

**ORDINANCE NO. 747**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, REPEALING AND RECASTING TITLE 16 OF THE INDIAN WELLS MUNICIPAL CODE; ADOPTING BY REFERENCE THE 2022 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE (CALIFORNIA CODE OF REGULATIONS, TITLE 24); INCLUDING THE 2022 CALIFORNIA BUILDING CODE (INCORPORATING AND AMENDING THE 2021 INTERNATIONAL BUILDING CODE); THE 2022 CALIFORNIA MECHANICAL CODE (INCORPORATING AND AMENDING THE 2021 UNIFORM MECHANICAL CODE); THE 2022 CALIFORNIA PLUMBING CODE (INCORPORATING AND AMENDING THE 2021 UNIFORM PLUMBING CODE); THE 2022 CALIFORNIA ELECTRICAL CODE (INCORPORATING AND AMENDING THE 2020 NATIONAL ELECTRICAL CODE); THE 2022 CALIFORNIA ENERGY CODE; THE 2022 CALIFORNIA HISTORICAL BUILDING CODE; THE 2021 UNIFORM SWIMMING POOL, SPA & HOT TUB CODE; THE 2022 CALIFORNIA FIRE CODE (INCORPORATING AND AMENDING THE 2021 EDITION OF THE INTERNATIONAL FIRE CODE); THE 2021 INTERNATIONAL PROPERTY MAINTENANCE CODE; THE 2022 CALIFORNIA GREEN BUILDING STANDARDS CODE; AND THE 2022 CALIFORNIA RESIDENTIAL CODE (INCORPORATING AND AMENDING THE 2021 INTERNATIONAL RESIDENTIAL CODE); TOGETHER WITH CERTAIN ADDITIONS, INSERTIONS, DELETIONS AND CHANGES THERETO**

**WHEREAS**, pursuant to Government Code Section 50022.1 et seq. the City of Indian Wells (the "City") may adopt by reference the California Building Standards Code, 2022 Edition as provided in Title 24 of the California Code of Regulations, and other codes, including the 2022 California Fire Code; and

**WHEREAS**, the California Building Standards Commission ("Commission") recently adopted the 2022 Edition of the California Building Standards Code; and

**WHEREAS**, California Health and Safety Code Sections 17958, 17958.5, 17958.7, and 18941.5 authorize cities to adopt the California Building Standards Code with modifications determined to be reasonably necessary because of local climatic, geological, or topographical conditions; and

**WHEREAS**, the City of Indian Wells desires to adopt the California Building Standards Code; including the 2022 California Building Code (Incorporating and Amending the 2021 International Building Code); the 2022 California Mechanical Code (Incorporating and Amending the 2021 Uniform Mechanical Code); the 2022 California Plumbing Code (Incorporating and Amending the 2021 Uniform Plumbing Code); the 2022 California Electrical Code (Incorporating and Amending the 2020 National Electrical Code); the 2022 California Energy Code; the 2022 California Historical Building Code; the

2021 Uniform Swimming Pool, Spa & Hot Tub Code; the 2022 California Fire Code (Incorporating and Amending the 2021 Edition of the International Fire Code); the 2021 International Property Maintenance Code; and the 2022 California Green Building Standards Code; and the 2022 California Residential Code (Incorporating and Amending the 2021 International Residential Code); (collectively, the "Codes"); together with the necessary amendments to assure the Codes are tailored to the particular safety needs of the City as required by its unique climatic, geological, and topographical conditions; and

**WHEREAS**, the Building Official has recommended that changes and modifications be made to the Codes, and has advised that certain changes and modifications to said Codes are reasonably necessary due to local conditions within the City of Indian Wells, and have further advised that the remainder of the said changes and modifications are of an administrative or procedural nature, or concern themselves with subjects not covered by the Code, or are reasonably necessary to safeguard life and property within the City of Indian Wells; and

**WHEREAS**, the Building Official has also recommended that changes and modifications be made to the Codes, which are necessary for administrative clarification and to establish administrative standards for the effective enforcement of the building standards of the City of Indian Wells and do not modify a building standard pursuant to California Health & Safety Code Sections 17958, 17958.7, and/or 18941.5; and

**WHEREAS**, the Office of the Fire Marshal has recommended changes to the Fire Code, and has advised that certain changes and modifications to said Codes are reasonably necessary due to local conditions within the City of Indian Wells, and have further advised that the remainder of the said changes and modifications are of an administrative or procedural nature, or are reasonably necessary to safeguard life and property within the City of Indian Wells; and

**WHEREAS**, the City Council conducted first reading of this ordinance on October 6, 2022; and

**WHEREAS**, notice of a public hearing of first reading of this Ordinance was published in the Desert Sun on September 25, 2022 and October 1, 2022; and

**WHEREAS**, notice of a public hearing of second reading of this Ordinance was published in the Desert Sun on October 19, 2022 and October 26, 2022; and

**WHEREAS**, the City Council held a public hearing on November 3, 2022, as required by law, at which time the Council determined that the adoption of the Codes and amendments thereto are in the best interest of the City and are based on the findings required by law; and

**WHEREAS**, at least one copy of each of the Codes adopted by reference by this ordinance were available for public inspection at the office of the City Clerk fifteen (15) days preceding the

public hearing pursuant to Government Code Section 50022.6.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS  
DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2. Authority.** The City Council enacts this Ordinance under the authority granted to the City as follows:

A. California Government Code Section 50022.1 et seq. authorizes the City to adopt by reference the California Building Standards Code and authorizes the City to adopt other codes by reference;

B. California Health & Safety Code Sections 17958, 17958.5, 17958.7, and 18941.5 authorize the City to adopt the California Building Standards Code with modifications determined to be reasonably necessary because of local climatic, geological, or topographical conditions.

**SECTION 3. Findings.** The City Council hereby finds that the proposed amendments to the 2022 California Building Standards Code are more restrictive than the standards adopted by the California Building Standards Commission, and are reasonably necessary because of local climatic, geological, or topographic conditions, based on the express findings and determinations, described in Exhibit "A" attached hereto, and marked in relation to the respective amendments in this Ordinance, and hereby adopted by the City Council as the findings to support the modifications to the California Building Standards Code.

**SECTION 4. Repeal and Recast.** Title 16 of the Indian Wells Municipal Code is hereby repealed and recast in its entirety, as provided in Exhibit "B," attached hereto and incorporated herein by reference.

**SECTION 5. Conflicting Ordinances Repealed.** All former ordinances or parts conflicting or inconsistent with the provisions of this Ordinance or the Codes adopted by this Ordinance and any other ordinance in conflict herewith are hereby repealed.

**SECTION 6. Transmittal.** The Building Official shall transmit a copy of this Ordinance to the California Building Standards Commission, pursuant to Health and Safety Code Section 17958.7.

**SECTION 7. CEQA.** The City Council hereby finds and determines that it can be seen with certainty that there is no possibility that this Ordinance may have a significant adverse effect on the environment. Thus, the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines. Staff is directed to file a Notice of Exemption with the County Clerk's Office within five

(5) working days of the approval of this Ordinance.

**SECTION 8. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional, unenforceable, or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional, unenforceable, or invalid.

**SECTION 9. Publication.** The Mayor shall sign this ordinance and the City Clerk shall certify to the passage and adoption of it. The City Clerk shall cause a summary of this Ordinance to be published as provided by California Government Code § 36933 (c)(1); a summary of this Ordinance shall be published in a newspaper of general circulation, printed, published, and circulated in the City of Indian Wells and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of the Ordinance, the City Clerk shall post in her office a full copy of this ordinance and cause a summary of this ordinance, together with the names of those voting for or against, to be published in the a newspaper of general circulation, printed, published, and circulated in the City of Indian Wells.

**SECTION 10. Effective Date.** This Ordinance shall take effect thirty (30) days following its adoption by the City Council.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Indian Wells, California, at a regular meeting held on the 3rd day of November, 2022.

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**DANA REED  
MAYOR**

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**STATE OF CALIFORNIA )**  
**COUNTY OF RIVERSIDE )**      **ss.**  
**CITY OF INDIAN WELLS )**

**CERTIFICATION FOR ORDINANCE NO. 747**

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance No. 747, having been regularly introduced at the meeting of October 6, 2022, was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the 3<sup>rd</sup> day of November, 2022 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:

NOES:

and was thereafter on said day signed by the Mayor of the City of Indian Wells.

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**ANGELICA AVILA**  
**CITY CLERK**

\_\_\_\_\_  
**TODD R. LEISHMAN**  
**CITY ATTORNEY**

**Exhibit "A"**

**Findings to Support Amendments to the  
2022 Edition of the California Building Standards Code**

To the extent that changes and modifications to the 2022 California Building Standards Code in this ordinance are deemed more restrictive than the standards contained in the 2022 California Building Standards Code thus requiring that findings be made pertaining to local climatic, geological, or topographical conditions to justify such modifications, the City Council hereby finds and determines as follows:

- A. Extreme surface temperatures common in the lower desert areas, one hundred sixty (160) degrees Fahrenheit plus, deteriorates and dries out building materials and our high winds create extreme fire conditions which are detrimental to the general public.
- B. Notwithstanding the provisions of the 2022 California Electrical Code, the use of aluminum and copper-clad aluminum conductors, feeder conductors, branch circuit conductors, taps and service entrance cable is expressly prohibited, except where aluminum wiring sizes 1/10 and larger are used for main feed to sub-panels and are enclosed in a raceway. The coefficient of expansion of aluminum has created untold problems whereby outside ambient temperatures in sunlight reach one hundred sixty (160) degrees Fahrenheit. When load is applied, which generates additional heat, failure occurs and creates motor burnout, fires, electrical shock and hazards detrimental to the general public.
- C. Notwithstanding the provisions of the 2022 California Building Code, Fire Code and Residential Code, where more than 50% of roof framing is removed on a residential structure, in addition to 50% of the structures' exterior walls, the reconstruction shall be subject to the incorporation of a fire sprinkler system throughout the entire structure. The purpose of the proposed amendment is to integrate fire protection systems into older existing structures that were built before fire sprinkler requirements for residential one- and two- family homes, townhouses, and multi-family dwellings. The amendment will assist in the protection of nearby structures and the community at large. The City of Indian Wells experiences annual hot, dry Santa Ana Winds, which can contribute to fires spreading quickly throughout the Community.
- D. Every three years the State of California adopts a new California Fire Code, as part of the California Building Standards Code, which becomes effective 180 days after publication by the California Building Standards Commission.

- E. The 2022 California Fire Code, California Code of Regulations, Title 24, Part 9, is based on the 2021 International Fire Code.
- F. The City of Indian Wells may establish more restrictive standards reasonably necessary to provide fire protection for life and property because of the following local climatic, geological, or topographical conditions.

I. Climatic Conditions:

Riverside County and the City of Indian Wells have an arid climate with annual rainfall varying from three (3) inches in Blythe to over thirty-three (33) inches in Pine Cove. The County also experiences annual hot, dry Santa Ana Winds, which contribute to fires spreading quickly throughout the County.

II. Topographical conditions

A variety of regions exist within Riverside County including deserts, mountains, brush covered wild lands, the Salton Sea and agricultural lands. Additionally, elevations within Riverside County range from three hundred (300) feet below sea level to mountains over ten thousand (10,000) feet. This variety in regions contributes to an increased emergency response time, which necessitates cooperation between local agencies.

Riverside County contains a large number of sensitive habitats for various species and vegetation, consists of large open space areas between major urban centers and includes landscapes varying from mountains and hills to valleys and deserts. These conditions impact building and structure location, which impedes emergency access and response.

Riverside County extends from Orange County to the State of Arizona and is mixed with congested urban areas, rural lands and wild lands, which increase Riverside County Fire Department response times to emergencies.

The topography within Riverside County extends from flat to twenty-five percent (25%) slope for habitable land, which causes buildings and structures to be located in unique areas that impact emergency response and access.

III. Geological Conditions

Two major earthquake faults, the San Andreas Fault and the San Jacinto Fault, bisect Riverside County and numerous minor faults exist throughout it. As a result, a substantial amount of property and persons located in Riverside County and the City of Indian Wells are likely to be impacted by earthquakes and will require emergency response and rescue.

In addition to earthquakes, a substantial amount of property and persons located in

Riverside County and the City of Indian Wells are likely to be impacted by landslides, wind erosion, blown sand, flooding and wildfires because of the County's unique climatic, geological and topographical conditions.

- F. The additional requirements included herein are necessary to properly protect the health, safety and welfare of the residents and workers of Riverside County and the City of Indian Wells.
- G. Revenue shortages make it difficult to locate additional fire stations and provide staffing sufficient to control fires in single and multi-story retail, commercial and industrial buildings, making enhanced built in protection necessary.
- H. The sections of the California Fire Code may be referred to by the same number used in said published compilation preceded by the words "the City of Indian Wells Fire Code Section" or "Fire Code Section."
- I. California Health and Safety Code Sections 17958.7 and 18941.5 require that the modification or change be expressly marked and identified as to which each finding refers. The following table sets forth the 2022 California Fire Code sections that have been modified, and the associated local climatic, geological, and/or topographical conditions described above supporting the modification.

<b>2022 BUILDING CODE SECTION</b>	<b>TITLE/SUBJECT</b>	<b>FINDINGS/ JUSTIFICATIONS</b>
113	Board of Appeals	Administrative
105.5	Permits—Expiration	Administrative
109.2	Fees—Schedule of permit fees	Administrative
110.1	Inspections—General	Administrative
1505.1	Fire Classification—General	I, II, & III
907.2.8	Group R-1	I, II, & III
907.2.9	Group R-2 and R-2.1	I, II, & III
907.2.10	Group R-4	I, II, & III
903.2.8.2	Alterations or reconstruction of residential structures	I, II, & III

<b>2022 MECHANICAL CODE SECTION</b>	<b>TITLE/SUBJECT</b>	<b>FINDINGS/ JUSTIFICATIONS</b>
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104.5	Fees—Permit Fees	Administrative
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<b>2022 PLUMBING CODE SECTION</b>	<b>TITLE/SUBJECT</b>	<b>FINDINGS/ JUSTIFICATIONS</b>
104.5	Fees	Administrative

<b>2022 ELECTRICAL CODE SECTION</b>	<b>TITLE/SUBJECT</b>	<b>FINDINGS/ JUSTIFICATIONS</b>
310.3(B) & 311.12	Conductors—Conductor material	I & III
230.1	Services—Scope	I, II, & III

<b>2022 FIRE CODE SECTION</b>	<b>TITLE/SUBJECT</b>	<b>FINDINGS/ JUSTIFICATIONS</b>
102.5	Application of Residential Code	I, II & III
104.7 & 104.7.1	Liability; Legal defense	Administrative
104.1.1	Authority of the Fire Chief and Fire Department	Administrative
104.13	Authority of the Fire Chief to Close Hazardous Fire Areas	Administrative
107.2	Schedule of Permit Fees	Administrative
107.7	Cost Recovery	Administrative
111.1	Board of Appeals Established	Administrative
112.4	Violation and Penalties	Administrative
308.1.6.3	Sky Lanterns or Similar Devices	I, II, & III
503.2.1	Dimensions	Administrative
503.2.2	Authority	Administrative
503.6.1	Automatic Opener	Administrative
503.7	Loading Areas and Passenger Drop-Off Areas	Administrative
507.5.7	Fire Hydrant Size and Outlets	I & II
507.5.8	Fire Hydrant Street Marker	I, II, & III

508.1	General	I, II, & III
508.1.1	Location and Access	I, II, & III
508.1.3	Exception	I, II, & III
509.2.1	Minimum Clearances	I & II
608.11.1.2	Manual Operation	II & III
903.2	Where Required	I, II, & III
903.3.5.3	Hydraulically Calculated Systems	I & II
3204.2.1	Minimum Requirements for Client Leased or Occupant Owned Warehouses	Administrative
4904.2.1	High Fire Hazard Severity Zone Maps	Administrative
App Ch B, Table B105.2	Required Fire-Flow For Buildings Other Than One- And Two-Family Dwellings, Group R-3 And R-4 Buildings And Townhouses	I, II, & III
App Ch C, C103.1	Hydrant Spacing	I, II, & III
5608.1	Fireworks Display—General [Replaced with IWMC § 9.53.015]	Administrative
5001.1	General—Scope [Replaced with IWMC Chapter 16.40]	Administrative

<b>2022 RESIDENTIAL CODE SECTION</b>	<b>TITLE/SUBJECT</b>	<b>FINDINGS/ JUSTIFICATIONS</b>
313.1	Townhouse automatic fire sprinkler systems	I, II, & III
313.2	One- and two-family dwellings automatic fire sprinkler systems	I, II, & III

This remainder of the amendments not listed in this Section are necessary for

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administrative clarification, and do not modify a building standard pursuant to California Health & Safety Code Sections 17958, 17958.7 and/or 18941.5. They establish administrative standards for the effective enforcement of the building standards in the City of Indian Wells.

**Exhibit B**  
**Indian Wells Municipal Code, Title 16**

**[follows this page]**

## **Title 16 BUILDING AND CONSTRUCTION**

Chapter 16.04 DEFINITIONS

Chapter 16.08 ADMINISTRATION AND CONSTRUCTION STANDARDS

Chapter 16.10 ADDRESSING PROPERTY AND BUILDINGS

Chapter 16.12 CALIFORNIA BUILDING CODE

Chapter 16.16 CALIFORNIA MECHANICAL CODE

Chapter 16.20 CALIFORNIA PLUMBING CODE

Chapter 16.24 CALIFORNIA ELECTRICAL CODE

Chapter 16.25 CALIFORNIA ENERGY CODE

Chapter 16.26 CALIFORNIA HISTORICAL BUILDING CODE

Chapter 16.28 RELOCATIONS

Chapter 16.30 UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE

Chapter 16.31 ESTABLISHING BARRIERS FOR SWIMMING POOLS, SPAS AND HOT TUBS

Chapter 16.32 CALIFORNIA FIRE CODE

Chapter 16.33 INTERNATIONAL PROPERTY MAINTENANCE CODE

Chapter 16.35 CALIFORNIA GREEN BUILDING STANDARDS CODE

Chapter 16.36 FLOODPLAIN MANAGEMENT

Chapter 16.38 CALIFORNIA RESIDENTIAL CODE

Chapter 16.40 ABOVEGROUND STORAGE OF FLAMMABLE/COMBUSTIBLE LIQUIDS OR GASES

Chapter 16.50 TRANSPORTATION DEMAND MANAGEMENT REQUIREMENTS FOR SPECIFIED NEW DEVELOPMENT PROJECTS

Chapter 16.52 STORM WATER MANAGEMENT AND DISCHARGE CONTROLS

Chapter 16.60 POST DISASTER SAFETY ASSESSMENT PLACARDS

Chapter 16.70 LAND USE FOR RECONSTRUCTION AFTER A DISASTER

Chapter 16.75 WASTE MANAGEMENT PLAN FOR CERTAIN CONSTRUCTION AND DEMOLITION PROJECTS WITHIN THE City OF INDIAN WELLS

Chapter 16.80 POST-DISASTER DEMOLITION

Chapter 16.90 DISASTER REPAIR AND RECONSTRUCTION

Chapter 16.100 SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

Chapter 16.110 ELECTRIC VEHICLE CHARGING STATIONS

## **Chapter 16.04 DEFINITIONS**

- [16.04.010 Generally.](#)
- [16.04.020 Administrative Authority—Building Official.](#)
- [16.04.030 Building Department.](#)
- [16.04.040 City.](#)
- [16.04.050 City Council.](#)
- [16.04.060 County agency.](#)
- [16.04.070 Mayor.](#)
- [16.04.080 Person.](#)

### **16.04.010 Generally.**

Whenever in this Title the following names or terms are used, such names or terms shall have the meanings ascribed to them by this Chapter.

### **16.04.020 Administrative Authority—Building Official.**

“Administrative Authority” or “Building Official” means the Building Official appointed by the City Manager of the City of Indian Wells.

### **16.04.030 Building Department.**

“Building Department” means the Building Department of the City of Indian Wells or other designated agency.

### **16.04.040 City.**

“City” means the City of Indian Wells or the incorporated territory within the City of Indian Wells as the text may require.

### **16.04.050 City Council.**

“City Council” means the City Council of the City of Indian Wells.

### **16.04.060 County agency.**

“County agency” means any agency of Riverside County under contract with the City of Indian Wells and performing services for the City of Indian Wells.

### **16.04.070 Mayor.**

“Mayor” means the Mayor of the City of Indian Wells.

**16.04.080 Person.**

“Person” means a natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid. It includes the State, an agency of the State, special districts, local agencies, except those exempt by State law.

**Chapter 16.08 ADMINISTRATION AND CONSTRUCTION STANDARDS**

- [16.08.010 Administration—Responsibilities of the Building Official.](#)
- [16.08.020 Application.](#)
- [16.08.030 Miscellaneous regulations.](#)
- [16.08.040 Prefabricated buildings.](#)
- [16.08.050 Certificate of Occupancy.](#)

**16.08.010 Administration—Responsibilities of the Building Official.**

For the purpose of administering and enforcing this Title and providing an inspector to enforce State and building safety laws, there is established in the City a Building Department which shall be under the jurisdiction of the Building Official.

(a) Appointment by City Manager. The Building Official shall be appointed by the City Manager.

(b) Reports and Recommendations. The Building Official shall submit, when directed, interim reports and an annual report to the City Manager covering the work of his or her department during the preceding period and containing a summary of his or her recommendations as to desirable amendments to the codes.

(c) City Enforcement Official. The Building Official is designated as the City Enforcement Official referred to in Section 19122 of the Health and Safety Code of the State.

**16.08.020 Application.**

(a) General. This Title applies to all buildings and structures, or parts thereof, in the incorporated area of the City, unless hereafter specifically exempted.

(b) Use of Heat and Cooling Equipment on Rooftops Restricted. Unless specifically approved by the Landscape Architectural Committee, there shall not be installed any refrigeration, heating, or mechanical equipment on the roof of any building or structure.



In no event shall any equipment be visible from any nearby property; except that solar collectors which are thoroughly integrated into the building design may be permitted, provided that a determination has been made by the Architectural Landscape Committee and City staff that no aesthetically detrimental effect will occur in relation to adjacent and nearby properties.

(c) Construction in Violation of City Code. No building permit shall be issued by the Building Official for any structure if the construction thereof violates any provision of the City subdivision and zoning ordinances (Titles 20 and 21).

(d) Penalty for Violation. Any person, firm or corporation who violates any of the provisions of this Title, or occupies or causes to be occupied any building without authorization from the City, or who interferes with or obstructs the work of the Building Official or authorized representatives, while engaged in the act of making lawful inspections of any building or building site, or who continues working in violation of posted stop work notice, or demolishes or removes any building or structure without authority from the Building Official, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

(e) Liability. This Title shall not be constructed as imposing upon the City of Indian Wells, or upon any of its officers or employees, any liability or responsibility for injury or damages resulting from any building, plumbing, electrical or mechanical work approved or performed pursuant to this Title, or by reason of any permit issued or inspection performed thereunder.

#### **16.08.020 Application.**

(a) General. This Title applies to all buildings and structures, or parts thereof, in the incorporated area of the City, unless hereafter specifically exempted.

(b) Use of Heat and Cooling Equipment on Rooftops Restricted. Unless specifically approved by the Landscape Architectural Committee, there shall not be installed any refrigeration, heating, or mechanical equipment on the roof of any building or structure.

In no event shall any equipment be visible from any nearby property; except that solar collectors which are thoroughly integrated into the building design may be permitted, provided that a determination has been made by the Architectural Landscape Committee and City staff that no aesthetically detrimental effect will occur in relation to adjacent and nearby properties.

(c) Construction in Violation of City Code. No building permit shall be issued by the Building Official for any structure if the construction thereof violates any provision of the City subdivision and zoning ordinances (Titles 20 and 21).

(d) Penalty for Violation. Any person, firm or corporation who violates any of the provisions of this Title, or occupies or causes to be occupied any building without authorization from the City, or who interferes with or obstructs the work of the Building Official or authorized representatives, while engaged in the act of making lawful inspections of any building or building site, or who continues working in violation of posted stop work notice, or demolishes or removes

any building or structure without authority from the Building Official, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

(e) Liability. This Title shall not be constructed as imposing upon the City of Indian Wells, or upon any of its officers or employees, any liability or responsibility for injury or damages resulting from any building, plumbing, electrical or mechanical work approved or performed pursuant to this Title, or by reason of any permit issued or inspection performed thereunder.

#### **16.08.030 Miscellaneous regulations.**

(a) Title Applicable to Salvaged Vehicle Body Used for Inhabitation or Business. No one shall use as a place of habitation, residence or business any discarded, used, secondhand, salvaged, abandoned or replaced street car, box car, refrigerator car, motor bus body or similar vehicle body, unless such structures are altered, changed or reconstructed so as to comply with all other conditions and requirements of this Title.

(b) Self-Accomplishment of Title Requirements Not Prohibited. Nothing in this Title shall be construed as prohibiting any person from doing his or her own work in accordance with the provisions of this Title, nor from employing any qualified and licensed person to work on a building or structure to which the provisions of this Title apply. The reasonable value of such labor shall be included in the permit valuation. Prior to the issuance of a permit, all construction plans submitted shall be complete in detail in accordance with accepted architectural and engineering practices. Prior to final inspection, occupancy or use, a completion bond may be required by the Building Official to guarantee landscaping or other City requirements.

(c) Exempted Buildings and Structures — When No Longer Exempt. Notwithstanding any of the provisions of this Title exempting certain buildings or structures from its application, any person may submit an application of this Title, provided, if the permit is issued with knowledge by the applicant that a permit is not required, the provisions of this Title shall thereafter apply to the construction.

(d) Construction Identity by Sign Conditions. All buildings constructed in places other than a subdivision shall have posted a legible sign bearing the street address, and all subdivisions shall have lot numbers posted in a like manner so that the sign may be read from the road, highway or ingress easement. Such sign shall not exceed two (2) square feet in size.

(e) Building Official May Employ Qualified Assistance in Plan Checking. To facilitate and expedite the function of plan checking during periods of heavy work load, the Building Official may, at his or her discretion, employ engineering firms or their facilities to check plans and specifications at the same fees that are allowed to the Building Department.

(f) Underground Utilities. Utilities including but not limited to electric, communications, vaults and other appurtenances, street lighting and cable television, shall be placed underground on all new buildings and when additions, remodeling, or repairs exceed fifty percent (50%) of fair market value of existing buildings. In every case where electric meter service panel is changed or altered, service entrance wiring shall be placed underground. Utilities for the purpose of this Section shall include appurtenances and associated equipment such as,

but not limited to, surface mounted transformers, pedestal mounted terminal boxes and meter cabinets and ducting.

(g) Exceptions for Underground Utilities. If for some reason utility vaults and other appurtenances cannot be placed underground, the applicant can request a waiver subject to the review and approval of the Architecture Landscape Committee, the Planning Commission, and the City Council.

#### **16.08.040 Prefabricated buildings.**

(a) Subject to Regulations of New Buildings. Prefabricated buildings which are to be located in the City, are subject to all of the provisions of this Title regulating the construction of new buildings and shall not be considered as relocations.

(b) Meaning of "prefabricated buildings." A prefabricated building is designed as a building which is assembled, or partly assembled, at a place other than the site on which it is to be permanently located. It does not include the prefabrication of panels which are then assembled at the permanent building site.

#### **16.08.050 Certificate of Occupancy.**

(a) No occupancy of any building is permitted until a Certificate of Occupancy is issued. The Certificate of Occupancy and approval for permanent utility service shall be issued only after the final building, architecture and landscape inspections have been made.

(b) The owner, developer or contractor must request a final building inspection through the City's Building Department to confirm compliance with all requirements of Title 16 Building and Construction of this Code and any final architecture and landscape inspections required through the City's project approvals.

Prior to the issuance of the Certificate of Occupancy and release of utilities, all properties utilized for the temporary storage of construction materials, equipment, vehicles or construction trailers (office and storage) shall have all construction material, equipment, sanitary facilities or refuse cleared and the site returned to its original condition.

### **Chapter 16.10 ADDRESSING PROPERTY AND BUILDINGS**

- [16.10.010 Purpose and authority to assign numbers.](#)
- [16.10.020 Procedure for assigning numbers.](#)
- [16.10.030 Official numbering system.](#)

#### **16.10.010 Purpose and authority to assign numbers.**

To provide for the administration of a uniform addressing system, the Building Department of the City shall maintain an "official address map" for the City and shall assign all numbers to lots, buildings and/or units in accordance with the provisions hereof. Numbers shall be assigned when required to identify any property, buildings, or units. New numbers may be assigned to previously numbered property in order to provide a uniform system and to correct conflicts, errors, or inconsistencies.

#### **16.10.020 Procedure for assigning numbers.**

(a) Eligibility. Any person owning or controlling property may apply for a new address by providing adequate description of the property or buildings to be assigned and the name of the property owner and tenants of the same.

(b) Identification of Property. The application shall be processed in a manner to adequately provide for building or unit identification for the post office department, utility company personnel, City fire and police personnel and the general public.

(c) Inconsistencies. Where conflicts or inconsistencies arise, the department may initiate a change in numbers on its own, provided that all other requirements are met regarding proper notice.

(d) Notification. Once a number or numbers are assigned, the applicant shall be notified in person or by mail, or both, as shall the post office, electric, water and gas utilities and any tenant listed on the application.

(e) Posting of Numbers. It shall be the duty of the owner or person in possession of any property to properly post the assigned number within ten (10) days after such notice is received. The minimum four inch (4") high number shall be located in a position on the building to make it clearly visible from a street during the daytime; except, subunit designations on individual apartments, shops and similar spaces shall be located on or near the entrance door of the subunit. Said number shall correspond to the one assigned by the City, and shall be posted at all times. In the event a number is removed, deteriorates, or is no longer visible, the property owner and/or tenant shall be subject to the provisions of this Chapter with respect to posting.

#### **16.10.030 Official numbering system.**

For the purpose of maintaining uniform numbering, buildings and lots shall be numbered so that odd numbers shall be to the west and south and even numbers shall be to the north and east. To the fullest extent possible, the department shall attempt to maintain a uniform system consistent with that in general use in the County.

### **Chapter 16.12 CALIFORNIA BUILDING CODE**

- [16.12.000 Adopted by reference.](#)

- [16.12.010 Amendment to Section 113—Board of Appeals.](#)
- [16.12.020 Amendment to Section 105.5—Permits—Expiration.](#)
- [16.12.030 Amendment to Section 109.2—Fees—Schedule of permit fees.](#)
- [16.12.040 Addition to Section 110.1—Inspections—General.](#)
- [16.12.050 Amendment to Section 1505.1—Fire Classification—General—Deleting combustible roofing materials from the list of permissible roofing materials for roofing a new structure except for re-roofs.](#)
- [16.12.055 Addition of Section 903.2.8.2 — Alterations or reconstruction of residential structures.](#)
- [16.12.070 Amendment to Sections 907.2.8—Group R-1; 907.2.9—Group R-2 and R-2.1; and 907.2.10—Group R-4.](#)

**16.12.000 Adopted by reference.**

(a) The California Building Code, Title 24, Part 2, 2022 Edition, Volumes 1 and 2 including Chapter 1 and Appendices I, O, and P, which incorporates and amends the International Building Code, 2021 Edition published by the International Code Council, with changes, additions, and deletions set forth in this Chapter, are adopted by reference as the building code of the City.

(b) At least one (1) copy of said codes are on file in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

**16.12.010 Amendment to Section 113—Board of Appeals.**

Section 113 of the California Building Code is amended to read as follows:

113.1 General. The City Council shall hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code. The City Council shall render all decision and findings in writing to the appellant with a duplicate copy to the Building Official.

113.2 Limitations and Authority. The City Council shall have the authority to hear and decide appeals of orders, decisions or determinations made by the Building Official relating to building standards of the California Building Standards Code.

113.3 Procedure for Filing an Appeal. Any person desiring a review of a decision by the Building Official may file a request with the City Council for a hearing, upon the forms provided by the Building Official within ten (10) days after the date of said decision. The effect of the decision to be reviewed is suspended until the termination of the hearing.

113.4 Hearing. The City Council shall fix the time and place of the hearing which shall be at a meeting of the City Council held not less than five (5) nor more than fifteen (15) working days after the date of filing of the request for hearing. The City Council shall give written notice of the time and place of the hearing to the applicant and the Building Official. Witnesses may be sworn and examined, and evidence produced by the interested parties who shall appear in person only. The Board shall keep a record of the proceedings of each hearing.

113.5 Recommendation of the Board. The City Council shall make written findings and conclusions of its recommendations to the Building Official within five (5) days after the close of the hearing. The affirmative vote of not less than three (3) members shall constitute the recommendation of the Council.

#### **16.12.020 Amendment to Section 105.5—Permits—Expiration.**

Section 105.5 of the California Building Code is amended to read as follows:

Every permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within twelve (12) months from the date of such permit, if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days, or if the building or work authorized by such permit is not completed within two (2) calendar years from the issuance date of the permit.

Before such work can be recommenced, a new permit, or a renewed permit as specified below, shall be first obtained.

For permits where work has not commenced, a renewed permit may be obtained provided that: (1) no changes have been made or will be required in the original plans and specifications for such work; (2) the expiration has not exceeded two (2) years from the original issuance date; and (3) a fee equal to one half the amount required for a new permit is paid.

For permits where work had commenced and was subsequently suspended or abandoned, a renewed permit may be obtained provided that: (1) No changes have been made or will be required in the original plans and specifications for such work; (2) the expiration has not exceeded two (2) years from the original issuance date; and (3) a fee equal to one half the amount required for a new permit is paid, except that where construction has progressed and has been approved to the point whereby only a final inspection is required, a fee equal to one quarter the amount required for a new permit shall be paid.

For permits where construction activities have exceeded two (2) years beyond the issuance date or any extension thereof, a renewed permit is required. The renewed permit shall not be issued unless the permittee signs an agreement committing to complete the building, or at a minimum to complete all exterior work including but not limited to painting and landscaping, within a reasonable period of time as determined by the Building Official. The permittee shall post a completion bond in the estimated amount of the work remaining to be done.

Any permittee holding an unexpired permit may apply for an extension of the time within which work under that permit may be continued when, for good and satisfactory reasons, he was unable to complete the work within the time required by this Section. The Building Official may

extend the time for completion by the permittee for one or more periods not exceeding one hundred eighty (180) days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented completion of the construction the work. The Building Official may require the permittee to sign an agreement committing to complete the work within a reasonable period of time as determined by the Building Official and to post a completion bond in the estimated amount of the work remaining to be done.

Failure to complete the work of construction within the time required is a violation subject to punishment as provided in the Indian Wells Municipal Code. The Building Official is authorized to abate any unsafe condition or nuisance created by such incomplete work.

#### **16.12.030 Amendment to Section 109.2—Fees—Schedule of permit fees.**

Section 109.2 of the California Building Code is amended to read as follows:

The fee for each permit shall be as set forth by fee resolution of the City Council.

#### **16.12.040 Addition to Section 110.1—Inspections—General.**

The following sentence is added to Section 110.1 of the California Building Code to read as follows:

Survey stakes shall be provided prior to first inspection and maintained so they are clearly visible until after the Certificate of Occupancy has been issued, except for repair or remodeling work which does not relate to setback requirements.

#### **16.12.050 Amendment to Section 1505.1—Fire Classification—General—Deleting combustible roofing materials from the list of permissible roofing materials for roofing a new structure except for re-roofs.**

Section 1505.1 is amended to read as follows:

Section 1505.1. The roof covering on any new residential structure regulated by this Code shall be a Class A roof covering as specified in Section 1505.2. All roof coverings on new structures shall be Class A roof covering as specified in Section 1505.2. The Class A roof covering shall comply with the test standard for determining fire retardancy of roof covering materials and comply with the Indian Wells Building Code.

(a) The roof-covering assembly includes the roof deck, interlayment, insulation, and the Class A covering.

(b) Re-Roofing an Existing Structure. All re-roofings of existing structures, including partial re-roofings, shall be Class A fire retardant roof coverings that conform to California Building Code, 2019 Edition for Class A roof coverings.

#### **16.12.055 Addition of Section 903.2.8.2—Alterations or reconstruction of residential structures.**

Where over 50% of the roof framing is removed on a residential structure, in addition to over 50% of the structures exterior walls, the reconstruction shall be subject to incorporation of a fire sprinkler system throughout the entire structure.

**16.12.070 Amendment to Sections 907.2.8—Group R-1; 907.2.9—Group R-2 and R-2.1; and 907.2.10—Group R-4.**

(a) The following is added to Section 907.2.8 of the California Building Code to read as follows:

When a permit is required for an addition, alteration or repair to a Group R-1 Occupancy or when one or more sleeping rooms are added or created in existing Group R-1 Occupancies, smoke detectors shall be installed in accordance with this Section.

EXCEPTION: Repairs to the exterior surfaces of a Group R-1 Occupancy are exempt from the requirement of this Section.

(b) The following is added to Section 907.2.9 of the California Building Code to read as follows:

When a permit is required for an addition, alteration or repair to a Group R-2 or R-2.1 Occupancy or when one or more sleeping rooms are added or created in existing Group R-2 or R-2.1 Occupancies, smoke detectors shall be installed in accordance with this Section.

EXCEPTION: Repairs to the exterior surfaces of a Group R-2 or R-2.1 Occupancy are exempt from the requirement of this Section.

(c) The following is added to Section 907.2.10 of the California Building Code to read as follows:

When a permit is required for an addition, alteration or repair to a Group R-4 Occupancy or when one or more sleeping rooms are added or created in existing Group R-4 Occupancies, smoke detectors shall be installed in accordance with this Section.

EXCEPTION: Repairs to the exterior surfaces of a Group R-4 Occupancy are exempt from the requirement of this Section.

**Chapter 16.16 CALIFORNIA MECHANICAL CODE**

- [16.16.000 Adopted by reference.](#)
- [16.16.010 Section 104.5—Fees—Permit fees.](#)

(a) The California Mechanical Code, Title 24, Part 4, 2022 Edition, including Chapter 1, Division II and Appendices B, C and D, which incorporates and amends the Uniform Mechanical Code, 2021 Edition, published by the International Association of Plumbing and Mechanical Officials with changes, additions, and deletions set forth in this Chapter, are adopted by reference as the mechanical code of the City.



(b) At least one (1) copy of said mechanical code has been deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

**16.16.010 Section 104.5—Fees—Permit fees.**

Section 104.5 of the California Mechanical Code is amended to read as follows:

The fee for each permit shall be as set forth by fee resolution of the City Council.

**Chapter 16.20 CALIFORNIA PLUMBING CODE**

- [16.20.000 Adopted by reference.](#)
- [16.20.010 Section 104.5—Fees.](#)

**16.20.000 Adopted by reference.**

(a) The California Plumbing Code, Title 24, Part 5, 2022 Edition including Chapter 1, Division II and Appendices A, B, D, H, I, and J which incorporates and amends the Uniform Plumbing Code, 2018 Edition, published by the International Association of Plumbing and Mechanical Officials, with changes, additions, and deletions set forth in this Chapter, are adopted by reference as the plumbing code of the City.

(b) At least one (1) copy of said plumbing code has been deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

**16.20.010 Section 104.5—Fees.**

Section 104.5 of the California Plumbing Code is amended to read as follows:

The fee for each permit shall be as set forth by fee resolution of the City Council.

**Chapter 16.24 CALIFORNIA ELECTRICAL CODE**

- [16.24.000 Adopted by reference.](#)
- [16.24.010 Amendment to Section 310.106\(B\)—Conductors—Conductor material.](#)
- [16.24.020 Addition to Section 230.1—Services—Scope.](#)
- [16.24.030 Reserved.](#)

**16.24.000 Adopted by reference.**

(a) The California Electrical Code, Title 24, Part 3 2022 Edition which incorporates and amends the National Electrical Code, 2020 Edition, published by the National Fire Protection

Association, including Article 89, with changes, additions, and deletions set forth in this Chapter, are adopted by reference as the electrical code of the City.

(b) At least one (1) copy of said electrical code has been deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

**16.24.010 Amendment to Sections 310.3 (B) & 311.12 —Conductors—  
Conductor material.**

The following shall be added to Sections 310.3 (B) & 311.12 of the California Electrical Code:

Aluminum conductor limitations. No aluminum wiring shall be used. Exception: Aluminum wiring in sizes 1/0 and larger may be used for main feed to sub-panels only and shall be enclosed in a raceway.

**16.24.020 Addition to Section 230.1—Services—Scope.**

The following shall be added to Section 230.1 of the California Electrical Code:

Utility lines, including but not limited to electric communications, street lighting and cable television, shall be placed underground on all new buildings. When additions, remodeling or repairs exceeds fifty percent (50%) of fair market value of existing buildings, all overhead service entrances shall be placed underground. In every case where electric meter service panel is changed or altered, service entrance wiring shall be placed underground. Utilities, for the purpose of this Section shall include appurtenances and associated equipment such as, but not limited to, surface mounted transformers, pedestal mounted terminal boxes, meter cabinets and ducting.

**16.24.030 Reserved.**

**Chapter 16.25 CALIFORNIA ENERGY CODE**

- [16.25.000 Adopted by reference.](#)

**16.25.000 Adopted by reference**

(a) The California Energy Code, Title 24, Part 6, 2022 Edition and Appendices, thereof, as approved by the California Building Standards Commission, prescribing regulations governing the building envelope, space-conditioning system, water-heating systems, indoor lighting systems, outdoor lighting systems, and indoor and outdoor signs installations, construction, maintenance, alteration, and repair, are adopted by reference as the energy code of the City.

(b) At least one (1) copy of said energy code has been deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

**Chapter 16.26 CALIFORNIA HISTORICAL BUILDING CODE**

- [16.26.000 Adopted by reference.](#)

### **16.26.000 Adopted by reference**

(a) The California Historical Building Code, Title 24, Part 8, 2022 Edition and Appendices, thereof, as approved by the California Building Standards Commission, prescribing regulations for the preservation, restoration, rehabilitation, relocation or reconstruction of buildings or properties designated as qualified historical buildings or properties within the city are adopted by reference as the historical building code of the City.

(b) At least one (1) copy of said historical building code has been deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

### **Chapter 16.28 RELOCATIONS**

- [16.28.010 Permit required.](#)
- [16.28.020 Conditions for permit issuance.](#)
- [16.28.030 Application form and fees.](#)
- [16.28.040 Information required along with application.](#)
- [16.28.050 Possibility of conditional permit.](#)
- [16.28.060 Certain collateral required from applicant.](#)
- [16.28.070 Default of conditions of permit.](#)
- [16.28.080 Requirements prior to transport.](#)
- [16.28.090 Temporary relocation permits.](#)
- [16.28.100 "Farm labor camps" exempt.](#)
- [16.28.110 Access to premises by building director.](#)

#### **16.28.010 Permit required.**

No person shall relocate on, or move onto any premises, or permit to be relocated on or moved onto any premises, any building or structure that is subject to the provisions of this Title, without first obtaining a relocation permit from the Building Official.

#### **16.28.020 Conditions for permit issuance.**

The Building Official shall issue relocation permits only for buildings or structures that either conform to all the requirements of this Title or that will conform to the standards of this Title without substantial structural, wiring or plumbing changes. No relocation permit shall be issued for any building or structure if the proposed relocation, or use thereof, will violate any law or ordinance.

#### **16.28.030 Application form and fees.**

Applications for a relocation permit shall be made upon the form provided by the Building Official. The fee for filing an application is fifty dollars (\$50.00); the fee shall be increased at the current Federal mileage rate per mile for each mile between the building and the nearest point on the boundary of the City, measured by way of the shortest route usually traveled. If the application is approved, an additional fee of fifteen dollars (\$15.00) shall be paid prior to the issuance of the relocation permit.

#### **16.28.040 Information required along with application.**

In order to determine whether a permit shall be issued, the Building Official shall require the applicant to furnish photographs of the building or structure; the written report of a qualified termite inspector that it is free from termites or other vermin; plans, specifications and a detailed written description of any proposed repair, alteration or addition to the building or structure; and such other information as he or she deems necessary, all to be furnished by and at expense of the applicant, and the Building Official may cause to be made any investigation which he or she believes necessary.

#### **16.28.050 Possibility of conditional permit.**

If the Building Official determines that the building or structure may be relocated within or into the City, and that its relocation at the proposed site shall not violate any law or ordinance, he shall then determine what changes are necessary for the building or structure to conform to the standards of this Title. The Building Official shall then issue a relocation permit which specifies all work that must be done, and a reasonable time limit for the completion of such work, except that if no time limit is specified, it shall be completed within ninety (90) days after issuance of the permit; provided, that any such time limit may for good cause be extended for an additional period by written order of the Building Official. The relocation permit shall be construed as a conditional relocation permit, and it shall so state thereon, until all the work required by the Building Official has been completed.

#### **16.28.060 Certain collateral required from applicant.**

No relocation permit shall be issued unless the applicant shall first post with the Building Official a cash deposit in an amount equal to the cost of the required work, or the cost of removal or demolition of the building or structure, whichever is the higher, plus twenty (20) percent, the cost to be as estimated by the Building Official. The applicant may substitute for the cash deposit, a letter of credit, a savings and loan certificate, or other negotiable security; provided, that no substitute for a cash deposit shall be acceptable if it may be recalled by the applicant without the consent of the City, or if it requires any act other than the cashing thereof for collection by the City. A surety bond in a form acceptable to the City, executed by a corporate surety acceptable to the City, may be substituted for the cash deposit. The return of the cash

deposit or other security to the applicant shall be conditioned upon the performance of all of the terms and conditions of the permit within the time limit specified therein or in this Title, or any extension thereof.

#### **16.28.070 Default of conditions of permit.**

Whenever a default has occurred in the performance of any term or condition of the relocation permit, the Building Official shall give written notice thereof in person or by certified mail to the applicant, specifying therein the default that has occurred and the period of time to be allowed for the completion of such work. Notice mailed to the address given by the applicant on his or her application form shall be deemed sufficient for all purposes. If on the expiration of the time limit, or of any further extension, said work has not been performed, the deposit shall be forfeited. The Building Official at his or her option may then either perform the work or cause the removal or demolition of said building or structure.

#### **16.28.080 Requirements prior to transport.**

No officer of this City who is authorized to issue a permit to transport upon a highway a building or structure covered by this Title shall issue such permit until the relocation permit required by this Section shall have been issued, or until there is filed with him an affidavit made by the owner of the premises upon which the house or structure is to be placed, which sets forth facts showing that a permit under this Section is not required. No building or structure shall be transported upon any City street unless the owner or person in control thereof has first received the permission of the City Council.

#### **16.28.090 Temporary relocation permits.**

Buildings and structures moved temporarily, to any premises zoned for such use, are subject to all the requirements of this Section. The owner or person in control of such building or structure shall specify whether the temporary relocation is for purposes of storage, sale, improvement or repair; and he or she shall obtain a one-year temporary relocation permit, which time limit may thereafter, upon application to the Building Official, be extended six (6) months. No further extension of time shall be granted except upon application to, and by order of the City Council.

#### **16.28.100 "Farm labor camps" exempt.**

This Section shall not apply to any buildings used to house agricultural labor, commonly called "farm labor camps," which are subject to the provisions of the State Housing Act.

#### **16.28.110 Access to premises by building director.**

The Building Official shall have access to all premises described in the relocation permit in order to inspect the building or structure involved, the progress of the work, and to perform any of the acts authorized or required by this Title.

## **Chapter 16.30 UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE**

- [16.30.000 Adopted by reference.](#)

### **16.30.000 Adopted by reference.**

(a) The Uniform Swimming Pool, Spa and Hot Tub Code, 2021 Edition, published by the International Association of Plumbing and Mechanical Officials is adopted by reference by the City.

(b) At least one (1) copy of said code will be deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

## **Chapter 16.31 ESTABLISHING BARRIERS FOR SWIMMING POOLS, SPAS AND HOT TUBS**

- [16.31.010 General.](#)
- [16.31.020 Definitions.](#)
- [16.31.030 Requirements.](#)

### **16.31.010 General.**

Whenever a construction permit is issued for construction of a new swimming pool or spa at a private single-family home it shall be equipped with the following safety features as provided in this Chapter:

- (a) The pool shall be isolated from access from other properties; and
- (b) The home shall be isolated from access to the pool.

Subsection (a) shall not apply to private swimming pools or spas within a privately patrolled gate guarded community.

### **16.31.020 Definitions.**

For the purpose of this Section, certain terms, words, and phrases are defined as follows:

Aboveground/On-Ground Pool. See definition of swimming pool.

Barrier. A barrier is a fence, wall, building wall, safety cover complying with American Society for Testing Materials (ASTM) Standard F 1346-91 or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool, spa or hot tub. When approved by the Building Official, barriers may also incorporate natural or manmade features, such as topography, waterways, restricted areas and similar features including geographically isolated areas which provide an effective access barrier to the pool area.

Grade. Grade is the underlying surface, such as earth or a walking surface.

Hot Tub. See definition of spa.

In-Ground Pool. See definition of swimming pool.

Separation Fence. A separation fence is a barrier which separates all doors of a dwelling unit or building accessory thereto with direct access to a swimming pool, spa, or hot tub from that swimming pool, spa or hot tub.

Spa. A spa is a structure intended for recreational bathing, designed to contain water over eighteen (18) inches (457mm) deep and outside dimensions not exceeding one hundred sixty (160) square feet (14.72 sq. meters).

Swimming Pool. A swimming pool is any structure intended for swimming or recreational bathing that is designed to contain water over eighteen (18) inches (457mm) deep. This includes in-ground, above-ground, and on-ground swimming pools and fixed-in-place wading pools, and excludes spas.

Swimming Pool, Outdoor. An outdoor swimming pool is any swimming pool which is totally outside the residential structure.

#### **16.31.030 Requirements.**

(a) Outdoor Swimming Pool. An outdoor swimming pool, hot tub, or spa shall be provided with a barrier inspected and approved prior to plastering or filling with water.

Outdoor swimming pool with electrically operated or manual tracking safety covers that comply with the ASTM Standard F 1346-91 shall not be required to provide other barriers. When electrically operated safety covers are provided, the control for the pool cover shall be mounted at least fifty-four (54) inches above grade.

When barriers are required, the barrier shall comply with the following:

(1) The top of the barrier shall be at least sixty (60) inches (1524mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches (51mm) measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance at the bottom of the barrier may be increased to four (4) inches (102 mm) when grade is a solid surface impenetrable by a child such as a concrete deck. Where the barrier is mounted on top of the above-ground pool structure the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four (4) inches. When barriers have horizontal members, the tops of which are spaced less than forty-five (45) inches (1143mm) apart, (1) the horizontal members shall be placed on the pool side of the barrier and (2) spacing between vertical members shall not exceed one and one-quarter (1 1/4) inches in width. Any decorative design work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited. Chain link fences shall not be used as the barrier.

EXCEPTIONS: (i) For fencing composed of vertical and horizontal members, the spacing between vertical members may be increased up to four (4) inches (102 mm) when the distance between the tops of horizontal members is forty-five (45) inches (1143 mm) or more.

(ii) Existing fences surrounding property at pool area, which are at least sixty (60) inches above grade, measured on the side of the barrier which faces away from the swimming pool, has a maximum vertical clearance between grade and the bottom of the barrier of two (2) inches and has no openings that will allow the passage of a four (4) inch diameter sphere are permitted.

(2) Access gates shall be equipped to accommodate a locking device. Separation fence gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Where the release mechanism of the self-latching devices is located less than fifty-four (54) inches (1372 mm) from grade, (1) the release mechanism shall be located on the pool side of the barrier at least three (3) inches (76 mm) below the top of the gate, and (2) the gate and barrier shall have no opening greater than one-half (1/2) inch (13 mm) within eighteen (18) inches (457 mm) of the release mechanism. Any gates other than pedestrian access gates shall be equipped with lockable hardware or padlocks and shall remain locked at all times when not in use.

(3) Where a wall of a dwelling or buildings accessory to the dwelling serves as part of the barrier, and contains door openings providing direct access to the pool, those door openings shall be protected by one of the following means:

(i) A self-closing and self-latching device installed on all doors with the release mechanism located a minimum of fifty-four (54) inches (1372 mm) above the floor.

(ii) An alarm capable of providing a sound pressure level of not less than eighty-five (85) dba when measured indoors at a distance of ten (10) feet (3048 mm). The alarm shall activate within fifteen (15) seconds after the door, and its screen if present, are opened and shall sound continuously for a minimum of ten (10) seconds than automatically reset. The alarm shall be equipped with a manual reset, such as a touchpad or switch, located on the interior side of the wall not less than fifty-four (54) inches above the threshold of the door to permit entry and exiting without activation of the alarm. The alarm shall automatically reset under all conditions. The alarm may be battery operated or connected to the building wiring.

(iii) An approved safety cover complying with American Society for Testing Materials (ASTM) Standard F 1346-91.

(iv) Other means of protection may be acceptable so long as the degree of protection afforded is equal to or greater than that afforded by any of the devices described above. The Building Official shall render interpretations as to acceptability of other means of protection per Section 104.2.8 of the California Building Code.

(4) Where an above-ground structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then (1) the ladder or steps shall be capable of being secured, locked or removed to prevent access or (2) the ladder or steps shall be surrounded by a barrier which meets the requirements of Items 1 through 4 of Section 16.31.030(a). When the ladder or steps are secured, locked or removed, any opening



created shall be protected by a barrier complying with Sections 16.31.030(a)(1) through 16.31.030(a)(3)

(b) Spas and Hot Tubs. A spa or hot tub with a locking safety cover which complies with the ASTM Standard F 1346-91 shall not be required to provide other barriers. Where a locking safety cover is not provided, the spa or hot tub shall comply with the requirements of Section 16.31.030(a).

## **Chapter 16.32 CALIFORNIA FIRE CODE**

- [16.32.000 Adoption by reference.](#)
- [16.32.010 General authority and responsibilities—Definitions—Amendments and additions.](#)
- [16.32.020 Nonconforming storage containers.](#)
- [16.32.030 Outdoor fires prohibited.](#)
- [16.32.040 Amendment to California Fire Code Section 5608.1.](#)
- [16.32.050 Amendment to California Fire Code Section 5001.1.](#)

### **16.32.000 Adoption by reference.**

(a) Except as stated in this Section, all of the provisions and appendices of the 2022 California Fire Code, inclusive of all of the inclusions and exclusions set for in each chapter's matrix, are hereby adopted and shall apply to the City of Indian Wells. In addition, the following provisions that are excluded in the 2022 California Fire Code are hereby adopted – Chapter 1, Division II of the California Fire Code is hereby adopted, except that Section 103.2 and 111.3 are not adopted, and Chapters 3, 25, and Sections 403.11, 503, 510.2, 1103.2 and 5707 are adopted.

(b) At least one (1) copy of said fire code has been deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

### **16.32.010 General authority and responsibilities—Definitions—Amendments and additions.**

(a) Applicability. Section 102.5 of the California Fire Code is amended as follows:

**102.5 Application of Residential Code.** Where structures are designed and constructed in accordance with the California Residential Code, the provisions of this code shall apply as follows:

1. Construction and design provisions of this code pertaining to the exterior of the structure shall apply including, but not limited to, premises identification, fire apparatus access and water supplies. Where interior or exterior systems or devices are installed, construction permits required by Section 105.6 of this code shall apply.

2. Administrative, operational and maintenance provisions of this code shall apply.

3. Automatic fire sprinkler system requirements of this code shall apply to detached accessory buildings 3,000 square feet or greater in accordance with Section 903.2. The provisions contained in Section 903.2.18 of the California Fire Code or Section R309.6 of the California Residential Code may be used for the design of the automatic fire sprinkler system for detached private garages.

(b) Department of Fire Prevention. Sections 104.7 and 104.7.1 of the California Fire Code are deleted in their entirety and replaced with the following:

**104.7 Liability.** Any liability against Riverside County and City of Indian Wells or any officer or employee for damages resulting from the discharge of their duties shall be as provided by law.

(c) General Authority and Responsibilities.

(1) A new Section 104.1.1 is added to Section 104.1 of the California Fire Code to read as follows:

**104.1.1 Authority of the Fire Chief and Fire Department.**

1. The Fire Chief is authorized and directed to enforce all applicable State fire laws and provisions of this ordinance and to perform such duties as directed by the City Council.

2. The Fire Chief is authorized to administer, interpret and enforce this ordinance. Under the Fire Chief's direction, the Riverside County Fire Department is authorized to enforce ordinances of City of Indian Wells pertaining to the following:

2.1. The prevention of fires.

2.2. The suppression or extinguishment of dangerous or hazardous fires.

2.3. The storage use and handling of hazardous materials.

2.4. The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment.

2.5. The maintenance and regulation of fire escapes.

2.6. The maintenance of fire protection and the elimination of fire hazards on land, in buildings, structures and other property, including those under construction.

2.7. The maintenance of means of egress.

2.8. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.

3. The following persons are hereby authorized to interpret and enforce the provisions of this ordinance and to make arrests and issue citations as authorized by law:

3.1. The Unit Chief, Peace Officers and Public Officers of the California Department of Forestry and Fire Protection.

3.2. The Fire Chief, Peace Officers and Public Officers of the Riverside County Fire Department and City of Indian Wells.

3.3. The Riverside County Sheriff and any deputy sheriff.

3.4. The Police Chief and any police officer of any city served by the Riverside County Fire Department.

3.5. Officers of the California Highway Patrol.

3.6. Code Officers of the City of Indian Wells Code Enforcement Department.

3.7. Peace Officers of the California Department of Parks and Recreation.

3.8. The law enforcement officer of the Federal Bureau of Land Management.

(2) A new Section 104.13 is added to Section 104 of the California Fire Code to read as follows:

**104.13 Authority of the Fire Chief to Close Hazardous Fire Areas.** Except upon National Forest Land, the Fire Chief is authorized to determine and announce the closure of any hazardous fire area or portion thereof. Any closure by the Fire Chief for a period of more than fifteen (15) calendar days must be approved by the Riverside County Board of Supervisors within fifteen (15) calendar days of the Fire Chief's original order of closure. Upon such closure, no person shall go in or be upon any hazardous fire area, except upon the public roadways and inhabited areas. During such closure, the Fire Chief shall erect and maintain at all entrances to the closed area sufficient signs giving notice of closure. This section shall not prohibit residents or owners of private property within any closed area, or their invitees, from going in or being upon their lands. This section shall not apply to any entry, in the course of duty, by a peace officer, duly authorized public officer or fire department personnel. For the purpose of this section, "hazardous fire area" shall mean public or private land that is covered with grass, grain, brush or forest and situated in a location that makes suppression difficult resulting in great damage. Such areas are designated on Hazardous Fire Area maps filed with the office of the Fire Chief.

(d) Fees.

(1) Section 107.2 of the California Fire Code is deleted in its entirety and replaced with the following:

**107.2 Schedule of Permit Fees.** Fees for services and permits shall be as set forth by fee resolution of the City Council.

(2) A new Section 107.7 is added to Section 106 of the California Fire Code to read as follows:

**107.7 Cost Recovery.** Fire suppression, investigation, rescue or emergency medical costs are recoverable in accordance with Health and Safety Code Sections 13009 and 13009.1,

as may be amended from time to time. Additionally, any person who negligently, intentionally or in violation of law causes an emergency response, including, but not limited to, a traffic accident, spill of toxic or flammable fluids or chemicals is liable for the costs of securing such emergency, including those costs pursuant to Government Code Section 53150, et seq., as may be amended from time to time. Any expense incurred by the Riverside County Fire Department for securing such emergency shall constitute a debt of such person and shall be collectable by Riverside County/City of Indian Wells in the same manner as in the case of an obligation under contract, express or implied.

(e) Board of Appeals. Section 111.1 of the California Fire Code is deleted in its entirety and replaced with the following:

**111.1 Board of Appeals Established.** Whenever the Fire Code Official disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the Code adopted by Section 16.32.000 do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief to the City Council within thirty (30) days from the date of the decision appealed.

(f) Violations. Section 112.4 of the California Fire Code is deleted in its entirety and replaced with the following:

**112.4 Violations and Penalties.** It shall be unlawful for any person, firm, corporation or association of persons to violate any provision of this ordinance, or to violate the provisions of any permit granted pursuant to this code. Punishments and penalties for violations shall be in accordance with Health and Safety Code Sections 17995 through 17995.5.

(g) Definitions. Section 202, definition of "Fire Chief" in the California Fire Code is deleted in its entirety and replaced with the following:

FIRE CHIEF. The Fire Chief of Riverside County or the Fire Chief's designee.

(h) Open Flames. Section 308.1.6.3 of the California Fire Code is deleted in its entirety and replaced with the following:

**308.1.6.3 Sky Lanterns or Similar Devices.** A person shall not release or cause to be released a sky lantern or similar device.

(i) Fire Apparatus Access Roads.

(1) Section 503.2.1 of the California Fire Code is deleted in its entirety and replaced with the following:

**503.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7,315 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4,115 mm). For additional requirements or alternatives see Riverside County Fire Department Standards and Policies, as may be amended from time to time.

(2) Section 503.2.2 of the California Fire Code is deleted in its entirety and replaced with the following:

**503.2.2 Authority.** The fire code official shall be the only authority authorized to designate fire apparatus access roads and fire lanes and to modify the minimum fire lane access widths for fire or rescue operations.

(3) A new Section 503.6.1 is added to Section 503.6 of the California Fire Code to read as follows:

**503.6.1 Automatic Opener.** New motorized gates shall be provided with means to be automatically opened remotely by emergency vehicle in accordance with Riverside County Fire Department standards and Policies, as may be amended from time to time.

**Exception:** Gates serving individual one- and two-family dwelling parcels.

(4) A new Section 503.7 is added to Section 503 of the California Fire Code to read as follows:

**503.7 Loading Areas and Passenger Drop-Off Areas.** On private properties, where fire apparatus access roads are utilized for loading or unloading or utilized for passenger drop-off or pick-up, an additional eight (8) feet of width shall be added to the minimum required width for the fire apparatus access road.

(j) Fire Protection Water Supplies.

(1) A new Section 507.5.7 is added to Section 507 of the California Fire Code to read as follows:

**507.5.7 Fire Hydrant Size and Outlets.** As determined by the fire code official, fire hydrant sizes and outlets shall be based on the following:

1. Residential Standard – one (1) four (4) inch outlet and one (1) two and half (2 ½) inch outlet.

2. Super Hydrant Standard – one (1) four (4) inch outlet and two (2) two and one half (2 ½) inch outlet.

3. Super Hydrant Enhanced – two (2) four (4) inch outlet and one (1) two and one half (2 ½) inch outlet.

(2) A new Section 507.5.8 is added to Section 507 of the California Fire Code to read as follows:

**507.5.8 Fire Hydrant Street Marker.** Fire hydrant locations shall be visually indicated in accordance with Riverside County Fire Department Technical Policy 06-11, as may be amended from time to time. Any hydrant marker damaged or removed during the course of street construction or repair shall be immediately replaced by the contractor, developer or person responsible for removal or damage.

(k) Fire Command Center.

(1) Section 508.1 of the California Fire Code is deleted in its entirety and replaced with the following:

**508.1 General.** Where required by other sections of this code and in all buildings classified as high-rise buildings by the California Building Code, in buildings greater than 300,000 square feet in area and in Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department vehicle access, a fire command center for fire department operations shall be provided and comply with Sections 508.1.1 through 508.1.8.

(2) Section 508.1.1 of the California Fire Code is deleted in its entirety and replaced with the following:

**508.1.1 Location and Access.** The fire command center shall be located adjacent to the main lobby and shall be accessible from fire department vehicular access or as approved by the fire code official. The room shall have direct access from the building exterior at the lowest level of fire department access.

(3) Section 508.1.3 of the California Fire Code is amended to add the following:

**Exception:** A fire command center solely required because a building is greater than 300,000 square feet in area shall be a minimum of 96 square feet (9 m<sup>2</sup>) with a minimum dimension of 8 feet (2438 mm).

(l) Fire Protection and Utility Equipment Identification and Location. Section 509.2.1 of the California Fire Code is added to read as follows:

**509.2.1 Minimum Clearances.** A 3-foot (914 mm) clear space shall be maintained around the circumference of exterior fire protection system control valves, or any other exterior fire protection system component that may require immediate access, except as otherwise required or approved.

(m) Mechanical Refrigeration. Section 608.11.1.2 of the California Fire Code is deleted in its entirety and replaced with the following:

**608.11.1.2 Manual Operation.** When required by the fire code official, automatic crossover valves shall be capable of manual operation. The manual valves shall be located in an approved location immediately outside of the machinery room in a secure metal box or equivalent and marked as Emergency Controls.

(n) Automatic Sprinkler Systems.

(1) Section 903.2 of the California Fire Code is deleted in its entirety and replaced with the following:

**903.2 Where Required.** In all new buildings and structures which are 3,000 square feet or greater, or where the combination of a new additional square footage and existing square footage exceeds 3,000 square feet, an approved automatic sprinkler system shall be provided regardless of occupancy classification. Where the Sections 903.2.1 – 903.2.21 of the California

Fire Code require more restrictive requirements than those listed below, the more restrictive requirement shall take precedence.

**Exception:** Unless required elsewhere in this code or the California Building Code, automatic fire sprinkler systems shall not be required for the following:

1. Detached Group U occupancies used for agricultural purposes.
2. Detached non-combustible equestrian arena shade canopies that are open on all sides and used for riding only - no commercial, assembly or storage uses.
3. Detached fabric or non-combustible shade structures that are open on all sides and used to shade playground equipment, temporary storage of vehicles and dining areas with no cooking.
4. Where determined by the Fire Chief that no major life safety hazard exists, and the fuel load does not pose a significant threat to firefighter safety or to other structures or property, automatic fire sprinklers may be exempted.

One- and two-family dwellings shall have an automatic fire sprinkler system regardless of square footage in accordance with the California Residential Code. Fire sprinkler systems shall be installed in mobile homes, manufactured homes and multifamily manufactured homes with two dwelling units in accordance with Title 25 of the California Code of Regulations.

The following exceptions in the California Fire Code shall not be allowed:

- a. Exception in Section 903.2.3
- b. Exception in Section 903.2.11.3

(2) A new Section 903.3.5.3 is added to Section 903 of the California Fire Code to read as follows:

**903.3.5.3 Hydraulically Calculated Systems.** The design of hydraulically calculated fire sprinkler systems shall not exceed 90% of the water supply capacity.

(o) Designation of High-Piled Storage Areas. A new Section is added to Section 3204.2 of the California Fire Code to read as follows:

**3204.2.1 Minimum Requirements for Client Leased or Occupant Owned Warehouses.** Designs of an automatic sprinkler system for client leased or occupant owned buildings containing high pile storage shall be based on the requirements of NFPA 13. The responsible fire protection engineer shall perform a survey of the building to determine commodity classification, storage configuration, building height and other information related to the development of an appropriate sprinkler system design. The fire protection engineer shall also make reasonable efforts to meet with the building owner or operator to understand seasonal or customer related fluctuations to the stored commodities, storage height, and configuration. The sprinkler design shall be based on the most demanding requirements determined through the onsite survey and discussions with the building owner or operator. The technical report shall describe the basis for determining the commodity and sprinkler design selection, how the

commodities will be isolated or separated, and include references to the design document(s). If a specific fire test is used as the basis of design, a copy of the fire test report shall be provided at the time of plan review.

(p) Fire Hazard Severity Zones. A new Section 4904.2.1 is added to Section 4904 of the California Fire Code to read as follows:

**4904.2.1 High Fire Hazard Severity Zone Maps.** In accordance with Government Code Sections 51175 through 51189, Very High Fire Hazard Severity Zones, located in the Local Responsibility Areas (LRA), are designated as shown on the most recently published VHFHSZ IN LRA map, as recommended and published by the Director of the California Department of Forestry and Fire Protection (CAL FIRE), which may be revised from time to time. The most recent VHFHSZ IN LRA map is on file at the office of the Fire Chief, which supersedes other maps previously adopted by Riverside County/City of Indian Wells designating high fire hazard areas.

(q) Appendix B. Table B105.2 of the California Fire Code is amended as follows:

**TABLE B105.2 - REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES**

<b>AUTOMATIC SPRINKLER SYSTEM (Design Standard)</b>	<b>MINIMUM FIRE-FLOW (gallons per minute)</b>	<b>FLOW DURATION (hours)</b>
No automatic sprinkler system	Value in Table B105.1(2)	Duration in Table B105.1(2)
Section 903.3.1.1 of the <i>California Fire Code</i>	50% of the value in Table B105.1(2) <sup>a</sup>	Duration in Table B105.1(2) at the reduced flow rate
Section 903.3.1.2 of the <i>California Fire Code</i>	50% of the value in Table B105.1(2) <sup>b</sup>	Duration in Table B105.1(2) at the reduced flow rate

For SI: 1 gallon per minute = 3.785 L/m.

- a. The reduced fire-flow shall be not less than 1,000 gallons per minute.
- b. The reduced fire-flow shall be not less than 1,500 gallons per minute.

(r) Appendix C. Section C103.1 of the California Fire Code is deleted in its entirety and replaced with the following:

**C103.1 Hydrant Spacing.** Fire apparatus access roads and public streets providing required access to buildings in accordance with Section 503 of the International Fire Code shall be provided with one or more fire hydrants, as determined by Section C102.1. Where more than one fire hydrant is required, the distance between required fire hydrants shall be in accordance with Sections C103.2 and C103.3. Fire hydrants shall be provided at street intersections.

**16.32.020 Nonconforming storage containers.**

Should any aboveground storage system be in violation or non-compliance with this Chapter, a stop use order shall be given. The City may seek criminal or other enforcement penalties as permitted by law. Each day a system is in violation shall be deemed a separate



offense. Storage systems taken out of service for less than one (1) year shall be rendered safe by gas-freeing as approved by the Fire Marshal. Storage systems that are to be abandoned, by being taken out of service for more than a year, shall be rendered safe by gas-freeing and removed.

#### **16.32.030 Outdoor fires prohibited.**

(a) It is unlawful to burn any material, structure, matter, or thing in an outdoor fire or incinerator or by similar means unless within an approved and controlled area by the City Building and Safety Division, the Fire Marshal, and the Planning Division (for example, fire places, barbeques and fire pits). No other types of outdoor open fires are permitted unless approved as part of a project's Conditional Use Permit. Any person violating this Section shall be subject to the penalties described in Chapter 1.20 of Title 1 of the Indian Wells Municipal Code.

(b) Any outdoor fire appliance is required to have a listing for product safety from a certified testing company, such as Underwriters Laboratories (UL) for the following, but not limited to, appliances: barbeque, fireplace or fire pit. The applicant can submit a field test report as to the safety of the subject appliance to the City to prove the appliance meets safety rating qualifications.

#### **16.32.040 Amendment to California Fire Code Section 5608.1.**

Section 5608.1 of the California Fire Code is hereby deleted and replaced as set forth in Section 9.53.015 of the Indian Wells Municipal Code.

#### **16.32.050 Amendment to California Fire Code Section 5001.1.**

Section 5001.1 of the California Fire Code is hereby amended to state as set forth in Chapter 16.40 of the Indian Wells Municipal Code.

### **Chapter 16.33 INTERNATIONAL PROPERTY MAINTENANCE CODE**

- [16.33.000 Adopted by reference.](#)

#### **16.33.000 Adopted by reference.**

(a) The International Property Maintenance Code, 2021 Edition, published by the International Code Council is adopted by reference by the City.

(b) At least one (1) copy of said code will be deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

### **Chapter 16.35 CALIFORNIA GREEN BUILDING STANDARDS CODE**

- [16.35.000 Adopted by reference.](#)

#### **16.35.000 Adopted by reference.**

(a) The California Green Building Standards Code, Title 24, Part 6, 2022 Edition and Appendices 4 & 5, with changes, additions, and deletions set forth in this Chapter, are adopted by reference as the green building standards code of the City.

(b) At least one (1) copy of said green building standards code has been deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

### **Chapter 16.36 FLOODPLAIN MANAGEMENT**

- [16.36.008 Statutory authorization.](#)
- [16.36.010 Findings of fact.](#)
- [16.36.020 Statement of purpose.](#)
- [16.36.030 Methods of reducing flood losses.](#)
- [16.36.040 Definitions.](#)
- [16.36.050 Lands to which this Chapter applies.](#)
- [16.36.060 Basis for establishing the areas of special flood hazard.](#)
- [16.36.070 Compliance.](#)
- [16.36.080 Abrogation and greater restrictions.](#)
- [16.36.090 Interpretation and application.](#)
- [16.36.100 Warning and disclaimer of liability.](#)
- [16.36.110 Severability.](#)
- [16.36.120 Standards of construction.](#)
- [16.36.130 Standards for Utilities.](#)
- [16.36.140 Standards for subdivisions.](#)
- [16.36.150 Standards for manufactured homes.](#)
- [16.36.160 Floodways.](#)
- [16.36.170 Development permit application requirements.](#)
- [16.36.180 Designation of the floodplain administration.](#)
- [16.36.190 Duties and responsibilities of the Floodplain Administrator.](#)

- [16.36.200 Variance and appeal procedure.](#)
- [16.36.210 Variances—Conditions of issuance.](#)

### **16.36.008 Statutory authorization.**

The Legislature of the State of California has, in Government Code Sections 65302, 65560 and 65800, conferred upon local government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

### **16.36.010 Findings of fact.**

(a) The flood hazard areas of the City of Indian Wells are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

### **16.36.020 Statement of purpose.**

It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (f) To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (g) To insure that potential buyers are notified that property is in an area of special flood hazard; and

(h) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### **16.36.030 Methods of reducing flood losses.**

In order to accomplish its purposes, this Chapter includes methods and provisions for:

(a) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

(b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

(d) Controlling filling, grading, dredging and other development which may increase flood damage; and,

(e) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

#### **16.36.040 Definitions.**

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

“Appeal” means a request for a review of the Floodplain Administrator’s interpretation of any provision of this Chapter, or a request for a variance.

“Area of shallow flooding” means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet (3’); a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

“Area of Special Flood Plain Hazard.” See “Special Flood Hazard Area.”

“Base flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year (also called the “one hundred (100) year flood”)

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Breakaway walls” are any type of walls whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material, which are not part of the structural support of the building and which are designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used, or any buildings to which they might be carried by

floodwaters. A "breakaway wall" shall have a safe design loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

(1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

(2) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining dredging, filling, grading, paving, excavation or drilling operations.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of floodwaters, (2) the unusual and rapid accumulation or runoff of surface waters from any source, and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

"Flood boundary" and "floodway map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the boundary and floodway map, and the water surface elevation of the base flood.

"Floodplain" or "flood prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“Floodproofing” means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Also referred to as “regulatory floodway.”

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading or unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long term storage or related manufacturing facilities.

“Habitable floor” means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a “habitable floor.”

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Lowest floor” means the lowest floor at the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Chapter.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required facilities. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for sale or rent.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“New construction” means, for floodplain management purposes, structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by this community.

“One-hundred-year flood” or “100-year flood” means a flood which has a one (1) percent annual probability of being equaled or exceeded. It is the same as “base flood.”

“Person” means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this State or its agencies or political subdivisions.

“Remedy a violation” means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this Chapter, or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Special flood hazard area (SFHA): means an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, AI-30, AE, A99, or AH.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. “Permanent construction” does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

“Structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either: (1) before the improvement or repair is started; or (2) If the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either: (1) Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“Variance” means a grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter.

“Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development, without the elevation certificate, other certifications, or other evidence of compliance required in this Chapter, is presumed to be in violation until such time as that documentation is provided.

**16.36.050 Lands to which this Chapter applies.**

This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City.

**16.36.060 Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard are identified by the Federal Emergency Management Agency or the Federal Insurance Administration in a scientific and engineering report entitled “Flood Insurance Study for the City of Indian Wells, California,” dated March 1, 1979, with an accompanying Flood Insurance Rate Map which are hereby (as updated January 19, 1982), and all subsequent amendments and/or revisions are hereby adopted by reference and declared to be a part of this Chapter. This Flood Insurance Study is on file at 44-950 Eldorado Drive, Indian Wells, California. This Flood Insurance Study is the minimum area of applicability of this Chapter, and may be supplemented by studies for other areas which allow implementation of this Chapter and which are recommended to the City Council by the Floodplain Administrator.

**16.36.070 Compliance.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Chapter and other applicable regulations. Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

**16.36.080 Abrogation and greater restrictions.**

This Chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Chapter and other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**16.36.090 Interpretation and application.**

In the interpretation and application of this Chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.



### **16.36.100 Warning and disclaimer of liability.**

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes, and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

### **16.36.110 Severability.**

The ordinance codified in this Chapter and the various parts thereof are hereby declared to be severable. Should any section of said ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

### **16.36.120 Standards of construction.**

In all areas of special flood hazards, the following standards are required:

(a) Anchoring.

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) All manufactured homes shall meet the anchoring standards of Section 16.36.150.

(b) Construction Materials and Methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) Require within Zones AH or AO, adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(c) Elevation and Floodproofing.

(1) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the flood elevation. Nonresidential structures may meet the standards in subsection (c)(3) of this Section. Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator;

(2) New construction and substantial improvement of any structure in Zone AH or AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two (2) feet if no depth number as specified. Nonresidential structures may meet the standards in subsection C of this Section. Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator;

(3) Nonresidential construction shall either be elevated in conformance with subsections (c)(1) or (c)(2) above or, together with attendant utility and sanitary facilities:

(i) Be floodproofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water;

(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(iii) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator;

(4) Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(i) Either a minimum of two (2) openings having a total net area of not less than one square inch (1") for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters; or

(ii) Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.

(5) Manufactured homes shall also meet the standards in Section 16.36.150.

#### **16.36.130 Standards for Utilities.**

(a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.

(b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### **16.36.140 Standards for subdivisions.**

(a) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

(b) All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

(c) All subdivision proposals shall be consistent with the need to minimize flood damage.

(d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

(f) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

#### **16.36.150 Standards for manufactured homes.**

All new and replacement manufactured homes and additions to manufactured homes shall:

(a) Be elevated so that the lowest floor is at or above the base flood elevation; and

(b) Be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement.

#### **16.36.160 Floodways.**

Located within areas of special flood hazard established in Section 16.36.060 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris; potential projectiles, and erosion potential, the following provisions apply:

(a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments, unless certification by a registered professional engineer

or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If subsection (a) of this Section is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Sections 16.36.120, 16.36.130, 16.36.040, and 16.36.150.

#### **16.36.170 Development permit application requirements.**

A development permit shall be obtained before construction or development begins within any area of special flood hazards established in Section 16.36.060. Application for a development permit shall be made on forms furnished by the Floodplain Administrator (City Manager) and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(a) Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures;

(b) Proposed elevation in relation to mean sea level to which any structure will be floodproofed;

(c) All appropriate certifications listed in subsection (d) of Section 16.36.190 of this Chapter; and

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### **16.36.180 Designation of the floodplain administration.**

The City Manager is appointed to administer and implement this Chapter by granting or denying development permits in accordance with its provisions.

#### **16.36.190 Duties and responsibilities of the Floodplain Administrator.**

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

(a) Permit Review.

(1) Review all development permits to determine that the permit requirements of this Chapter have been satisfied;

(2) Review all development permits to determine that all other required State and Federal permits have been obtained;

(3) Review and certify that the development site is reasonably safe from flooding;  
and

(4) Require, until a regulatory floodway is designated, that no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1 30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community;

(b) Use of Other Flood Base Data. When base flood elevation data has not been provided in accordance with Section 16.36.060, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 16.36.120, 16.36.130, 16.36.140 and 16.36.150. Any such information shall be submitted to the City Council for adoption;

(c) Alteration or Relocation of a Watercourse. Whenever a watercourse is to be altered or relocated:

(1) Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration; and

(2) Require that the flood carrying capacity of the altered or relocated portion of the watercourse is maintained;

(d) Obtain and Maintain For Public Inspection and Make Available as Needed:

(1) The certification required in subsection (c)(1) of Section 16.36.120 (floor elevations);

(2) The certification required in subsection (c)(2) of Section 16.36.120 (elevations in areas of shallow flooding);

(3) The certification required in subsection (c)(3)(iii) of Section 16.36.120 (elevation of floodproofing of nonresidential structures);

(4) The certification required in subsection (c)(4)(i) or (4)(ii) of Section 16.36.120 (wet floodproofing standard);

(5) The certified elevation required in subsection (b) of Section 16.36.140 (subdivision standards); and

(6) The certification required in subsection (a) of Section 16.36.160 (floodway encroachments).

(e) Interpret Location of Special Flood Hazard Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation, as provided in Section 16.36.200;

(f) Remedy Violations. Take action to remedy violations of this Chapter as specified in Section 16.36.070 herein.

**16.36.200 Variance and appeal procedure.**

(a) Requests for Variances from Requirements. The City Council shall hear and decide appeals and requests for variances from the requirements of this Chapter.

(b) Alleged Errors. The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.

(c) Technical and Other Considerations. In passing upon such applications the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger of life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and,
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

(d) Variances for New Construction and Substantial Improvements. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsections (c)(1) through

(c)(11) of this Section have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.

(e) Imposition of Conditions. Upon consideration of the factors of subsection (c) of this Section and the purposes of this Chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

(f) Recordkeeping and Reporting Requirements. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(g) Appeal to Superior Court of Riverside County. Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision to the Superior Court of the County of Riverside, State of California, as provided in Sections 11523 of the Government Code.

### **16.36.210 Variances—Conditions of issuance.**

(a) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

(b) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(e) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of subsections (a) through (d) of Section 16.36.210 are satisfied, and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(f) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Floodplain Board in the office of the Riverside County Recorder, and shall be recorded in a manner so that it appears in the chain of Title of the affected parcel of land.

## **Chapter 16.38 CALIFORNIA RESIDENTIAL CODE**

- [16.38.000 Adopted by reference.](#)
- [16.38.010 Amendment to Section R313.1 – Townhouse automatic fire sprinkler systems.](#)
- [16.38.020 Amendment to Section R313.2 One- and two-family dwellings automatic fire sprinkler systems.](#)

### **16.38.000 Adopted by reference.**

(a) The California Residential Code, Title 24, Part 2.5, 2022 Edition including Chapter 1, Division II and Appendices H, J, Q, X, Y and Z , which incorporates and amends the International Residential Code, 2021 Edition, published by the International Code Council, with changes, additions, and deletions set forth in this Chapter, are adopted by reference as the residential code of the City.

(b) At least one (1) copy of said residential code has been deposited in the office of the Building Official and shall at all times be maintained by the Building Official for use and examination by the public.

### **16.38.010 Amendment to Section R313.1 – Townhouse automatic fire sprinkler systems.**

The exception to R313.1 shall be amended to read as follows:

EXCEPTION: An automatic residential fire sprinkler system shall not be required where additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed except that where over 50% of the roof framing is removed, in addition to over 50% of the structure walls, the reconstruction shall be subject to the incorporation of a fire sprinkler system throughout the entire structure.

### **16.38.020 Amendment to Section R313.2 One- and two-family dwellings automatic fire sprinkler systems.**

The first exception to R313.2 shall be amended to read follows:

EXCEPTION: Where over 50% of the roof framing is removed, in addition to over 50% of the structure walls, the reconstruction shall be subject to the incorporation of a fire sprinkler system throughout the entire structure.

## **Chapter 16.40 ABOVEGROUND STORAGE OF FLAMMABLE/COMBUSTIBLE LIQUIDS OR GASES**

- [16.40.010 Requirements.](#)

### **16.40.010 Requirements.**



No person shall install, keep, maintain, or fill any aboveground storage vessel for the purpose of storing flammable/combustible liquids or gases. They must obtain a valid storage permit from the City. This Section does not apply to emergency back-up generators utilizing fuel tank systems of five hundred (500) gallons or less located within any Public Owned/Controlled Lands (PF & PP) or Resort Commercial (CR) land use zones. Flammable/combustible liquids or gases may be stored in aboveground tanks at governmental facilities, emergency power plants and any golf course maintenance area located within a Commercial Resort (CR), Public Owned/Controlled Lands (PF & PP), Public/Private Golf Course (PPGC), Country Club Open Space (COS), and Public Owned Open Space (POS) land use zone or any agricultural operations. All storage tanks shall be screened so as to preclude viewing of same from adjacent residences, public rights-of-way and golf courses (public or private). At no time shall aboveground storage tanks be installed in Residential Very Low Density (RVLD), Residential Low Density (RLD), Residential Medium Density (RMD), Residential Medium High Density (RMHD), Office Professional (OP), Commercial General (CG), Watercourse (WC) and Natural Preserve (NPR) Zones. All aboveground tanks shall meet the requirements of the current adopted editions of the California Fire Code and the California Building Standards Codes.

## **Chapter 16.50 TRANSPORTATION DEMAND MANAGEMENT REQUIREMENTS FOR SPECIFIED NEW DEVELOPMENT PROJECTS**

- [16.50.010 Purpose and intent.](#)
- [16.50.020 Definitions.](#)
- [16.50.030 Applicability.](#)
- [16.50.040 Exemptions.](#)
- [16.50.050 Minimum standards.](#)
- [16.50.060 Processing time limits for the TDM application.](#)
- [16.50.070 Filing procedure and evaluation.](#)
- [16.50.080 Renewal/review for compliance.](#)
- [16.50.090 Fees for initial review and program monitoring.](#)
- [16.50.100 Enforcement and penalties.](#)
- [16.50.110 Appeals.](#)

### **16.50.010 Purpose and intent.**

This Chapter is intended to protect the public health, safety, and welfare by reducing air pollution caused by vehicle trips and vehicle miles traveled. This Chapter is intended to accomplish emission reductions by meeting requirements of Government Code Section 65089(b)(3) which require development of a trip reduction and travel demand element to the

Congestion Management Plan (CMP), and Section 65089.3 (b) which requires adoption and implementation of trip reduction and travel demand ordinances by local agencies.

#### **16.50.020 Definitions.**

“Alternative Transportation Modes” means any mode of travel that serves as an alternative to the single occupancy vehicle, including, without limitation, public transit, bicycling, walking, and all forms of ridesharing such as carpooling and vanpooling.

“Applicable Development” means any project that is determined to meet or exceed the employment threshold using the criteria contained in this Chapter. An applicable development also includes developments which are owned and/or managed as one unit, such as a business park or shopping center, that also meet or exceed the employment threshold.

“Bicycle Facilities” means any capital improvements which would benefit employees who ride a bicycle to their work site, including shower facilities, locker facilities, bicycle parking, etc.

“Change of Use” means a development or facility space of a lessee which has altered its initial use to another use not related to the previous one. (Example: office space changes to commercial space)

“Developer” means the builder who is responsible for the planning, design, and construction of an applicable development project. A developer may be responsible for implementing this ordinance as determined by the property owner.

“Employee” means any person employed by a person(s) firm, business, educational institution, non-profit agency, corporation, government agency, or other entity, which employs one hundred (100) or more persons at a single work site.

“Employment Generation Factors” refers to factors developed for use by the jurisdiction for protecting the potential employment of any proposed development project.

“Employer” means any person(s), firm, business, educational institution, non-profit agency, corporation, government agency, or other entity, which employs one hundred (100) or more persons at a single work site, and may either be a property owner or tenant of an applicable development.

“Employment Threshold” refers to the number of employees which an applicable development must have for the requirements of this Chapter to be applicable to that employer.

“Minimum Standards” means the minimum changes made to establish a transportation demand management and trip reduction plan at an applicable development project to a level which satisfies this ordinance.

“Mixed-Use Development” means new development projects that combine any land uses one with another.

“New Development Project” means any non-residential project being processed where some level of discretionary action by a decision making body is required.

“Peak Period” means those hours of the business day between 7:00 a.m. and 9:00 p.m. inclusive, Monday through Friday, which TDM Program strategies identify as the priority period for reducing work related vehicle trips.

“Property Owner” means the legal owner of the applicable development.

“Rideshare Facilities” means any capital improvements which would benefit an employee who rideshares to the work site, including on-site amenities, preferential parking, and rideshare drop-off areas at the entrance of the work site.

“Site Development Plan” means a precise plan of development that may be subject to public hearing before the Planning Commission. The following applications shall for the purpose of this Ordinance constitute a “Site Development Plan”:

- (1) Application for a new Conditional Use Permit; and
- (2) The expansion or revision to a pre-existing Conditional Use Permit.

“Transit Facilities” means any capital improvements which would benefit an employee who uses any form of transit to travel to the work site, including transit stops, shelters, bus turnouts, park and ride lots, and other transit amenities.

“Transportation Management Association” or “TMA” means a voluntary entity of employers, property owners, and other interested parties who share a mutual concern for local transportation problems. TMAs have the ability to collectively pool participants’ resources to address these issues. A TMA must still meet a ten (10) percent reduction in work related trips for each individual applicable new development.

“Transportation Demand Management” or “TDM” means the implementation of programs, plans or policies designed to encourage changes in individual travel behavior. TDM can include an emphasis on alternative travel modes to the single occupant vehicle such as carpools, vanpools, and transit; reduction or elimination of the number of vehicle trips; or shifts in the time of vehicle commutes to other than peak period.

“Work Site” means a building or grouping of buildings located within the City which may physical contact or be separated solely by a private or public roadway or other private right-of-way, and which are owned or operated by the same employer (or by employers under common control).

#### **16.50.030 Applicability.**

(a) Criteria for Consideration as an Applicable Development: A project shall be considered an Applicable Development subject to this Chapter if it meets one or more of the following criteria:

(1) All New Development Projects and/or Change of Use projects that are estimated to employ a total of one hundred (100) or more persons as determined by the methodology outlined in Section 16.50.030(b);

(2) Any expansion or revision to a pre-existing Conditional Use Permit where:

(i) The expansion or revision is estimated to employ a total of one hundred (100) or more persons as determined by the methodology in Section 16.50.030(c); or

(ii) Where the expansion or revision is expected to employ fewer than one hundred (100) persons and the existing development currently employs a total of one hundred (100) or more persons.

(3) Or other proposed development projects expected to meet the Employment Threshold as required by the Community Development Director.

(b) For purposes of determining whether a New Development Project or Change of Use project is subject to this Chapter, the total employment figure shall be determined as follows:

(1) Employment projections developed by the project applicant, subject to approval by the Community Development Director; or

(2) Employment projections developed by the Community Development Director using the following Employee Generation Factors by type of use:

<b>LAND USE</b>	<b>GROSS SQ. FT. PER EMPLOYEE</b>
Retail/Commercial	500
Office/Professional	250
Industrial/Manufacturing	525
Hotel/Motel	.8-1.2 employees/room
Hospital	300

The employment projection for a Mixed-Use Development or multiple uses shall be calculated on a case by case basis based upon the proportion of development devoted to each type of use.

#### **16.50.040 Exemptions.**

Notwithstanding any other provisions, the following uses and activities shall be specifically exempt from this Chapter:

(a) New Development Projects expected to employ fewer than one hundred (100) persons.

(b) Temporary construction activities on any affected project, including activities performed by engineers, architects, contact subcontractors and construction workers.

(c) Other temporary activities, as defined in the City Zoning code, or as authorized by the Community Development Director when such activities shall discontinue at the end of the designated time period.

(d) Minor modifications, revisions or amendments to a pre-existing Conditional Use Permit involving, but not limited to architectural, landscaping, signage or accessory amenities or other such modifications as determined by the Community Development Director.

(e) A residential project or residential component of a Mixed-Use Development or Conditional Use Permit.

#### **16.50.050 Minimum standards.**

(a) Submission of a Transportation Demand Management Program. All Applicable Development Projects, which are owned and managed as one unit, shall submit a Transportation Demand Management Program prepared by a traffic engineer, transportation planner, or other qualified professional identifying traffic impacts associated with a proposed project and including design recommendations and mitigation measures, as appropriate, to address on-and off-site project impacts. The TDM Program shall implement a trip reduction plan to reduce work-related Peak Period vehicle trips by ten (10) percent from the expected number of trips related to the project or work site (as indicated in the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation handbook. The TDM Program shall also indicate specific strategies and guidelines to reduce the amount of trips and increase the amount of non-vehicular transportation.

(b) Required Capital Improvement Standards. All developers of applicable New Development Projects and/or Change of Use shall be subject to required capital improvement standards as specified in this Section. All standards must be addressed to determine if they are applicable to the development. These required standards may be used to achieve the mandatory reduction of ten (10) percent in the expected number of trips related to the project. Developers of all applicable developments shall include in their project Site Development Plan provisions to address each of the following capital improvements: (1) transit facilities (on and off site); (2) bicycle facilities; and (3) rideshare facilities.

(c) Operational Standards. Operational Standards are standards to which employers, TMAs, or a managing office of a development administered as one unit are subject, in order to achieve the mandatory ten (10) percent reduction in trips related to the project. These standards must be established sixty (60) days after occupancy of the development by an employer.

(d) Allowable Options for Developer's TDM Program. The following options may be included in the developer's TDM Program to fulfill both the capital improvement standards and the operational standards:

(1) Incorporate alternate work schedules and flex-time programs (such as a 9/80 or 4/40 work schedule);

(2) Establish telecommuting or work at home programs to allow employees to work at home or at a satellite work center;

(3) Provide bicycle parking facilities equal to five (5) percent of the total required automobile parking spaces, and preserve two (2) percent of the gross floor area for employee locker and shower facilities;

areas;

(4) Provide affordable on-site housing and shuttles to and from residential and work

(5) Preferential parking for carpool vehicles;

(6) Information Center for Transportation Alternatives;

(7) Rideshare vehicle loading areas;

(8) Vanpool vehicle accessibility;

(9) Bus stop improvements;

(10) On-Site child care facilities;

(11) Availability of electrical outlets for recharging of electric vehicles;

(12) On-Site amenities such as cafeterias and restaurants, automated teller machines, and other services that would eliminate the need for additional trips;

(13) Airport shuttle service to hotels and spas;

(14) Contributions to funds providing regional facilities such as park and ride lots, multi-modal transportation centers, and transit alternatives in the area;

(15) Incentives for mass transit usage including provision of a bus pass, additional pay, flex-time or others;

(16) Implementation of increased parking fees or new fees;

(17) Restriction of business hours;

(18) Restriction of delivery hours;

(19) Provide a direct pedestrian path from the closest transit stop to the facility;

(20) Contribute up to \$1.00/square foot to a housing subsidy fund so that affordable housing can be created closer to employer sites;

(21) Develop rideshare and shuttle programs at resorts/hotels;

(22) Create a golf cart circulation system;

(23) If an applicable development is on a current transit route, provide a transit stop, shelter, trash barrels, benches, shade and wind protection, and bus turnouts;

(24) If an applicable development is not located on a current transit route, contribute to a fund which will be used to provide transit amenities;

(25) If an applicable development is located on a major arterial, subparagraphs 23 and 24 shall be considered;

(26) Provisions for the implementation of bicycle lanes; and

(27) Provide other creative or innovative strategies to reduce trips.

#### **16.50.060 Processing time limits for the TDM application.**

(a) Period for Determination of Completeness of Application by Community Development Director. No later than thirty (30) days after the Community Development Director has received a complete application for a Transportation Demand Management Review, the Community Development Director or designee shall determine, in writing, whether the submitted application materials are complete and shall immediately transmit such determination to the applicant. Upon the receipt of any additional application materials, a new thirty (30) day time period shall begin during which time the Community Development Director is to determine the completeness of the application.

(b) Period for Appeal for Incomplete Application. If the application, together with these submitted materials, is determined not to be complete, the applicant may appeal the decision to require additional information to the Planning Commission. If the final written determination on the appeal is not made within sixty (60) days, the application with the submitted materials shall be deemed complete.

(c) Extension of Time Limits. The Community Development Director and the applicant may mutually agree to a reasonable extension of these time limits, not to exceed ninety (90) days.

(d) Enabling Applications. Applications which depend on approval of another enabling application (e.g. Conditional Use Permit), shall not be considered accepted until the effective decision date for the enabling application(s). Such dependent applications may, however, be accepted for preapplication review to allow concurrent processing and thereby streamline the review process.

(e) Final Approval of the TDM Application. Once the application has been deemed complete, the Community Development Director, shall consider the matter and approve, deny, or approve in modified form the TDM application.

#### **16.50.070 Filing procedure and evaluation.**

(a) TDM Application Forms. A request for TDM approval shall be made through application forms provided by the Planning Department. The application for such TDM approval shall be filed concurrently with any application for all Applicable Development projects or other projects as required by the Community Development Director.

(b) Processing Fee. A processing fee shall be paid at the time the completed application is filed with the Planning Department. The fee shall be as Stated in Section 16.50.090.

(c) Supplemental Information. A TDM application form shall be supplemented by plans and other pertinent information to adequately address all applicable aspects of a proposal.

(d) Review and Recommendations by Community Development Director. Community Development Director shall review applications and arrive at recommendations or approvals as appropriate, by considering aspects of conformance with this Chapter.

#### **16.50.080 Renewal/review for compliance.**

(a) Deadline for Annual Renewal. On January 1st of each year, the applicable development (developer, owner, employer, or managing office) who is responsible for implementing an approved TDM shall make application to the Community Development Director for the annual renewal of its TDM Program.

(b) Criteria for Renewal. The Community Development Director shall, within thirty (30) days of receipt of an application, determine in writing, approval of the renewal of a TDM Program if the TDM Program is reducing work related trips by ten (10) percent, or denial of a renewal due to non-compliance with this Chapter.

(c) Recourse When Renewal Application is Denied. If a TDM Program is not renewed, an updated TDM Program shall be submitted by the applicable development (developer, owner, employer, or managing office) within thirty (30) days from date of notification of the denial of renewal. Upon receipt of a complete submittal of an updated TDM Program, the Community Development Director shall approve or deny the application within thirty (30) days, or forward the application to the Planning Commission which shall hold at least one (1) public hearing and shall approve, deny, or approve in modified form, the updated TDM Program.

(d) Complaints of Non-Compliance. The Community Development Director shall review any approved TDM Program for compliance if complaints about a TDM Program and its non-compliance are reported to the City. Community Development Director shall, no later than thirty (30) after receiving a complaint, review said application and shall either affirm, modify, or require an updated Program be submitted, as appropriate, by considering aspects of conformance with this Chapter.

#### **16.50.090 Fees for initial review and program monitoring.**

For the purposes of meeting its obligations under this Chapter, the following fees are deemed necessary to review and monitor TDM Programs and shall be imposed on the subject property owner.

(a) Trip Reduction/TDM Program Review Fee. A trip reduction/TDM Program Review Fee due at the time initial project application submission to the Planning Department.

(b) Trip Reduction/TDM Program Review for Compliance Fee. A trip reduction/TDM Program Renewal/Review for Compliance Fee due at the time of initial review by the Community Development Director.

(c) Late Submittal Fee. If an annual renewal application is not timely submitted, a late submittal fee shall be required.



The City Council, by resolution, shall establish the amount of the above fees in accordance with applicable law.

#### **16.50.100 Enforcement and penalties.**

(a) Enforcement Actions. For the purposes of ensuring that applicable developments comply with the provisions of this Chapter, the Community Development Director may, following written notice to subject property owner(s), initiate enforcement action(s) against such property owner(s) or designee(s), which enforcement action may include, but not be limited to, the following:

- (1) Revocation of a Business License;
- (2) Revocation of an approved Conditional Use Permit;
- (3) Withholding issuance of a Certificate of Use and Occupancy or Building Permit;
- (4) Issuance of a Stop Work Order; and
- (5) Non-Compliance penalty as specified in Section 1.16.010 of the City Municipal Code.

(b) Other Legal Actions for Violations. In addition to any other remedies for violation of the Municipal Code in force, the City may bring and maintain any action permitted by law to restrain, correct, or abate any violation of this Chapter, and in the event that legal action is brought by the City, reasonable attorney's fees and court costs shall be awarded to the City and shall constitute a debt owed by the violator to the City. The City may place a lien on the affected property in the event any debts so incurred are not timely paid.

#### **16.50.110 Appeals.**

(a) Application. Decisions made by the Community Development Director may be appealed by an applicant, property owner(s), or designee(s) of any applicable development to the Planning Commission by an application in writing to the Clerk of the Planning Commission within fifteen (15) days from the date of notification of decision.

(b) Public Hearing. The Planning Commission shall hold at least one (1) public hearing and consider the matter and affirm, reverse, or modify the Community Development Director's decision within sixty (60) days of the submittal of a complete appeal application. The decision of the Planning Commission may be appealed to the City Council, in accordance with the requirements of Zoning Code Section 21.100.110.

### **Chapter 16.52 STORM WATER MANAGEMENT AND DISCHARGE CONTROLS**

- [16.52.010 Title—Purpose and general provisions.](#)
- [16.52.020 Discharge regulation and requirements.](#)
- [16.52.030 Inspection and enforcement.](#)

### **16.52.010 Title—Purpose and general provisions.**

(a) Title. This Chapter shall be known as the City of Indian Wells Storm Water Management and Discharge Control Ordinance and may be so cited.

(b) Purpose and Intent. The purpose of this Chapter is to ensure the future health, safety, and general welfare of Indian Wells residents by:

(1) Regulating non-storm water discharges to the municipal separate storm drain;

(2) Controlling the discharge to municipal separate storm drains from spills, dumping or disposal of materials other than storm water; and

(3) Reducing pollutants in storm water discharges to the maximum extent practicable.

The intent of this Chapter is to protect and enhance the water quality of City watercourses, water bodies, groundwater, and wetlands in a manner pursuant to and consistent with the Clean Water Act.

(c) Definitions. The terms as used in this ordinance shall have the following meanings:

(1) Best Management Practice. Best Management Practice (BMP) shall mean schedules of activities, prohibitions of practices, general good housekeeping practices, maintenance procedures, educational programs, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to waters of the United States. BMPs also include treatment requirements, operating, procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage. The California Storm Water Best Management Practice Handbooks for Municipal, Industrial/Commercial and Construction Activity provide a detailed discussion of BMPS.

(2) Director. Director shall mean the City Engineer or designee.

(3) Enforcement Officer. Enforcement officer shall include the Director, Building Official, Assistant Public Works Director, Planning Director, City Manager, Sheriff, and their designees.

(4) Illicit Connection. Illicit Connection shall mean any physical connection to a storm drain system which has not been permitted by the City, the Riverside County Flood Control and Water Conservation District, or other appropriate public agency.

(5) Illicit Discharge. Illicit Discharge shall mean any discharge to storm drain system that is not composed entirely of storm water runoff except discharges made pursuant to a National Pollutant Discharge Elimination System (NPDES) permit or as otherwise authorized by the Santa Ana, San Diego, or Colorado River Basin Regional Water Quality Control Board.

(6) Municipal NPDES Permit. Municipal NPDES Permit shall mean an area-wide NPDES permit issued to a government agency or agencies for the discharge of storm water from storm water system.

(7) National Pollutant Discharge Elimination System. National Pollutant Discharge Elimination System (NPDES) Permit shall mean a storm water discharge permit issued by the Santa Ana, San Diego, or Colorado River Basin Regional Water Quality Control Board or the State Water Resources Control Board in compliance with the federal Clean Water Act.

(8) Non-Storm Water Discharge. Non-Storm Water Discharge shall mean any discharge to the storm drain system that is not entirely composed of storm water.

(9) Person. Person shall mean any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

(10) Pollutant. Pollutant shall mean anything which causes the deterioration of water quality such that it impairs subsequent and/or competing uses of the water. Pollutants may include but are not limited to paints, oil and other automotive fluids, soil, rubbish, trash, garbage, debris, refuse, waste, fecal coliform, fecal streptococcus, enterococcus, heavy metals, hazardous waste, chemicals, fresh concrete, yard waste from commercial landscaping operations, animal waste, materials that result from the process of constructing a building or structure, nauseous or offensive matter of any kind.

(11) Premises. Premises shall mean any building, lot, parcel of land or portion of land whether improved or unimproved.

(12) Storm Drain System. Storm Drain System shall mean any facility by which storm water may be conveyed to waters of the United States. The storm drain system includes but is not limited to any roads with drainage systems, streets, curbs, gutters, catch basins, natural and artificial channels, ditches, aqueducts, storm drains, inlets, conduit or other drainage structure.

(13) Storm Water Runoff. Storm Water Runoff shall mean surface runoff and drainage associated with rain storm events and snow melt.

(d) Responsibility for Administration. This Chapter shall be administered for the City by the Director.

(e) Regulatory Consistency. This Chapter shall be construed to assure consistency with the requirements of the federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and any existing or future municipal NPDES Permits and any amendments, revisions or reissuance thereof.

(f) Severability. If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are hereby declared to be severable.

#### **16.52.020 Discharge regulation and requirements.**

(a) Discharge of Pollutants. A non-storm water discharge to the storm drain system is a violation of this Chapter except as specified below.

(1) The prohibition of discharges shall not apply to any discharge regulated under a NDPFS Permit or waiver issued to the discharger and administered by the State of California under the authority of the EPA, provided that the discharger is in Full compliance with all requirements of the permit or waiver and other applicable laws or regulations.

(2) Discharges from the following activities will not be considered a source of pollutants to waters of the United States when properly managed: water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges or flows from firefighting.

(b) Discharge in Violation of Permit. Any discharge that would result in or contribute to a violation of an existing or future Municipal NPDES Permit(s) currently No CA8000192 and No. CA0108766 on file in the office of the City Engineer and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is a violation of this Chapter and is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the City in any administrative or judicial enforcement action relating to such discharge.

(c) Illicit Connections. It is a violation of this Chapter to establish, use, maintain, or continue illicit drainage connections to the City storm drain system, or to commence or continue any illicit discharges to the City drain system, This prohibition against illicit connections is expressly retroactive and applies to connections made in the past, regardless of whether permissible under the law or practices applicable or prevailing at the time of the connection,

(d) Reduction of Pollutants in Storm Water. It is a violation of this Chapter to throw, deposit, leave, maintain, keep, or be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, abandoned vehicle or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the City, the only exception being where such pollutant is being temporarily placed in an appropriate container with a spill containment system for later collection and removal. It is a violation of this Chapter to cause or permit any dumpster, solid waste bin, or similar container leak such that any pollutant is discharged into any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the City.

(e) Outdoor Storage Areas. In outdoor areas, no person shall improperly store motor vehicles, machine parts, or other objects in a manner that may leak grease, oil, or other hazardous substances. To prevent the discharge of hazardous substances from the property, the City may require the installation of a spill containment system. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required. No person shall operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition.

(f) Construction Sites. Any person performing construction work in the City shall comply with the provisions of this Chapter.

(g) New Development and Redevelopment. To minimize the discharge and transport of pollutants, the City may require, in its discretion, a new development or redevelopment project to control the volume and rate of storm water runoff from the project so as to prevent any deterioration of water quality which would impair the subsequent or competing uses of the water. The Director may establish standards and guidelines implementing BMPs designed to control the rate and volume of storm water runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants.

Acceptable methods and standards for controlling storm water runoff volumes, rates, and pollutant load may include but are not limited to the following:

(1) Increase Permeable Areas. Avoid placing impervious surfaces in highly porous soil areas; incorporate landscaping and open space into the project design, use porous materials for or near driveways and walkways, incorporate detention ponds and infiltration pits into the project's design; avoid placing pavement and other impervious surfaces in low lying areas.

(2) Direct Runoff to Permeable Areas. Direct storm water runoff away from impermeable areas to swales, berms, green strip filters, gravel beds, and trench drains.

(3) Maximize Storm Water Storage for Reuse. Use retention structures, subsurface areas, cisterns, or other structures to store storm water runoff for reuse or slow release.

(h) Compliance with General Permits. Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board, the Santa Ana Regional Water Quality Control Board, the San Diego Regional Water Quality Control Board or the Colorado River Basin Regional Water Quality Control Board, shall comply with all requirements of such permit. This Chapter shall specifically comply with the following permits: the Industrial Storm Water General Permit, the Construction Activity Storm Water General Permit, and the Dewatering General Permit. Proof of compliance with said NPDES General Permits may be required in a form acceptable to the Director prior to issuance of any City grading, building, or occupancy permits.

(i) Compliance with BMPs. Where BMPs guidelines or requirements have been adopted by any federal, State of California, regional, and/or City agency, for any activity, operation, or facility which may cause or contribute to storm water pollution or contamination, discharges, and/or discharge of non-storm water to the storm water system, every person undertaking such activity or operation, or owning or operating such facility shall comply with such guidelines or requirements as may be identified by the Director.

#### **16.52.030 Inspection and enforcement.**

(a) Authority to Inspect. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever an Authorized Enforcement Official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this Chapter, the officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the

officer by this Chapter; provided that if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons leaving charge or control of the building or premises and request entry.

Any such request for entry shall State that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Chapter, including but not limited to random sampling and/or sampling in areas with evidence of storm water contamination, illicit discharges, discharge of non-storm water to the storm water system, or similar factors.

(1) Authority to Sample and Establish Sampling Devices. With the consent of the owner or occupant or pursuant to a search warrant, any authorized Enforcement Officer may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the officer may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site.

(2) Notification of Spills. All persons in charge of a facility or responsible for emergency response for a facility are personally responsible to train facility personnel and maintain notification procedures to assure that immediate notification is provided to the City of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge in to the City storm drain system. As soon as any person in charge of a facility or responsible for emergency response for a facility has such knowledge, such person shall take all necessary steps to ensure the discovery and containment and cleanup of such release and shall notify the City of the occurrence by telephoning [ILLICIT DISCHARGE HOTLINE] and confirming the notification by correspondence to the Director.

(3) Requirement to Test or Monitor. Any authorized enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, undertake such monitoring activities and/or analyses and furnish such reports as the officer may specify. The burden, including costs, of these activities, analyses and reports shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses and/or reports requested. In the event the owner or operator of a facility subject to a monitoring and/or analyses order fails to conduct required monitoring and/or analyses and furnish the required reports in the form required, the Authorized Enforcement Officer may cause such monitoring and/or analyses and the cost, therefore, including the reasonable additional administrative costs incurred by the City shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property. If the invoice is not paid within sixty (60) days of the issuance thereof, the costs shall be a lien upon and against the property and continue in existence until the same shall be paid, If the lien is not satisfied by the owner of the property within three (3) months after the completion by an Authorized Enforcement officer of the required monitoring and/or analyses and reports, the

property may be sold in satisfaction thereof in a like manner as other real property is sold under execution.

(b) Violations Constituting Misdemeanors. Unless otherwise specified by ordinance, the violation of any provision of this Chapter, or failure to comply with any of the mandatory requirements of this Chapter shall constitute a misdemeanor, except that notwithstanding any other provisions of this Chapter, any such violation, constituting a misdemeanor under this Chapter, at the discretion of the Authorized Enforcement Officer may be charged and prosecuted as an infraction.

(c) Penalties. It shall be unlawful for any person to violate any provision of this Chapter. Any person violating any provision of this Chapter shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof doing which any violation of any of the provisions of this Chapter is committed, continued or permitted,

Any person so convicted shall be (1) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100.00) for a first violation, (2) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) for a second violation. The third and any additional violations shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or six (6) months in jail or both. Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve a person from the responsibility for correcting the violation.

(d) Concealment. Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter shall constitute a violation of such provision.

(e) Acts Potentially Resulting in Violation of the Federal Clean Water Act and/or Porter-Cologne Act. Any person who violates any provision of this Chapter, any provision of any permit issued pursuant to this Chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation also may be in violation of the federal Clean Water Act and/or Porter-Cologne Act and may be subject to the sanctions of those Acts including civil and criminal penalty. Any enforcement action authorized under this Chapter should also include notice to the violator of such potential liability.

(f) Violations Deemed a Public Nuisance. In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to the public health, safety and welfare, and may be declared and deemed a nuisance, and may be summarily abated and/or restored by any Authorized Enforcement Officer, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken by the City Attorney.

The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be a lien upon and against the property and such lien shall continue in existence until the same shall be paid. If the lien is not satisfied by the owner of the property within three (3) months after the completion by the Authorized Enforcement Officer of the removal of the nuisance and the restoration of the property to its original condition, the

property may be sold in satisfaction thereof in a like manner as other real property is sold under execution.

If any violation of this Chapter constitutes a seasonal and recurrent nuisance, the Director shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

In any administrative or civil proceeding under this ordinance in which the City prevails, the City shall be awarded all costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit and reasonable attorneys' fees.

(g) Judicial Review. The provisions of Section 131094.6 of the California Code of Civil Procedure are applicable to judicial review of City decisions pursuant to this Chapter.

(h) Civil Actions. In addition to any other remedies provided in this Section may be enforced by civil action brought by the City. In any such action, the City shall grant, as appropriate, any or all of the following remedies:

(1) A temporary and/or permanent injunction.

(2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.

(3) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.

(4) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this Chapter.

(i) Administrative Enforcement Powers. In addition to the other enforcement powers and remedies established by this Chapter, any Authorized Enforcement Officer has the authority to utilize the following administrative remedies:

(1) Cease and Desist Orders. When an Authorized Enforcement Officer finds that a discharge has taken place or is likely to take place in violation of this Chapter, the officer may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: a) comply with the requirement, b) comply with a time schedule for compliance, and/or take appropriate remedial or preventive action to prevent the violation from recurring.

(2) Notice to Clean. Whenever an Authorized Enforcement Officer finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in pollutants entering a City storm sewer system or natural watercourse, or a non-storm water discharge to a City storm sewer system or natural watercourse, he or she may give notice to remove such oil, earth dirt, grass, weeds, dead trees,



tin cans, rubbish refuse, waste or other material, in any manner that he or she may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice.

In the event the owner or operator of a facility fails to conduct the activities as described in the notice, the Authorized Enforcement officer may cause such required activities as described in the notice, and the cost thereof shall be invoiced to the owner of the property. If the invoice is not paid within sixty (60) days, a lien shall be placed upon and against the property. If the lien is not satisfied by the owner of the property within three (3) months after the completion of the required activities by the Authorized Enforcement Officer the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution,

(j) Authority to Arrest or Issue Citations. Authorized Enforcement officers shall have and are hereby vested with the authority to arrest or cite any person who violates any Section of this Chapter in the manner release on citation of misdemeanor or infractions as prescribed by Chapter 5, 5c, and 5d of Title 3, Part 2 of the Penal Code (or as the same may be hereinafter amended)

Such Authorized Enforcement officers or employees may issue a citation and notice to appear in the manner prescribed by Chapter 5c of Title 3, Part 2 of the Penal Code, including Section 853.6 (or as the same may hereafter be amended). It is the intent of the City Council that the immunities prescribed in Section 836.5 of the Penal Code be applicable to public officers or employees or employees acting in the course and scope of employment pursuant to this Chapter.

(k) Non-exclusivity of Remedies. Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(l) Appeal. Any person, firm, corporation or organization required to perform monitoring, analyses, reporting and/or corrective activities by an Authorized Enforcement Officer who is aggrieved by the decision of the Authorized Enforcement Officer may appeal such decision to the Director within ten (10) days following the effective date of the decision in writing to the Director. Upon receipt of such request, the Director shall request a report and recommendation from the Authorized Enforcement Officer and shall set the matter for hearing at the earliest practical date. At said hearing, the Director may hear additional evidence, and may reject, affirm or modify the Authorized Enforcement Officer's decision. Such decision shall be final.

(m) Disclaimer of Liability. The degree of protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific, engineering and other relevant technical considerations. The standards set forth herein are minimum standards and this Chapter does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This Chapter shall not create liability on the part of the City, any Officer or employee thereof for any damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

## **Chapter 16.60 POST DISASTER SAFETY ASSESSMENT PLACARDS**

- [16.60.010 Intent.](#)

- [16.60.020 Application of provisions.](#)
- [16.60.030 Definition of safety assessment.](#)
- [16.60.040 Placards.](#)

### **16.60.010 Intent.**

This Chapter establishes standard placards to be used to indicate the condition of a structure for continued occupancy after any natural or manmade disaster. The Chapter further authorizes the Division of Building and Safety and its authorized representatives, to post the appropriate placard at each entry point to a building or structure upon completion of a safety assessment.

### **16.60.020 Application of provisions.**

The provisions of this Chapter are applicable to all buildings and structures of all occupancies regulated by the City of Indian Wells following each natural or manmade disaster. The Council may extend the provisions as necessary.

### **16.60.030 Definition of safety assessment.**

Safety assessment is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy following a natural or manmade disaster.

### **16.60.040 Placards.**

(a) Type of Placards. The following are descriptions of the official jurisdiction placards to be used to designate the condition for continued occupancy of buildings or structures.

(1) INSPECTED — Lawful Occupancy Permitted. "INSPECTED Lawful Occupancy Permitted" to be posted on any building or structure wherein no apparent hazard has been found. This placard is not intended to mean that there is no damage to the building or structure.

(2) RESTRICTED USE. "RESTRICTED USE" is to be posted on each building or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard will note, in general terms, the type of damage encountered and will clearly and concisely note the restriction on continued occupancy. Also list any potential hazards in the area of the structure that would affect the posting.

(3) UNSAFE — Do Not Enter or Occupy. "UNSAFE Do Not Enter or Occupy" is to be posted on each building or structure that has been damaged such that continued occupancy poses a threat to life or health safety. Buildings or structures posted with this placard shall not be entered under any circumstance except as authorized in writing by the department that posted the placard. Safety assessment teams shall be authorized to enter these buildings at any time. This placard is not to be used or considered as a demolition order. The individual who posts this

placard will note, in general terms, the type of damage encountered and any potential hazards in the area of the structure that would affect the posting.

(b) Additional information on Placard. This number of the ordinance codified in this Chapter, the name of the department, the address of the department and the phone number shall be permanently affixed to each placard.

(c) Restrictions on Removal of Placard. Once attached to a building or structure, a placard is not to be removed, altered or covered until done so by an authorized representative of the department or upon written notification from the department. Removal of this notice is in violation of Indian Wells Municipal Code Section 2.32.110.

## **Chapter 16.70 LAND USE FOR RECONSTRUCTION AFTER A DISASTER**

- [16.70.010 Intent.](#)
- [16.70.020 Application of provisions.](#)
- [16.70.030 Definitions.](#)
- [16.70.040 Land use requirements.](#)
- [16.70.050 Board of Appeals.](#)

### **16.70.010 Intent.**

This Chapter establishes standards and regulations for expeditious repair and reconstruction of buildings or structures which were damaged or caused to be demolished as a result of a disaster for which a local emergency has been declared by the City Council. The Chapter does not allow exemptions from the Building, Fire, Electrical, Mechanical, Plumbing or other codes adopted by the City of Indian Wells.

### **16.70.020 Application of provisions.**

The provisions of this Chapter are applicable to all building sites regulated by the City of Indian Wells following each disaster when a local emergency has been declared. The Council may extend provisions as necessary.

### **16.70.030 Definitions.**

“Current Building Code” shall mean the edition of the California Building Code, published by the International Conference of Building Officials, as adopted by the City of Indian Wells in accordance with the operation of law pursuant to Section 18941.5 of the State of California Health and Safety Code. The edition to be applied shall be that edition in effect at the time of the declaration of a local emergency by the City Council.

“Non-conforming Occupancy” shall mean occupancies, as defined by Table No. 5 A of the current Building Code, which were in place prior to the passage of the City’s General Plan and all current zoning or planning ordinances.

Local Emergency Declared by City Council. Conditions of extreme peril to the safety of persons and property that may strike the City, caused by but not limited to: earthquakes, fire, flood, hazardous spills, civil unrest, epidemics, storms, etc.

#### **16.70.040 Land use requirements.**

(a) Regulations Regarding Reconstruction. All buildings or structures which, as a result of a natural disaster for which a local emergency has been declared, have been damaged to a point where the owner has elected to demolish rather than repair, caused to be demolished as a threat to public health and safety, or destroyed may be reconstructed on the same lot. If the buildings or structures are to be reconstructed, current zoning and planning ordinances relating to building size, lot coverage, parking and site improvements shall be waived provided:

(1) The building is reconstructed to the same configuration, floor area, height, and occupancy as the original building or structure and is constructed of similar construction materials. Existing unreinforced masonry and concrete materials shall be replaced with similar materials reinforced in accordance with the current Building Code.

(2) All parts or portions of the original construction are completely removed, except as approved by the Building Official.

(3) The site is prepared in accordance with a foundation report prepared by an individual registered by the State of California to perform foundation investigations.

(4) All new construction complies fully with the requirements of the current Building Code.

(b) Previous Non-Conforming Occupancies. For those buildings which housed lawful non-conforming occupancies, the lawful non-conforming occupancy may be maintained in the new building provided the occupancy is lawful and not in violation of any other portions of the Municipal Code.

#### **16.70.050 Board of Appeals.**

The provisions of this Chapter may be appealed to the City Board of Appeals pursuant to Municipal Code Section 16.12.010.

### **Chapter 16.75 WASTE MANAGEMENT PLAN FOR CERTAIN CONSTRUCTION AND DEMOLITION PROJECTS WITHIN THE City OF INDIAN WELLS**

- [16.75.010 Short title.](#)
- [16.75.015 Purpose.](#)
- [16.75.020 Definitions.](#)

- [16.75.025 Application of Chapter to covered projects.](#)
- [16.75.030 Designated recyclable and reusable materials.](#)
- [16.75.035 Required diversion rates.](#)
- [16.75.040 Projects exempt from this Chapter.](#)
- [16.75.045 Expansion or construction of new trash enclosures for existing lawfully established uses.](#)
- [16.75.050 Waste management plan requirements.](#)
- [16.75.055 Review of waste management plan.](#)
- [16.75.060 Waste management compliance reporting.](#)
- [16.75.065 Partial exemption from compliance with this Chapter.](#)
- [16.75.070 Appeal.](#)
- [16.75.075 Violation of this Chapter.](#)
- [16.75.080 Prosecution of violations.](#)
- [16.75.085 Penalties and administrative proceedings.](#)
- [16.75.090 Remedies not exclusive.](#)

**16.75.010 Short title.**

This Chapter shall be known and designated as the “construction and demolition waste management ordinance.”

**16.75.015 Purpose.**

The City Council of the City of Indian Wells finds that the City is committed to protecting the public health, safety, welfare and environment to promote the reduction of solid waste and reduce the amount of solid waste going to landfills as required under California law as embodied in the California Waste Management Act (California Public Resources Code Sections 4000 et seq.). The City is required to prepare, adopt and implement source reduction and recycling elements to reach reduction goals and is required to make substantial reductions in the volume of waste materials going to landfill, under the threat of penalties of ten thousand dollars (\$10,000.00) per day.

The purpose of this Chapter is to reduce landfill waste by requiring an applicant for every “covered project” to divert a minimum of fifty (50) percent with a goal of seventy (70)

percent of the construction and demolition debris resulting from that project in compliance with State and local statutory goals and policies and to create a mechanism to secure compliance with the Stated diversion requirements.

#### **16.75.020 Definitions.**

For the purposes of this Chapter, the following definitions shall apply:

“Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for any permit, as defined in this Chapter, and who is, therefore, responsible for meeting the requirements of this Chapter.

“Completion” means the earliest of the following dates: the date a temporary certificate of occupancy or certificate of occupancy is issued for a project.

“Construction” means the building or enlargement of any structure, or any portion thereof, and includes without limitation alterations or improvements to an existing structure.

“Construction and demolition debris” means the excess or discarded materials, which are removed from a site during or after the construction or demolition of any structure, fence, wall, paving, pool, etc. Construction and demolition debris includes, but is not limited to the following items:

(1) Components of the building, structure or improvement that is the subject of the construction work including, but not limited to lumber and wood, gypsum wallboard, glass, metal, roofing material, tile, carpeting and floor coverings, window coverings, plastic pipe, concrete, fully cured asphalt, heating, ventilating and air conditioning systems and their components, lighting fixtures, appliances, equipment, furnishings and plumbing fixtures;

(2) Tools and building materials utilized in the course of the construction work including material generated at construction trailers such as blueprints, plans and other similar wastes;

(3) Cardboard and other packaging materials derived from materials installed in or applied to the building or structure, or from tools and equipment used in the course of the construction work;

(4) Plant materials resulting from construction work when commingled with dirt, rock, inert debris or construction and demolition debris.

“Conversion rate” means the rate set forth in the standardized conversion rate table for use in estimating the volume or weight of construction and demolition debris, approved by the California Integrated Waste Management Board.

“Covered project” means any project meeting the thresholds referenced in the Section 16.75.025.

“Demolition” means the razing, tearing down or wrecking of any structure, wall, fence or paving, whether in whole or in part, whether interior or exterior.

“Deconstruct” and “deconstruction” mean the careful and systematic dismantling of a structure in order to salvage materials for diversion.

“Divert” and “diversion” mean redirection of material that would previously be disposed into the landfill. Appropriate diversion methods include transfer of materials to a licensed recycling facility, approved on-site re-use techniques and other waste minimization methods approved by the waste management plan compliance official.

“Diversion requirement” means the diversion of a minimum of fifty (50) percent with a goal of seventy (70) percent of the total construction and demolition debris generated by a project, or the lower percentage requirement granted by exception pursuant to Section 16.75.065.

“Licensed recycling facility” means approved processing facility by City, County, State or Federal Government.

“Paving” means driveways, walkways, parking areas, streets and sidewalks.

“Performance security” means cash, certified or cashiers’ check, certificate of deposit, a letter of credit or other security in a form approved by the Director of Public Works.

“Permit” means any building or demolition permit.

“Project” means any proposal for new or changed use, or for new construction, alteration or enlargement of any structure, that requires a permit from the City.

“Recycling” and “reuse” mean the process of collecting, sorting, cleansing, treating, and reconstituting construction and demolition debris that would otherwise be disposed of in a landfill.

“Renovation” means any change, addition or modification to an existing structure.

“Structure” means anything constructed or erected that requires a location in the ground, including a building or swimming pool, but not including a fence, driveways or walkways.

“Waste management plan” means an application packet approved by the Director of Community Development for the purpose of reviewing project compliance of this Chapter.

“Waste management plan compliance official” means the Administrator of the Refuse for the City.

#### **16.75.025 Application of Chapter to covered projects.**

(a) Unless otherwise exempt under Section 16.75.040, projects by the City or by any applicant meeting the following thresholds shall be considered a covered project, shall meet the diversion requirement and shall comply with all provisions of this Chapter. It shall be the responsibility of the owner, general contractor and all subcontractors to divert from the landfill the minimum percentage of the recyclable, reusable and salvageable debris or materials required by the California Green Building Standards Code for the following covered projects:

(1) Residential additions or renovations of two thousand (2,000) square feet or more of gross floor area;

(2) Tenant improvements of three thousand (3,000) square feet or more of gross floor area;

(3) New structures of two thousand (2,000) square feet or more of gross floor area;

(4) Demolition of two thousand (2,000) square feet or more of gross floor area; and

(5) All City public works projects.

(b) Compliance with the provisions of this Chapter shall be listed as a condition of approval on all building or demolition permits issued for a covered project.

### **16.75.030 Designated recyclable and reusable materials.**

Recyclable and reusable materials include, but are not limited to the following:

(a) Appliances including, but not limited to ovens, stoves, refrigerators, freezers, water heaters, air conditioners, evaporative coolers, washers, dryers, lighting and mechanical equipment;

(b) Cardboard containers and materials;

(c) Drywall and plaster materials including gypsum and sheetrock;

(d) Plant materials including tree trimmings, grass, leaves, roots, branches and palm trees that include their fronds and root balls;

(e) Masonry building materials, including but not limited to, all products generally used in construction (concrete, rock, stone, stucco, brick etc.);

(f) All metals such as steel, stainless steel, steel piping;

(g) Paving materials including asphalt, brick, concrete, paver blocks, etc;

(h) Roofing materials including wood shingles as well as asphalt, stone, concrete, metal, roof tiles and slate-based roofing material;

(i) Salvageable materials, including but not limited to wallboard, door and window frames, doors, windows, plumbing or electrical fixtures, toilets, sinks, bathtubs and mechanical equipment;

(j) Wood waste, including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted;



(k) Any other construction or demolition debris that is nonhazardous and for which an economically feasible market exists.

#### **16.75.035 Required diversion rates.**

The applicant for a covered project shall divert a minimum percentage required by the California Green Building Standards Code with a goal of seventy (70) percent of the construction and demolition debris resulting from the project.

#### **16.75.040 Projects exempt from this Chapter.**

The following projects are exempt from the requirements of this Chapter:

(a) Immediate or emergency demolition required to protect the public health and safety or welfare, as determined by any public safety official or code compliance officer of the City prior to demolition;

(b) A project for which an exception, Conditional Use Permit or design review approval has been obtained from the City prior to the effective date of the ordinance codified in this Chapter.

(c) A project for which a valid building permit has been lawfully issued by the City prior to the effective date of said ordinance;

(d) A City public works project for which the notice inviting bids has been published prior to the effective date of said ordinance;

(e) Roofing projects that do not include the tear-off of existing roof or some portion thereof;

(f) A project not meeting the criteria established in Section 16.75.025, including but not limited to any project for which no City permit is required.

#### **16.75.045 Expansion or construction of new trash enclosures for existing lawfully established uses.**

The owner of a parcel or parcels of commercial property containing one (1) or more lawfully established uses can request approval of a reduced number of parking spaces so as to allow construction of new trash enclosures, or expansion of existing trash enclosures, for the purpose of recycling by submitting an application to the Community Development Director. The application shall include a depiction of the proposed construction or expansion, and shall indicate the number of parking spaces that would be lost. The Community Development Director will review the required number of parking spaces, the number of existing parking spaces, and the number of parking spaces that would be lost if a new or expanded trash enclosure were constructed, and approve or deny the request for relief.

#### **16.75.050 Waste management plan requirements.**

All applicants for covered projects shall complete and submit a waste management plan as part of the application packet for a permit issued for a covered project. For City public

works and public construction contracts, the waste management plan shall be prepared and submitted by the prime contractor constructing each such project. The waste management plan shall include the following information, calculated with the conversion rate, and shall be attested by the applicant, under penalty of perjury, as true and correct for all Stated facts and as a best estimate based on all information reasonably available about the project, where all of the facts cannot be ascertained:

(a) The estimated type of construction and demolition materials that will be generated; and

(b) The estimated volume or weight of construction and demolition debris, listed for each material; and

(c) The estimated volume or weight of construction and demolition debris that can be diverted listed for each material; and

(d) The estimated volume or weight of construction and demolition debris that will be land filled as solid waste; and

(e) The identification of the vendor or facility that will collect or receive the construction or demolition debris or that will deconstruct the structure; and

(f) The estimated date on which demolition or construction is to commence.

#### **16.75.055 Review of waste management plan.**

(a) Time for Review. The waste management plan shall be approved or denied no later than fifteen (15) business days after a complete application is submitted. The approval may be based on imposed conditions reasonably necessary to meet the standards of this Chapter.

(b) Approval. Notwithstanding any other provision of this Chapter, no permit shall be issued for any covered project unless and until the waste management plan has been approved, based upon the following findings by the waste management plan compliance official.

(1) All of the information required by Section 16.75.040 has been provided; and

(2) The plan establishes a mechanism such that the diversion requirement shall be met.

(c) Denial. If the waste management plan compliance official denies the waste management plan, the grounds for denial shall be clearly stated, in writing and mailed to the applicant.

#### **16.75.060 Waste management compliance reporting.**

(a) Progress Updates. Semi-monthly updates shall be submitted showing waste generated, including tonnage data, total tonnage, tonnage diverted and tonnage landfilled, supported by original or certified photocopies of receipts, weight tags or tickets or other records of volume or weight measurement from recycling companies, deconstruction contractors, and/or disposal companies, haulers or the landfill where disposed. Receipts and weight tags or tickets

will be used to verify whether waste generated from the covered project has been recycled, reused, salvaged or landfilled. If the applicant fails to complete this requirement, the waste management plan compliance official shall:

(1) Notify the applicant in writing that the covered project does not comply with the terms of this article and has ten (10) days to submit the required report(s).

(2) Declare the covered project as noncompliant and issue or cause to be issued a stop work order for the covered project.

(b) Final Report. No later than thirty (30) days from the completion of a covered project, the applicant shall submit a compliance reporting form, under penalty of perjury, to the waste management compliance official. No certificate of occupancy shall be issued prior to the City's receipt of the final compliance reporting form. The form shall include the following information:

(1) The dates demolition and construction actually commenced; and

(2) The actual volume or weight of construction and demolition debris, listed for each material; and

(3) The actual volume or weight of construction and demolition debris that was diverted listed for each material; and

(4) A specification of the method used to determine the volume and weights and a certification that the method used was the most accurate, commercially reasonable method available; and

(5) Original receipts from all vendors and facilities, which collected or received construction and demolition debris, indicating actual weights and volumes received by each.

(c) Final Review. The waste management compliance official shall review the semi-monthly reports and final report and determine whether the diversion requirement applicable to the project has been met. If the waste management compliance official determines that the applicable diversion requirement has not been met, this determination shall be forwarded to the City Manager, who may recommend to the City Council that enforcement proceedings be initiated pursuant to Section 16.75.080 and/or 16.75.085.

#### **16.75.065 Partial exemption from compliance with this Chapter.**

Prior to commencing demolition or construction, an applicant wishing to obtain partial relief from the requirements of this Chapter may seek a partial exemption from the requirements of this Chapter through the following process:

(a) Initiation. This exemption process shall be initiated by the filing of a complete exemption application with the waste management plan compliance official. The waste management plan compliance official shall determine the completeness of the exemption application within five (5) business days of the filing of the application.

(b) Decision on application. Following consideration of the exemption application, the waste management plan compliance official shall either make the required findings and take action on the application, or shall State why the findings cannot be made and deny the application. A decision on the application shall be rendered within ten (10) business days following determination that the application is complete.

(c) Findings. All of the following findings must be made prior to the approval of an exemption:

(1) There are exceptional, extraordinary circumstances, or conditions applicable to the project that do not apply generally to similar projects; and

(2) Granting the application will not constitute a grant of special privilege inconsistent with limitations imposed on like projects; and

(3) Cost to the applicant of strict compliance with this Chapter is not the primary reason for granting the exemption.

#### **16.75.070 Appeal.**

Any person or entity aggrieved by any decision or finding under the provisions of this Chapter with respect to approving or to denying a waste management plan or to granting or denying an application for an exemption from compliance with this Chapter, may appeal such decision or finding. An appeal must be filed within three (3) days after receipt of notice of any protested decision or finding by filing with the Director of Public Works a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than ten (10) days after receipt of the letter of appeal. Appellant shall be given at least five (5) days' notice of the time and place of the hearing. A hearing officer, appointed by the City Manager, shall give the applicant, and any other interested party, a reasonable opportunity to be heard, in order to show cause why the decision or finding should not be upheld. In all such cases, the burden of proof shall be upon the applicant to show that there was no substantial evidence to support the decision or finding appealed. At the conclusion of the hearing, the hearing officer shall make a final and conclusive determination, and shall provide the appellant with a written Statement of decision within ten (10) days.

#### **16.75.075 Violation of this Chapter.**

It is unlawful and a violation of this Chapter to do any of the following:

(a) To willfully fail to comply with any provision of this Chapter;

(b) To provide false or misleading information in any plan, report or document required in this Chapter;

(c) To fail to meet the diversion requirement for any covered project.

#### **16.75.080 Prosecution of violations.**

A violation of any provision of this Chapter shall be prosecuted as a misdemeanor or infraction at the option of the City prosecutor and as further set forth in Section 16.75.085 with respect to penalties and administrative proceedings.

#### **16.75.085 Penalties and administrative proceedings.**

(a) Misdemeanors. Any person who violates any provision of Section 16.75.075(a) or 16.75.075(b) is guilty of a misdemeanor and shall be punished by fine or by imprisonment for a period of not more than six (6) months or both.

(b) Infractions. Any person who violates Section 16.75.075(c) or any other provision of this Chapter is guilty of an infraction and shall be punished by a fine. Each person convicted may be deemed guilty of a separate offense for every day during any portion of which any violation is committed or permitted. For violations of Section 16.75.075(c), the violation shall be considered to commence on the date when demolition or construction first commenced, which is presumed to be the commencement date provided by the applicant in the waste management plan.

(c) In addition to the penalty provision of subsections (a) and (b) of this Section, violations of this Chapter may be subject to fines, including, but not limited to, civil penalties, administrative fees and other related charges as established by resolution of the City Council.

#### **16.75.090 Remedies not exclusive.**

To the maximum extent permitted by law, remedies specified in this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

### **Chapter 16.80 POST-DISASTER DEMOLITION**

- [16.80.010 Intent.](#)
- [16.80.020 Application of provisions.](#)
- [16.80.030 Definitions.](#)
- [16.80.040 Demolition criteria.](#)
- [16.80.050 Demolition criteria for historic buildings or structures.](#)
- [16.80.060 Board of Appeals.](#)

#### **16.80.010 Intent.**

This Chapter establishes demolition criteria for all buildings and structures damaged as a result of a disaster for which a local emergency has been declared by the City Council to the degree to which demolition is a viable alternative to repair.

### **16.80.020 Application of provisions.**

The provisions of this Chapter are applicable to all buildings or structures regulated by the City following each disaster when a local emergency has been declared. The Council may extend provisions as necessary.

### **16.80.030 Definitions.**

For the purposes of this Chapter the following definitions apply:

“Event” shall mean any natural occurrence which results in the declaration of a disaster and shall include windstorms, earthquakes, floods, etc.

“Historic building or structure” shall be any building or structure included on the national register of historic places, the State register of historic places or points of interest, or a local register of historic places. Historic buildings and structures shall also include those buildings and structures within a recognized historic district wherein the specific building has historic significance.

“Local Emergency Declared by City Council.” Conditions of extreme peril to the safety of persons and property that may strike the City, caused by but not limited to: earthquakes, fire, flood, hazardous spills, civil unrest, epidemics, storms, etc., for which the City Council has declared an emergency. “State Historic Preservation Officer ” is the individual appointed by the Governor, pursuant to Section 101(b)(1) of the National Historic Preservation Act of 1966, as amended, to administer the State Historic Preservation Program.

### **16.80.040 Demolition criteria.**

(a) Within ten (10) days after the event, any building or structure determined by the Building Official to represent an imminent hazard to public health and safety, or to pose an imminent threat to the public right-of-way, shall be condemned and immediately demolished. Such condemnation and demolition shall be performed in the interest of public health and safety without condemnation hearings otherwise required by the Municipal Code.

(b) If, after the specified time framed noted in Subsection (a), any building or structure is determined by the Building Official to represent a hazard to the health and safety of the public, or which poses a threat to the public right-of-way, the Building Official shall duly notify the building owner and proceed with a condemnation hearing within fifteen (15) business days of the notice.

(c) For any building or structure wherein the owner has decided to demolish rather than repair, the owner or owner’s representative shall follow the established procedures to secure a demolition permit.

### **16.80.050 Demolition criteria for historic buildings or structures.**

(a) Within five (5) days after the event, if any historic building or structure is determined by the Building Official to represent an imminent hazard to public health and safety,

or to pose an imminent threat to the public right-of-way, the Building Official shall notify the State Historic Preservation Officer that one of the following actions will be taken:

(1) Whenever possible, within reasonable limits as determined by the Building Official, the building or structure shall be braced or shored in such a manner as to mitigate the hazard to public health and safety or the hazard to the public right-of-way.

(2) Whenever bracing or shoring is determined not to be reasonable, the Building Official shall cause the building or structure to be condemned and immediately demolished. Such condemnation and demolition shall be performed in the interest of public health and safety without a condemnation hearing as otherwise required by Municipal Code. Prior to commencing demolition, the Building Official shall photographically record the entire building or structure.

(b) If, after the specified time frame noted in Subsection (a), and less than thirty (30) days after the event, a historic building or structure is determined by the Building Official to represent a hazard to the health and safety of the public, or to pose a threat to the public right-of-way, the Building Official shall duly notify the building owner of his/her intent to proceed with a condemnation hearing within fifteen (15) business days of the notice. The Building Official shall also notify the Federal Emergency Management Agency, in accordance with the National Historic Preservation Act of 1966, as amended, of their intent to hold a condemnation hearing.

(c) For any historic building or structure wherein the Building Official and the owner have agreed to demolish the building or structure within thirty (30) days after the event, the Building Official shall submit to the Federal Emergency Management Agency, in accordance with the National Historic Preservation Act of 1966, as amended, a request to demolish. Said request shall include all substantiating data.

(d) If, after thirty (30) days from the event, the Building Official and the owner of a historic building or structure agree that the building or structure should be demolished, such action will be subject to the review process established by the National Historic Preservation Act of 1966, as amended.

#### **16.80.060 Board of Appeals.**

The provisions of this Chapter may be appealed to the City Board of Appeals pursuant to Municipal Code Section 16.12.010. At the City Council's discretion, a Board of Appeals may be appointed by the City Council in accordance with the provisions set forth in Section 105 of the California Building Code to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code.

#### **Chapter 16.90 DISASTER REPAIR AND RECONSTRUCTION**

- [16.90.010 Intent.](#)
- [16.90.020 Application of provisions.](#)
- [16.90.030 Definitions.](#)
- [16.90.040 Repair criteria.](#)

- [16.90.050 Repair criteria for chimney.](#)
- [16.90.060 Repair criteria for essential services facilities.](#)
- [16.90.070 Repair criteria for historic building or structures.](#)
- [16.90.080 Repair criteria for un-reinforced masonry buildings and structures.](#)
- [16.90.090 Board of Appeals.](#)

#### **16.90.010 Intent.**

This Chapter establishes standards and regulations for the expeditious repair and reconstruction of structures damaged as a result of a disaster for which a local emergency has been declared by the City Council. This Chapter does not allow exemptions from the Building, Fire, Electrical, Mechanical, Plumbing, or other Codes or City ordinances.

#### **16.90.020 Application of provisions.**

(a) The provisions of this Chapter are applicable to all buildings or structures regulated by the City following each disaster when a local emergency has been declared by the City Council. The Council may extend provisions as necessary.

(b) When approved by the Building Official, the requirements of this Chapter may be waived in favor of repair recommendations included in an engineering evaluation as defined in Section 16.90.030(d).

#### **16.90.030 Definitions.**

For the purposes of this Chapter the following definitions apply:

“Architect” is an individual licensed by the State of California to practice architecture as defined in the State of California Business and Professions Code.

“Civil Engineer” is an individual registered by the State of California to practice civil engineering as defined in the State of California Business and Professions Code.

“Current Code” shall mean the edition of the California Building Code, published by the International Conference of Building Officials, as adopted by the City of Indian Wells in accordance with the operation of law pursuant to Section 18941.5 of the State of California Health and Safety Code. The edition to be applied shall be that edition in effect at the time of the declaration of a local emergency by the City Council.

“Engineering Evaluation” is an evaluation of a damaged building or structure, or suspected damaged building or structure, performed under the direction of a structural engineer or civil engineer retained by the owner of the building or structure. Engineering evaluations shall,



at a minimum, contain recommendations for repair with appropriate opinion of construction cost for those repairs.

“Essential Service Facility” shall mean those buildings or structures, which have been designated by the City Council to house facilities which are necessary for the emergency operations subsequent to a disaster.

“Local Emergency Declared by City Council.” Conditions of extreme peril to the safety of persons and property that may strike the City, caused by but not limited to: earthquakes, fire, flood, hazardous spills, civil unrest, epidemics, storms, etc., for which the City Council has declared an emergency.

“Replacement Value” is the dollar value, as determined by the Building Official, of replacing the damaged structure with a new structure of the same size, construction material and occupancy on the same site.

“Structural Engineer” is an individual registered by the State of California to practice civil engineering and to use the title, Structural Engineer, as defined in the State of California Business and Professions Code.

“Value of Repair” is the dollar value, as determined by the Building Official, of making the necessary repairs to the damaged structure.

#### **16.90.040 Repair criteria.**

Buildings and structures of all occupancies, except as otherwise noted, which have been damaged as a result of a disaster, shall be repaired in accordance with the following criteria:

(a) When the estimated value of repair is greater than ten (10) percent, but less than fifty (50) percent, of the replacement value of the structure, the damaged elements as well as all critical ties, supported elements and supporting elements associated with the damaged elements, shall be repaired and/or brought into conformance with the structural requirements of the current code.

(b) When the estimated value of repair is fifty (50) percent or more than the replacement value of the structure, the entire structure shall be brought into conformance with the structural requirements of the current code.

(c) In Group R, Division 3, Occupancies, the repair value of damaged chimneys shall be excluded from the computation of percentage of replacement value. Damaged chimneys shall be repaired in accordance with Section 16.90.050.

#### **16.90.050 Repair criteria for chimney.**

(a) All damaged chimneys must be repaired or reconstructed to comply with the requirements of Chapter 31 of the current code. Damaged portions of chimneys shall be removed in accordance with the following criteria:

(1) When the damaged portion of the chimney is located between the roofline and the top of the chimney, the damaged portion shall be removed to the roofline provided the roof

and ceiling anchorage are in sound condition. Reconstruction portion of the chimney shall be braced to the roof structure.

(2) For a single story structure where the damaged portion of the chimney is below the roofline, or the damaged portion extends from above the roof line to below the roofline, the chimney shall be removed to the top of the fireplace.

(3) For a multi-story structure, the damaged portion of the chimney shall be removed from the top to a floor line where sound anchorage is found.

(4) In any structure where the fireplace has been damaged, the entire chimney and fireplace shall be removed to the foundation. If the foundation is in sound condition, the fireplace and chimney may be reconstructed using the existing foundation. If the foundation has been damaged, it shall be removed and replaced.

(b) Where existing conditions preclude the installation of all anchorage required by Chapter 31 of the current code, alternate systems may be used in accordance with the alternate methods and materials provisions of the current code when approved by the Building Official. Such alternate systems shall be designed and detailed by a structural engineer, civil engineer or architect.

(c) When the portion of the chimney extending above the roofline exceeds two times the least dimension of the chimney, that portion above the roofline shall be braced to the roof structure.

#### **16.90.060 Repair criteria for essential services facilities.**

(a) Buildings or structures housing essential service facilities which have been damaged as a result of a disaster shall have an engineering evaluation performed.

(b) Minimum criteria for repair shall be as follows:

(1) When the estimated value of repair is less than fifty (50) percent of the replacement value of the structure, the damaged elements, as well as all critical ties, supported elements, and supporting elements associated with the damaged elements, shall be repaired and/or brought into conformance with the structural requirements of the current code.

(2) When the estimated value of repair is fifty (50) percent or more than the replacement value of the structure, the entire structure shall be brought into conformance with the structural requirements of the current code.

#### **16.90.070 Repair criteria for historic building or structures.**

(a) Buildings or structures which are included on a national, State, or local register of historic places or which are qualifying structures within a recognized historic district, which have been damaged as a result of a disaster, shall have an engineering evaluation performed.

(b) The minimum criteria for repair shall be as included in Section 16.90.040, Repair Criteria, with due consideration given to the historical rating and nature of the structures.

Additional standards and criteria, as noted in Part 8, Title 24, California Code of Regulations, the State of California Historic Building Code shall apply.

(c) Where conflicts exist between the standards contained herein and the State of California Historic Building Code, the Historic Building Code shall govern.

#### **16.90.080 Repair criteria for unreinforced masonry buildings and structures.**

(a) The California Code for Building Conservation, including appendices, 1991 Edition, as published by the International Conference of Building Officials, one copy of which is on file in the Office of the City Building Official, is hereby adopted. As each subsequent edition is adopted, it shall replace the edition referenced above.

(b) All damaged buildings determined to be bearing wall buildings constructed of unreinforced masonry shall be repaired and strengthened to fully comply with the requirements of the Uniform Code for Building Conservation, Appendix Chapter 1.

#### **16.90.090 Board of Appeals.**

The provisions of this Chapter may be appealed to the City Board of Appeals pursuant to Municipal Code Section 16.12.010. At the City Council's discretion, a Board of Appeals may be appointed by the City Council in accordance with the provisions set forth in Section 105 of the California Building Code to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code.

### **Chapter 16.100 SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS**

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#### **16.100.010 Applicability and purpose.**

This Chapter applies to the permitting of all small residential rooftop solar energy systems in the City. The purpose of this Chapter is to create an expedited, streamlined solar permitting process that complies with the Solar Rights Act, as amended by AB 2188 (Chapter 521, Statutes 2014), to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This Chapter encourages the use of small residential rooftop solar energy systems by removing unreasonable barriers, minimizing costs to property owners and the City, and expanding the ability of property owners to install small rooftop solar energy systems. This

Chapter allows the City to achieve these goals while protecting the public health and safety of the community.

**16.100.020 Definitions.**

The definitions set forth below shall be applicable to the provisions in this Chapter.

“Electronic submittal” means the utilization of one (1) or more of the following:

- (1) Email;
- (2) The Internet;
- (3) Facsimile.

“Official” means the City’s Building Official.

“Small residential rooftop solar energy system” means a solar energy system that meets all of the following:

- (1) Is no larger than ten (10) kilowatts alternating current nameplate rating or thirty (30) kilowatts thermal;
- (2) Conforms to all applicable State fire, structural, electrical, and other building codes as adopted or amended by the City, and all State and City health and safety standards;
- (3) Conforms to all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability;
- (4) Is installed on a single- or duplex-family dwelling.
- (5) The panel or module array does not exceed the maximum legal building height as defined by the City.

“Solar energy system” has the meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

**16.100.030 Small residential rooftop solar system requirements.**

(a) A solar energy system that qualifies as a small residential rooftop solar energy system, as defined in this Chapter, shall be processed in accordance with the terms of this Chapter.

(b) A small residential rooftop solar energy system shall meet applicable health and safety standards and requirements imposed by the State, City, and local fire department or district.

(c) The Official shall, prior to September 30, 2015, adopt an administrative, nondiscretionary expedited review process for small residential rooftop solar energy systems, which shall include standard plan(s) and checklist(s). The checklist(s) shall set forth all requirements with which small residential rooftop solar energy systems must comply to be eligible for expedited review.

(d) The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research.

#### **16.100.040 Electronic processing.**

(a) All documents required for the submission of an expedited small residential rooftop solar energy system application shall be made available on a publicly accessible City website.

(b) Electronic submittal of the required permit application and documents by electronic means shall be made available to all small residential rooftop solar energy system permit applicants. The City's website shall specify the permitted method of electronic document submission.

(c) An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

#### **16.100.050 Application review.**

(a) An application that City staff determines satisfies the information requirements contained in the City's checklist(s) for expedited small residential rooftop solar system processing, including complete supporting documents, shall be deemed complete.

(b) If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

(c) After City staff deems an application complete, City staff shall review the application to determine whether the application meets local, State, and Federal health and safety requirements.

(d) City staff shall issue a building permit or other nondiscretionary permit within a reasonable period of time after receipt of a complete application that meets the requirements of the approved checklist, standard plan and this Chapter.

(e) The City shall not condition approval of an application on the approval of an association, as defined in Section 4080 of the Civil Code.

#### **16.100.060 Inspections.**

(a) Only one (1) inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review.

(b) The inspection shall be done in a timely manner.

(c) If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but the inspection timing need not conform to the requirements of this

## CHAPTER 16.110 ELECTRIC VEHICLE CHARGING STATIONS

### 16.110.010 Intent.

The purpose of this chapter is to promote and encourage the use of electric vehicles by creating an expedited, streamlined permitting process for electric vehicle charging stations while promoting public health and safety and preventing specific adverse impacts in the installation and use of such charging stations.

### 16.110.020 Applicability.

This chapter applies to the permitting of all electric vehicle charging systems in the City. Electric vehicle charging systems legally established or permitted before January 1, 2023 are not subject to the requirements of this chapter unless physical modifications or alterations are undertaken that materially change the size, type, or components of an electric vehicle charging system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

### 16.110.030 Definitions.

“Electric Vehicle Charging Station” or “Charging Station” means any level of electric vehicle supply equipment station that is designed and built-in compliance with Article 625 of the California Electrical Code and delivers electricity from a source outside an electric vehicle into a plug-in vehicle.

“Electronic submittal” means the utilization of one or more of either electronic mail, the internet, or facsimile.

“Feasible Method to Satisfactorily Mitigate or Avoid the Specific Adverse Impact” includes, but is not limited to, any cost-effective method, condition or mitigation imposed by the City on another similarly situated application in a prior successful application for a similar permit.

“Specific Adverse Impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

### 16.110.040 Electric Vehicle Charging Station Requirements.

(a) All electric vehicle charging systems shall meet the requirements of the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories, and rules of the Public Utilities Commission regarding safety and reliability.

(b) Installation of electric vehicle charging stations shall be incorporated into the load calculations of all new or existing electrical services and shall meet the requirements of the California Electrical Code. Electric vehicle charging equipment shall be considered a continuous load.

(c) Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code as applicable per occupancy, and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.

#### 16.110.050 Duties of the City's Building Official.

(a) All documents required for submission of an electric vehicle charging system application shall be made publicly available on the City's website.

(b) A permit application that satisfies the information requirements in the City's adopted checklist shall be deemed complete and be promptly processed. A completed application does not authorize an applicant to energize or utilize the electric vehicle charging station until approval and all necessary permits are granted by the City.

(c) The electric vehicle charging system permit process and checklist shall substantially conform to recommendations contained in the most current version of the Plug-In Electric Vehicle Infrastructure Permitting Checklist contained in the Zero-Emission Vehicles in California: Community Readiness Guidebook adopted by the Governor's Office of Planning and Research.

(d) If the Building Official determines that the permit application is incomplete, he or she shall issue a written correction notice to the applicant, detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance

(e) The Building Official shall allow the electronic submittal of the electric vehicle charging station application.

#### 16.110.060 Permit Review Requirements.

(a) Review of the permit application shall be limited to the Building Official's review of whether the application meets local, state and federal health and safety requirements.

(b) The City shall not condition approval of an application on the approval of an association, as that term is defined by Civil Code section 4080.

(c) An application for an electric vehicle charging station shall be deemed complete and the permit available for issuance, when the Building Official determines that the application satisfies all the requirements found in the checklist.

(d) If an application is deemed incomplete, a written plan check correction notice will be available to the applicant within ten (10) working days, detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be given to the applicant for resubmission.

(e) The Building Official, in consultation with the Community Development Director, may require an applicant to apply for a conditional use permit, pursuant to Section 21.06.040 of this Code, if the Building Official finds, based on substantial evidence, that the electric vehicle charging station could have a specific, adverse impact upon the public health and safety. The Building Official's decision to require a conditional use permit may be appealed by the applicant to the Planning Commission pursuant to chapter 21.06.110 of this Code.

(f) An application to install an electric vehicle charging station submitted to the Building Official of the City shall be deemed complete if, after the applicable time period has elapsed, both of the following are true:

i. The Building Official has not deemed the application complete, consistent with the checklist created by the City pursuant to Government Code section 65850.7(g).

ii. The Building Official has not issued a written correction notice detailing all deficiencies in the application and identifying any additional information explicitly necessary for the Building Official to complete a review limited to whether the electric vehicle charging station meets all health and safety requirements of local, state, and federal law, consistent with subdivisions (b) and (g) of Government Code section 65850.7.

(g) For purposes of paragraph (f), "applicable time period" means either of the following:

i. Five business days after submission of the application to the City if the application is for at least 1, but not more than 25 electric vehicle charging stations at a single site.

ii. Ten business days after submission of the application to the City if the application is for more than 25 electric vehicle charging stations at a single site.

(h) An application to install an electric vehicle charging station shall be deemed approved if the applicable time period described in paragraph (g) has elapsed and all of the following are true:

i. The Building Official has not administratively approved the application pursuant to Government Code section 65850.7(b).

ii. The Building Official has not made a finding, based on substantial evidence, that the electric vehicle charging station could have a specific adverse impact upon the public health or safety or required the applicant to apply for a use permit pursuant to Government Code section 65850.7(b).

iii. The Building Official has not denied the use permit pursuant to Government Code section 65850.7(c).

iv. An appeal has not been made to the Planning Commission pursuant to Government Code section 65850.7(d).



(i) For purposes of paragraph (h), “applicable time period means” either of the following:

i. Twenty business days after the application was deemed complete, if the application is for at least 1, but not more than 25 electric vehicle charging stations at a single site.

ii. Forty business days after the application was deemed complete, if the application is for more than 25 electric vehicle charging stations at a single site.

(j) If an electric vehicle charging station and any associated equipment interfere with, reduce, eliminate, or in any way impact the required parking spaces for existing uses, the City shall reduce the number of required parking spaces for existing uses by the amount necessary to accommodate the electric vehicle charging station and any associated equipment.