

TITLE 9

DIVISION 1 ENACTMENT, APPLICABILITY & AMENDMENT

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CHAPTER 1: AUTHORITY - PURPOSE AND APPLICABILITY

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§ 90101.00 AUTHORITY AND CITATION

This Title (Title 9 inclusive) is hereby established and adopted pursuant to the authority vested in the County of Imperial by the State of California, including but not limited to the State Constitution, Government Code, Public Resources Code, the California Environmental Quality Act, the Subdivision Map Act, the Housing Act, and the Surface Mining & Reclamation Act. This ordinance shall be known as, and may be cited and referred to as, the "**LAND USE ORDINANCE**" or **Title 9** of the County of Imperial, hereinafter referred to as "TITLE".

§ 90101.01 PURPOSE

The text, including any tables, metrics, charts, sketches, and the official zoning maps referenced in this Title shall constitute the comprehensive land use regulations for all unincorporated areas of the County of Imperial. These regulations are adopted to promote and protect the public health, safety, and general welfare through the orderly regulation of land uses throughout the unincorporated areas of the County.

Furthermore, the purpose of this ordinance is also to:

- A. Assure and guide development consistent and in conformity with the Imperial County General Plan.
- B. Provide the economic and social advantages, which result in the orderly planned use of all land resources.
- C. Assist the public in identifying and understanding regulations affecting the development and use(s) of land.
- D. Provide for environmentally safe, conducive growth and development.
- E. Establish beneficial, convenient and compatible relationships between land uses.

- F. Regulate the size, quantity, services, use of parcels, lots, yards, and other open spaces.
- G. Regulate the use, location, height, bulk, size of all buildings, structures, and/or physical improvements.
- H. Uniformly regulate the use and building intensity of land.
- I. Regulate and control the division of land within the County of Imperial
- J. Regulate the density of population in residential and non-residential areas.
- K. Establish requirements for parking, signs, billboards, wells, towers, mines, solar, and landscape.
- L. Provide for uniform and consistent enforcement of these regulations.

§ 90101.02 APPLICABILITY

The provisions and conditions of this Title shall apply to all lots, parcels, structures, use(s) of land or bodies of water created, utilized, established, constructed, altered, or improved by any person, firm, corporation, or organization; by the United States or any of its agencies; by the State of California or any of its agencies or political subdivisions; by any County or City; by any authority, district or public entity organized under the laws of the State of California. A governmental agency shall be exempt from the provisions of this chapter only to the extent that such property or use(s) may not be lawfully regulated by Imperial County.

EXEMPTION (PUBLIC ROADS)

The provisions of this Title are not applicable to construction and maintenance of public roads and other improvements that are within road right-of-way, provided such improvements are under the authority of the Imperial County Public Works Department or the California Department of Transportation (CalTrans),

Any such improvement that is not under the direct authority of the Department of Public Works or the CalTrans shall be subject to this Title.

EXEMPTION (PRE-EMPTION)

Specifically exempted is any area of regulation that is preempted by Federal or State Law. It shall, however, be the burden of proof of any person, firm, corporation or public entity or agency to provide to the Planning & Development Services Department the law or section granting such specific exemption. Until the County is satisfied that a pre-emption exists, it shall be unlawful and a violation of this Title for any person, firm, corporation, organization, private agency or public agency to establish, construct, alter, repair, replace, operate or maintain any building, structure or use of land or body of water in violation of or without complying with all the provisions of this Title.

Enforcement shall be implemented as described in Division 13.

§ 90101.03 RELATIONSHIP TO OTHER REGULATIONS

All uses of land and development authorized or governed by this Title shall comply with all other applicable local, State, or Federal regulations and/or requirements. Where two or more ordinances, laws or regulations govern the same use or activity the more restrictive law or ordinance shall apply.

§ 90101.04 PROJECTS UNDER CONSTRUCTION

Any project, building or structure for which a building permit has been issued prior to the effective date of this Title may be completed and used in accordance with the plan, specifications, and permits upon which said building permit was granted provided the construction is started within six months after the issuance of said building permit and is diligently pursued to completion. No extension of time shall be granted for the

completion of the construction beyond the initial 36-month period from date issued. In the event that the construction of the project continues for more than three years after the effective date of the building permit, the project building or structure shall meet the requirements of this Title.

EXCEPTION:

A variance from the strict time limit enforcement of this Section 90101.04 may be authorized by the Planning Director or the Planning Commission, pursuant to procedures under Division 2, Chapter 2, (Section 90202.00 et seq.) and provided that the Planning Director and/or the Planning Commission makes adequate findings.

§ 90101.05 GENERAL COMPLIANCE

- A. It shall be unlawful for any building or structure to be moved, erected, reconstructed, added to, enlarged, altered, used, advertised on, or maintained for any use that does not strictly conform to provisions of this Title. No structure or land shall be used for any purpose except as specifically provided and allowed by this Title with respect to the land use, height, set back, lot coverage, and all other regulations, conditions and limitations prescribed by this Title.
- B. It shall be unlawful for any yard, open space, or land to be used for any purpose not specifically permitted by this Title.
- C. Any use not specifically permitted by the provisions of this ordinance is hereby strictly prohibited. Any and all prohibited uses specified at any place within this ordinance are examples only and are not to be construed or interpreted as a complete listing of any and all prohibited uses.
- D. No County Department, County official, or other employee of the County of Imperial entrusted with a duty or authority to issue permits or licenses for buildings, structures, or uses of land that are subject to the requirements of this Title shall issue a permit or license in conflict with the provisions of this chapter and this Title. All such County permits shall first be approved for zoning compliance, by the Planning & Development Services Department. Any permit or license or other grant of authority issued in conflict with any provisions of this Title shall be null and void.
- E. No permit, license or authorization to use premises shall be issued by any Department, Official, or employee of the County of Imperial for any building, structure, or land use, subject to the requirement of this Title on a parcel of land were the department, official or employee is aware that a violation of this Title exists at time of issuance.

§ 90101.06 INTERPRETATION

- A. Provisions of this chapter shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare.
- B. Terms and/or words not defined in this Title shall be interpreted as defined in Webster's Dictionary.
- C. Misinformation or information that is erroneously presented by any Official or employee of the County of Imperial does not negate, nor does it diminish the provisions of this Title.
- D. Whenever a number of days is specified in this Title, or in any permit, or condition of approval, or notice issued, or given as set forth in this ordinance, such number of days shall be deemed to be the consecutive calendar days unless otherwise specified.
- E. Whenever application of this Title results in a rounding of quantities such as fractions all quantities are to be rounded to the next higher whole number when the fraction is .50 or more and to the next lower whole number when the fraction is .499 or less.
- F. Wherever there is a need for interpretation as to meaning or intent of this legislative language, the Planning Director shall have the power to interpret the regulation and/or standards contained in this

Title. When such interpretation is necessitated by a lack of specificity in making such interpretation, the Planning Director shall take into consideration past policy, intent, health and safety concerns, and compliance with the General Plan. In the event that any person is aggrieved by the interpretation of the Planning Director, the interpretation may be appealed to the Board of Supervisors. The interpretation shall be in writing and shall become part of this Title only to the extent those future similar situations may use the same interpretation.

§ **90101.07 VIOLATIONS/ PENALTY**

Any person, firm, or corporation using any facility, building, structure, acreage, lot or parcel of land in violation of any provisions of this Title is guilty of a misdemeanor and shall be prosecuted to fullest extent of the law as provided for under Division 13.

§ **90101.08 JUDICIAL REVIEW TIME**

Any court action or other legal proceeding to attack, review, set aside, void or nullify matters pertaining to, or set forth in this Title or concerning any of the proceedings or determinations taken, or to determine the reasonableness, legality or validity of any condition shall be filed within thirty (30) days (or as provided by statute) after the date such action becomes final. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such action, determination or decision.

§ **90101.09 SEVERABILITY**

If any chapter, division, section, subsection, paragraph, subparagraph, sentence, clause, phrase or word of this Title is for any reason held to be invalid, unenforceable, or unconstitutional, such determination shall not affect the validity of the remaining portions of this Title. It is hereby declared by the Board of Supervisors, that this Title and each and every division, chapter, section, subsection, paragraph, sub-paragraph, sentence, clause, phrase and word would have been adopted irrespective of the fact that a portion of this Title is declared invalid, unenforceable or unconstitutional.

§ **90101.10 FINALITY OF DECISION**

Where a specific project has been heard through the required public hearing process and said hearing body (Planning Director, Planning Commission or Board of Supervisors) has reached a decision, said decision shall be deemed Final by that hearing body and no rehearing of the same project shall be allowed by that hearing body without the filing of a complete new application.

EXCEPTION:

- A. Where a decision of the Planning Director is appealable to the Planning Commission under provisions of this Title, any party may appeal that decision to the Planning Commission by filing a written request for an appeal along with the requisite fees with the Planning & Development Services Department, provided further that it is filed within ten (10) calendar days of the decision date, and is in compliance with Sections 90102.04.
- B. Where a decision of the Planning Commission is appealable to the Board of Supervisors under provisions of this Title, the applicant or any party may appeal the Planning Commission's decision to the Board of Supervisors, by filing a written request for appeal along with requisite fees with the Clerk of the Board of Supervisors, provided further that said appeal is filed within ten (10) calendar days of the Planning Commission's decision and is in compliance with Sections 90102.04.
- C. Where it is provided by statute or ordinance that the Board of Supervisors is the hearing body on a project, no appeal and no re-hearing shall be held by the Board except as provided herein.
- D. Where the Planning Commission is by this title or law or other ordinance the hearing body on a project, no re-hearing shall be allowed on a project, except as provided for herein.

- E. Both the Planning Commission and the Board of Supervisors shall only be allowed to re-hear or re-consider a project if any one or all of the following conditions are found to exist. The burden of proof that one or all of the following existed rests with the party requesting reconsideration:
1. A member of the decision-making body failed to declare a conflict of interest in the project, and the decision could be different, had said member abstained.
 2. Procedural errors occurred during the hearing process that in the opinion of County Counsel necessitate re-hearing the project.
 3. The hearing body clearly relied upon false or erroneous technical information in reaching its decision.
 4. The project was not legally or adequately noticed for the hearing as determined by County Counsel.
 5. A court of proper jurisdiction makes findings and orders the hearing body to re-consider the project.
 6. On a 4/5's vote the Board of Supervisors, upon making adequate findings, may re-consider a project.
- F. The following **shall not** be considered or allowed as grounds for a re-hearing:
1. Applicant or his representative were not adequately prepared.
 2. Opposition to a project was not adequately prepared.
 3. The full hearing body was not present for the decision, (unless the original hearing resulted in a tie vote).
 4. New information (which could have been or was available) is made available by applicant or any party.
 5. Relocation of project from one site to another.
 6. Change in representation on the hearing body.
 7. Any individual Board member or Commission member wants to re-consider.
 8. Threat of litigation.

§ 90101.11 DECISION AUTHORITY

The following matrix delineates the hearing body with authority to hear the project and an appeal on any project.

The key to symbols is as follows:

P/D= Planning Director- Building Official

P/C= Planning Commission

B/S= Board of Supervisors

(x) Represents the original hearing body on the specified project.

(0) Represents the body that may hear a project on appeal from decision of the original hearing body.

(-) Represents that there is no appeal hearing at this level.

(X0) Represents the body that may hear a project on appeal or the original hearing body.

1. Decision of the Planning Director acting as Building Official and related to construction determinations may be appealed under specific conditions to the Board of Supervisors, however, only after review and decision by Building Board of Appeals.
2. Decision of the Planning Director/Building Official on the Underground Storage Tank (UST) related permits may be appealed to the Board of Supervisors, however, only after review by the UST Appeals Board.
2. The term "Building Permits" shall include all construction permits, such as electrical, plumbing, mechanical, etc., and shall also include decisions and enforcement actions by the Building Official.
3. The Planning & Development Services Department Director may refer a project to the Planning Commission at his/her discretion.

<u>PERMIT/PROJECT TYPE</u>	<u>HEARING BODY</u>		
	P/D	P/C	B/S
BUILDING PERMIT(S)	X	-	0 (1)
UST PROGRAM PERMITS	X	-	0 (2)
MOBILE HOME ANNUAL PERMIT (State)	X	-	-
MINOR SUBDIVISIONS	X	X0	0
MAJOR SUBDIVISIONS	N/A	X	0
LOT LINE ADJUSTMENTS	X	0	0
LOT MERGER	X	0	0
REVERSION TO ACREAGE	N/A	X	0
CERTIFICATE OF COMPLIANCE	X	0	-
CONDITIONAL USE PERMIT (Second Dwelling Only)	X	0	-
CONDITIONAL USE PERMIT (Minor)	X	0	-
CONDITIONAL USE PERMIT (Intermediate)	N/A	X	X0
CONDITIONAL USE PERMIT (Major)	N/A	X	X0
GENERAL PLAN AMENDMENT	N/A	X	X
ZONE CHANGE	N/A	X	X
SPECIFIC PLAN(S)	N/A	X	X-
VARIANCE	X	X0	0
CEQA CERTIFICATIONS (Negative/Mitigated Dec only)	X	X	X
CEQA CERTIFICATIONS (EIR)	N/A	X	X-
NOTICE OF EXEMPTION	X	X0	0
MINING PERMITS	N/A	X	0
MINING EXPLORATORY	N/A	X	0
RECLAMATION PLAN (Minor)	N/A	X	0
RECLAMATION PLAN (Major)	N/A	X	0
GEOHERMAL	N/A	X	X0
EEC DETERMINATION APPEAL	N/A	0	-

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TITLE 9

DIVISION 1: ENACTMENT, APPLICABILITY & AMENDMENT

CHAPTER 2: PLANNING & DEVELOPMENT SERVICES DEPARTMENT

§ 90102.00	PURPOSE
§ 90102.01	PLANNING & DEVELOPMENT SERVICES DEPARTMENT
§ 90102.02	DELEGATION OF RESPONSIBILITY AND AUTHORITY
§ 90102.03	ZONING ADMINISTRATION
§ 90102.04	APPEAL FROM PLANNING DIRECTOR DECISION
§ 90102.05	CITATION AUTHORITY
§ 90102.06	FEES

§ **90102.00 PURPOSE**

The purpose of this chapter is to establish general rules for the administration and the implementation of this Title.

§ **90102.01 PLANNING & DEVELOPMENT SERVICES DEPARTMENT**

There is hereby established a Planning & Development Services Department. A Planning Director shall head the Planning & Development Services Department. The Planning Director, hereinafter "Director", shall be appointed by the Board of Supervisors and serve at the direction of the majority of the Board. The Director shall perform and implement such written duties and direction as is given by the Board of Supervisors. In addition hereto, the Director shall also serve as the Building Official, Secretary to the Planning Commission, Secretary to the Airport Land Use Commission, Secretary to the Building Board of Appeals, Secretary to the Underground Storage Appeals Board and serve as Flood Plain Administrator. As such, the Director shall have such powers and duties necessary to carry out all of the responsibilities of each function.

§ **90102.02 DELEGATION OF RESPONSIBILITY AND AUTHORITY**

It shall be the responsibility of the Planning & Development Services Department to uniformly, consistently, effectively, and strictly enforce the provisions of this Title. In doing so, the Director may delegate any responsibility or authority charged to him or her by any section of this Title to any qualified employee within the Imperial County Planning & Development Services Department unless such action is specifically prohibited by a Board Ordinance or resolution.

The Planning Director is hereby delegated the authority by the Board of Supervisors to sign all Parcel and Final Maps, Certificate(s) of Compliance, Condemnation Orders, Citations, and such other legal documents necessary to carry out the duties, functions and responsibilities of the Planning & Development Services Department.

In the absence of the Director, the Assistant Planning Director shall have the same authority as the Director, unless otherwise directed by this Title, a Board resolution, or Ordinance.

§ **90102.03 ZONING (LAND USE) ADMINISTRATION**

It shall be the responsibility of the Planning & Development Services Department to be lead agency and shall review any and all application(s) for permit(s) to determine whether the proposed project or projects are in compliance with the regulations of this Title, and the General Plan. The Planning Director (or the Planning Director serving as Building Official) shall act as a hearing officer and is vested with original jurisdiction to investigate, consider, and approve, or deny the following;

- A. **Building Permits**, and construction determinations (appealable to Building Board of Appeals and only then to the Board of Supervisors. The Board of Supervisors shall not act on an appeal without a recommendation or decision from the Building Board of Appeals.

- B. **Variances**, (appealable to the Planning Commission and only then to the Board of Supervisors)
- C. **Minor Conditional Use Permits**, (appealable to Planning Commission and only then to the Board of Supervisors)
- D. **Interpretation**, of this Ordinance including words and phrases thereof. (Appealable to Planning Commission whose decision may be appealed to the Board of Supervisors, only after the Planning Commission has rendered a decision)
- E. **Minor Subdivisions**, (appealable to Planning Commission and only then to the Board of Supervisors)
- F. **Lot Line Adjustments**, (appealable to Planning Commission and only then the Board of Supervisors)
- G. **Lot Mergers**, (appealable to the Planning Commission and only then the Board of Supervisors)
- H. **Certificates of Compliance**, (appealable to the Planning Commission with no appeal to the Board of Supervisors)
- I. Approve **Negative Declarations** and/or **Mitigated Negative Declarations**, under CEQA as specified within provisions of this Title and under the "Rules and Regulations to Implement CEQA, as Amended", and then only for projects for which the Director has original jurisdiction, as shown in Section 90101.11.
- J. Approve all CEQA related documentation necessary to carry out the duties of the Director, except to certify Environmental Impact Reports (EIR).

NOTE:

- 1. Nothing within this division shall prevent the Planning Director from forwarding any application to the Planning Commission for a determination, with or without first making a determination, provided it is without prejudice and no appeal costs will be charged.
- 2. Every appeal from one decision level to the next shall require a fee.

§ 90102.04 APPEAL FROM PLANNING DIRECTOR/BUILDING OFFICIAL DECISION

Upon the filing of an appeal from the Director's decision, the Director shall then schedule a hearing on the issue before the Planning Commission or other appropriate body, at the next regularly scheduled meeting for which noticing requirements can be met. A decision of the Director on planning issues shall not be appealable to the Board of Supervisors without first being heard by the Planning Commission, or in the case of Building Inspection issues, a hearing by the Building Board of Appeals, or in the case of the UST Program, a hearing by the UST Appeals Board.

Where an appeal is allowed by this Title, any person may appeal the decision of the Planning Director on a specific project provided such an appeal meets the following requirements:

- A. A written appeal is filed within ten (10) calendar days from the Planning Director's decision on land use projects or decisions.
- B. The appeal is filed with the Planning & Development Services Department.
- C. The requisite fees are included.
- D. The written appeal clearly states the following:

1. Name of person(s) filing appeal
2. Address & phone number of person(s) filing
3. Project/decision being appealed
4. Reason for filing appeal
5. Facts, condition(s), information, error, or other specifics to warrant appeal
6. Prior effort(s) made to arrive at acceptable solution if any
7. Action being requested (i.e. deny project, approve project, modify conditions, etc.)
8. Signature of applicant.

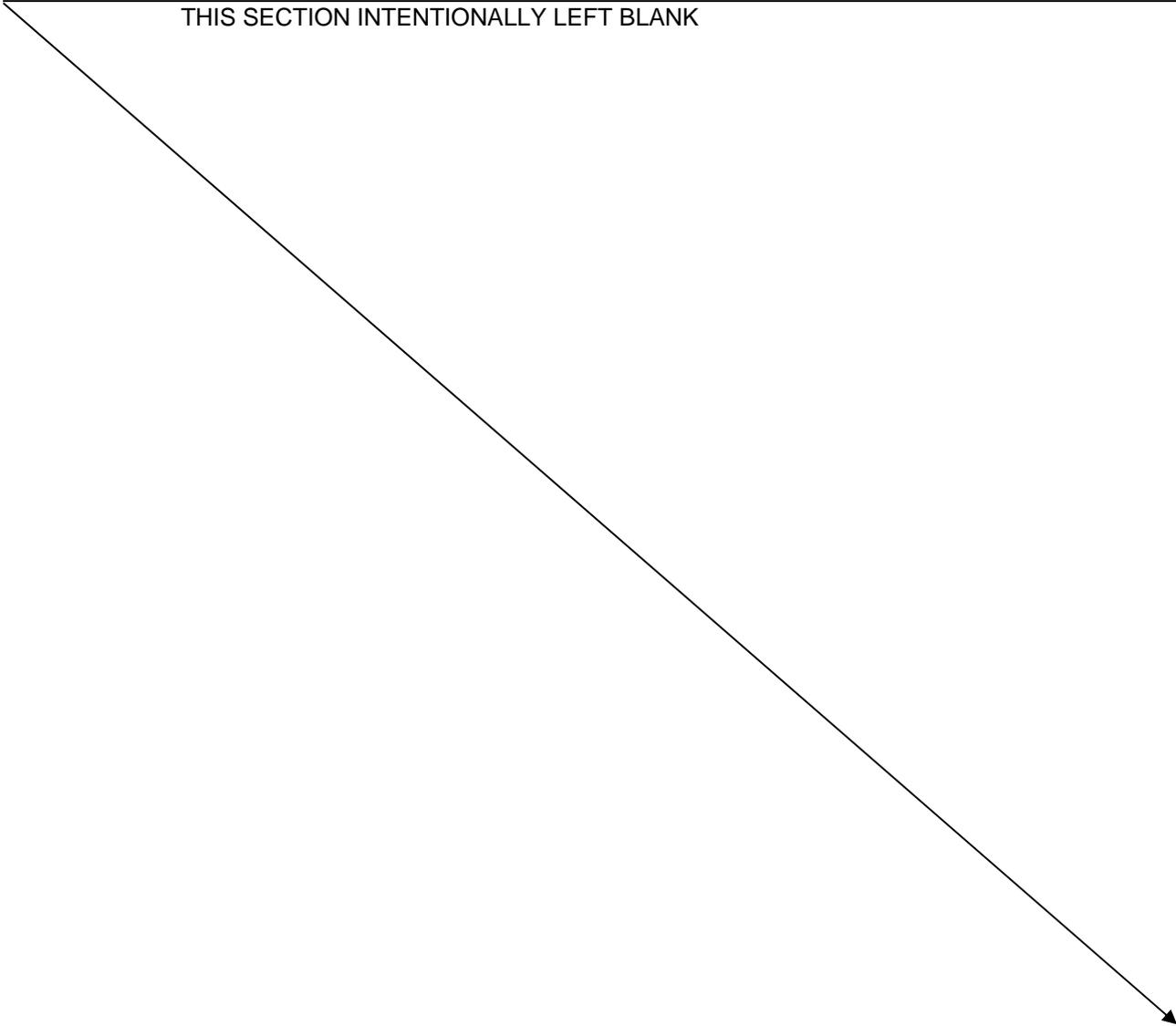
§ 90102.05 CITATION AUTHORITY

The Planning & Development Services Department, the Planning Director, and any qualified designee of the Planning Director shall have authority to issue citations for violation of this Title (Reference Division 13).

§ 90102.06 FEES

The Board of Supervisors, shall establish required fee(s) for the processing of any application specified within this Title, provided the fee does not exceed the estimated actual cost of processing such an application. The Board of Supervisors shall adopt and make periodic revisions to the schedule of fees for processing all such land use applications. The schedule of fees shall be incorporated in this Title under Division 9.

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TITLE 9

DIVISION 1: ENACTMENT, APPLICABILITY & AMENDMENT

CHAPTER 3: PLANNING COMMISSION

§ 90103.00	PLANNING COMMISSION
§ 90103.01	CREATION AND ORGANIZATION
§ 90103.02	TERM & QUALIFICATION
§ 90103.03	VACANCY
§ 90103.04	COMPENSATION
§ 90103.05	OFFICERS AND ADVISORS
§ 90103.06	RULES FOR THE TRANSACTION OF BUSINESS
§ 90103.07	MEETING(S)
§ 90103.08	POWERS AND DUTIES
§ 90103.09	PROCEDURAL PROTOCOL
§ 90103.10	RULES OF PROCEDURE BY THE COMMISSION

§ 90103.00 PLANNING COMMISSION

The Planning Commission of the County of Imperial is an advisory and a decision-making authority created by the Board of Supervisors and is herewith empowered the duties and responsibilities specified within this chapter.

§ 90103.01 CREATION AND ORGANIZATION

The Planning Commission shall consist of ten (10) members as appointed by the Board of Supervisors. Each member of the Board of Supervisors shall appoint two (2) Planning Commission members and said Commission member(s) shall reside in the Supervisorial district of the appointing Supervisor. A Supervisor shall make an appointment in writing to the Clerk of the Board and the Planning Director. The Clerk of the Board shall then place the name of the appointee on the next Board of Supervisor's Agenda as a public information item at which time the appointment shall be deemed effective.

§ 90103.02 TERM & QUALIFICATION

- A. The term of office of each Commission member shall run concurrently with the term of office of the Supervisor who appointed the Commissioner.
- B. Should the appointing Supervisor leave office for any reason, the appointment of each Commission member appointed by said Supervisor shall expire when the Supervisor leaves office, and the successor Supervisor shall appoint a person to serve the balance of the unexpired portion of the term. An appointee whose term has expired shall serve until a successor is appointed.
- C. The Supervisor making said appointment shall have the power to remove said appointee from the Planning Commission. If the Supervisor chooses to remove an appointee, the Supervisor shall do so in writing by filing a notice with the Planning Director and the Clerk of the Board of Supervisors. The Clerk of the Board of Supervisors shall place it on the next public agenda as a public information item. The removal shall be effective on the date the item is on the Board's agenda.
- D. Notwithstanding Subsection (A), (B), and (C) of Section 90103.02, the Board of Supervisors, by a four-fifth's (4/5) vote, may remove any member or members of the Planning Commission.
- E. Any appointee shall be a registered voter within Imperial County at time of appointment, and shall throughout the appointment continue to be registered.

§ **90103.03 VACANCY**

- A. Vacancy in office of a member of the Commission shall occur upon the expiration of their term, death, resignation, removal from or forfeiture of office. A forfeiture shall occur when the member of the Commission ceases to be a resident of the Supervisorial district for which he or she is appointed.
- B. Should a vacancy occur on the Commission, the vacancy shall be filled by the Supervisor in whose district the vacancy occurred for the unexpired portion of the term.
- C. Should a supervisor fail to appoint a member to the Commission for ninety (90) days from the date of a vacancy occurring, the Board shall make such appointment.

§ **90103.04 COMPENSATION**

Members of the Planning Commission shall receive compensation as established by a resolution by the Board of Supervisors. In addition, they shall receive reasonable traveling expenses to and from the place of meeting of said Commission. Mileage costs for individual trips to specific project locations SHALL NOT BE PAID, unless, authorized by the Board of Supervisors.

§ **90103.05 OFFICERS AND ADVISORS**

Each calendar year (during January) the Commission shall elect a Chairperson and a Vice-Chairperson from among the appointed members, who shall serve for a term of one (1) year. The Planning Director shall serve as Secretary to the Commission and the Planning & Development Services Department shall be staff to the Commission. Other officers or Department Heads as appointed by the Board of Supervisors shall serve as advisers to the Commission.

§ **90103.06 RULES FOR THE TRANSACTION OF BUSINESS**

- A. A majority of the appointed members of the Planning Commission shall constitute a "quorum" for the transaction of business. A majority of all members appointed must concur on any decision. (i.e. 6/10 - 5/9 - 5/8, 4/7. etc.). Imperial County has 10 appointed Planning Commissioners.
- B. The Commission shall conduct its business according to the Rules for the transaction of business under Section 90103.10. The Commission shall keep a record of all resolution(s), transactions, findings and/or determination. The Commission shall record, all meetings via mechanical recording devices, and all such recordings shall be public record.
- C. Transcriptions of any hearing shall be done only through the Planning & Development Services Department and shall be at full cost to requesting party.

§ **90103.07 MEETING(S)**

- A. The Commission may hold one or two regular meetings each month and may hold such additional and special meetings as may be called by the Chairperson by giving special notice as required by law.
- B. The Commission shall hold its regular monthly meeting(s) on either the second and/or fourth Wednesday of each and every month at 9 a.m. in the County Administration Center, Board of Supervisors Chambers, unless otherwise specified.
- C. Regular, special or specially adjourned meetings may be held at other locations and times so long as notice is given as required by law, pursuant to Section 90104.03 of this Title. Any special meeting held at the request of a project applicant shall be paid for in full by requesting party, and shall only be held if so approved by the Chairperson.

§ **90103.08 POWERS AND DUTIES**

A. Develop and maintain General Plan

It shall be the function and the duty of the Planning Commission, to prepare, maintain, and recommend adoption of a General Plan, including any specific plan(s), for the physical development of the County. Adopting, reviewing and enforcing the General Plan shall be the highest responsibility of the Commission.

B. Action upon Subdivision Maps

It shall be the function and duty of the Planning Commission to consider, approve and/or deny minor subdivision tentative maps as provided in the Subdivision Ordinance [Division 8], and to consider, recommend approval or denial to the Board of Supervisors for all major subdivisions [tentative maps] presented and filed with said Commission.

C. Action upon Conditional Use Permits

It shall be the function and duty of the Planning Commission to review, consider, approve and/or deny any request for a Conditional Use Permit submitted and filed with said Commission, in accordance with the provision of this Division.

D. Action upon Variance

It shall be the function and duty of the Planning Commission to review, consider, approve or deny all requests for a Variance presented to and filed with said Commission, as provided within this division.

E. Compliance with CEQA

It shall be the function and duty of the Planning Commission to assure that all projects meet and are in full compliance with the California Environmental Quality Act (CEQA) and the County's Rules and Regulations to Implement CEQA. The Commission shall have the authority to certify any negative declaration or mitigated negative declaration and require or certify an environmental impact report.

The Commission shall also have the authority to investigate, request reports, and/or order compliance on projects that in its opinion are or should be subject to CEQA.

F. General Duties

It shall be the duty and responsibility of the Planning Commission to review the Capital Improvement Program(s) of the County of Imperial. It shall perform such other function(s) as the Board of Supervisors may prescribe and likewise shall have such powers and duties as prescribed by law.

G. Interpretation

It shall be the duty and responsibility of the Planning Commission, to recommend to the Board of Supervisors its interpretation on the meaning or intent or definition of any word, phrases or provision(s) within this Title.

H. Advisory Agency

The Planning Commission shall be an Advisory Agency to the Board of Supervisors on any legislative land use planning program, document, ordinance, or plan that is intended to be adopted by the County of Imperial.

§ **90103.09 PROCEDURAL PROTOCOL**

No land use permit or project requiring compliance with this Title shall be heard and decided upon by the Board of Supervisors unless said permit or project is first reviewed and considered by the Planning Commission. The Board of Supervisors shall not adopt or approve a Plan, Ordinance, Variance, or Land Use Permit without first receiving a report and/or recommendation from the Planning Commission. If the Board does consider and approve such a project without first receiving input from the Commission, the project approval shall be deemed null and void, unless said project is determined by the Board to be an emergency, on a 4/5 vote.

§ **90103.10 RULES OF PROCEDURE BY THE COMMISSION**

- A. Meeting time shall be at 9:00 a.m. unless otherwise specified by public notice.
- B. Meeting date shall be the 2nd and 4th Wednesday of every month unless a special meeting is called by the Chairperson and/or a meeting is not necessary as determined by the Planning Director.
- C. The Chairperson shall preside at all meetings except in his/her absence it shall be the Vice-chairperson, who shall sit as Chairperson and perform the duties of the Chairperson. In the event both the Chairperson and the Vice-chairperson are absent, the acting Chairperson shall be the previous year's Chairperson/Vice Chairperson.
- D. The meeting shall be called to order by the Chairperson and roll call shall be taken first.
- E. Minutes of the previous meeting shall be reviewed and adopted or adopted as amended.
- F. The Chairperson shall call the projects on the Agenda in the order of the Agenda, however, the Chairperson may take items out of sequence as necessary.
- G. Any commissioner who has a conflict on an item, shall either at the beginning of the meeting or immediately prior to hearing the item, declare the conflict and state the reason for the conflict and shall not serve on the Commission for said item. The Commissioner shall step down from the Commission, and shall not participate in the hearing, except as an individual.
- H. Every project shall be read into the record by staff and the Commission shall allow for an open public hearing on each item.
- I. Before a motion is accepted, the public hearing shall be closed and the Commissioners shall have an opportunity to make comments or ask questions.
- J. If a question by a Commissioner is asked after the public hearing is closed, and it requires an answer from the applicant, the hearing is not re-opened to the public and is only open to the applicant to the extent of directly answering the question.
- K. The Chairperson has the ability and the right to limit the amount of time a person has to address the Commission, which may also include the Commissioner's time.
- L. Discussions between Commissioners and/or staff after public hearing period is closed shall not require re-opening the hearing to public.
- M. If a motion receives less than a majority vote of all members appointed the motion fails. The Commission may make as many motions as it deems necessary on a project. However once a motion to approve fails and a motion to deny fails, the project shall be deemed denied, and automatically forwarded to the Board of Supervisors.

TITLE 9

DIVISION 1: ENACTMENT, APPLICABILITY AND AMENDMENT

CHAPTER 4: HEARING/PROCEDURES

§ 90104.00	APPLICATION FORM AND CONTENT
§ 90104.01	APPLICATION PROCEDURE
§ 90104.02	HEARING SCHEDULING
§ 90104.03	NOTICING (PUBLIC/APPLICANT)
§ 90104.04	FINAL DECISION
§ 90104.05	APPEAL FROM DECISION
§ 90104.06	APPEAL BY BOARD OF SUPERVISOR MEMBER
§ 90104.07	REHEARING/RECONSIDERATION
§ 90104.08	INVESTIGATION
§ 90104.09	RIGHT OF ENTRY
§ 90104.10	CONTINUANCE OF HEARINGS

§ 90104.00 APPLICATION FORM AND CONTENT

Each application for a land use permit shall be filed with the Planning & Development Services Department in the proper form and format required by the County. The Department shall make all required forms available to the applicant and at a minimum shall require the following information:

A: GENERAL:

1. Preliminary Title Report no more than six (6) months old (on specific projects).
2. General Indemnification Agreement
3. Notice to applicant of fees
4. Any other supporting documentation necessary for staff to adequately review request

B: APPLICATION: (General)

5. Applicant's name, address and telephone number.
6. Property owner's name, mailing address and telephone number.
7. Legal description of property
8. Assessor's Parcel Number(s)
9. Specific explanation of requested action, i.e. detailed project description
10. Signature of applicant; and if not property owner, signature of owner(s) or an Owner's Affidavit.

C: Site Plan: Every Application for a land use permit shall include a detailed "site plan". The site plan shall include such information deemed necessary by the Planning & Development Services Department and at a minimum shall include the following:

1. All property boundary lines
2. All property boundary dimensions
3. All existing structures (below & above ground)
4. All proposed structures (below and above ground)
5. Distance from all structures to property lines and between structures
6. North orientation
7. Scale
8. Access from adjacent street/road
9. All utility locations, (i.e. electrical, plumbing)
10. Name and telephone number of person(s) preparing plan
11. Location of known hazard areas, if any
12. Assessor's Parcel Number

- 13. Public Use Easement, if any
- 14. Parking
- 15. Drainage

The site plan shall be drawn upon substantial paper (2 large copies of 18" x 24" and 2 copies of 8½" x 11" or 11" x 17") using black ink. Plans drawn on 11" x 17" or larger paper must include at least one digital version (CD or other media) of the plans. "Blue print" and one-piece xerox copies are acceptable. The Department shall reject any site plan that is incomplete, inaccurate, illegible or otherwise unacceptable.

On all applications for action under the Subdivision Map Act, the application shall at a minimum also include the following information:

- A. Engineer/Surveyors name, address, license and telephone number
- B. Preliminary Title Report on property (no more than six [6] months old)
- C. Name, address and telephone number of all parties with legal interest in the property.

All applications shall include the proper fee as required under Division 9 of this Title.

§ 90104.01 APPLICATION PROCEDURE

Every application submitted shall be deemed "received" on the date of submittal and shall be signed and dated by the Department staff. The Department shall within a maximum of thirty (30) days from receipt determine whether an application is complete or incomplete. Any application deemed complete shall be reviewed, processed by staff, and scheduled for the next hearing body as applicable under this Division.

Any application deemed incomplete shall be returned to the applicant with a written letter of transmittal, explaining the reasons for the rejection.

A re-submittal of a rejected application shall be deemed the equivalent of a new application and all procedures and time frames shall be as a new application.

Under no conditions shall the Department accept an incomplete application and commence processing it, unless and until all necessary information and supporting documentation is provided.

Failure of an applicant to submit the correct fees shall constitute an immediate rejection without further review.

§ 90104.02 HEARING SCHEDULING

The Department shall schedule all projects for the appropriate decision-making body by allowing adequate review time for staff and responsible departments/agencies, yet within time limits established by law. Under no circumstances shall a project be heard by a decision-making body without all required noticing having been provided.

The Department shall publish on an annual basis its schedule of Planning Commission dates.

§ 90104.03 NOTICING (PUBLIC/APPLICANT)

The Department shall strictly adhere to the following noticing requirement.

A. PLANNING DIRECTOR ACTION PROJECTS

For PROJECTS FOR WHICH THE DIRECTOR IS THE AUTHORIZED HEARING OFFICER, the following notice is to be provided:

- 1. A one time publication in a newspaper of greatest circulation (within County) at a minimum of ten (10) calendar days prior to the hearing date, and

2. Direct mail notice to applicant, all parties of record interest, all parties having filed a written request to receive notices, all contiguous property owners; and, one of the following:
 - a. In the R-1, R-2, R-3, R-4 Zones, all adjacent property owners whose property is within 500 feet of the exterior boundary of the subject parcel,
 - b. In the A-1, A-2, A-3, A-A, AM-1, AM-2, S-1 and S-2 Zone, all adjacent property owners whose property is within 1/2 mile of the exterior boundary of the subject parcel,
 - c. In all zones, except as specified in 'a' and 'b' above, all adjacent property owners whose property is within 1,000 feet of the exterior boundary of subject parcel.
- B. PROJECTS ONLY TO BE HEARD BY THE ENVIRONMENTAL EVALUATION COMMITTEE (EEC)**
1. A one time publication in a newspaper of greatest circulation (within County) at a minimum of five (5) calendar days prior to hearing date, and
 2. Direct mail notice to applicant and any party having requested a notice in writing.
- C. PROJECTS TO BE HEARD BY THE PLANNING COMMISSION**
1. A one time publication in a newspaper of greatest circulation at a minimum of ten (10) calendar days prior to hearing date, and
 2. Direct mail notice to applicant, all parties of record interest, all parties having filed a written request to receive notices, all contiguous property owners; and, one of the following:
 - a. In the R-1, R-2, R-3, R-4 Zones, all adjacent property owners whose property is within 500 feet of the exterior boundary of the subject parcel,
 - b. In the A-1, A-2, A-3, A-A, AM-1, AM-2, S-1 and S-2 Zone, all adjacent property owners whose property is within 1/2 mile of the exterior boundary of the subject parcel,
 - c. In all zones, except as specified in 'a' and 'b' above, all adjacent property owners whose property is within 1,000 feet of the exterior boundary of subject parcel.
 3. Posting the Commission agenda at the Planning & Services Department Office at least ten (10) calendar days prior to hearing.
- D. PROJECTS TO BE HEARD BY THE BOARD OF SUPERVISORS**

The Planning & Development Services Department shall notice all projects scheduled before the Board of Supervisors, as provided under Section 90104.03-'C' inclusive.

§ 90104.04 FINAL DECISION

Any decision made by a hearing body (Planning Director, Planning Commission, and/or Board of Supervisors) shall be deemed a final decision unless appealed to the next administrative hearing body as provided under Section 90101.10. No hearing body shall be allowed to re-hear or re-consider its decision, except as provided for under Section 90101.10.

§ 90104.05 APPEAL FROM DECISION

- A. Any decision made by the planning director acting as the hearing officer on a project as authorized within this title may be appealed to the planning commission as provided in Section 90102.04.
- B. Any decision made by the planning commission, as shown in Section 90101.11, may be appealed to the board of supervisors, provided as follows:

Where an appeal is allowed by this title, any person may appeal the decision of the planning commission, provided such appeal meets the following requirements:

- 1. A written appeal is filed within ten (10) calendar days from the planning commission's decision.
- 2. The request is filed with the planning director;
- 3. The requisite fees are included;
- 4. The written appeal clearly states the following:
 - a. Name of person(s) filing appeal,
 - b. Address and phone number of person(s) filing appeal,
 - c. Project/decision being appealed,
 - d. Reason for filing appeal,
 - e. Facts, condition(s), information, error, or other specifics to warrant appeal,
 - f. Prior effort(s) made to arrive at acceptable solution if any,
 - g. Action being requested (i.e. deny project, approve project, modify conditions, etc.),
 - h. Signature of appellant.

The planning director shall not accept an appeal if filed after five (5) p.m. on the tenth calendar day from the planning commission decision date, and further shall not accept an appeal unless it is in writing and clearly states the information above. The planning director shall immediately submit a copy of such an appeal to the clerk of the board of supervisors and county counsel.

The planning director shall then schedule a hearing for a date and time for which required public notice can be provided.

The board of supervisors may deny the scheduling of an appeal hearing if it is determined that the appeal has no standing, or the appeal request does not provide the information required above, or the same policy, procedure or direction has already been heard by the planning director or planning commission in prior case(s).

In the event the board of supervisors elects not to schedule an appeal all appeal fees shall be returned to appellant.

Once an appeal has been scheduled by the board of supervisors, no appeal fees shall be refunded unless the board of supervisors votes to refund on a 4/5 vote.

- C. Any decision made by the board of supervisors shall be final with no further appeal to an administrative body, except as provided by law.

§ 90104.06 APPEAL BY A MEMBER OF THE BOARD OF SUPERVISORS

No appeal from a Planning Commission decision may be filed by an individual Supervisor on behalf of any party, except as follows:

- A. A Board Member may file an appeal, in the same manner that any appeal shall be filed under Section 90104.05-'B', provided however that said Board Member shall not participate and vote on that project at time of hearing before the full Board.

B. The Board through a Minute Order may file an appeal of a Planning Commission decision, provided the Board can make one or all of the following findings:

1. The Commission did not have all of the facts, or information available,
2. The project is of regional significance and as such warrants a review by the Board,
3. The project approval/denial contained conditions, stipulations or agreements that only the Board has authority to grant.

§ 90104.07 REHEARING/RECONSIDERATION

All re-hearings and/or re-considerations by a decision making body are expressly prohibited except as provided under Section 90101.10.

§ 90104.08 INVESTIGATION

The Planning Director, the Planning Commission, or the Board of Supervisors may either upon the filing of an application or upon its own volition, initiate an investigation or research upon the matter under consideration. Such an investigation shall be an effort to obtain factual information that could then be used in the decision-making process.

§ 90104.09 RIGHT OF ENTRY

The Planning Director and/or any Planning & Development Services Department employee so designated by the Director, shall upon presentation of identification have the authority in the course of business to enter in or upon any parcel or building during normal business hours. For purpose of this Title, normal business hours shall mean 6:00 AM to 8:00 PM, Monday through Saturday and 8:00 AM to 5:00 PM on Sunday.

§ 90104.10 CONTINUANCE OF HEARING

Any scheduled hearing may be continued by the hearing body. If a continuance is granted it shall be for a specific date and time, and no continuance shall be granted that would cause the project to be heard beyond a statutory time limit.

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TITLE 9

DIVISION 1: ENACTMENT, APPLICABILITY & AMENDMENT

CHAPTER 5: NON- CONFORMING USES, BUILDINGS AND LOTS

§ 90105.00	PURPOSE AND APPLICATION
§ 90105.01	NON-CONFORMING STRUCTURES
§ 90105.02	NON-CONFORMING USE OF STRUCTURES
§ 90105.03	NON-CONFORMING USES OF LAND
§ 90105.04	NON-CONFORMING LOTS
§ 90105.05	NON-CONFORMING SETBACKS
§ 90105.06	NON-CONFORMING SIGNS
§ 90105.07	DETERMINATION OF NON-CONFORMING STATUS

§ 90105.00 PURPOSE AND APPLICATION

Within the zones established by this Title, there exist structures, uses, lots, signs and conditions which were or may have been lawful before this Title was passed or amended, but which would be prohibited or restricted under this Title. The Board of Supervisors declares that any non-conforming structures, uses, lots and signs that are incompatible with permitted uses in a specific zone shall not be enlarged, expanded or extended. Furthermore such non-conforming structures, uses and signs shall not be used as grounds for adding other structures, uses or signs prohibited by this Title.

§ 90105.01 NON-CONFORMING STRUCTURES

- A. Any non-conforming structure may be continued and maintained, provided there is no physical change other than the necessary maintenance and repair of such a structure except as otherwise provided by this Title.
- B. A non-conforming structure shall not be enlarged in area, space or volume.
- C. Any non-conforming structure which is vacant for a period of one (1) year or more shall not again be used or occupied for a non-conforming use.
- D. Any non-conforming commercial or industrial structure may be re-constructed, repaired or re-built when damaged by fire, earthquake, explosion or act of God, if the re-construction and repair expense does not exceed 50% of the assessed value of the building at the time such damage occurred, and provided there is no expansion of the total area of the building as it existed prior to the damage. Provided further that all such construction shall be commenced within one (1) year from the date of such damage. .
- E. Any non-conforming residential structures may be re-constructed, repaired or re-built when damaged by fire, earthquake, explosion or act of God, provided the re-construction and repair expense does not exceed the appraised value of the building at the time such damage occurred, and provided there is no expansion of the total area of the building as it existed prior to the damage. In determining the re-construction cost of any nonconforming structure, there shall not be included therein the cost of land or any factors other than those concerning the nonconforming structure itself. Provided further that all such construction shall be commenced within one (1) year from the date of such damage.
- F. Where buildings or accessory structures have been rendered non-conforming as a result of a change in front yard setback requirements, said buildings or structures may be re-constructed at the same location provided there is no greater degree of non-conformity.
- G. Any structure that has been issued a "Repair Order" by the Building Official may be repaired and brought into compliance with Health and Safety Code Regulations, however the repairs and renovations shall be limited to those so ordered.

- H. Any non-conforming structure issued a condemnation order shall not be re-built or renovated if it is a non-conforming structure.

§ **90105.02 NON-CONFORMING USE OF STRUCTURES**

- A. Any non-conforming use may be maintained and continued provided there is no increase or enlargement of the area, space or volume occupied or devoted to such non-conforming use except as otherwise provided herein.
- B. Any part of a building, structure, facility or land occupied by a non-conforming use that is changed to or replaced by a use conforming to the provisions of this Title shall not thereafter be used or occupied by a non-conforming use.
- C. Any part of a building, structure, facility or land occupied by a non-conforming use that has been abandoned for a period of one (1) year or more, shall not again be used or occupied for a non-conforming use.
- D. If no structural alterations are made, a non-conforming use of a building may be changed to a similar or lesser intensity non-conforming use, provided the amortization time is not extended.

§ **90105.03 NON-CONFORMING USES OF LAND**

- A. A non-conforming use of land shall not be expanded or extended in any way.
- B. A non-conforming use of land shall not be changed to or replaced by any other use except the use that complies with the regulations of the zone within which subject property lies.
- C. Any non-conforming use of land that has been abandoned for a period of one (1) year or more shall not be re-established.
- D. Non-conforming uses of land, where no main building or facility has been established, shall be discontinued within five (5) years of the effective date of this Title.

§ **90105.04 NON-CONFORMING LOTS**

Any lot which was legally recorded prior to the effective date of this Title may be used in conformance with the uses permitted by the zone in which it is located, provided that all yard and setback requirements are and can be met, and provided further that such lots can accommodate the necessary health and safety facilities such as septic tank, leach field systems, water wells, etc.

§ **90105.05 NON-CONFORMING SETBACKS**

Any use permitted under the provisions of this Title that currently exist with non-conforming setbacks may be replaced upon the same location if damaged or destroyed by fire, earthquake, explosion or act of God, regardless of the cost of such construction. However, under this provision no new portion of such replacement may be placed within these non-conforming setbacks.

§ **90105.06 NON-CONFORMING SIGNS**

- A. The provisions of this Section shall apply to all signs in the unincorporated areas of the County. Except as otherwise provided in this Title, any sign lawful in use on the effective date of this Title, but made non-conforming by this Title may continue to be used for a period of five (5) years. Any sign which becomes non-conforming because of an amendment to this Title may be continued for a period of five (5) years from the effective date of any such amendment.
- B. Non-conforming signs existing beyond five (5) years as provided for in Sub-Section A. are declared illegal signs and a public nuisance, and shall be abated.

- C. Non-conforming signs shall be kept in good repair during the five-(5) year period the sign may be used. Alterations or modifications to any non-conforming sign are prohibited except for structural repair resulting in the same size or shape and for routine maintenance. However, such repair maintenance shall not be cause for an additional extension.
- D. A requirement for a non-conforming sign to be removed or altered so as to comply with the requirements of this Title may be imposed as a condition on the approval of a Subdivision, a Conditional Use Permit, a Variance or other discretionary land use entitlement.

§ 90105.07 DETERMINATION OF NON-CONFORMING STATUS

Where there is doubt regarding the legal non-conforming status of a structure, use of structures, uses of land, parcel size or sign, documentation shall be submitted to the Director of Planning to establish its' legal non-conforming status.

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TITLE 9

DIVISION 1: ENACTMENT, APPLICABILITY & AMENDMENT

CHAPTER 6: ENCROACHMENTS IN THE SALTON SEA

- § 90106.00 CONSTRUCTION BELOW THE MINUS 220 FOOT CONTOUR PROHIBITED WITHOUT A PERMIT
- § 90106.01 PERMIT, ISSUANCE AND CONDITIONS

§ 90106.00 CONSTRUCTION BELOW THE MINUS 220 FOOT CONTOUR PROHIBITED WITHOUT A PERMIT

It shall be unlawful for any person, firm, or corporation to erect or construct, or cause to be erected or constructed, or to alter or cause to be erected or constructed, or to alter or cause to be altered, any building, structure, or improvement below the minus 220 foot contour along any portion of the Salton Sea in said County, without first obtaining a written permit therefore.

§ 90106.01 PERMIT, ISSUANCE AND CONDITIONS

- A. The County Planning Director is hereby designated as the County officer to be in charge of the issuance of permits.
- B. No permit shall be issued for any purposes unless and until the applicant therefore has executed a flooding easement, to run with the land upon which such building or alteration will be performed, the same to run in favor of the County of Imperial and the Imperial Irrigation District.

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TITLE 9

DIVISION 1: ENACTMENT, APPLICABILITY & AMENDMENT

CHAPTER 7: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) & MITIGATION MONITORING PROGRAM

§ 90107.00	PURPOSE AND INTENT
§ 90107.01	CEQA MITIGATION MONITORING PROGRAM
§ 90107.02	REPORT PROCEDURES
§ 90107.03	MONITORING FEES
§ 90107.04	OUTSIDE CONSULTANT(S)
§ 90107.05	PENALTIES FOR NON-COMPLIANCE
§ 90107.06	CEQA IMPLEMENTATION
§ 90107.07	LATEST CEQA REQUIREMENTS

§ 90107.00 PURPOSE AND INTENT

The California Environmental Quality Act (CEQA) prohibits a public agency from approving or carrying out a project (as defined in CEQA) for which an Environmental Impact Report identifies significant environmental effects, unless findings relative to mitigation of these effects have been made. If no significant effect on the environment would occur, a negative declaration or a mitigated negative declaration is prepared, which identifies potentially significant effects that can be avoided or mitigated, as specified. The purpose of this Chapter of the Codified Ordinances of Imperial County is to develop a monitoring and reporting program for those projects whose impact on the environment would be significant if not mitigated.

§ 90107.01 CEQA MITIGATION, MONITORING AND REPORTING PROGRAM

A mitigation monitoring program is hereby established to comply with Assembly Bill 3180 (California Public Resource Code, Section 21081.6) which became effective on January 1, 1989. The purpose of the program is to establish a monitoring and reporting program that will ensure compliance with all mitigation measures adopted by the County of Imperial as lead agency during project implementation. This Ordinance shall be subject to modification if necessary upon any adoption of the State CEQA Guidelines on mitigation monitoring.

§ 90107.02 REPORT PROCEDURES

A. DEVELOPMENT OF CHECKLIST:

After a non-exempt discretionary project is approved by the decision making body, with mitigation measures identified though a “mitigated” negative declaration, environmental impact report, or other environmental documentation, all mitigation measures shall be incorporated by the Planning & Development Services Department into a Checklist, entitled “Environmental Mitigation Checklist” (“Checklist”). Each mitigation measure shall be identified separately on the Checklist, with separate spaces for monitoring the progress of each mitigation measure as it is implemented. Mitigation measures shall be divided into two (2) categories of measures: specific project mitigation measures (“project specific”) and cumulative project mitigation measures (“cumulative project”). Project specific mitigation measures are to be further divided into two (2) subcategories: project design and on-going mitigation measures. Each category and subcategory will appear on the Checklist. A copy of the completed Checklist shall be sent to all departments or agencies having jurisdiction over the natural resources or department functions affected by a specific mitigation measure.

B. MONITORING PROGRAM:

1. Project Design Mitigation Measures (Project Specific)

A project design mitigation measure is one incorporated into the project design to mitigate an impact, such as a retention basin on-site fire protection system. These mitigation measures

generally appear on the building/grading plans. Many project design mitigation measures will be monitored through the County's Planning & Development Services Department's plan check process. When an approved project with mitigation measures is submitted for plan check through the County, each plan checker shall receive a copy of the Checklist. As each plan checker reviews the plans, the plans will be checked for compliance with each applicable mitigation measure. Each plan checker will review plans for the specific mitigation measure to verify its completion, by noting and initialing each mitigation measure on the Checklist. If a mitigation measure is not shown, the plans shall be returned to the applicant for corrections. Plans shall not be approved until each application mitigation measure has been incorporated into the project design. After the plans are completed and approved, and before final inspection of the building/structure, the project proponent shall submit proof that each mitigation measure shown on the plans has been installed or incorporated into the project's construction. Verification of compliance will be noted on the monitoring form and signed by the assigned building inspector, CUP monitor, or special consultant assigned to this specific project.

2. On-Going Mitigation Measures: (Project Specific)

If an approved project includes mitigation measures which are associated with the project over a period of time, such as dust control or maintenance of landscaping, the mitigation measure(s) shall be included on the Checklist prepared by the Planning & Development Services Department and sent to the agency or department imposing these measures. Those affected agencies or departments having jurisdiction over the natural resources or department functions affected by the specific mitigation measure shall submit a proposed monitoring program for the monitoring of each on-going mitigation measure(s) noted on the Checklist previously provided to that department or agency. Each of the affected agencies or departments shall be responsible for the monitoring and enforcement of the on-going mitigation measure. On at least a semi-annual basis, each agency or department will submit a summarized report to the Planning & Development Services Department on the status of each on-going mitigation measure. These summarized reports will continue to be sent until it is determined by the affected department or agency that it is no longer necessary to monitor the project. A final close out report shall be filed with the Planning & Development Services Department by each affected agency or department. It is to be the responsibility of the Planning & Development Services Department to summarize all project specific on-going monitoring compliance report as submitted by the affected agencies or departments. All Checklist(s) shall be retained in the Planning & Development Services Department project file and be subject to public review.

3. Cumulative Mitigation Measures:

Cumulative mitigation measures are measures which will be instituted when future phases are developed, such as road or site improvements. Cumulative mitigation measures are to be noted at the initial Checklist stage and the Checklist shall indicate that the cumulative mitigation measure is to be enforced at some time in the future. The agency or department having jurisdiction over the natural resources or departmental functions involved with the cumulative mitigation measure shall be notified and shall be responsible for the monitoring and enforcement of the cumulative mitigation measure. On at least a semi-annual basis, a summarized report shall be submitted by each affected department or agency to the Planning & Development Services Department on the status of each cumulative mitigation measure.

§ 90107.03 MONITORING FEES

All costs of the monitoring and reporting program are to be paid by the applicant in accordance with the adopted fee schedule set forth in County Ordinance Title 9, Division 9, for "Time and Materials" (T&M) projects. Applicant may be required to deposit an estimated amount to cover the monitoring costs to be incurred by the County and other affected agencies. All funds received will be placed into a separate trust account under the control of the Planning & Development Services Department. All Planning & Development Services Department monitoring and reporting costs shall be disbursed from this trust account. All costs of agencies or other affected departments incurred in monitoring on-going or cumulative mitigation measures

shall be reimbursed from the trust account. It shall be the responsibility of the affected agency or department to submit a cost breakdown for time and materials incurred in monitoring the mitigation measure(s) on no less than semi-annual or as needed.

§ 90107.04 OUTSIDE CONSULTANT(S)

Outside consultant(s) may be hired by the County Planning & Development Services Department or other affected agency, for projects for which compliance with a mitigation measure cannot be verified through the plan check process, or which requires specialized expertise. In the event that a consultant is hired, the County may collect a deposit from the applicant for the consultant's services needed in order to assist in the monitoring of the mitigation measures. The deposit shall be placed in a special trust account. Any unused portion of the deposit shall be refunded to the project applicant or the party that actually paid the fees.

§ 90107.05 PENALTIES FOR NON-COMPLIANCE

Failing to properly implement project design mitigation measures could result in the issuance of a stop-work order or a denial of subsequent approvals necessary to complete or occupy a project. Violations of or failing to comply with on-going cumulative mitigation measures may result in enforcement actions by the Planning & Development Services Department, Planning Commission, Air Pollution Control District, Board of Supervisors, Department of Health Services, or other agencies or other decision-making body having jurisdiction or permitting authority over the project mitigation measure in question. Any administrative enforcement action does not preclude the enforcement action of other available remedies, including civil or criminal penalties, nuisance suits or project approval revocations.

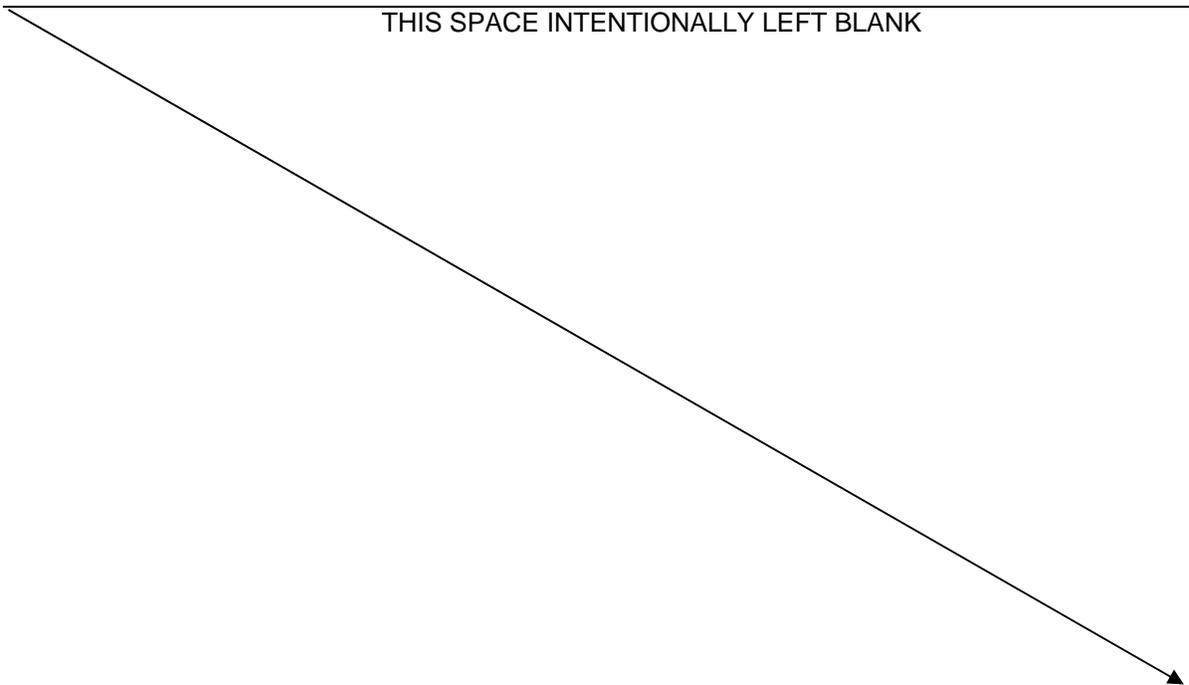
§ 90107.06 CEQA IMPLEMENTATION

The County Planning & Development Services Department is the officially-designated County environmental compliance department and shall be responsible for the proper and effective implementation of the California Environmental Quality Act (CEQA). This shall apply for County-sponsored as well as private projects.

§ 90107.07 LATEST CEQA REQUIREMENTS

The County shall at all times adhere to, and implement the latest version of the California Environmental Quality Act (CEQA) and Guidelines. This shall include the adoption by County Planning Commission of the "Rules and Regulations to Implement CEQA, as Amended".

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TITLE 9

DIVISION 1: ENACTMENT, APPLICABILITY & AMENDMENT

CHAPTER 8: PARKS AND RECREATION COMMISSION

§ 90108.00	PARKS AND RECREATION COMMISSION
§ 90108.01	CREATION AND ORGANIZATION
§ 90108.02	TERM & QUALIFICATION
§ 90108.03	VACANCY
§ 90108.04	OFFICERS AND ADVISORS
§ 90108.05	RULES FOR THE TRANSACTION OF BUSINESS
§ 90108.06	MEETING(S)
§ 90108.07	POWERS AND DUTIES
§ 90108.08	PROCEDURAL PROTOCOL
§ 90108.09	RULES OF PROCEDURE BY THE COMMISSION

§ **90108.00 PARKS AND RECREATION COMMISSION**

The Parks and Recreation Commission of the County of Imperial is both an advisory and a decision-making authority created by the Board of Supervisors and is empowered with the duties and responsibilities specified within this Chapter.

§ **90108.01 CREATION AND ORGANIZATION**

The Parks and Recreation Commission shall consist of ten (10) members as appointed and designated by the Board of Supervisors. The Board of Supervisors shall designate the General Manager of the Imperial Irrigation District (IID), Executive Director of the Imperial County Farm Bureau, Chairman of the Imperial County Planning Commission, a representative of the geothermal industry, a president of a major youth athletic program, a member of the Sand and Gravel Mining Association, a Representative of the Fish & Game Commission and three (3) members of the general public. The Board of Supervisors shall make appointments when necessary from a slate of nominees for each category presented by the Planning & Development Services Director. The term for each appointee shall be designated at the time of said appointment.

§ **90108.02 TERM & QUALIFICATION**

- A. The term of office of each Commissioner shall be four (4) years. However, the term of five (5) of first ten (10) Commissioners shall be six (6) years.
- B. The Board of Supervisors, by a four-fifth's (4/5) vote, may remove any designee(s) of the Parks and Recreation Commission at any time during his or her term.

§ **90108.03 VACANCY**

- A. Vacancy in office of a designee of the Commission shall occur upon the expiration of their term, death, resignation, removal from or forfeiture of office.
- B. In case of vacancy where the Commissioner is a designated position in an organization or district, the replacement shall be an authorized person of the organization or district. The replacement must be designated in writing and presented to the Commission.

§ **90108.04 OFFICERS AND ADVISORS**

Each calendar year (during January) the Commission shall elect a chairperson and a vice-chairperson from among the appointed designees, who shall serve for a term of one (1) year. The Planning & Development Services Director shall serve as secretary to the Commission. Both the Planning & Development Services Department and Fish the Game Commission shall be staff to the Parks and Recreation Commission. The Board of Supervisors may appoint other officers or department heads to also shall serve as advisers to the Commission.

§ **90108.05 RULES FOR THE TRANSACTION OF BUSINESS**

- A. A majority of the appointed Commission shall constitute a quorum for the transaction of business. A majority of all designees appointed must concur in any decision. (i.e. 6/10 - 5/9 - 5/8, 4/7. etc.).
- B. The Commission shall conduct its business according to the rules for the transaction of business under Section 90108.10. The Commission shall keep a record of all resolutions transactions, findings and/or determination. The Commission shall record all meetings via mechanical recording devices, and all such recordings shall be public record.
- C. Transcriptions of any hearing shall be done only through the Planning & Development Services Department and shall be at full cost to requesting party.

§ **90108.06 MEETING(S)**

- A. The Commission may hold one regular meeting each month and may hold such additional and special meetings as may be called by the chairperson by giving special notice as required by law.
- B. The Commission shall hold its regular monthly meeting on the second Wednesday of each and every month at 8 a.m. in the County Administration Center, Board of Supervisors Chambers, unless otherwise specified.
- C. Regular, special or specially adjourned meetings may be held at other locations and times so long as notice is given as required by law. Any special meeting held at the request of a project applicant shall be paid for in full by requesting party, and shall only be held if so approved by the chairperson.

§ **90108.07 POWERS AND DUTIES**

- A. Administration of the Non-Profit Corporation

The Commission shall act as the Board of Directors for the administration of a non-profit corporation established under Internal Revenue Code section 501(c) (3) to allow donations of financial and other support to the parks and recreation system to be tax deductible. The staff for the non-profit corporation shall be from both the Imperial County Planning & Development Services Department and the Public Works Department.

The Commission shall direct staff on the use of all funds or other donations received through the corporation. In the event that the project or use of the funds or donated item(s) requires Board of Supervisors' approval, the Board shall review and approve the Commission's action. In the event the Board disagrees with the Commission's direction, the Board shall refer the proposed project back to the Commission for an alternative recommendation. In no event shall non-profit corporation funds be expended without first gaining the approval of the Commission.

Any and all donations/contributions to the corporation shall be maintained by the Auditor/Controller as a separate budget line item under the management of the Imperial County Planning & Development Services Department, with direct oversight by the Commission. The Commission intends that these donations and contributions will enhance the parks and recreation program. The monies shall be in

addition to any general fund accounts, grants or other funding which the county provides for its existing program parks and recreation program.

In the unusual event of a disagreement between the Board of Supervisors and the Parks and Recreation Commission over the use of the funds from the non-profit corporation, the Chairman of the Board of Supervisors, the Chairman of the Commission along with the Directors of Public Works and Planning & Development Services Department shall meet to resolve the matter.

B. Advisory Agency

The Commission shall act as the advisory commission to the Board of Supervisors on all matters pertaining to the design, construction, operation, use and maintenance of the county parks and recreational facilities.

In this capacity, the Commission shall do the following:

C. Administration and Organization

Encourage the delivery of park and recreational opportunities to current and future generations. Periodically update and evaluate the changing demands for services and meet those demands using private organizations, County departments and public funds.

Encourage an effective and efficient cooperative working relationship with the community organizations, school districts, and surrounding communities to meet the recreational needs of all agencies.

Encourage volunteerism. In recognition that both human and financial resources are limited, it shall be policy of the Commission to seek volunteers to assist with the creation and maintenance of recreational opportunities in the County.

D. Recreational Programs

To identify the program needs, ensuring a wide variety of opportunities for people of all ages, abilities, and interests.

To interact with those private, public, and quasi-public organizations to facilitate services and eliminate wasteful duplication.

To enhance the public knowledge and appreciation for the natural beauty of open space and the environmental and historical significance of one's surroundings.

E. Recreational Facilities

The Imperial County park system includes community parks, neighborhood parks, and mini-parks that serve the recreational needs of the Imperial Valley. It is the intent of the Parks and Recreation Commission to continue to enhance these facilities and to develop regional parks.

To identify the public's wants and needs for both active and passive recreation.

To take an inventory of current facilities and to evaluate their adequacy for their use. In the event additional facilities are necessary, the Parks and Recreation Commission shall maximize use of existing public, quasi-public, and private lands and buildings.

To make all facilities available to all County residents. To make facilities accessible to the handicapped. To provide areas for both organized and spontaneous play.

To interact with the various historical agencies within the community for the purpose of protecting and enhancing historical sites for present and future generations.

F. Open Space and Environmental/Conservation Considerations

To identify key areas of environmental/ecological importance such as wetlands, flood plains, watercourses, steep slopes, and areas of natural scenic beauty. Furthermore, to protect such areas and incorporate same into the park and recreation system as open space.

To reclaim areas of environmental/ecological deterioration using available resources from the public, quasi-public and private sectors.

To protect historical sites by the including them into an open space park system.

To create any additional open space and recreational areas as may be permitted by code or statute, thus providing relief from the encroachment of modern high-density living.

G. Maintenance

It is the intent of the Parks and Recreation Commission to provide for a system of safety inspections and maintenance of all equipment and facilities. Such inspections and maintenance will be provided on a regular basis.

It is the intent of the Parks and Recreation Commission to provide the maximum level of safety and security at all parks within the system.

H. Finance and Budgeting

It is the intent of the Commission to fund the parks and recreation system through a combination of federal, state, county, and local funding sources (both public and private).

I. Citizen Participation

The Parks and Recreation Commission shall use the various channels available to it (such as the news media, mailings, and official announcements) to advise its residents and visitors of the programs and facilities available.

The Parks and Recreation Commission, in cooperation with the various associations, service clubs, private interests, citizens and government agencies, shall provide a forum for the exchange of ideas with the purpose of encouraging participation by all.

§ **90108.08 PROCEDURAL PROTOCOL**

No project requiring compliance with this Title shall be heard and decided upon by the Board of Supervisors unless said project is first reviewed and considered by the Parks and Recreation Commission. The Board of Supervisors shall not adopt or approve a plan or ordinance relating to the parks and recreation without first receiving a report and/or recommendation from the Parks and Recreation Commission. If the Board does consider and approve such a project without first receiving input from the Commission, the project approval shall be deemed null and void, unless said project is determined by the Board by a 4/5's vote, to be an emergency.

§ **90108.09 RULES OF PROCEDURE BY THE COMMISSION**

A. Meeting time shall be at 8:00 a.m. unless otherwise specified by public notice.

- B. Meeting date shall be the 2nd Wednesday of every month unless a special meeting is called by the chairperson and/or a meeting is not necessary as determined by the Planning & Development Services Director.
- C. The chairperson shall preside at all meetings except in his/her absence it shall be the vice-chairperson who shall perform the duties of the chairperson. In the event both the chairperson and the vice-chairperson are absent, the acting chairperson shall be the previous year's chairperson/vice chairperson.
- D. The meeting shall first be called to order by the chairperson and roll call taken.
- E. Minutes of the previous meeting shall be reviewed and adopted, or adopted as amended.
- F. The chairperson shall call the projects on the agenda in the order of the agenda; however, the chairperson may take items out of sequence as necessary.
- G. Any Commissioner who has a conflict on a specific item before the Commission shall state reason for the conflict and shall not serve on the Commission for said item. The Commissioner shall step down from the Commission, and shall not participate in the hearing, except as an individual.
- H. Every project shall be read into the record by staff and the Commission shall allow for an open public hearing on each item.
- I. Before a motion is accepted, the public hearing portion shall be closed and the Commissioners shall have an opportunity to make comments or ask questions.
- J. If a question by a Commissioner is asked after the public hearing is closed, and it requires an answer from the applicant, the hearing is not re-opened to the public and is only open to the applicant to the extent of directly answering the question.
- K. The chairperson has the ability and the right to limit the amount of time a person has to address the Commission, which may also include a Commissioner's time.
- L. Discussions between Commissioners and/or staff after public hearing period is closed shall not require re-opening of the hearing to the public.
- M. If a motion receives less than a majority vote of all members appointed the motion fails. The Commission may make as many motions as it deems necessary on a project. However once a motion to approve fails and a motion to deny fails, the project shall be deemed denied, and automatically forwarded to the Board of Supervisors.

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