation and Filing Agreement

Within 10 days after the effective date of a development agreement, the City Clerk shall have the development agreement recorded with the Los Angeles County Recorder. Additionally, the City Clerk shall be the official custodian of the agreement file. The file shall include an executed copy of the agreement and the originals of all exhibits, reports of periodic review, amendments and/or cancellations to the agreement.

§ 153.210.880 – Amendment or Cancellation

Either the city or other parties to a development agreement may propose an amendment to or cancellation in whole or in part of an agreement previously entered into. The procedure to amend a development agreement is the same as the original adoption. However, for instances in which the city initiates the proposed amendment or cancellation, the city shall give notice to the parties to the agreement of the city's intention to initiate such proceedings.

§ 153.210.890 – Periodic Review

The city shall review the development agreement at least once every 12 months from the date the agreement is entered into. The City Planner shall initiate review proceedings and notice the

property owner at least 10 days prior to determination by the City Planner. The City Planner shall determine on the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the agreement. If so, the review shall be concluded. However, if the city finds that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the City Council may hold a public hearing to modify or terminate the agreement.

PART 18 – Downtown Overlay

§ 153.210.900 – Intent and Purpose

The Downtown Overlay (DO) is established to facilitate the consideration of development projects, uses, and activities within the areas subject to the Downtown Overlay.

§ 153.210.910 – Applicability

The DO applies to all land within the boundaries of the DO as shown on the zoning map.

§ 153.210.920 – Proceedings

- A.** Before any new permitted or conditionally permitted use can commence operation, or any building permit can be issued for a structure on a property within the Downtown Overlay area, the property owner or his or her representative shall file an application for and receive approval from the Director of Community Development. The Director of Community Development may refer the review and approval to the Planning Commission, in his or her sole discretion. The approval shall be based on the guidelines and provisions applicable to a design review and conditional use permits established by this chapter.

- B.** Notwithstanding any application, filing and review procedures established by this chapter or regulations adopted pursuant thereto, a party other than the property owner(s) or their designated representative(s) may file an application for the city's consideration of land use entitlements without the consent of the property owner(s) or their representative(s), if that party has entered into a cash depository agreement, exclusive negotiation agreement, owner participation agreement, owner participation and disposition agreement, disposition and development agreement or similar agreement with the City of Baldwin Park; provided, that any entitlement granted pursuant to this part shall not be effective unless and until the applicant becomes the owner of the property involved or the property owner(s) of that property has(have) submitted written approval for the applicant to proceed with that entitlement.

- C. The fee for filing an application in the Downtown Overlay area shall be the same as the fee for filing an application for a conditional use permit. The fee for filing an appeal of any decision on that application shall be the same as for an appeal of the decision on a conditional use permit.

§ 153.210.930 – Determination

The Director of Community Development may refer the review and approval to the Planning Commission, at his/her sole discretion. Downtown Overlay clearance shall be granted, conditionally granted or denied based on the guidelines and provision applicable to design review and conditional use permits established in parts 2 and 9 of subchapter 153.210.

§ 153.210.940 – Record of Overlay

The authorized signature of the Planning Commission, or the Appeal Authority if the decision was appealed, on a designated form, or a stamp approval on a set of plans, shall signify approval, conditional approval or denial of a Downtown Overlay.

PART 19 – Development Plan (Planned Development Overlay)

§ 153.210.950 – Intent and Purpose

The development plan process is established to provide a permitting and conditioning mechanism for projects proposed to be established within a Planned Development Overlay zone. The purpose of the permit is to ensure that a Planned Development Plan application conforms with the requirements of subchapter 153.100 and provides for high-quality residential development consistent with the city's General Plan.

§ 153.210.960 – Proceedings

- A. No building permit shall be issued for the construction, reconstruction or relocation of any building or structure, nor shall any use of land be commenced or permitted on any lot within the city which is zoned or proposed to be zoned with a Planned Development Overlay zone, unless a development Plan has been approved. Where such a development plan has been approved, notwithstanding any other provisions of this chapter to the contrary, the conditions of approval imposed upon such plan, and the provisions of this part, depending upon the underlying zoning classification, shall be observed in development of the property to which such plan applies, to the exclusion of any contrary regulations applicable to such property.
- B. All buildings or structures proposed to be located on any property within a Planned Development Overlay zone shall be subject to the provisions of part 2 of subchapter 153.210, Design Review.

§ 153.210.970 – Required Findings for Approval

No development plan shall be approved by the Planning Commission unless the Commission finds that the proposed planned development conforms with all applicable provisions of this chapter, the Planned Development Design Guidelines and other applicable regulations, and is compatible with adjacent land uses. The Planning Commission may apply conditions of approval to ensure compliance.

§ 153.210.980 – Record of Plan

The authorized signature of the Planning Commission, or the Appeal Authority if the decision was appealed, on a designated form, or a stamp approval on a set of plans, shall signify approval, conditional approval or denial of a development plan.

PART 20 – Reasonable Accommodation**§ 153.210.990 – Intent and Purpose**

The reasonable accommodation process establishes a formal procedure for individuals with disabilities seeking equal access to housing to request a reasonable accommodation to zoning regulations, as provided by the Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act, and to establish criteria to be used when considering these requests. The purpose of the reasonable accommodation process is to provide flexibility in the application of land use, zoning or building regulations, policies or procedures for individuals with disabilities or developers of housing for persons with disabilities when it is necessary to eliminate barriers to equal housing opportunities.

§ 153.210.1000 – Applicability

- A. A request for reasonable accommodation may be made by any person with a disability, or a representative, when the application of a zoning, land use or building regulation, policy or practice acts as a barrier to equal housing opportunities.
- B. If a reasonable accommodation request is approved, the request shall be granted to an individual and shall not run with the land unless the City Planner determines that:
 - 1. The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with applicable codes; or
 - 2. The accommodation is to be used by another disabled person.

§ 153.210.1010 – Proceedings

- A. The Community Development Department shall prominently display at City Hall a notice advising those with disabilities or their representatives that they may submit a request for reasonable accommodation. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed on an application form provided by the Community Development Department at any time that the accommodation may be necessary to ensure equal access to housing.
- B. A request for reasonable accommodation shall state the basis of the request including, but not limited to, a modification or exception to the regulations, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a disabled person equal opportunity to housing of his or her choice.
- C. The City Planner may request additional information necessary for making a determination on the request for reasonable accommodation that complies with the fair housing law protections and the privacy rights of the disabled person to use the specified housing. If additional information is requested, the review period for the reasonable accommodation stops until additional information is provided.

§ 153.210.1020 – Findings

The written decision of the City Planner to grant or deny a request for reasonable accommodation will be consistent with the Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act. The following findings must be analyzed, made, and adopted before any action is taken to approve or deny a request for reasonable accommodation:

- A. The housing that is subject to the request will be used by an individual with a disability, as defined under Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act.
- B. The request for reasonable accommodation is necessary to make specific housing available to an individual with a disability.
- C. The requested reasonable accommodation would not impose an undue financial or administrative burden on the city.
- D. The requested reasonable accommodation would not require a fundamental alteration in the nature of a city program or law, including, but not limited to, land use and zoning.

- E. There are no other alternative reasonable accommodations that may provide an equivalent level of benefit at a similar cost while providing greater consistency with the city's laws and regulations.

§ 153.210.1030 – Determination

- A. The City Planner, or Building Official, as appropriate, shall have the authority to consider and act on requests for reasonable accommodation. The City Planner shall issue a written determination within 30 days of receipt of a completed application that either grants, grants with modifications or denies a request for reasonable accommodation. In granting a request for reasonable accommodation, the City Planner or Building Official may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings listed in § 153.210.1020.
- B. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application.

§ 153.210.1040 – Record of Reasonable Accommodation

The authorized signature of the City Planner, Planning Commission or the Appeal Authority if the request was appealed, on a designated form, or a stamp approval on a set of plans, shall signify approval of a reasonable accommodation request.