

Article 1. Development Code Enactment, Applicability, General Provisions and Exceptions

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Sec. 101. Title and Authority: Appendix "A" of the Code of Ordinances, Kings County, California shall be known as the "Kings County Development Code" or "Development Code". The *Kings County Development Code* is enacted based on the authority vested in the County of Kings by the State of California, including but not limited to:

- A. Local Ordinances and Regulations (California Constitution, Article XI, Section 7)
- B. Planning and Zoning Law (Government Code Section 65000 et seq.)
- C. Airport Approaches Zoning Law (Government Code Section 50485 et seq.)
- D. California Environmental Quality Act (Public Resources Code Section 21000 et seq.)
- E. Land Conservation Act of 1965 (Williamson Act) (Government Code Section 51200 et seq.)
- F. Mobile Home Parks Act (Health and Safety Code Section 18200 et seq.)
- G. Subdivision Map Act (Government Code Sections 66410 et seq.)
- H. Surface Mining and Reclamation Act of 1975 (Public Resources Code Section 2710 et seq.)

Sec. 102. Relationship to General Plan: This Development Code implements the goals and policies of the 2035 *Kings County General Plan*. Any permit or approval issued in compliance with this Development Code shall be consistent with the General Plan and all specific plans. In any case where there is a conflict between this Development Code and the General Plan, the General Plan governs.



Sec. 103. Relationship to Prior Ordinances: The provisions of this Development Code supersede Kings County Zoning Ordinance No. 269 and all previous versions, the Kings County Density Bonus Ordinance No. 568 and the Subdivision Ordinance No. 599, Chapter 21 of the Kings County Code of Ordinances and any amendments issued by the County of Kings. No provision of this Development Code shall validate any land division, land use or structure established, constructed or maintained in violation of the prior ordinance, unless such validation is specifically authorized by this Development Code and is in conformance with all other regulations.

Sec. 104. Constitutionality: If any Section, Subsection, sentence, clause or phrase of this Development Code is for any reason held to be invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Code. The Board of Supervisors of the County of Kings hereby declares that it would have passed this Code and each Section, Subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the Sections, Subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Sec. 105. Purposes and Objectives of the Development Code: This Development Code is adopted to preserve, protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare by classifying and regulating the uses of land and structures within the unincorporated areas of Kings County. More specifically, this Development Code is adopted in order to achieve the following objectives:

- A. To provide a plan for the physical development of the county in such a manner as to achieve progressively the general arrangement of land uses depicted in the General Plan;
- B. To foster a harmonious, convenient, workable relationship among land uses and a wholesome, serviceable and attractive living environment;
- C. To promote the stability of existing land uses which conform to objectives and policies of the General Plan and protect them from inharmonious influences and harmful intrusions;
- D. To ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the general public;
- E. To promote the beneficial development of those areas which exhibit conflicting patterns of use;
- F. To prevent excessive population densities and overcrowding of the land with structures;
- G. To promote a safe, effective traffic circulation system;
- H. To foster the provision of adequate off-street parking and truck loading facilities;
- I. To facilitate the appropriate location of public facilities and institutions;
- J. To protect and promote appropriately located agricultural, commercial and industrial pursuits in order to preserve and strengthen the county's economic base;
- K. To protect and enhance real property values;
- L. To maintain a range of housing choices and options;
- M. To promote rehabilitation and reuse of older buildings, including adaptive reuse;
- N. To conserve the county's natural assets and to capitalize on the opportunities offered by its terrain, soils, vegetation and waterways;



- O. To coordinate policies and regulations relating to the use of land with such policies and regulations of incorporated cities of the county in order to: Facilitate transition from county to municipal jurisdiction that land which is first developed in an unincorporated area and is subsequently annexed to a city; foster the protection of farming operations in areas of planned urban expansion, and ensure unimpeded development of such new urban expansion that is logical, desirable and in accordance with objectives and policies of the General Plan.

Sec. 106. Components of the Development Code: This Development Code shall consist of a zoning plan designating certain districts and regulations controlling the uses of land, the density of population, the uses and locations of structures, the height and bulk of structures, the open spaces about structures, the appearance of certain uses and structures, the areas and dimensions of sites, regulations requiring the provision of off-street parking and off-street loading facilities and the subdivision of land.

Sec. 107. Applicability of the Development Code:

- A. **Applicability to Property:** This Development Code shall apply to the extent permitted by law to all property whether owned by private persons, firms, corporations, or organizations; by the United States of America or any of its agencies; by the State of California or any of its agencies or political subdivisions; by any County or City including the County of Kings or any of its agencies; or by any authority or public entity organized under the laws of the State of California; all subject to the exception of the following properties:
 - 1. Public streets and alleys
 - 2. Underground utility lines and facilities
 - 3. Underground communications lines
 - 4. Overhead communications lines
 - 5. Overhead electric distribution facilities, not to include overhead transmission lines, transmission substations and distribution substation
 - 6. Railroad rights-of-way to the extent of 100 feet in width.
- B. **Compliance with Regulations:** An existing land use is lawful only when it was legally established in compliance with all regulations applicable at the time the use was established and when it is operated and maintained in compliance with all applicable provisions of this Development Code. No land shall be used and no structures built or occupied except in compliance with the provisions of this Development Code.
- C. **Conflicting Regulations:** Where conflict occurs with other County regulations or with state or federal laws, higher law shall control over lower law unless local variation is permitted. Where conflicting laws are of equal stature, the more specific provision shall control unless otherwise specified in this Development Code or in state or federal law. Where two conflicting laws are equally specific, the more recently enacted law controls.
- D. **Private Agreements:** It is not intended that the requirements of this Code shall interfere with, repeal, abrogate or annul any easement, covenant, or other agreement that existed when this Development Code became effective. This Code applies to all land uses and development regardless of whether it imposes a greater or lesser restriction on the development or use of structures or land than an applicable private agreement or restriction, without affecting the applicability of any agreement or restriction. The County shall not enforce any private covenant or agreement unless it is a party to the covenant or agreement.
- E. **Conditional Zoning:** This Development Code shall not interfere with, repeal, abrogate, or annul any Conditional Zoning Agreement established between the County and an applicant prior to the effective date of this Development Code.

F. **Other Requirements May Still Apply:** Nothing in this Development Code eliminates the need for obtaining any permit, approval or entitlement required by other provisions of the Code of Ordinances or complying with regulations of any city, county, regional, state or federal agency where applicable.

Sec. 108. Interpretation of the Development Code: In their interpretation and application, the provisions of this Development Code are held to be minimum requirements except where they are expressly stated to be otherwise.

A. **Interpretation:** The following rules of interpretation shall apply unless inconsistent with the plain meaning of the context of this Development Code.

1. **Gender:** The masculine shall include the feminine and the neuter.
2. **Headings:** In the event that there is any conflict or inconsistency between the heading of an Article, Section, Paragraph, Figure, Table, illustration, graphic, map, or caption and the context thereof, the text shall govern.
3. **Language:** When used in this Development Code, the words “shall”, “will”, “is to”, and “are to” are always mandatory. “Should” is not mandatory but is strongly recommended; and “may” is permissive. Words used in the present tense include the future tense.
4. **List and Examples:** Unless otherwise expressly indicated, lists of items or examples that use "including," "such as," or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.
5. **Number:** Words used in the singular include the plural, and words used in the plural include the singular.
6. **Oath:** The word "oath" shall include affirmation.
7. **Time Limits:** Whenever a number of days or months are specified in this Development Code, or in any permit, condition of approval, or notice provided in compliance with this Development Code, the number of days shall be construed to be calendar days. The time limit shall expire at 5:00 p.m. on the last day of the time limit established or specified. A time limit shall extend to 5:00 p.m. on the following working day where the last of the specified number of days falls on a weekend, holiday, or other day, or partial day, the Community Development Agency is not open for business.

B. **General Terminology:** The word "County" shall mean the County of Kings, California. The words "Board of Supervisors" and "Board" shall mean the Board of Supervisors of the County of Kings. The words "Planning Commission" and "Commission" shall mean the Planning Commission duly appointed by the Board of Supervisors. The words "Zoning Administrator" shall mean the Zoning Administrator duly appointed by the Board of Supervisors. The word "Director" shall mean the Director of Community Development duly appointed by the Board of Supervisors. The words "County Surveyor" shall mean the County Surveyor of the County of Kings. The words "Agricultural Commissioner" and "Ag. Commissioner" shall mean the Agricultural Commissioner of the County of Kings. The words "Building Official" shall mean the Building Official of the County of Kings. The words "Community Development" shall mean the staff of the Kings County Community Development Agency.

C. **Similar Uses Permitted Purpose Statement:** When a use is not specifically listed in this Development Code, it shall be understood that the use may be allowed if it is determined by the Zoning Administrator that the use is similar to other uses listed. It is further recognized that every conceivable use cannot be identified in this Development Code, and anticipating that new uses will evolve over time, this Section establishes the Zoning Administrator’s authority to compare a proposed use and measure it against those listed in the Development Code for determining similarity. Refer to Section 1604.D for a list of the required findings applicable to similar uses.

Sec. 109. Construction and Definitions: Many Sections of this Development Code contain lists of uses separated by semicolons which are generally used to indicate a degree of separation from the other uses and are not intended to indicate sub-

classifications of the preceding use. The definitions of words used in this Development Code, and the construction of the words and provisions thereof, shall be as set forth in Article 25 of this Development Code.

Sec. 110. Composition of the Planning Agency: The Board of Supervisors, the Planning Commission, and the Zoning Administrator shall function as the Planning Agency and as the Advisory Agency in compliance with Government Code Section 65100. The Planning Agency is augmented by the Environmental Advisory Agency.

A. **Board of Supervisors:** The role of the Board of Supervisors in the administration of the Development Code includes the following:

1. Serving as the review authority on legislative actions including General Plan Amendments, Development Code/Zoning District Map Amendments, and Development Agreements/Amendments; and
2. In the case where the Board is the decision maker, determining the adequacy of Environmental Impact Reports and other special reports in compliance with the California Environmental Quality Act (CEQA) and the County's Environmental Review Procedures; and
3. Reviewing appeals filed from the Planning Commission decisions; and
4. Convening public hearings required in the above actions.
5. To serve as the legislative body as that term is used in the Subdivision Map Act.

B. **Planning Commission:** The role of the Planning Commission in the administration of this Development Code includes the following:

1. Serving as the review authority on permit and approval applications including Conditional Use Permits and Density Bonuses; and
2. In the case where the Commission is the decision maker, determining the adequacy of Environmental Impact Reports and other special reports in compliance with the California Environmental Quality Act (CEQA) and the County's Environmental Review Procedures; and
3. Reviewing appeals filed from Zoning Administrator decisions on discretionary permit applications; and
4. Providing recommendations to the Board of Supervisors on legislative actions; and
5. Convening public hearings required in the above actions.
6. Act as the advisory agency, as that term is used in the Subdivision Map Act, on Tentative Subdivision and Parcel Maps.

C. **Advisory Agency:** The Advisory Agency as designated in the Subdivision Map Act shall be comprised of two (2) divisions as described in Article 23 of this Development Code. The role of the Advisory Agency in the administration of this Development Code includes the following:

1. Serving as the review authority on permit and approval of applications including In Lieu Parcel Maps, Tentative Parcel Maps, Tentative Tract Maps, Reversions to Acreage, Lot Line Adjustments, and Certificates of Compliance; and
2. Interpreting that portion of this Development Code as it relates to subdivisions.

D. **Zoning Administrator:** The Board of Supervisors of the County of Kings declares that there is a need for the office of Zoning Administrator to function in the County and hereby establishes such Office of Zoning Administrator to perform the



duties and exercise the powers as prescribed in this Development Code and the Government Code in such a way as to promote the public health, safety and welfare, to further the objectives of the zoning plan and to do substantial justice.

1. The Director of the Community Development Agency of the County of Kings shall serve as the Zoning Administrator.
2. The role of the Zoning Administrator in the administration of this Development Code includes the following:
 - a. Serving as the review authority on permit and approval applications including Site Plan Reviews, interpretations, exceptions, and reasonable accommodations, and Variances; and
 - b. Interpreting the meaning of the uses listed in this Development Code for the public; and
 - c. The preliminary screening of projects to determine which projects are exempt from, and which projects are subject to, the requirements of the California Environmental Quality Act (CEQA), and the preparation, filing, and distribution of environmental documents as appropriate;
 - d. Conducting Initial Studies and making determinations or recommendations as to whether a Negative Declaration or Notice of Exemption will be issued or whether an Environmental Impact Report will be required;
 - e. Referring action as needed on any permit, approval or interpretation to the Planning Commission for review and final decision.
3. The Zoning Administrator may delegate any of his or her authority to the Community Development Agency Staff to act on his or her behalf.

E. Environmental Advisory Committee (EAC):

1. The EAC is an informal committee appointed by the Board of Supervisors to advise County boards, commissions, committee, and departments on environmental matters, associated with their individual areas of expertise, concerning the implementation of CEQA, made up of the following six members:
 - a. County Community Development Agency Director
 - b. County Agricultural Commissioner and Sealer of Weights and Measures
 - c. County Health Officer
 - d. County Director of Public Works
 - e. Manager of the Kings Mosquito Abatement District
 - f. U.C. Cooperative Extension Services Farm Advisor
2. The EAC shall be advisory only and will not hold public meetings. Each EAC member may provide written comments determined by the member to appropriately reflect that member's general and specific environmental concerns related to his or her area of expertise.
3. **Duties of the Members of the EAC:** The principal duty of the members of the EAC shall be to review initial studies which are submitted by County Departments during the 20-day public review period for proposed negative declarations and the 30-day or 45-day public review period for draft EIRs required by CEQA Section 21091. Committee members may make any of the following recommendations:
 - a. Recommend approval of the initial study as a negative declaration, if, based upon the initial study, the Committee



member determines that the project will not have a significant effect on the environment. Failure to notify the Planning Division of the Community Development Agency within the specified review period, indicates acceptance of the initial study as submitted; or

- b. In writing, request specific changes to the draft initial study, and with those specified changes recommend that the decision maker adopt a negative declaration; or
 - c. In writing, recommend the preparation of an environmental impact report if, based upon the initial study, the Committee member believes that the project will have a significant adverse effect on the environment. The committee member shall specify, in writing, what effects on the environment he or she believes will be significant and why.
4. Each EAC member shall also be responsible for recommending to the Board of Supervisors' requests for additions to, or deletions from, the list of classes or projects that are exempt from environmental review pursuant to Sections 21084 through 21086, inclusive, of CEQA.
5. Limitations of Review by Environmental Advisory Committee: The review of negative declarations and environmental impact reports by the members of the EAC shall be advisory in nature and shall be limited to a determination of the objectivity and adequacy of the environmental documents submitted to its members, and shall ensure that the decision maker has sufficient information about the possible impacts to the environment, in the judgment of the committee member, that the project may cause. Committee members shall not consider the value of the project itself or whether the project should be approved or denied. Such determination is solely the responsibility of the decision maker for the project.

Sec. 111. Compliance with the California Environmental Quality Act (CEQA): This Development Code serves to implement the provisions of the California Environmental Quality Act as contained in Division 13 (commencing at Section 21000) of the Public Resources Code of the State of California and the state CEQA Guidelines, as contained in Chapter 3 (commencing at Section 15000), Division 6, Title 14 of the California Code of Regulations, as adopted by the Secretary of the Resources Agency of the State of California. These Local Guidelines do not apply to ministerial projects, or to those projects which are statutorily exempt or excluded from CEQA review requirements, as set forth in Public Resources Code Sections 21080 through 21080.35, or to those projects which are categorically exempt under the provisions of Article 19 (commencing at Section 15300) of the state CEQA Guidelines, or to those projects which are emergency projects under the provisions of Section 15269 of the state CEQA Guidelines.

A. Ministerial Projects and Actions in Kings County: Section 21080(b) (1) of CEQA provides that the Act does not apply to ministerial projects proposed to be carried out or approved by public agencies. Section 15268 of the state CEQA Guidelines states that the determination of what is "ministerial" can most appropriately be made by the public agency involved, and that each public agency should identify or itemize those projects and actions which are deemed ministerial. The following is a nonexclusive list of types of projects that are ministerial and therefore exempt from CEQA review requirements:

- 1. **Sheriff-Animal Control**
 - a. Dog Licenses
- 2. **Agricultural Commissioner-Sealer**
 - a. Agricultural crop moving permits
- 3. **Building Division of the Community Development Agency**
 - a. Plan check reviews



- b. Building Permits (including Electrical, Plumbing, and Mechanical Permits)
 - c. Demolition Permits
 - d. Mobile Home Installation Permits
 - e. Relocation Inspections and Permits
 - f. Utility Service Connections and Disconnections
 - g. Compliance Inspections and Reports
 - h. Water well permits
4. **County Clerk**
- a. Marriage Licenses
5. **Fire Department**
- a. Fireworks Sales Permits
 - b. Weed Abatement Program
6. **Health Department**
- a. Food Vendor's Permits
 - b. Water Supply Permits (small public water systems and state small water systems)
 - c. Underground Storage Tank Permits, Authority to Construct, and Authority to Abandon
 - d. Hazardous Materials Business Plan and Inventory approvals
 - e. Risk Management and Prevention Program approvals
 - f. Medical Waste Management Registrations
 - g. Limited Quantity Medical Waste Hauler Exemptions
 - h. Registration of businesses engaged in the cleaning of septic tanks, chemical toilets, cesspools, and seepage pits
 - i. Plan approval for construction, modification, or remodeling of food facilities, public swimming pools and spas, on site sewage disposal systems, small public water systems, state small water system and/or underground storage tanks (including piping)
 - j. Occupational health and safety consultation services
 - k. Body art registrations
7. **Planning Division of the Community Development Agency**
- a. Site Plan Reviews conducted by the Zoning Administrator under the provisions of Article 16 of this Development



Code

- b. Land divisions under the provisions of Article 23 of this Development Code.
- c. Certificates of Compliance
- d. Lot Line Adjustments
- e. Annual Fire Arms Dealers Reviews
- f. Code enforcement investigations and orders for abatement of nuisances and violations
- g. Abandoned Vehicle Abatement Program investigations and orders for abatement

8. Public Works Department

- a. Encroachment Permits
- b. Moving permits
- c. Traffic control activities

9. Tax Collector

- a. Dance, explosive, gun, and solicitors licenses
- b. Rubbish disposal operator's license

A notice of exemption shall be filed for all projects determined to be statutorily, categorically or otherwise exempt from CEQA environmental review.

B. CEQA Projects and Actions in Kings County: In addition to the following CEQA actions, please refer to Article 17, Planning Commission Actions and Conditional Use Permits, for additional information concerning the processing of discretionary permits.

- 1. **Initial Study:** The initial study process of the project shall be conducted according to the procedures outlined in the State CEQA Guidelines, Article 5, beginning with Section 15060.
 - a. The County department initiating a public project or receiving an application for discretionary approval of a private project may prepare its own initial study, or submit a description of the project to the Planning Division of the Community Development Agency for environmental review.
 - b. If a project description is submitted to the Planning Division, the Planning Division shall conduct an initial study pursuant to Section 15063 of the State CEQA Guidelines and these Local Guidelines to determine if the project may have a significant effect on the environment.
 - c. The County department or the applicant shall provide any additional information the Planning Division may require in preparing the initial study.
 - d. Failure to provide the requested information in a timely manner may cause the application not to be certified as complete, and delay the development of the required environmental documents.



2. **Time Limits for the Certification of Environmental Documents:** Pursuant to Section 21151.5 of CEQA and Article 8 of the State CEQA Guidelines, the County of Kings hereby establishes 12 months as the time limit for the completion and certification of environmental impact reports, and six months for the completion and adoption of negative declarations, for projects which require environmental review. The commencement and running of these time periods shall be governed by CEQA and the CEQA Guidelines.

Extensions of Time for EIR's: Extensions of time for the processing of EIR's may be approved once, for an additional period not to exceed 90 days, by the Lead Agency provided that it finds that compelling circumstances justify the extension of time and that the project applicant consents to the specified extension, pursuant to Government Code Section 65957 and State CEQA Guidelines Section 15108. Extensions exceeding 90 days may be approved where the law expressly otherwise provides for such additional extensions.

3. **Deposit and Accounting on Private Project:** All applications for the discretionary review of private projects by the County shall include a fee, subject to Section 21089 of CEQA, in an amount set by Ordinance of the Kings County Board of Supervisors, at the time the project application is filed with the Planning Division of the Community Development Agency to cover the cost of preparation of the initial study.
 - a. If it is determined that an EIR should be prepared, the applicant shall be required to pay the cost of preparing the EIR (see Section 2 d, e, f, and g above). The Planning Division shall ensure the EIR is prepared according to the procedures described in Article 7 (Section 15084 through 15097) of the CEQA Guidelines.
 - b. The Planning Division may prepare the required documents, with Board of Supervisors approval, by engaging the services of a consultant with expertise in preparing environmental documents, based on a detailed work plan approved by the Planning Department staff, and made a part of the "Agreement for Professional Services", shall be submitted to the project applicant who shall enter into a *Reimbursement Agreement* with the County and deposit in an interest bearing account in the County Treasury the amount of the cost shown in the detailed work plan (agreement), plus an administrative fee determined by the Community Development Agency Director to be necessary to defray the cost of administering the agreement with the consultant and the staff time necessary to process the project to its completion.
 - c. As an alternative the applicant may submit detailed information in any form, including the form of a draft EIR. The Planning Division, with Board of Supervisors approval, may engage at the expense of the applicant the services of a consultant with expertise in preparing environmental documents, to advise the County on the adequacy of the information submitted, including, but not limited to, a draft EIR, if any is submitted. Reimbursement for the costs of the County's consultant shall be the same as described above.
 - d. An accurate accounting shall be kept by the Planning Division, with assistance from the County Department of Finance, of the actual cost of preparing and administering the EIR and shall be made available to the applicant at his request. Upon the completion of the project, after the decision maker's final action, the Planning Division shall refund to the applicant any money remaining in the account, including interest that was earned and not used.
4. **Indemnification and Reimbursement.** See Section 112 below.
5. **Action by the Decision-Maker:** When a proposed negative declaration has been forwarded to the decision-maker, the decision-maker shall, prior to making a decision on the project, either approve the negative declaration based upon a finding that the project will not have a significant effect on the environment, or shall refer the matter to the Planning Division of the Community Development Agency for preparation of an EIR, or mitigated negative declaration, based upon a finding that the project may have a significant effect on the environment.
 - a. If the matter is referred for additional review, the decision maker shall take no further action on the project until a final EIR, or mitigated negative declaration, has been prepared as required by law.



- b. When a final EIR has been prepared and processed according to Article 7, beginning with Section 15080 of the State CEQA Guidelines, the decision-maker shall, prior to making a decision on the project, certify that the final EIR has been completed in compliance with CEQA and the state CEQA Guidelines, and shall review and consider the information contained in the final EIR.
 - c. Based upon information contained in the final EIR, when the decision-maker finds that the project will have a significant effect on the environment, the decision-maker shall state in writing reasons to support its decision to approve or carry out the project based upon information contained in the final EIR or other information contained in the record.
6. **Mitigation Reporting and Monitoring Program:** When approving projects for which mitigation measures are required and adopted, the decision maker shall adopt as part of the approval action a "Mitigation Reporting and Monitoring Program", pursuant to Section 21081.6 of CEQA and Section 15097 of the state CEQA Guidelines, for the changes to the project.
- a. The "Mitigation Reporting and Monitoring Program", then becomes a condition of approval to mitigate or avoid significant effects on the environment. Failure of the project applicant to comply with the reporting requirements and mitigation measures are grounds for permit revocation or correcting the effects on the environment at the project applicant's cost.
 - b. The decision maker may require the applicant to deposit an amount of money estimated to offset the cost of monitoring the development and operation of the project into an interest bearing account in the Kings County Treasury. Upon completion of the monitoring program any unused money in the account shall be returned to the applicant.
7. **Notice of Determination:** After making a decision on a project, the decision-maker shall cause to be filed a Notice of Determination, pursuant to Section 21080.4 of CEQA and 15094 of the state CEQA Guidelines. Such notice shall include a brief description of the project, the decision of the decision-maker to approve (carry out) or disapprove (not carry out) the project, the determination of the decision-maker whether the project will or will not have a significant effect on the environment, and a statement whether an environmental impact report has been prepared. The Planning Division of the Community Development Agency shall ensure that such notices are filed.
8. **Duties of the County Clerk:** All notices submitted to the County Clerk pursuant to CEQA shall posted by the County Clerk at the place designated by the County Clerk for the posting of all official notices. Members of the general public requesting copies of said notices shall be charged for the actual cost of reproducing that copy. The County Clerk shall prepare and maintain a list of the names and mailing addresses of all persons requesting review of a particular notice.

Sec. 112. Indemnification and Reimbursement: At its sole and absolute discretion, the County may determine that it has exposure to potential extraordinary costs and require an applicant to provide the County with reimbursement for the costs of reviewing and considering the application and for preparing project documents and with indemnification against extraordinary costs associated with the review and processing of an application submitted pursuant to this Development Code. The extraordinary costs the County may incur associated with the review and processing of development applications and preparation of project documents may include, but are not limited to, applications for development entitlements requiring preparation of environmental impact reports, specific plans, and General Plan amendments, Development Code amendments, changes of zoning district boundaries, large urban development projects, project decisions that are appealed or challenged through lawsuits.

- A. If the County determines that it is necessary to ensure adequate reimbursement and indemnification for such costs, the County may require a project applicant or applicants to enter into a reimbursement agreement (the "Reimbursement Agreement") and/or an indemnification agreement (the "Indemnification Agreement"). The County may require the project applicant to provide the County financial assurance to ensure the applicant's performance of its obligations under the Indemnification and Reimbursement Agreement. In its sole and absolute discretion, the County may determine that the Reimbursement Agreement and the Indemnification Agreement be combined as one document.

- B. If the County determines that an Indemnification and Reimbursement Agreement is required, the applicant will be required to provide financial assurance, such as a performance bond, letter of credit, certificate of deposit, or similar instrument, in an amount sufficient to remedy any failure of the applicant to provide the County with required reimbursements for the extraordinary cost of the application review and processing under the terms of the Indemnification and Reimbursement Agreement and to ensure that the applicant’s indemnification of the County is sufficient to protect the public interest in case of challenges to the process or action of the County related to the project under the Indemnification and Reimbursement Agreement. The form, nature and amount of the financial assurance required under the terms of these provisions shall be determined by the County in the light of any risks associated with a particular project and shall be in the sole and absolute discretion of the County.
- C. An Indemnification and Reimbursement Agreement is an agreement between the County and a project applicant under the terms of which the applicant agrees to defend and indemnify the County from and against exposure to potential extraordinary costs associated with the processing of an application through the County’s final decision on the application, and any appeals of the County’s actions on such matters.
 - 1. Specifically, an Indemnification and Reimbursement Agreement signed by the project applicant shall be required for any project which requires an Environmental Impact Report, any commercial solar project, and any project involving a new or expanding dairy facility under the *Dairy Element* of the General Plan; and
 - 2. Applicants of projects which require the hiring of a consultant to prepare the environmental documents must submit a “Statement of Qualifications” for the consultant for review and acceptance by the County prior to the consultant beginning work on the CEQA documents.
 - 3. Reimbursement, indemnification and financial assurance requirements apply to all permit and entitlement applications and procedures pursuant to this Development Code.

Sec. 113. Use Permits Administration, Applications, and Fees

- A. **Types of Uses:** When trying to determine what can be done with a property, an individual should first view the zoning map to identify the property’s zoning, and then read the text of the Development Code to identify allowed uses and other pertinent regulations. The Community Development Agency staff is available to help the public understand what is permitted or allowed in various zoning districts.
 - 1. **Permitted Uses:** Permitted uses are allowed as a matter of right in all locations in a zoning district and while they do not require a use permit from the Zoning Administrator they may require the issuance of a building permit or permits from another agency. Permitted Uses, if allowed, are listed in each particular zoning district in this Development Code.
 - 2. **Temporary Uses:** Uses of a temporary or short term nature where the processing of a formal land use permit is impractical may be permitted through a Temporary Use Permit (TUP). Temporary Use Permits are available “over-the-counter” at the Community Development Agency. See Article 11 for additional information concerning TUP’s and individual zoning district Articles to determine where certain temporary uses are permitted.
 - 3. **Site Plan Review (SPR):** New or expanding uses requiring Site Plan Review require the submission of a proposal from the applicant or property owner which provides the information required to allow Community Development Agency staff to prepare the use permit and the Zoning Administrator to approve the use. Site Plan Reviews are ministerial in nature and approval of the use permit must be granted if the project complies with general standards for the zoning district, any overlay district or design standards, and related building or construction codes. If the permitted uses in the Development Code do not allow the use sought by landowners, they may seek special review of the situation through a Conditional Use Permit (CUP), Variance or zoning amendment. Submission guidelines for Site Plan Reviews are contained in Article 16 of this Development Code.
 - 4. **Conditional Use Permits (CUP):** Conditional uses are also listed in the Development Code for each district and may be allowed if they meet the standards listed in the Development Code and are consistent with the General Plan.

Generally, they must be compatible with neighboring land uses, tailored to meet the limitations of the site, and not in violation of the objectives of the Development Code. Conditional uses are decided by the Planning Commission. Submission guidelines for conditional uses are contained in Article 17 of this Development Code.

5. **Variations:** A zoning Variance authorizes a landowner to use a property in a manner that is not permitted by the Development Code. Variations come in two types: use Variations and area Variations. Use Variations, which are rarely granted to avoid undermining the purposes of the Development Code, allow a landowner to use a property in a manner that is not allowed by the Development Code. Area Variations, which are more common, allow a property owner to violate a dimensional requirement, such as a building setback or height limitation. The Zoning Administrator determines whether to grant a Variance request based on the criteria outlined in state statutes and local ordinances. Submission guidelines for Variations are contained in Article 18 of this Development Code.
6. **Nonconforming Uses:** A nonconforming use is one which existed lawfully prior to the adoption or amendment of a Zoning Ordinance or Development Code, but does not comply with present zoning provisions. California law generally protects existing legal nonconforming principal uses of buildings, structures, premises or fixtures if they continue unchanged. Article 12 of this Development Code provides additional details concerning alterations and certain changes allowed to nonconforming uses.
7. **Prohibited Uses:** Any use specifically prohibited either by state or federal law shall be prohibited. Except as provided in Section 107.C of this Code, any use not specifically listed in the zoning district’s Table of Land Use Regulations are prohibited. The Zoning Administrator’s interpretation of the meaning of the uses listed in this Development Code is final unless modified by the Planning Commission or Board of Supervisors. Challenges to the Zoning Administrator’s interpretation shall be processed as an application for a Conditional Use Permit.
8. **Land Uses Involving Marijuana/Commercial Cannabis Activities:** Because marijuana is classified as a Schedule I controlled substance pursuant to the federal Controlled Substances Act and is banned in Kings County pursuant to Chapter 14, Article V of the Kings County Code of Ordinances (subject to certain criminal immunities required by state law), medical marijuana cooperatives, collectives, and any other forms of marijuana distribution or commercial cannabis activity are forbidden in all zones in the county. As used herein, “commercial cannabis activity” includes, but is not limited to, the following activities: cultivation, processing, manufacture, distribution, dispensing, delivery (including mobile delivery), testing, donation, possession, and use of marijuana. If at any time in the future prohibitions of the Controlled Substances Act and the Kings County Ordinance Code relating to marijuana are repealed, cooperatives, collectives, and any other form of medical marijuana distribution or commercial cannabis activity shall be allowed only in zones designated for such use by subsequent amendment to this Development Code, and only as a conditional use subject to the requirements of this Development Code for a conditional use permit, as well as any other restrictions that the County may impose.

(Ordinance No. 668-2-16, §1, 1/26/16)

- B. Use Permit Requirements:** A new zoning permit or land use permit is generally required:
1. Before a new use which is listed as requiring “Site Plan Review” or “Conditional Use Permit” in the particular zoning district is to be established on a property within that zoning district.
 2. Before an existing use on the property which already has a land use permit is to be expanded in any manner.
 3. Prior to a change in operation within a structure or at a site which constitutes a change of occupancy classification under the California Building Code.
- C. Application Types and Forms:** The following types of zoning permit or amendment applications must be submitted to the Zoning Administrator or the Planning Commission on the appropriate form located in Appendix A1 of this Development Code as shown below:



1. Temporary Use Permits (TUP), See Article 11, Section 1107 of this Development Code.
2. Site Plan Review (SPR), see Article 16, Section 1602 of this Development Code.
3. Conditional Use Permit (CUP), see Article 17, Section 1703 of this Development Code.
4. Variances, see Article 18, Section 1803 of this Development Code.
5. Planned Unit Developments (PUD), see Article 20, Section 2006 of this Development Code.
6. Changes of Zoning District Boundary and Development Code Text Amendments, see Article 21, Sections 2102 and 2103 of this Development Code.

D. Application and Filing Fees.

1. Any application for a use permit, Variance or amendment authorized by this Development Code shall be accompanied by a fee set by the Board of Supervisors sufficient to cover the cost of processing the application as described in this Article. In the case of an appeal, the Board may, but is not required to, refund the appeal filing fee if the Board determines that the appeal has merit due to their finding that an error was made in the record that was not the fault of the appellant.
2. In compliance with Section 112 above, the County may require the applicant for any permit or entitlement pursuant to this Development code to reimburse the County for extraordinary costs associated with processing such permits and entitlements and/or to indemnify the County from legal challenges to its action.

E. Permits to Run with the Land: All use permits granted in compliance with the provisions of this Development Code shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the permit application unless the use is abandoned or discontinued for a period of time exceeding six months. All applicable requirements or conditions of approval shall continue to apply after a change in property ownership.

F. Referencing Applications and Use Permits: The Zoning Administrator shall assign a unique application number to each application for all Conditional Use Permits, Planned Unit Developments, Site Plan Reviews, Variances, and amendments and shall maintain a record of all such applications indicating the location of the site and the use by address or some other unique identifier. The unique application number shall also be the reference number of the permit or entitlement approval pursuant to that application.

Sec. 114. General Performance Standards, Measurements, and Exceptions

A. Substantially Injurious Conditions: No use shall be permitted and no process, equipment or materials shall be used which are found by the Zoning Administrator or the Planning Commission to be substantially injurious to persons, property, crops or livestock in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare, or unsightliness or to involve any undue risk of fire or explosion.

1. **Air Emissions:** The operation of facilities shall not directly or indirectly discharge air contaminants into the atmosphere which exceeds any local, state, or federal air quality standards or which constitutes a nuisance within the meaning of Civil Code Section 3479. Sources of air pollution shall comply with rules identified by the Environmental Protection Agency, the California Air Resources Board and the San Joaquin Valley Air Pollution Control District. Prior to any site grading, the property owner shall coordinate directly with the San Joaquin Valley Air Pollution Control District to ensure that dust and particulate emissions are controlled to the maximum extent possible. For additional information on controlling fugitive dust emissions and to determine if a dust control plan is required for the work go to www.valleyair.org.

2. **Combustibles and Explosives:** The use, handling, storage, and transportation of combustibles and explosives shall

comply with the Uniform Fire Code.

3. **Electrical Interference:** Uses, activities, and processes shall be conducted so as not to produce electric and/or magnetic fields that adversely affect public health, safety and welfare including interference with normal radio, telephone, or television reception from off the premises where the activity is conducted, except for amateur radio operations that comply with Federal Communication Commission regulations. Existing or proposed uses that generate electrical disturbances that may be considered hazardous or a nuisance shall be shielded, contained, or modified to prevent any disturbances. Operators of these uses shall comply with all applicable Federal Communication Commission regulations.
 4. **Ground Vibration:** Uses that generate vibrations that may be considered a nuisance or hazard on any adjacent property shall be cushioned or isolated to prevent generation of vibrations. Uses shall not generate ground vibrations that are perceptible without instruments beyond the property line of the parcel containing the activity. Vibrations from temporary construction/demolition and vehicles that leave the subject parcel (e.g., trucks, trains, and aircraft) are exempt from the provisions of this Section.
 5. **Light and Glare:** Light or glare from mechanical, electrical or chemical processes or from reflective materials used or stored on a site shall be shielded or modified to prevent emission of light or glare beyond the property line, or upward into the sky.
 6. **Liquid Waste:** No liquids of any kind shall be discharge into a public or private sewage or drainage system, watercourse, body of water, or into the ground except in compliance with applicable regulations of the California Regional Water Quality Control Board.
 7. **Noise:** Limitations on noise and requirements for noise mitigation are contained in the Noise Element of the *2035 Kings County General Plan*.
 8. **Odor:** Sources of odorous emissions shall comply with the rules and regulations of the San Joaquin Valley Air Pollution Control District and the California Health and Safety Code. Noxious odorous emissions in a matter or quantity that is detrimental to or endanger the public health, safety, comfort, or welfare is declared to be a public nuisance and unlawful. Customary and usual agricultural operations are exempted from this Section under the *Kings County Right-to-Farm Ordinance*, Section 14-38 of the Kings County Code of Ordinances.
 9. **Radioactivity:** No radioactivity shall be emitted in a manner that does not comply with all applicable state and federal regulations.
- B. **Building Permit Required:** No building or other structure shall be erected, constructed, reconstructed, enlarged, moved or structurally altered nor shall any site improvements be commenced, including construction related site grading, until a building permit has been applied for and received by the owner of the property involved or a person having an interest in such property and acting under written authority of the owner, and issued by the Building Official. No building permit shall be issued until the Planning Commission or the Zoning Administrator has approved the application for the use permit if so required.
- C. **Access to a Public Street, Road, or Highway Required:**
1. No building or structure may be erected or moved onto a lot that is not served by a street or road constructed in accordance with the standards adopted by the Director of Public Works or to a state highway as permitted with the appropriate access permit issued by the California Department of Transportation.
 2. Property owners of land locked parcels must be granted permanent easements by any other property owner(s) as necessary to gain access to a street, road or highway in order to construct the required durable dustless driveway. Such easement shall be recorded with the Kings County Clerks Office.



3. All new development projects shall be required to improve all access roads to the nearest maintained right-of-way.

D. **Setbacks:** All setbacks listed in this Development Code are minimum requirements for the particular lot or parcel proposed for development.

1. **Setback Requirements; measurement:** Required setbacks shall be measured as the minimum horizontal distance from the property line of the site or street line to a line parallel thereto on the site, provided that where a precise street plan has been adopted by the Board of Supervisors, required setbacks shall be measured from the plan line, and no provision of this Development Code shall be construed to permit a structure or use to extend beyond such line; and provided further that where a site abuts on a street having only a portion of its required width dedicated or reserved for street purposes, required setbacks shall be measured from a line drawn on the boundary of the additional width required for street purposes abutting the site. On a site which is not rectangular or approximately rectangular in shape, required setbacks shall be measured in the manner prescribed by the Zoning Administrator.
2. **Allowed Projections into Required Setbacks:** Architectural features may extend into a required side rear or front setback in compliance with Table 1-1. No building or projection thereof may extend into a public utility easement.

Table 1-1 Allowed Projections into Required Setbacks			
Projecting Feature	Front Setback	Side Setback	Rear Setback
Awnings, solar shade devices, light shelves	2 feet but no closer than 3 feet to any property line or other structure		
Sills, chimneys, cornices and eaves	6 feet	24 inches	6 feet
Support posts for open decks or porch covers which are otherwise unenclosed	6 feet	0 feet	6 feet
Rain barrels for the purpose of water harvesting	2 feet but no closer than 3 feet to any property line or other structure		
Metal fire escapes which are open, unenclosed and uncovered	3 feet but no closer than 3 feet to any property line or other structure		
Planter boxes attached to the building	3 feet	0 feet	0 feet
Double skin facades and exterior insulation retrofits	On structures which already meet the minimum setback, skin facades and exterior insulation retrofits installed for the purpose of energy conservation shall be permitted to encroach on the minimum setback by not more than one foot.		

3. **Limitations on the Use of Setbacks:** Required setback areas shall only be used in compliance with the following requirements.
 - a. **Storage.** No required setback visible from the public right-of-way shall be used for the storage of inoperable vehicles, scrap, junk, building materials, or similar material in compliance with the *Public Nuisance Ordinance*, Chapter 14, *Kings County Code of Ordinances*.
 - b. **Parking.** Residential parking is allowable within required setback areas only on a paved surface, in compliance with Article 13 of this Development Code.
 - c. **Swimming Pool Equipment.** Swimming pool equipment (e.g., pumps and filters) shall be located a minimum of five feet from side and rear property lines.

- E. **Coverage; measurement:** The percent of the site area covered by structures shall be measured by dividing the number of square feet of horizontal area covered by structures, open or enclosed, by the total horizontal area within the property lines of the site.
- F. **Height limitations; measurement:** The height of a structure shall be measured vertically from the average elevation of the surface of the ground covered by the structure to the highest point of the structure.
- G. **Height limitations; exceptions:** Towers, spires, cupolas, chimneys, water tanks, flagpoles, monuments, radio and television aerials, transmission towers, fire towers and similar structures and necessary mechanical appurtenances covering not more than 10 percent of the ground area covered by the structure may be erected to a height not more than 25 feet above the height limit prescribed by the regulations for the district in which the site is located. Public utility communication equipment buildings and utility poles and towers shall not be subject to the height limits prescribed in the district regulations.
- H. The provisions of this Development Code shall not apply to a fence or wall necessary for the public safety as required by any law or regulation of the State of California or any agency thereof.
- I. **Existing Agricultural Operations:** Existing agricultural operations shall be allowed to continue in designated community expansion areas until such time as development applications on property within the expansion areas have been approved by the County.

Sec. 115. Flood Hazard Reduction: Before any approval granted in compliance with this Development Code is effective, any compliance requirements with Chapter 5A (Flood Damage Prevention) of the *Kings County Code of Ordinances* must be completed or obtained. Refer to Article 10, Section 1007 of this development code for more information on the Flood Hazard Overlay Zones.

Sec. 116. Surface Mining and Reclamation Act: The provisions of this Development Code to implement the Surface Mining and Reclamation Act of 1975 shall not be construed so as to apply to:

- A. Excavations or grading conducted for the purpose of establishment or expansion of percolation basins, recharge basins, or similar uses, or conducted for farming or on-site construction, or for the purposes of restoring land following a flood or natural disaster
- B. Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.
- C. Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose.
- D. Such other surface mining operations which the California State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.



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