

Chapter 245 Coastal Development Permit

(3334-7/96, 3517-12/01)

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245.02 Specific Purpose

The purpose of the Coastal Development Permit (CDP) is to implement the California Coastal Act of 1976 (Division 20 of the Public Resources Code) as amended, in accordance with the City's Local Coastal Program. The provisions of this chapter shall apply in the Coastal Zone, as defined by the Coastal Act.

245.04 Definitions

The following definitions shall apply to any project within the Coastal Zone. In case of conflicts with other provisions of the code, the definitions in this section shall prevail for any development requiring a CDP.

- A. Aggrieved Person: Any person who, in person or through a representative, appeared at a public hearing or by other appropriate means prior to action on a Coastal Development Permit, informed the City of his or her concerns about an application for such permit, or who, for good cause, was unable to do either, and who objects to the action taken on such permit and wishes to appeal such action to a higher authority.

- B. Appealable Area: That area between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or the mean high tide line of the sea where there is no beach, whichever is greater, tidelands, submerged lands, public trust lands, that area within 300 feet of the top of any coastal bluff, and that area within 100 feet of any wetland, estuary or stream. (3334-7/96)
- C. Appealable Development: Approval of any proposed development within an "appealable area" and approval or denial of any development which constitutes a "major public works project" or a "major energy facility." Appealable development may be appealed to the California Coastal Commission in accord with the regulations adopted by the Commission.
- D. Applicant: The person, partnership, corporation, or state or local government agency applying for a Coastal Development Permit.
- E. Approving Authority: The Director, Zoning Administrator, Planning Commission, City Council, or the California Coastal Commission whichever approves a Coastal Development Permit. (3334-7/96)
- F. Categorical Exclusion: An exception from the requirements of a Coastal Development Permit as identified in the Certified Coastal Land Use Plan and Public Resources Code Sections 30610(e) and 30610.5.
- G. Coastal Commission: The California Coastal Commission.
- H. Coastal Development Permit (CDP): A permit issued by the City or the California Coastal Commission in accord with the provisions of this chapter. A Coastal Development Permit includes all application materials, plans and conditions on which the approval is based. (3334-7/96)
- I. Coastal Zone: That portion of the Coastal Zone, as established by the California Coastal Act of 1976 and as it may subsequently be amended, which lies within the City, as indicated on a map on record with the Department of Community Development.
- J. Development: The placement or erection of any solid material or structure on land, in or under water; discharge or disposal of any materials; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to Section 66410 of the Government Code, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreation use; and change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation. (3334-7/96)
- K. Exclusion Areas: The geographic area of the coastal zone of the City except for tide and submerged lands, beaches and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, in a wetland, estuary, stream, river or within 100 feet of such areas, or any areas defined as "environmentally sensitive habitats" or their buffers by the certified Land Use Plan and so designated on the Land Use Plan maps, or on slopes greater than 20%, and all areas

within 300 feet of the top of the seaward face of any coastal bluff, and all lands and waters subject or potentially subject to the public trust. (3334-7/96)

- L. Local Coastal Program (LCP): The City's land-use plans, zoning ordinance, zoning map, and implementing actions certified by the Coastal Commission pursuant to the Coastal Act and adopted by the City Council for the purpose of carrying out the provisions of the Coastal Act. (3334-7/96)
- M. Major Energy Facility: Any energy facility as defined by Public Resources Code Section 30107 and California Code of Regulations Section 13012.
- N. Major Public Works Project: Any public works project as defined by California Code of Regulations Section 13012.
- O. Public Works: Public facilities and infrastructure, including:
 - 1. All production, storage, transmission, and recovery facilities for utilities subject to the jurisdiction of the California Public Utilities Commission, except for energy facilities;
 - 2. All public transportation facilities, including streets, roads, highways, mass transit facilities and stations and bridges, public parking lots and structures, ports, harbors, airports, railroads, and other related facilities;
 - 3. All publicly financed recreational facilities.
 - 4. All community college facilities.

245.06 Permit Required

Any person, partnership, or corporation, or state or local government agency wishing to undertake development in the coastal zone shall obtain a Coastal Development Permit in accord with the provisions of this chapter, unless exempt or categorically excluded. Such permit must be issued prior to the start of development and shall be required in addition to any other permits or approvals required by the City. (3334-7/96)

All development within the coastal zone requires a coastal development permit unless specifically exempted or excluded. After certification of the LCP, the City shall issue all coastal development permits for development not located within the Coastal Commission's original permit jurisdiction. The Coastal Commission's original permit jurisdiction includes all tidelands, submerged lands, or public trust lands whether filled or unfilled unless the Coastal Commission has delegated original permit jurisdiction to the City for areas potentially subject to the public trust but which are determined by the Coastal Commission to be filled, developed, and committed to urban use pursuant to Section 30613 of the Coastal Act. Development located in the Coastal Commission's original permit jurisdiction requires approval of a coastal development permit issued by the Coastal Commission in accordance with the procedure as specified by the California Coastal Act. (3334-7/96)

- A. Coastal Permit Issued by the Coastal Commission. Developments on tidelands, submerged lands, or navigable waterways require a permit issued by the California Coastal Commission in accordance with the procedure as specified by the California Coastal Act.

- B. Coastal Permits Issued by the City. All development requires a coastal development permit unless specifically exempted or excluded. After certification of the LCP, the City shall issue all coastal development permits for development not located within the Coastal Commission's original permit jurisdiction.

245.07 Emergency Coastal Development Permit

In the event of a verified emergency, temporary emergency authorization to proceed with remedial measures may be given by the Director of Community Development or his/her designee until such time as a full coastal development permit application shall be filed.

- A. Application. Application shall be made to the Director of Community Development by letter if time allows, or in person or by telephone, if time does not allow. The information, to be reported at the time of the emergency or within three days after the emergency, shall include the following:
1. Nature of the emergency;
 2. Cause of the emergency insofar as this can be established;
 3. Location of the emergency;
 4. The remedial, protective, or preventive work required to deal with the emergency;
 5. The circumstances during the emergency that appeared to justify the cause(s) of action taken, including the probable consequences of failing to take action.
- B. Limitations. The Director of Community Development shall not grant an emergency coastal development permit for any development that falls within an area in which the Coastal Commission retains direct permit review authority, or for any development that is appealable to the Coastal Commission. In such areas and for such developments, a request for an emergency authorization must be made to the Coastal Commission.
1. In addition, a waiver for a coastal development emergency permit may be obtained from the Coastal Commission executive director for development that is required to protect life or public property in accordance with Section 30611 of the Coastal Act.
- C. Noticing. The Director of Community Development shall provide notice of the proposed emergency action. The extent and type of the notice shall be determined on the basis of the nature of the emergency. If the nature of the emergency does not allow sufficient time for public notice to be given before the emergency work begins, the Director of Community Development shall provide public notice of the action taken, or being taken, as soon as is practical. Public notice of the nature of the emergency and the remedial actions to be taken shall be posted on the site in a conspicuous place and mailed to all persons the Director of Community Development has reason to know would be interested in such action and to the Coastal Commission.

- D. Findings and Conditions. The Director of Community Development may grant an emergency coastal development permit upon reasonable terms and conditions, which shall include an expiration date and the necessity for a regular permit application later, if the Director of Community Development finds that:
1. An emergency exists that requires action more quickly than permitted by the procedures for a coastal development permit and the work can and will be completed within thirty days unless otherwise specified by the terms of the permit;
 2. Public comment on the proposed emergency action has been reviewed, if time allows;
 3. The work proposed would be consistent with the requirements of the certified Local Coastal Program.
- E. Expiration of Emergency Permit. An emergency permit shall be valid for sixty days from the date of issuance by the Director of Community Development. Prior to expiration of the emergency permit, the permittee must submit a regular coastal development permit application for the development even if only to remove the development undertaken pursuant to the emergency permit and restore the site to its previous condition.
- F. Report to City Council and Coastal Commission. The Director of Community Development shall report in writing and orally, the granting of an emergency permit to the City Council at its next scheduled meeting, and to the Coastal Commission. The report shall include a description of the nature of the emergency, the development involved, and the person or entity undertaking the development. Copies of the report shall be available at the meeting and shall be mailed to the Coastal Commission and to all persons requesting such notification of local coastal development decisions. (3334-7/96)

245.08 Exemptions

The following categories of development are exempt from the requirements of this chapter.

- A. Existing Structures. Maintenance and alteration of, or addition to, existing structures provided the project does not involve any of the following:
1. Location in an appealable area with an increase of 10% or more of the internal floor area or an increase in height of 10% or more.
 2. Location on a beach, wetland, sand dune, stream or lake, or seaward of the mean high tide line, or where the development would encroach within 50 feet of the edge of a coastal bluff.
 3. Change in the intensity of the use of the structure.
 4. Conversion of multi-family residential or visitor serving commercial use to condominium or stock cooperative.

5. Any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland or sand dune, or within 50 feet of the edge of the coastal bluff.
 6. Any addition to a structure where the coastal development permit issued for the original structure by the City or Coastal Commission indicated that any future additions would require a coastal development permit. (3334-7/96)
- B. Dredging of Navigation Channels. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal zone pursuant to a permit from the United States Army Corps of Engineers is exempt.
- C. Maintenance and Repair of Shoreline Protective Works. Repair or maintenance of shoreline protective works that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activity is exempt, except the following which are not exempt:
1. Repair or maintenance of a sea wall revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work which involves:
 - a. Substantial alteration of the foundation including pilings and other surface and subsurface structures.
 - b. The placement, whether temporary or permanent, of rip-rap, or artificial berms of sand, or any other form of solid material, on a beach or in coastal waters, streams, wetlands, estuaries, or on shoreline protective works.
 - c. The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind.
 - d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty (20) feet of coastal waters or streams.
 2. The replacement of 50 percent or more of a sea wall revetment, bluff retaining wall, breakwater, groin or similar protective work under one ownership, unless destroyed by natural disaster.
 3. Any method of routine maintenance dredging that involves the dredging of one hundred thousand (100,000) cubic yards or more within a twelve (12) month period; or in the placement of dredge spoils of any quantity within an environmentally sensitive habitat area, or any sand area, within fifty (50) feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty (20) feet of coastal waters or streams; or the removal, sale, or disposal of dredge spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.
 4. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within fifty (50) feet of the

edge of a coastal bluff or environmentally sensitive habitat area; or within twenty (20) feet of any coastal waters and streams that include:

- a. The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials.
 - b. The presence, whether temporary or permanent, of mechanized equipment or construction materials.
- D. Utility Connections. The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this chapter is exempt. The Director, where necessary, may impose reasonable conditions to mitigate any adverse impacts on coastal resources including but not limited to scenic resources.
- E. Replacement of Destroyed Structures. The replacement of any structure, other than a public works facility, destroyed by natural disaster is exempt, provided such replacement structure conforms to applicable current zoning regulations, is designed and intended for the same use as the destroyed structure, does not exceed the floor area, height or bulk of the destroyed structure by more than 10 percent, and is sited in the same location on the same building site as the destroyed structure.
1. As used in this section:
 - a. “Disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
 - b. “Bulk” means total interior cubic volume as measured from the exterior surface of the structure.
 - c. “Structure” includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.
- F. Ongoing Repair and Maintenance By Public Agencies and Utilities. Ongoing routine repair and maintenance activities of public agencies and public utilities as described in “Repair, Maintenance and Utility Hook-Up Exclusions from Permit Requirements” adopted by the California Coastal Commission on September 5, 1978, are exempt, provided no new roads are constructed, grading or clearing an undisturbed area does not exceed 500 square feet, no trees exceeding 12 inches dbh are removed, or the height or bulk of an existing structure will not be altered.
- G. Minor Developments and Miscellaneous Activities.
- Because the following activities do not constitute development as defined in Section 245.04J, they are exempt from coastal development permit requirements.
1. Revocation of permits in accordance with applicable provisions of this code.
 2. Home occupation permits in conformance with applicable provisions of this code.

3. Leases.

H. Temporary Events.

1. A temporary event is an activity or use that constitutes development as defined in Section 245.04 J of this Chapter; and is an activity or function which does not exceed a two week period on a continual basis, or does not exceed a consecutive four month period on an intermittent basis; and involves the placement of non-permanent structures (including but not limited to bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, etc., which do not involve grading or landform alteration for installation); and/or exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use.
2. Exclusive use means a use that precludes use in the area of the event for public recreation, beach access or access to coastal waters other than for or through the event itself. Sandy beach area includes publicly owned and privately owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest. Coastal resources include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.
3. Except as provided in section 4 below, the Director of Community Development shall exclude from coastal development permit requirements all temporary events except those which meet all of the following criteria:
 - a. It is held between Memorial Day weekend and Labor Day; and,
 - b. It occupies all or a portion of a sandy beach area; and,
 - c. It involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

Only temporary events meeting all of the above criteria shall require coastal development permit review, however,

The Director of Community Development may also exclude from permit requirements temporary events meeting all of the above criteria when:

- d. The fee is for preferred seating only and more than 75% of the provided seating capacity is available free of charge for general public use; or,
- e. The event is held on sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources; or,

- f. The event is less than one day in duration; or,
 - g. The event has previously received a coastal development permit and will be held in the same location, at a similar season, and for the same duration, with operating and environmental conditions substantially the same as those associated with the previously-approved event.
4. The Director of Community Development or the City Council through direction to the Director of Community Development, may determine that a temporary event shall be subject to coastal development permit review, even if the criteria in Section 3 are not met, if the Director or City Council determines that unique or changing circumstances exist relative to a particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include the following:
- a. The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;
 - b. The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as described in Section 2;
 - c. The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters;
 - d. The event has historically required a coastal development permit to address and monitor associated impacts to coastal resources.

(3334-7/96)

245.10 Categorical Exclusions

Pursuant to Huntington Beach Categorical Exclusion Order E-84-2 approved by the California Coastal Commission on March 1, 1985, the following specific categories within specific geographical areas (exclusion areas) as shown on a map approved by the California Coastal Commission will not require a coastal development permit. A current record of all permits issued for categorically-excluded developments shall be available for public and Coastal Commission review and shall contain the name of applicant, location (street address and assessor's parcel number of property on which development is proposed), and brief description of the development, date of application of other local permit(s), all terms and conditions of development imposed by the City in granting its approval, the site plan and vicinity map of the development.

Pursuant to California Code of Regulations Section 13243, any change to the categorical order requires action by the California Coastal Commission on the categorical exclusion. The categorical exclusion order cannot be modified through changes to the LCP alone. A request for amendment to a categorical exclusion order shall be processed pursuant to California Code of Regulations Sections 13241 - 13425.

- A. Permitted uses (excluding Section 245.08A) within RL, RM, RMH and RH districts which are consistent with the zoning provisions of this code and do not require any discretionary review.
- B. Municipal improvement projects of less than \$50,000 in cost and only where such projects would not alter vehicular capacity of public streets or intersections by more than 10 percent (except traffic control devices such as stop signs or lights), would not alter on or off-street parking that would decrease the number of spaces, and would not alter circulation patterns that would impair beach access.
- C. Traffic control signing and minor roadway improvements including:
 - 1. Culvert replacement;
 - 2. Guardrails, retaining walls;
 - 3. Slope stabilization;
 - 4. Signs for traffic control and guidance, including roadway markings and pavement delineation;
 - 5. Drainage course maintenance and cleaning involving less than 50 cubic yards of excavations; and
 - 6. Parking meter installation and repair.
- D. Minor accessory structures in conformance with applicable provisions of this code.
- E. Minor Development
 - 1. Sign permits in conformance with applicable provisions of this code.
 - 2. Temporary use permits in conformance with applicable provisions of this code.
 - 3. Entertainment/specific event permits.
 - 4. Minor variances that do not pertain to heights and that do not negatively impact coastal access or view corridors.
 - 5. Grading which does not involve one hundred (100) cubic yards or more of material and brush or vegetation removal other than major vegetation of less than one-half acre of land.
 - 6. Fences and walls six (6) feet or less in height except when such walls or fences will obstruct or otherwise limit public access to the beach or other facilities to which access is protected under the Coastal Act.
 - 7. Installation of irrigation lines.
 - 8. Buildings or structures, or additions thereto, having an aggregate value of \$1,000 or less.

9. The addition of a solar-collection system to existing buildings or structures which complies with provisions of Huntington Beach Municipal Code Title 17.

F. Miscellaneous Activities

1. Installation testing, placement in service or the replacement of any necessary utility connection between an existing service facility and any development that has previously been granted a coastal development permit.
2. Actions listed as ministerial in the California Environmental Quality Act, including:
 - a. Issuance of building permits;
 - b. Issuance of building licenses;
 - c. Approval of final subdivision maps; and
 - d. Approval of individual utility service connections and disconnections.
(3334-7/96)

245.12 Application Requirements

Applications for Coastal Development Permits shall be initiated by submitting an application and necessary accompanying data as prescribed by the Director and the required fee.

245.14 Determination of Applicable Notice and Hearing Procedures.

- A. At the time a CDP application is submitted, the Director shall determine whether a development project is:
 1. Within an area where the Coastal Commission exercises original permit jurisdiction; or
 2. Categorically excluded; or
 3. Appealable to the Coastal Commission; or
 4. Non-appealable to the Coastal Commission.
- B. Within 5 days of submitting a CDP application, the applicant or any other person who does not agree with the Director's determination may challenge the determination. If any interested party does not agree with the Director's determination, the matter shall be forwarded to the City Council at the earliest available regularly scheduled meeting to determine whether the project is categorically excluded, non-appealable, or appealable. If such challenge is not resolved and the determination remains disputed, the City shall notify the Coastal Commission (CC) Executive Director by telephone of the dispute/question and shall request the CC Executive Director's opinion. The CC Executive Director may either concur with the Council's determination or forward the request to the Coastal Commission for a final determination.

245.16 Action on Coastal Development Permit

Action to approve, conditionally approve, or deny a Coastal Development Permit shall be taken by the Zoning Administrator, Planning Commission, or City Council, whichever has responsibility for final approval of other discretionary permits. If no other discretionary approval is required, the Zoning Administrator shall act on the Coastal Development Permit application.

245.18 Public Hearing and Comment

A public hearing shall be required prior to any action on a Coastal Development Permit. Any person may submit written comment to the Director on an application for a Coastal Development Permit, or on a Coastal Development Permit appeal, at any time prior to the close of the public hearing.

245.20 Notice for Appealable Development

Notice of development appealable to the Coastal Commission shall be provided as follows:

A. Contents of Notice.

1. A statement that the development is within the appealable area of the Coastal Zone;
2. The date of the filing of the application and the name of the applicant;
3. The file number assigned to the application;
4. A description of the development at its proposed location;
5. The date, time, and place at which the application will be heard;
6. A brief decision of the general procedure concerning the conduct of hearing and local actions; and
7. The system for local and Coastal Commission appeals, including any local fees required.

B. Provision of Notice Prior to Public Hearing. Notice shall be mailed at least ten (10) days before the public hearing on the project to the following:

1. Applicant;
2. Owner of the property;
3. All property owners and residents within 100 feet from the perimeter of the subject parcel;
4. All persons who have, within the past calendar year, submitted a written request for notice of all Coastal Permit applications;
5. The Coastal Commission; and

6. Public agencies which, in the judgment of the Director, have an interest in the project.
- C. Notice of Continued Public Hearings. If a decision of an appealable Coastal Development Permit is continued to a time that has not been stated in the initial notice or at the public hearing, notice of the continued hearing shall be provided in the manner prescribed by paragraph (B) above.
- D. Notice of Decision. On or before the seventh day following final City action, notice of the decision, including findings for approval and conditions (if any) on the project proposal, shall be mailed to the following:
 1. The applicant;
 2. The owner of the subject parcel;
 3. All persons who have submitted a written request for notification of action on this specific permit; and
 4. The California Coastal Commission district office.

245.22 Notice for Non-Appealable Development

Notice of development non-appealable to the Coastal Commission shall be provided as follows:

- A. Contents of Notice.
 1. A statement that the development is within the non-appealable area of the Coastal Zone;
 2. The date of filing of the application and the name of the applicant;
 3. The file number assigned to the application;
 4. A description of the development and its proposed location;
 5. The date, time, and place at which the application will be heard; and
 6. A brief description of the general procedure concerning the conduct of hearing and actions.
- B. Provision of Notice. Notice of developments shall be given at least ten (10) calendar days before the first public hearing in the following manner:
 1. If the matter is heard by the Planning Commission, notice shall be published in a newspaper of general circulation;
 2. Notice by first-class mail to any person who has filed a written request for notification of such action;
 3. Notice by first-class mail to property owners within 300 feet of the projects;

4. Notice by first-class mail to persons residing within 100 feet from the subject parcel;
5. Notice by first-class mail to the Coastal Commission and any commission or board as provided by the Local Coastal Program; and
6. Notice by first-class mail to the applicant and owner of the property.

245.23 Waiver of Public Hearing for Minor Development

- A. The City of Huntington Beach may waive the requirement for a public hearing on a coastal development permit application for minor development only if both the following occur:
 1. Notice that a public hearing shall be held upon request by any person is provided to all persons who would otherwise be required to be notified of a public hearing as well as any other persons known to be interested in receiving notice.
 2. No request for public hearing is received by the local government within 15 working days from the date of sending the notice pursuant to paragraph 1.
- B. The notice provided pursuant to subsection B shall include a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the City on a coastal development permit application.
- C. For purposes of this section, "minor development" means a development which the City determines satisfies all of the following requirements:
 1. Is consistent with the certified Local Coastal Program.
 2. Requires no discretionary approvals other than a coastal development permit.
 3. Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast. (3334-7/96)

245.24 Notice of City Action

- A. Finality of City Action. The City's decision on an application for a development shall not be deemed complete until:
 1. The City's decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act; and
 2. When all City rights of appeal have been exhausted as defined in the California Code of Regulations Section 13573 and Subsection D of Section 245.24.

B. Notice of Final Action.

1. Within seven calendar days of the City completing its review and meeting the requirements of Section A, above, the City shall notify by first class mail the Coastal Commission, and any persons who specifically requested notice of such action.
 - a. If the City has failed to act on an application within the time limits set forth in Government Code Sections 65950-65957.1, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Sections 65950-65957.1, shall notify, in writing, the City and the Coastal Commission of his or her claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.
 - b. When the City determines that the time limits established pursuant to Government Code Sections 65950-65957.1 have expired, the City shall, within seven calendar days of such determination, notify any person entitled to receive notice pursuant to Section 13571(a) of the California Code of Regulations that the application has been approved by operation of law pursuant to Government Code Sections 65950-65957.1 and the application may be appealed to the Coastal Commission pursuant to Section 13110 et seq. of the California Code of Regulations.

C. Effective Date of City Action. The City's final decision on an application for an appealable development shall become effective on the eleventh working day after the Coastal Commission has received notice of the completed City action in accordance with Section 245.24B unless either of the following occur:

1. An appeal is filed in accordance with this chapter;
2. The notice of final City action does not meet the requirements of this chapter.

D. Exhaustion of City Appeals.

1. An appellant shall be deemed to have exhausted City appeals and shall be qualified as an aggrieved person where the appellant has pursued his or her appeal to the City appellate body (bodies) as required by the appeal procedures contained in Section 245.32; except that exhaustion of all City appeals shall not be required if any of the following occur:
 - a. The City requires an appellant to appeal to more City appellate bodies than have been certified as appellate bodies for permits in the coastal zone, in the implementation section of the Local Coastal Program.
 - b. An appellant was denied the right of the initial City appeal by a City ordinance which restricts the class of persons who may appeal a City decision.

- c. An appellant was denied the right of City appeal because City notice and hearing procedures for the development did not comply with the provisions of the Chapter.
 - d. The City charges an appeal fee for the filing or processing of appeals.
2. Where a project is appealed by any two (2) members of the Coastal Commission, there shall be no requirement of exhaustion of City appeals. Provided, however, that a City government may provide, by ordinance, that notice of commissioner appeals may be transmitted to the City's appellate body (which considers appeals from the City body that rendered the final decision), and the appeal to the Commission may be suspended pending a decision on the merits by that City appellate body. If the decision of the City appellate body modifies or reverses the previous decision, the commissioners shall be required to file a new appeal from that decision. (3334-7/96)

245.26 Precedence of Local Coastal Program

Where the plans, policies, requirements or standards of the Local Coastal Program, as applied to any project in the CZ Overlay District, conflict with those of the underlying zoning district or other provisions of this chapter, the plans, policies, requirements or standards of the Local Coastal Program shall take precedence.

245.28 Conditions

Approval of a Coastal Development Permit shall be subject to conditions as necessary to ensure conformance with, and implementation of, the Local Coastal Program. Modification and resubmittal of project plans, drawings, and specifications may be required to ensure conformance with the Local Coastal Program.

245.30 Findings

- A. Required Findings. A CDP application may be approved or conditionally approved only after the approving authority has made the following specific factual findings supporting the legal conclusion:
 1. Local Coastal Plan. That the development project, as proposed or as modified by conditions of approval, conforms with the General Plan, including the Local Coastal Program;
 2. Zoning Provisions. That the project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code;
 3. Adequate Services. That at the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program; and

4. California Coastal Act. That the development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

245.32 Appeals

Development pursuant to an approved Coastal Development Permit shall not commence until all applicable administrative appeal periods expire or, if appealed, until all administrative appeals, including those to the Coastal Commission, have been exhausted. (3517-12/01)

- A. Action by the Zoning Administrator or Planning Commission to approve, conditionally approve, or deny any Coastal Development Permit may be appealed on or before the tenth working day following such action. Action by the Zoning Administrator may be appealed to the Planning Commission. Action by the Planning Commission may be appealed to the City Council. Appeals may be made directly to the Coastal Commission pursuant to Sections 13111 and 13573 of the California Code of Regulations for appealable development. (3517-12/01)
- B. Action by the City Council on a Coastal Development Permit for appealable development may be appealed directly to the Coastal Commission pursuant to Sections 13111 and 13573 of the California Code of Regulations. (3517-12/01)
- C. An appeal pursuant to this chapter may be filed only by the applicant for the Coastal Development Permit in question, an aggrieved person, or any 2 members of the Coastal Commission.
- D. An appeal to the Planning Commission shall be filed with the Planning Department. An appeal to the City Council shall be filed with the City Clerk. The appeal shall be accompanied by a fee set by resolution of the City Council and a statement of the grounds for the appeal. (3517-12/01)
- E. Notice of the local appeal shall be given as set forth in Section 245.20 or 245.22 and shall be processed in accordance with the provisions of Section 248.20. (3517-12/01)
- F. An appeal to the Coastal Commission shall be processed in accordance with the provisions of Sections 13110 through 13120 of the California Code of Regulations. (3334-7/96, 3517-12/01)

245.34 Application After Denial

Whenever a CDP request under the provisions of this section has been denied and such denial has become final, no new CDP application for the same or similar request may be accepted within 1 year of the denial date, unless the Director finds that a sufficient change in circumstances has occurred to warrant a new CDP application.

245.36 Expiration of Coastal Development Permit

A Coastal Development Permit shall expire on the latest expiration date applicable to any other permit or approval required for the project, including any extension granted for other permits or approvals. Should the project not require City permits or approvals other than a Coastal Development Permit, the Coastal Development Permit shall expire one year from its date of approval if the project has not been commenced during that time.

245.38 Permit Amendment

Upon application by the permittee, a Coastal Development Permit may be amended by the approving authority. Application for and action on an amendment shall be accomplished in the same manner specified by this chapter for initial approval of the Coastal Development Permit. In addition, hearing notice shall be given to any person who the Director has reason to know would be interested in the matter. Public hearing notice requirements for permit amendments shall be the same as required for public hearings for the permit applications. (3334-7/96)

