




CITY OF PALM SPRINGS

DEPARTMENT OF PLANNING SERVICES

MEMORANDUM

Date: November 22, 2011 NEW BUSINESS

To: The Planning Commission

From: Craig A. Ewing, AICP, Director of Planning Services 

Subject: Palm Springs Zoning Code – Initiation of an Amendment to Chapter 94.00 to Allow the Director of Planning Services to Refer Certain Applications to the Planning Commission

Summary:

Chapter 94.00 (Procedures) of the Palm Springs Zoning Code authorizes the issuance of land development and use permits, including certain permits issued by the Director of Planning Services: Land Use Permit, Minor Architectural Approvals and Administrative Minor Modifications. There is currently no authorization for the Director to refer to the Planning Commission specific applications for any of these permits. The Commission may wish to consider initiating a Zone Text Amendment to create such referral authority.

Recommendation:

It is recommended that the Planning Commission initiate a Zone Text Amendment and direct staff to schedule a public hearing and prepare a draft ordinance to amend certain sections of Chapter 94.00. The amendments would establish a new authority with the Director of Planning Services: To refer applications for Land Use Permits, Minor Architectural Approvals and Administrative Minor Modifications to the Planning Commission for action.

Procedure:

The Palm Springs Zoning Ordinance provides a procedure for processing amendments to the Ordinance which is outlined in Section 94.07.01:

94.07.01 Zoning ordinance text amendment.

A. Procedure.

1. Initiation.

- a. The planning commission may initiate proceedings by motion and then hold public hearings and make a recommendation as provided below.*

2. Staff Investigation.

The planning department shall study the proposed Zoning Code amendment and shall provide information necessary to assure action

consistent with the intent of this Zoning Code and the general plan and shall report the findings to the commission.

Description of proposed ZTA:

The Zoning Code currently requires that the Director of Planning Services approve or deny certain permits: Land Use Permits, Minor Architectural Approvals and Administrative Minor Modifications. Each of these permits can be requested by property owners or tenants to allow certain temporary or permanent land uses, as well as physical changes to a property.

In the case of Land Use Permits, a wide variety of uses can be allowed, including outdoor restaurant seating, spas, festivals / exhibits / carnivals, special events and noise exemptions. Minor Architectural approvals are granted for repainting buildings, changes to landscape plans, and additions to dwellings (up to 40% of floor area) and to commercial buildings (up to 25% of floor area). Administrative Minor Modifications can reduce setbacks (no more than 20%) and grant limited relief to certain other zoning standards. Annually, there are dozens of these permits processed and approved, and in recent years the annual rate of appeals to the Planning Commission is less than one.

Notwithstanding the history of success with these staff level approvals, it may be valuable to provide the Director with the discretion to refer any application for these permits to the Planning Commission. If the Commission initiates this proposed Zone Text Amendment, a public hearing will be schedule and a draft Zone Text Amendment prepared for Planning Commission consideration.

Attachments:

Excerpts from Chapter 94.00 of the Palm Springs Zoning Ordinance

Palm Springs Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[ZONING CODE](#)[Chapter 94.00 PROCEDURES](#)**94.02.01 Land use permits.****A. Intent and Purpose.**

The intent and purpose of a land use permit is to provide a means to review the impact of proposed land uses and to impose such conditions to the proposed use as are necessary to insure that these uses are compatible with adjacent properties and the community.

B. Initiative.

A land use permit may be initiated by the owner(s), or their authorized agents, of property within the city, where the use is subject to a land use permit.

C. Uses Permitted Subject to Land Use Permit.

1. Uses listed in the zones as "Uses Permitted by Land Use Permit" may be permitted in such zones, subject to the provisions of this section. Land use permits for primary land uses shall be considered Type I permits; those for accessory uses shall be considered Type II permits.

2. The following uses may be permitted pursuant to this section in any zone, except where expressly prohibited:

a. Temporary parking areas, subject to conditions as determined by the director of planning and building which may require:

i. Asphaltic surfacing,

ii. Bumper stops,

iii. Cash bond to insure removal of improvements and clean-up of the property,

iv. Landscaping,

v. Lighting,

vi. Time period,

vii. Striping;

b. Fences or walls within a present or future public right-of-way, only when the property owner signs an agreement with the city to remove any fence or wall at his own expense at a date certain or whenever requested by the city;

c. Temporary recreational vehicle (RV) parking, in conjunction with a convention center activity, subject to conditions below and to those determined necessary by the director of planning and building:

i. Usage must be proposed for a minimum of fifteen (15) RVs,

ii. The maximum stay for any one event shall be three (3) nights,

iii. All RVs shall be located a minimum of three hundred (300) feet from any existing residential use, except for hotels,

iv. All RVs shall be setback twenty-five (25) feet from all property lines,

v. All RV spaces shall be marked,

- vi. There shall be a minimum of ten (10) feet between each RV,
 - vii. All RVs shall be self-contained,
 - viii. All accessways to individual RV spaces shall be a minimum of twenty-five (25) feet in width; all RVs shall front an accessway,
 - ix. If used, on-site lighting shall be shielded from surrounding properties and streets; light standards shall be a maximum of sixteen (16) feet in height,
 - x. At least one (1) three-cubic-yard trash bin shall be provided for every thirty (30) RVs; the bins shall be located at least forty (40) feet from any property line,
 - xi. No other incidental use, or outdoor activities, shall be permitted,
 - xii. The site shall be returned to its original, or better, condition prior to the convention center activity immediately upon the culmination of the activity,
 - xiii. Neither grading nor the removal of natural vegetation shall be permitted. The project shall comply with the city's dust control ordinance;
 - d. Specific parking plans;
 - e. Temporary circuses, carnivals.
- D. Procedure.
1. Application for land use permit shall be made to the department of planning and building on forms provided by that department and shall be accompanied by the following:
 - a. An application fee to assist in defraying the expense of labor and materials incidental to the proceedings described herein. This fee shall be in accord with a schedule established by resolution of the city council and shall be nonrefundable;
 - b. A site plan displaying information set forth on the land use permit;
 - c. Such other information as the director of planning and building may require, including but not limited to, adjacent uses, photographs, building elevations, landscape plans, design studies, etc.
 2. The director of planning and building shall cause to be made such investigation as will provide all necessary information to assure that the action on each such application is consistent with the intent and purpose of this chapter.
 3. After completion of the investigation, the director of planning and building shall approve the land use permit, subject to those conditions of approval he may deem necessary.
 4. Review of Planning Commission—Appeal.

In any case, where the applicant or any other aggrieved party is not satisfied with the decision of the director of planning and building, he may within five (5) days of such decision, request review of such decision by the planning commission. Such request shall be made in writing to the department of planning and building. Upon receipt of such request, the department of planning and building shall schedule the matter for planning commission review, and shall forward to the planning commission for its consideration all of the documents and materials submitted with the application, together with a report of the decision of the director of planning and building and the reasons therefor. The planning commission may act upon the application as if it were the initial consideration of the application. No public hearing shall be required for such action. Any person aggrieved by the decision of the planning commission may appeal to the city council in the manner provided by Chapter 2.05 of the Palm Springs Municipal Code.
 5. Revocation.
 - a. When the conditions of a land use permit have not been or are not being complied with, the director of planning and building shall give at least then (10) days notice to the permittee(s) of intention to revoke such

permit. The permittee shall be given opportunity at an office hearing to show cause why the permit should not be revoked. If good cause is not shown, the director may revoke the permit. Such revocation may be appealed to the planning commission.

b. When a land use permit has not been acted upon within one (1) year after the date of granting thereof, or in the event the use terminates or is inactive for six (6) months, then without further action by the department of planning and building, planning commission, or city council, the land use permit shall be null and void.

c. Transfer of a land use permit to another applicant is subject to review and approval by the director of planning and building.

6 Amendment.

a. Any land use permit issued may be amended, on a showing of good cause by the director of planning and building.

b. Application by the permittee(s) for amendment shall be processed in the same manner as an application for issuance of a land use permit.

7. A copy of the approved land use permit shall be displayed, or presentable upon request by any city official, during the time the permit is valid and the use for which the permit was granted is operational. Should the permit not be available upon request, such permit shall be considered null and void during the time it is not available.

(Ord. 1553 (part), 1998; Ord. 1500 (part), 1995; Ord. 1418 (part), 1992; Ord. 1294 (part), 1988)

Palm Springs Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[ZONING CODE](#)[Chapter 94.00 PROCEDURES](#)**94.04.00 Architectural review.****A. Legislative Intent.**

1. It is declared that the city of Palm Springs is a city with unique characteristics, internationally well known for its spectacular topography, the respect for natural features in manmade structures, and ideal climate conditions. These characteristics have caused a significant number of visitors to come to Palm Springs with many visitors eventually becoming permanent residents, participating in both active and retired community life.

2. All of these factors constitute an important economic base for the city, both for those who earn their living here and for those who view the city as their most precious physical possession. To protect the economic welfare of the community, it is the policy of the city council of the city of Palm Springs to reaffirm its determination to protect, maintain and enhance the social and economic values created by past and present investments in the community by requiring all future development to respect these traditions and require that all buildings and structures placed on the land respect the natural land forms, and become a compatible part of the total community environment, both in the local neighborhood and in the city as a whole.

3. The city council finds that there exist in the city conditions which promote disharmony and reduce land and property values, and that the lack of appropriate guidelines for the design of new buildings and design of structures on the city's main streets contributes to these conditions, and it further finds desirable the provisions of such guidelines for the protection and enhancement of land and property values, for the promotion of health, safety and general welfare in the community.

4. The city general plan includes a community design statement relationship to physical setting element which provides objectives and policies for design of public buildings, private buildings, streetscapes, landscapes, and exterior lighting.

B. Purpose.

The purpose of this section is to:

1. Recognize the interdependence of land values and aesthetics, and to provide a method by which the city may implement this interdependence to its benefit;

2. Encourage development of private and public property in harmony with the desired character of the city and in conformance with the guidelines herein provided with due regard to the public and private interests involved;

3. Foster attainment of those sections of the city's general plan which specifically refer to the preservation and enhancement of the particular character of this city and its harmonious development, through encouraging private interests to assist in their implementation, and assure that the public benefits derived from expenditures of public funds for improvement and a beautification of streets and other public structures and spaces shall be protected by the exercise of reasonable controls over the character and design of private buildings, public buildings, street scapes, and open spaces.

C. Planning Commission Architectural Advisory Committee.

There is hereby established a planning commission architectural advisory committee which shall be a committee responsible to and appointed by the planning commission. The planning commission architectural advisory committee shall consist of one planning commissioner who shall be responsible for acting as a liaison to the planning commission architectural advisory committee. The planning commission shall appoint technical advisors to assist in reviewing detailed plans pursuant to this chapter. Technical advisors shall include three

California licensed architects, one California licensed landscape architect, one other design professional, and additional technical members for a total of seven members. The planning commission shall also appoint up to two alternate members to ensure adequate representation at planning commission architectural advisory committee meetings. The planning commission architectural advisory committee shall meet on a regular basis as established by resolution and shall provide written recommendations to the director of planning services and the planning commission. The planning commission architectural advisory committee shall designate a chairman and vice-chairman. The planning commission architectural advisory committee shall be an advisory commission of the city, subject to the Brown Act, and may adopt rules and procedures by resolution.

D. Planning Commission Architectural Advisory Committee Review Guidelines.

The planning commission architectural advisory committee shall examine the material submitted with the architectural approval application and specific aspects of design shall be examined to determine whether the proposed development will provide desirable environment for its occupants as well as being compatible with the character of adjacent and surrounding developments, and whether aesthetically it is of good composition, materials, textures and colors. Conformance will be evaluated, based on consideration of the following:

1. Site layout, orientation, location of structures and relationship to one another and to open spaces and topography. Definition of pedestrian and vehicular areas; i.e., sidewalks as distinct from parking lot areas;
2. Harmonious relationship with existing and proposed adjoining developments and in the context of the immediate neighborhood/community, avoiding both excessive variety and monotonous repetition, but allowing similarity of style, if warranted;
3. Maximum height, area, setbacks and overall mass, as well as parts of any structure (buildings, walls, screens, towers or signs) and effective concealment of all mechanical equipment;
4. Building design, materials and colors to be sympathetic with desert surroundings;
5. Harmony of materials, colors and composition of those elements of a structure, including overhangs, roofs, and substructures which are visible simultaneously;
6. Consistency of composition and treatment;
7. Location and type of planting, with regard for desert climate conditions. Preservation of specimen and landmark trees upon a site, with proper irrigation to insure maintenance of all plant materials;
8. Signs and graphics, as understood in architectural design including materials and colors;
9. The planning architectural advisory committee may develop specific written guidelines to supplement the design criteria and carry out the purposes of this chapter.

E. Procedures.

1. Architectural review shall be required for the following:
 - a. All industrial, commercial, professional and residential structures and related landscape areas, except for single-family residences not located on major thoroughfares;
 - b. Hillside developments, including all structures, grading, landscaping, and exterior lighting, in accordance with Section 93.13.00 (Hillside developments), which may require public hearings before the planning commission;
 - c. Churches, governmental buildings and hospital and health facilities;
 - d. Mobilehome parks and recreational vehicle parks (architectural approval shall not be required for individual mobile home or recreational vehicle sites);
 - e. Tennis courts in all zones;
 - f. Designated historic sites, upon referral by the historic site preservation board, and properties within designated historic districts not otherwise subject to Section 94.04.00;

g. Entrance features and gates above the height allowed in front and side front setback areas subject to the findings that the limited height extension is architecturally acceptable, creates no interference with sight clearance or corner cut-off, and will cause no detrimental effects to adjacent properties in the vicinity.

2. Before any building or structure or landscape area described in subsection E of this section is erected, constructed, altered, moved, remodeled or repainted a color different than that existing, an application for architectural approval shall be submitted to the department of planning and zoning. An application for new construction and additions shall include a preliminary landscape plan and drawings showing the exterior elevation of sides of a proposed building or structure, the types of materials and colors to be used, and the signs to be displayed. The director of planning services may authorize staff approval of minor architectural approval applications, non-hillside single-family homes, and sign programs and permits. Review and approval is as follows:

a. Staff-Level Approvals.

Minor architectural applications which are acted upon by the director of planning services, or designee, shall include repaints, reroofs, walls, fences, entry features, signs, sign programs landscaping plans, minor grading plans, exterior lighting plans, and additions which do not increase existing floor area by forty percent (40%) for single-family residential and twenty-five percent (25%) for all other development subject to this section. The director of planning services may consult with the planning commission architectural advisory committee in review of minor architectural applications.

b. Staff Action Appeals.

The action of the director of planning services shall be final unless appealed to the planning commission within ten (10) working days. The appeal shall be in writing and, upon receipt and filing of appropriate appeal fee, the director of planning services shall schedule the item at the next regular meeting of the planning commission. The action of the planning commission shall be final unless appealed to the city council in the manner provided by Chapter 2.05 of the Palm Springs Municipal Code.

c. Planning Commission Approvals.

All other projects subject to this section shall be subject to planning commission review and approval after review by the planning commission architectural advisory committee without the need for appeal. Architectural applications may be placed on the planning commission consent calendar unless other discretionary actions are required.

3. The planning commission architectural advisory committee shall recommend approval, conditional approval, or denial to the director of planning services or planning commission. Applications shall be reviewed by the planning commission architectural advisory committee at the earliest stages of application review.

4. All applications submitted for architectural review for uses permitted by-right-of-zone applications that are exempt from the California Environmental Quality Act (CEQA) shall be scheduled for planning commission review within forty-five (45) days after it has been accepted as complete by the department of planning and zoning. All by-right-of-zone applications referenced herein shall be placed on the planning commission's next available agenda as a consent approval item unless a public hearing is required.

5. a. All architectural applications for projects which are not uses permitted by-right-of-zone including but not limited to conditional use permits, planned development districts, subdivision maps, and projects that are not exempt from CEQA shall require a public hearing in accordance with existing procedures in place for the type of land use noted above. Architectural review applications which do not require any other discretionary applications shall be subject to the public hearing requirements in Section 94.02.00 for conditional use permit.

b. Applications for architectural approval which require environmental assessments, environmental impact reports, and/or which also involve an application which requires a public hearing shall be submitted to the planning commission along with the recommendations of the planning commission architectural advisory committee. The planning commission shall review and consider the staff report, environmental documents, public

written and oral testimony prior to taking action in accordance with appropriate city codes and ordinances. The decision of the planning commission is final unless appealed to the city council in accordance with Chapter 2.05 of the Palm Springs Municipal Code. For those applications which require city council approval, the recommendation of the planning commission shall be submitted to the city council in accordance with the appropriate city codes and ordinances.

6. Before an occupancy permit is issued, there must be full compliance with all requirements and conditions as approved by the city council, planning commission, planning commission architectural advisory committee, development committee or the director of planning services, public works director, and/or the building and safety manager. If for any valid reason full compliance cannot be made, a cash bond shall be posted for the work to be completed within a reasonable period of time as determined by the director of planning services, public works director, and/or building and safety manager.

7. Planning commission and planning commission architectural advisory committee agendas shall be provided to designated neighborhood representatives in addition to any person who requests such notice. Persons who request agendas on a regular basis shall pay appropriate fees established by city council resolution.

8. Properties subject to architectural approval shall be maintained in a good, first-class condition consistent with the approval of the planning commission, planning commission architectural advisory committee, or the director of planning services. Such maintenance shall include, but not be limited to, the exterior of the building and grounds, including landscaping, parking and walking areas, exterior lighting and signing and all other features reviewed by the commission or the director of planning services. The director may, in appropriate circumstances, require the recordation of enforceable covenants containing maintenance requirements. Failure to maintain such property consistent with such standards shall constitute a public nuisance.

F. Effective Date.

An architectural approval shall become effective after an elapsed period of fifteen (15) days from the date of the decision by the planning commission or city council.

G. Time Limit for Development.

Unless otherwise stated by the planning commission or city council, the time limit for commencement of construction under an architectural approval shall be two years from the effective date of approval.

H. Extensions of Time.

Extensions of time may be granted by the planning commission upon demonstration of good cause. Such extension shall be requested in writing and received prior to expiration of original approval. Retroactive time extensions submitted within six months of the original expiration date may be granted for good cause. Extension of time granted for companion cases such as conditional use permits, tentative maps or planned development district will also extend the architectural approval unless otherwise provided. Fees may be charged to process an extension request.

(Ord. 1647, 2004; Ord. 1551 (part), 1995; Ord. 1500 (part), 1995; Ord. 1418 (part), 1992; Ord. 1347 (part), 1990; Ord. 1294 (part), 1988)

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ZONING CODEChapter 94.00 PROCEDURES**94.06.01 Minor modifications.**

A. When in the public interest, the planning commission or the director of planning and building, without publishing, posting or mailing of notice and without public hearing, may consider and render decisions on slight modifications in the provisions of this Zoning Code, limited to the following:

1. Allowance of one (1) additional dwelling unit on a lot in a multiple residential zone; provided, the lot area for such unit is fifty (50) percent or more of the lot area per dwelling unit required in the zone. All other dwelling units on the lot shall have the full lot area per dwelling unit required in the zone;

2. Street Dedication.

When additional dedication for street widening is required by this Zoning Code for lots of record subdivisions, the front or side-front setback requirement shall be reduced the same distance as that required for street dedication; provided however, in no case shall the allowed setback be less than fifteen (15) feet;

3. Number of Units.

When additional dedication for street widening is required by this Zoning Code for lots of recorded subdivisions, the number of units allowed shall be calculated on the basis of the net area of the site before street dedication;

4. Reduction of lot area, lot dimensions, by not more than ten (10) percent of the required in the zone;

5. Reduction of yards (including the placement of antennas in required yards) and distance between buildings, or increase in lot coverage, by not more than twenty (20) percent of the requirement of the zone. Single-family dwellings on major and secondary thoroughfares may be allowed reductions of front and side yards up to the amounts allowed for single-family dwellings located on local/collector streets in the same zone;

6. Reduction of number of required parking spaces by not more than ten (10) percent as shown in Section 93.06.00(C);

7. Modification of wall, fence or landscaping not to exceed twenty (20) percent, where topography or noise impacts require such modification;

8. Slope and Hillside Areas.

For areas with a grade of ten (10) percent or more, modification of building height to a maximum of thirty (30) feet and modification of front yard to a minimum of ten (10) feet, upon approval of a site plan, elevations and a grading map showing existing and finished contours. Approval shall be based on the finding that such minor modification will not have detrimental effect upon adjacent properties;

9. Gates and Entrances.

(Deleted by Ord. 1500);

10. Trash Enclosures.

When hardship is created by the provisions of Section 93.07.00, minor modifications may be applied for to alter the requirements creating the hardship. When a site plan limits the ability to locate a trash enclosure outside required setbacks, a minor modification may be approved allowing encroachment into the

setback providing adequate screening can be achieved;

11. Mechanical Equipment in Residential Areas.

When a site plan limits the ability to locate mechanical equipment as set forth in Section 93.01.00, a minor modification may be approved allowing further encroachment into the setback; providing, it is determined that such location will not have a detrimental effect on adjacent properties;

12. Nonconforming Structures.

Existing legal nonconforming two (2) story structures located in an R-1 zone may be expanded by up to fifty (50) percent of the second story floor area, subject to other applicable ordinances and architectural approval by the planning commission.

B. The following procedure shall apply to minor modifications. This procedure does not apply to subsections (A)(1) through (A)(3) of this section, which shall be considered as automatic modifications when street right-of-way is dedicated to the city:

1. When the application for a minor modification is filed, a fee shall be paid in such amount as has been prescribed by resolution of the city council, for the purpose of defraying the costs incidental to the proceedings.

2. Before the director may approve a minor modification pursuant to the provisions of subsections (A)(9) through (A)(12) of this section, the director shall find, based on evidence presented, that the modification as approved will not have any detrimental effect on neighboring properties. Before the director may approve a minor modification pursuant to the provisions of (A)(4) through (A)(8) of this section, the director shall make all of the following findings, based on evidence presented:

a. The requested minor modification is consistent with the general plan, applicable specific plan(s) and overall objectives of the zoning ordinance;

b. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the minor modification;

c. The approval or conditional approval of the minor modification will not be detrimental to the health, safety, or general welfare of persons residing or working on the site or in the vicinity; and

d. The approval of the minor modification is justified by environmental features, site conditions, location of existing improvements, or historic development patterns of the property or neighborhood.

The director shall make the decision in writing within five (5) days after the filing of a complete application or after approval of the planning commission. One (1) copy shall be mailed to the applicant and one (1) copy shall be filed with the chair of the planning commission and the director.

3. If the applicant is dissatisfied with the decision of the director, he or she may reapply to the planning commission, pursuant to the procedure set forth in Section 94.06.00.

4. Modifications approved by the planning commission in the course of approving a conditional use permit or a planned development district shall not be subject to this section.

(Ord. 1712 § 1, 2007; Ord. 1698 § 1, 2006; Ord. 1553 (part), 1998; Ord. 1551 (part), 1998; Ord. 1500 (part), 1995; Ord. 1294 (part), 1988)