ARTICLE V

OPERATIONS OF CHAPTER

Sections:

28.100 Permits and Procedures V.2
28.101 Administrative Permit V.3
28.102 Architectural Approval V.4
28.103 Design Review V.5
28.104 Marsh Development Permit V.7
28.105 Reserved V.12
28.106 Use Permit V.13
28.107 Variance V.17
28.108 Waiver V.19
28.109 Zoning Clearance V.20
28.110 Operations of Chapter V.21
28.111 Amendment of Chapter V.22
28.112 Appeals V.24
28.113 Enforcement of Chapter V.26
28.114 Nonconforming Uses V.27
28.115 Planning Commission V.31
28.116 Reserved V.32
28.117 Zoning Administrator V.33
28.118 Director of Resource Management V.34
28.119 Reserved V.35

28.100 Permits and Procedures

-Reserved-

28.101 Administrative Permit

A. Purpose. For some uses allowed by right within a zoning district, this Chapter requires issuance of an administrative permit prior to development or operation of the use on an ownership. The purpose of an administrative permit is to provide for a mechanism for verifying that all standards and requirements for the use, as described in this Chapter or elsewhere in the Code, are met prior to commencement of the use and can continue to be met during operation of the use.

B. Application. Applications for an administrative permit shall be made by the owner or the owner's agent in writing on a form prescribed by the Director of Resource Management, and shall include all information necessary to support issuance of the permit. Such application shall not be accepted unless accompanied by a fee or fees as may be set by the Board of Supervisors pursuant to section 11-111 of this code.

C. Action. The Director of Resource Management shall administratively approve an application for an administrative permit if all standards and requirements specified in this Chapter and elsewhere in the Code are satisfied. Action on an administrative permit is ministerial and shall be taken without notice or public hearing.

D. Revocation.

1. In any case where the requirements of an administrative permit have not been complied with, or where the use has been abandoned, the Zoning Administrator may revoke the permit after first conducting a public hearing.

2. The permittee shall be given notice of intention to revoke the permit at least fifteen days prior to the Zoning Administrator's hearing. Formal rules of evidence shall not apply to revocation proceedings, and witnesses need not be sworn, but the permittee shall be given an opportunity to respond to any evidence or testimony presented at the hearing. After conclusion of the review, the Zoning Administrator may revoke the administrative permit based on a finding that the conditions of the permit have not been complied with or that the use has been abandoned.

E. Appeal. Appeal from the action of the Zoning Administrator may be made according to the provisions of Section 28-112.

28.102 Architectural Approval

A. Purpose

The purpose of architectural approval is to promote the orderly and harmonious development of the County, the stability of land values and investments, and the general welfare; and to help prevent the impairment or depreciation of land values and development by the erection of structures or additions or alterations thereto of unsightly, undesirable, or obnoxious appearance. A building permit shall not be issued until architectural approval has been obtained.

B. Procedure

The Zoning Administrator and Planning Commission are authorized to review and approve or disapprove, or approve subject to compliance, the external design of all proposed new uses, dwellings, buildings or structures with such modifications or conditions as may be deemed necessary to carry out the purpose of this Chapter.

Should the Zoning Administrator or Planning Commission determine that a proposed use or structure does not meet the architectural standards set forth in Section 28.72.10(A) and 28.91, zoning approval of the permit or entitlement authorizing such use or structure shall not be granted.

28.103 Design Review – Suisun Valley

A. Purpose. The purpose of design review is to promote a quality rural character in new development for Suisun Valley and to unify the design and construction of individual neighborhood agricultural tourist centers into the existing agriculturally-focused context.

B. Applicability. Design review is required for any new construction in the A-SV-20, A-T-C and A-T-C-NC Districts.

C. Design Review Process. Based upon the type of permitting required for the project, design review permits will be issued according the following provisions:

a. Discretionary Permits. When a project requires a discretionary permit, including any use permit, sign permit or variance, Design Review will be approved by the hearing authority as a part of the discretionary permit. The hearing authority shall consider recommendations from staff in its decision. The adopted Design Guidelines and any other established standards shall provide the basis for final approvals.

b. Non-discretionary permits. When a project requires a non-discretionary permit, such as an administrative permit or building permit, the Director of Resource Management shall take action administratively on the design review in conjunction with the action being taken on the non-discretionary permit. The Director shall consider recommendations from staff along with the adopted Design Guidelines and any other established standards shall provide the basis for final approvals.

D. Design Guidelines. The Suisun Valley design Guidelines (Chapter 4 of the Suisun Valley Strategic Plan) shall serve as the guidelines for the design review of all new construction in the A-SV-20, A-T-C and A-T-C-NC Districts.

E. Action by the Hearing Authority. If a proposed design is not approved, the applicant shall be provided with a written description of any development proposal design features in a form that constitutes recommended modifications to the project in order to clearly provide the applicant an understanding of the desired changes that would obtain an approval from the Director or hearing authority.

F. Findings. A proposed design shall be approved if the following findings can be made :

1. the project conforms to the Suisun Valley Design Guidelines,

2. the project will maintain and enhance the Valley's agricultural character.

3. the project will maintain, enhance, or restore natural features.

4. the project will preserve the indigenous landscape and rural character.

5. the project will enhance quality of life and economic vitality.

6. the project will enhance the community brand and destination marketing the Valley.

7. the project will ensure the highest quality new construction.

8. the project will minimize site disturbance.

9. the project will preserve views of natural and cultural features.

10. the project will ensure compatibility of new projects with natural and rural landscapes.

G. Occupancy. No structure which has received Design Review approval shall be occupied or used in any manner or receive a certificate of occupancy until the Resource Management Department has inspected and determined that the structure(s) and site development comply with the Development Review approval.

H. Submittal Requirements. All applications for Design Review shall be submitted by the owner or the owner's agent to the Resource Management Department on forms approved by the Director of Resource Management and the Director shall establish written application instructions describing the type and size of drawings and other materials required for submittal.

I. Fees. Fees for design review shall be established by the Board of supervisors pursuant to Section 11-110.4 of the County Code.

28.104 Marsh Development Permits

A. Purpose

The purpose of a marsh development permit is to allow uses within the secondary management of the Suisun Marsh, subject to specific conditions and County approval. Lands designated as Primary or Secondary Management Areas of the Suisun Marsh are those as defined in Section 29101, 29102, and 29103 of the Public Resources Code. County marsh development permits issued in the secondary management area may be appealed to the San Francisco Bay Conservation and Development Commission pursuant to Section 29504 of the Public Resources Code.

B. When Required

A marsh development permit shall be required from any person or entity wishing to undertake a development, as defined in Section 29114 of the Public Resources Code, within the secondary management area of the Suisun Marsh. Any land use development permit or other permit which conforms with the provisions of this Section may serve as a marsh development permit, as determined by the Director of Resource Management. If all or a portion of the site or development is within the Primary Management Area, any required County land use or development permit shall be obtained prior to application for a marsh development permit from the San Francisco Bay Conservation and Development Commission for development within the Primary Management Area, unless that Commission has delegated its permit authority as described in section 29501 of the Public Resources Code. The lawful use of land under County permit, issued prior to the certification of the Suisun Marsh Local Protection Program, shall be eligible for a marsh development permit, provided, such existing use does not have an adverse impact upon the Suisun Marsh.

C. Compliance with Building Codes and Other Ordinances

Approval of a marsh development permit does not exempt the applicant from complying with the requirements of building codes adopted pursuant to other provisions of this Code, or from other ordinances.

D. Application

Application for a marsh development permit within the Secondary Management Area shall be filed by the owner or the owner's agent with the Department of Resource Management. The application shall be in the form prescribed by the Director of Resource Management. The application shall consist of a written narrative and detailed site plan. When a land use subject to a marsh development permit is proposed in both the Primary Management Area and Secondary Management Area, the land use shall be subject to a marsh development permit covering the whole of the project. The application shall, at a minimum, include the following items and information:

1. Fee or fees as set by the Board of Supervisors, pursuant to Section 11-111 of this code. No part of such fee shall be refundable.

2. A complete legal description of the property.

3. A narrative description of existing uses of the subject property and adjacent properties, proposed uses and improvements on the subject property, and existing and proposed and water supply, sewage disposal, and utility service.

4. Facts demonstrating that the proposed marsh development permit, in its entirety, is consistent with the Solano County General Plan, the certified Suisun Marsh Local Protection Program, and the findings described in subsection (h) of this Section.

5. A site plan at a scale no smaller than one inch equal to one hundred feet depicting the following: property lines; the foot print of any pre-existing use or development area; location of proposed work, buildings, and uses, clearly distinguishing existing and proposed improvements; building, parking and landscape coverage and yard setbacks; drainage, water supply, sewage disposal, and utility service; existing and proposed public access areas; Primary and Secondary Management Area boundaries; the approximate distance to the nearest marsh, managed wetland, or tidal areas; and the location and name of nearest public road and private access.

6. Project design and improvement details, including but not limited to preliminary grading plans, building elevations, landscaping, and signs.

7. Performance standards as may be applicable (e.g., hazardous materials and waste management).

8. Such other information as may be required by the Director of Resource Management concerning the proposed development and use of the property, or which the applicant may deem appropriate for a full consideration of the proposal by the Planning Commission or Zoning Administrator.

9. All information required by this Section shall be stated in a manner to describe the character and style of the proposed development and use in sufficient detail to constitute definite criteria under which subsequent development can be judged for compliance.

E. <u>Public Hearing</u>

At least one public hearing on any marsh development permit application shall be held by the Zoning Administrator or the Planning Commission, which shall maintain a public record of all hearings.

F. Public Notice

Notice of this hearing shall be given pursuant to Section 28.04 of this Chapter.

G. Action

1. The Zoning Administrator or Planning Commission may approve a marsh development permit if it finds that the requirements set forth in the certified Suisun Marsh Local Protection Program, this Chapter, and in subsection (h) of this Section are fulfilled.

2. When approving a marsh development permit, the Zoning Administrator or Planning Commission may impose conditions to support the finding enumerated in subsection (h) of this Section, together with guarantees that such conditions will be complied with, based on a finding that such conditions and guarantees are in the public interest.

3. Unless the marsh development permit application is withdrawn, action to approve, conditionally approve, or deny the marsh development permit shall be taken by the Zoning Administrator or Planning Commission within the time limits specified in the Permit Streamlining Act, except that the applicant and Zoning Administrator may mutually agree to extend such period.

4. Any action taken by the Zoning Administrator or the Planning Commission on a marsh development permit application shall not become effective until:

   (i) The time period for filing an appeal pursuant to Section 28.112 of this Chapter has expired or, if an appeal has been filed, the appeal has been finally decided or withdrawn; and

   (ii) The twenty (20) working day period after the Bay Conservation and Development Commission has received notice of the County's final action approving the marsh development permit has expired or, if an appeal by or to the Bay Conservation and Development Commission has been filed, the appeal has been withdrawn or the Bay Conservation and Development Commission either determines that the appeal raises no substantial issue or takes no action on the appeal within the time limits specified in section 29524 of the Public Resources Code.

H. Required Findings

A marsh development permit shall not be approved unless the all of the following general findings are made:

1. That the application process complies with the California Environmental Quality Act of 1970, as amended.

2. That the establishment, maintenance, or operation of the use is in conformity with the County General Plan with regard to traffic circulation, population densities and distributions, and all other pertinent aspects.

3. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

4. That the applicant has exhibited proof that such use will not constitute a nuisance or be detrimental to the health, safety, comfort, or general welfare of the people of the County, or be detrimental to adjacent property or improvements to the neighborhood.

5. That the proposed development shall be consistent with the certified Suisun Marsh Local Protection Program. Where the proposed development is located in both the Secondary and Primary Management Areas, all portions of the proposed development shall be consistent with the certified Suisun Marsh Local Protection Program.

I. Revocation

1. In any case where the conditions of a marsh development permit have not been or are not complied with, or where the use has been abandoned, the Zoning Administrator shall give to the permittee notice of intention to revoke such permit, at least fifteen days prior to a Planning Commission review thereof.

2. Formal rules of evidence shall not apply to revocation proceedings, and witnesses need not be sworn, but the permittee shall be given an opportunity to respond to any evidence or testimony presented by the Zoning Administrator or the public. After conclusion of the review, the Planning Commission may revoke such permit or modify the permit by imposing new or modified conditions to address the previous noncompliance.

J. Expiration

1. Marsh development permits approved for a temporary, fixed period of time shall expire on the date specified in the permit and shall thereafter be null and void, but any such permit may be revised to modify its expiration date if an application to do so is filed at least 30 days prior to the expiration date. Marsh development permits approved for an indefinite period do not expire but shall be revoked by the Planning Commission if abandoned or not timely renewed.

2. In any case where a marsh development permit has not been exercised within one year after the date of approval thereof, or any other period for exercise stated in a condition of the permit, then without further action by the Zoning Administrator or Planning Commission, the marsh development permit shall expire and thereafter be null and void; except that upon written request by the permittee, the

Zoning Administrator may authorize an extension of the permit not to exceed one year. Only one such extension may be granted.

K. Reapplication

Whenever a marsh development permit application has been denied for a specific use, no new application covering all or a portion of the property involved in the original application shall be accepted by the Department of Resource Management for a period of six months from the effective date of the final denial of the original application; provided, that upon a showing of a substantial change of circumstances, the Planning Commission may allow the filing of a new application prior to the expiration of the six-month period.

L. Appeal

Appeal from the action of the Zoning Administrator or Planning Commission may be made according to the provisions of Section 28.112 of this code.

M. Minor Revisions

Minor revisions not constituting substantial alteration in the marsh development permit, or any element thereof, may be reviewed and approved by the Zoning Administrator or Planning Commission, whichever shall have issued the permit sought to be revised. Each application for a minor revision shall be accompanied by a fee as may be set by the Board of Supervisors, pursuant to Section 11-111 of this code. No part of said fee or fees shall be refundable.

N. Renewal

A marsh development permit approved for an indefinite period shall be subject to periodic renewal every five years, or such other period of time as may be set by the zoning administrator or planning commission in approving a marsh development permit. The zoning administrator shall administratively approve a marsh development renewal if the following conditions are satisfied:

1. The permittee has requested renewal;

2. The permittee has paid a renewal fee as may be set by the Board of Supervisors, pursuant to Section 11-111 of this Code: and

3. The development is in full compliance with all conditions of the marsh development permit.

If the Zoning Administrator is unable to approve a renewal, the marsh development permit shall be set for revocation. Every marsh permit approved in conjunction with a use permit prior to September 27, 2012, and still in effect as of that date shall be subject to the renewal period and procedure described in this subsection unless a different period or procedure is specifically described in the conditions of the marsh development permit or use permit.

28.105 Reserved

28.106 Use Permit

A. Purpose. The purpose of the use permit is to provide for public review of certain land uses that may be compatible with other allowed and permitted land uses within a zoning district, but due to their type or intensity, require consideration of location, site design, adjacent land uses, availability of public infrastructure and services, and environmental impacts. A use permit may be approved either for a fixed term, a maximum term or an indefinite term. Action on a use permit is discretionary.

B. Compliance with building codes or other ordinances. Approval of a use permit does not exempt the applicant from complying with requirements of building codes adopted pursuant to other provisions of this code or other ordinances.

C. Application. Applications for use permits shall be made in writing on a form prescribed by the Zoning Administrator, and shall be accompanied by floor plans, site plans, operating plans and data necessary to show that requirements set forth in subsection (H) and Article III of this Chapter are fulfilled. Such application shall not be accepted as complete unless accompanied by a fee or fees as may be set by the Board of Supervisors pursuant to Section 11-111 of this code. No part of such fee shall be refundable.

Once a complete application is submitted, additional information and processing fees may be required in order to conduct environmental review of the proposal. When additional information or processing fees are required and not provided by the applicant within sixty days of such a request, the Director of Resource Management may determine that the application has been abandoned and shall promptly notify the applicant of such determination.

D. Public hearing. A public hearing on any use permit application shall be held by the Zoning Administrator or Planning Commission, who shall maintain a public record of all hearings. Applications for minor use permits, extensions of time to exercise a previously approved use permits, amendments to use permits, and projects that are categorically exempt from the California Environmental Quality Act (CEQA) shall be heard by the Zoning Administrator, who may administratively refer any such application to the Planning Commission for hearing. All other applications shall be heard by the Planning Commission.

E. Public notice. Notice of the hearing shall be given pursuant to Section 28-14 of this Chapter.

F. Minor use permits. Uses which are eligible for a minor use permits are designated in the Table of Allowable Uses contained within each zoning district in Article II of this Chapter. All references to use permits in this Article include minor use permits, unless different rules or procedures are described for minor use permits.

G. Action

1. The Zoning Administrator or Planning Commission may approve a use permit for an ownership if it finds that the requirements set forth in this Chapter and in subsections (H) of this Section and Article III of this Chapter are fulfilled.

2. When approving a use permit, the Zoning Administrator or Planning Commission may impose conditions in addition to the general conditions enumerated in subsections (H) of this Section, together with guarantees that such conditions will be complied with, when such additional conditions are in the public interest.

3. If a project is revised during the hearing, then the Zoning Administrator of the Planning Commission may require that a revised development plan be submitted which reflects all of the changes approved at the hearing.

4. Unless the use permit application is withdrawn, action to approve, conditionally approve, or deny the use permit shall be taken by the Zoning Administrator or Planning Commission within the time limits specified in the Permit Streamlining Act; except that the applicant and Zoning Administrator or Planning Commission may mutually agree to extend such period.

5. Any action taken by the Zoning Administrator or the Planning Commission on a use permit application shall not become effective until the time for filing an appeal has expired or, if an appeal has been filed, the appeal has been decided or withdrawn.

H. Required Findings. A use permit shall not be approved unless the Zoning Administrator or Planning Commission first makes all of the following general findings:

1. That the establishment, maintenance or operation of a use or building applied for are in conformity to the general plan for the County with regard to traffic circulation, population densities, and distribution, and other aspects of the general plan considered by the zoning administrator or planning commission to be pertinent.

2. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

3. That applicant exhibits proof that such use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, that finding shall be to that effect.

I. Revision or Amendment. Once a use permit becomes effective, the land use subject to the permit may be developed and operated only in substantial conformance with the terms and conditions of the approved permit. The Director shall have authority to determine whether any proposed development or use on the ownership is in substantial conformance with the terms and conditions of an approved use permit. Any proposed development or operation on the ownership that would not be in substantial conformance with the terms and conditions of the use permit shall not be initiated or undertaken until a revision or amendment to the permit has been approved. When an owner proposes changes to a use permit, the Director shall determine whether the proposed change shall be processed either as a minor revision or an

amendment to the use permit. The Director's determination shall be final and not subject to appeal.

a. **Interpretation of Conditions.** If an owner believes that a condition in an approved use permit is unclear, the Director shall determine the intent of the Zoning Administrator or Planning Commission in imposing the condition and provide a written clarification to the permittee.

b. **Minor revision.** Minor revisions not constituting significant change in the use, not requiring a substantial alteration in the use permit or any element thereof, may be reviewed and approved by the Zoning Administrator. Each application for a minor revision shall be accompanied by a fee as may be set by the Board of Supervisors, pursuant to Section 11-111 of this Code. No part of said fee or fees shall be refundable.

c. **Amendment.** Significant changes in the use or the size or intensity of the use, requiring a substantial alteration of the use permit, shall be in the same manner as a new use permit, in compliance with this Section. Amendments shall be heard by either the Zoning Administrator or Planning Commission, whichever first heard the original use permit. Each application for an amendment shall be accompanied by a fee as may be set by the Board of Supervisors, pursuant to Section 11-111 of this Code. No part of said fee or fees shall be refundable.

d. The approval of a minor revision or amendment to a use permit shall supersede the previously approved permit.

J. Revocation.

1. In any case where the conditions of a use permit have not been or are not substantially complied with, or where the use has been abandoned, the Zoning Administrator may initiate permit revocation proceedings.

2. Notice of intention to revoke the use permit shall give to the owner at least fifteen days prior to the Planning Commission's revocation hearing. Formal rules of evidence shall not apply to revocation proceedings, and witnesses need not be sworn, but the owner shall be given an opportunity to respond to any evidence or testimony presented by the Zoning Administrator or the public. After conclusion of the review, the Planning Commission may revoke the permit if it finds that the terms and conditions of the use permit have not been substantially complied with, or may modify the permit by imposing new or modified conditions to address the previous noncompliance. Noncompliance with permit conditions shall be presumed to cause harm and a specific finding of harm or damage to neighboring properties or land uses shall not be required to support revocation.

K. Expiration.

1. In any case where a use permit has not been exercised within one year after the date of approval thereof, or any other period for exercise as stated in a condition of the permit, the use permit shall expire and thereafter be null and void without further action by the

Zoning Administrator or Planning Commission; except that, upon written request by the owner, the Zoning Administrator may authorize an extension of time to exercise the permit, not to exceed one year. Only one such extension may be granted.

2. Once exercised, a use permits approved for a temporary, fixed period of time shall expire on the date specified in the permit and shall thereafter be null and void, but any such permit may be revised pursuant to subsection 28.106.2C to modify its expiration date if an application to do so is filed at least 30 days prior to the expiration date.

3. A use permits approved for an indefinite period does not expire once exercised, but shall be revoked by the Planning Commission if abandoned or not timely renewed.

L. Reapplication. Whenever a use permit application has been denied for a specific use, no new application covering all or a portion of the property involved in the original application, shall be accepted by the Department of Resource Management for a period of six months from the effective date of the final denial of the original application; provided that, upon a showing of a substantial change of circumstances, the Director may permit the filing of such new application prior to the expiration of such six-month period.

M. Appeal. Appeal from the action of the Zoning Administrator or Planning Commission may be made according to the provisions of Section 28-112.

N. Renewal. A use permit approved for a maximum term or an indefinite term shall be subject to periodic renewal every five years, or such other period of time as may be set by the Zoning Administrator or Planning Commission in approving ~~a~~ the use permit. The Zoning Administrator shall administratively approve a use permit renewal if all of the following criteria are met:

1. the owner has requested renewal,

2. the owner has paid a renewal fee as may be set by the Board of Supervisors pursuant to Section 11-111 of this Code, and

3. the use is being conducted in full compliance with all conditions of the use permit. If the Zoning Administrator is unable to approve a renewal, the use permit shall be set for revocation.

Every use permit approved prior to October 28, 2010, and still in effect as of that date shall be subject to the renewal period and procedure described in this subsection unless a different renewal period or procedure is specifically described in the conditions of the permit.

28.107 Variance

A. Authority of Planning Commission. The Planning Commission shall have the power to grant variances from terms of this Chapter; except that, in no case shall a variance be granted to allow a use of land or buildings not permitted in the district in which the subject property is located.

B. Conditions. Variances from the terms of this Chapter may be granted only when the following conditions are found:

1. Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Chapter is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications.

2. Variance granted shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zoning district in which subject property is situated.

C. Application. Applications for variances shall be filed by the owner or the owner's agent with the Department upon such forms and accompanied by such plans and data as may be prescribed by the Zoning Administrator so as to assure the fullest practical presentation of facts for the permanent record. Each application for any variance shall be accompanied by a fee or fees as may be set by the Board of Supervisors by resolution pursuant to Section 11-111 of this code. No part of such fee shall be refundable.

D. Public hearing.

The Planning Commission shall hold a public hearing on a variance permit application.

E. Public notice. Notice of the hearing shall be given pursuant to Section 28-14 of this Chapter.

F. Action. The Planning Commission may grant a variance permit, provided the conditions set forth in subsection (B) of this Section are satisfied. The applicant shall be forthwith notified of the action taken.

G. Expiration. In any case where a granted variance permit has not been exercised within one year after the date of granting thereof, then without further action by the Zoning Administrator or Planning Commission, the variance granted shall be null and void.

H. Reapplication. Whenever a variance permit application has been denied for a specific use, no new application covering all or a portion of the property involved in the original application shall be accepted by the Planning Commission for a period of six months from the effective date of the final denial of the original application; provided, that upon a showing of a substantial change of circumstances, the Planning Commission may permit the filing of such new application prior to the expiration of such six-month period.

I. **Appeal.** Appeal from the action of the Planning Commission may be made according to the provisions of Section 28-112.

28.108 Waiver of Residential Development Standards

A. Neighborhood Compatibility Waiver. Waiver of any of the residential minimum development standards in subsection 28.72.10(A)(1) may be granted by the Director of Resource Management if the proposed dwelling is compatible with the surrounding neighborhood in accord with the architectural standards set forth in Section 28.91. The waiver request shall be submitted on an application form prepared by the Director of Resource Management and is subject to the noticing requirements as set forth in subsection 28.04(F).

B. Reasonable Accommodation Waiver. A request for reasonable accommodation may be made by any person with a disability or their representative to modify applicable zoning development standards that may act as a barrier to equal opportunity to specific housing of their choice, without the need for the approval of a variance. A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities. The grant of a reasonable accommodation request to a person with a disability is a personal privilege that does not apply to the successors in interest to the property. The waiver request shall be submitted on an application form prepared by the Director of Resource Management and is subject to the noticing requirements as set forth in subsection 28.04(F). The Director of Resource Management, as the granting authority, shall review the application and grant or deny the waiver based on consideration of the following factors:

1. Whether the specific housing, which is the subject of the request, will be used by an individual with a disability protected under fair housing laws.

2. Whether the requested accommodation is necessary to make specific housing available to an individual with a disability protected under fair housing laws.

3. Whether there are alternative reasonable accommodations that may provide an equivalent level of benefit.

4. Whether the requested accommodation would impose an undue financial or administrative burden on the County.

5. Whether the requested accommodation would require a fundamental alteration in the nature of the County's land-use and zoning program.

6. Whether the requested accommodation would reduce barriers and increase visitability on the site, in light of physical attributes of the property and its structures.

28.109 Zoning Clearance

28.109.10 Purpose

A zoning clearance certifies that an existing development or use of property conforms with all current requirements of the Solano County zoning regulations and, if applicable, the terms and conditions of any previously approved development permit or variance.

28.109.20 Procedure

A. Application. An owner may apply for a zoning clearance in order to obtain verification that a land use conforms to the requirements of this Chapter. Applications for a zoning clearance shall be filed with the Planning Division of the Department of Resource Management on the forms prescribed by the Zoning Administrator. At the time the application is filed, the applicant shall submit the required filing fees prescribed by the Board of Supervisors. All other plans, specifications and information that may be required by the Department to demonstrate compliance with the zoning regulations shall be filed with the application.

B. Processing Applications. Within ten (10) working days of accepting an application, the Planning Division shall review the proposed development for conformance with the Solano County Zoning Regulations and, if applicable, the terms and conditions of any previously approved development permit, variance, or subdivision.

28.109.30 Issuance

A. Approval. Upon completion of the required Planning Division review, a zoning clearance certificate shall be approved by the Director if, based upon information provided by the applicant, all of the following findings are made:

a. The development or land use complies with the terms and conditions of any applicable permit and/or subdivision map that was previously approved for such development; and

b. The development or land use is not located on the same lot or ownership where conditions exist or activities are being conducted in violation of the Solano County Code

B. Decision Final. The Director's approval of a zoning clearance is final and may not be appealed, but it may be reviewed by the Board of Supervisors pursuant to Section 28.112(F).

28.110 Operations of Chapter

-Reserved-

28.111 Amendment of Chapter

This Chapter may be amended by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and the general welfare require such amendment by following the procedure of this Section.

A. Initiation. An amendment may be initiated by:

1. One or more owners of property to be affected by the proposed amendment, upon a verified petition filed with the Department of Resource Management, accompanied by a fee or fees as may be set by the Board of Supervisors by resolution pursuant to Section 11-111 of this Code. No part of such fee shall be refundable.

2. By the Director of Resource Management as the Director deems necessary, or at the direction of the Planning Commission or the Board of Supervisors.

B. Public hearings.

1. The Planning Commission shall hold a public hearing on any proposed amendment that changes any property from one zone to another or imposes, modified or removes any regulation which affects the permitted uses of real property, including land, buildings, signs and other structures.

2. Notice of the hearing shall be given pursuant to Section 28-04 of this Chapter. After conclusion of its hearing, the Planning Commission shall render its decision by recommending approval, approval with modifications, or disapproval of the proposed amendment. The recommendation shall include the reasons for the recommendation, and shall describe the relationship of the proposed amendment to the General Plan and any applicable specific plan. The Planning Commission shall file with the Board of Supervisors an attested copy of a report of its recommendations within ninety days after the conclusion of the public hearings.

3. Upon receipt of such report from the Planning Commission the Board of Supervisors shall set the matter for public hearing and shall give notice thereof by first-class mail to the same persons and organizations who were given notice of the Planning Commission hearing, and by publication in a newspaper of general circulation within the County at least ten days prior to such hearing. After conclusion of its hearing, the Board of Supervisors may enact the proposed amendment or any part thereof in such form as the Board may deem advisable to protect the public health, safety, and general welfare of the County, or it may deny the propose amendment. Prior to enacting any alternative to the proposed amendment that was not previously considered by the Planning Commission during its hearing, the Board shall first refer the alternative to the Planning Commission for report and recommendation. The Planning Commission is not required to hold a public hearing or issue a report and recommendation on the alternative. Failure of the Planning Commission to issue a report and recommendation within sixty (60) days after the Board makes its referral shall be deemed to be a positive recommendation on the alternative.

4. Upon the consent of the Planning Commission, any petition for an amendment may be withdrawn upon the written request of a majority of all persons who signed the petition. The Board of Supervisors or the Planning Commission, as the case may be, may, by resolution, abandon any proceedings for an amendment initiated by its own direction; provided, that such abandonment may be made only when such proceedings are before such body for consideration; and provided further, that any hearing of which public notice has been given shall be held.

5. Whenever a petition for an amendment to this Chapter has been denied, no new petition for the same amendment shall be accepted by the Department for a period of one year from the effective date of the final denial of the original petition; provided, that upon a showing of a substantial change of circumstances, the Director may permit the filing of such new petition prior to the expiration of such one-year period. Nothing contained herein shall prevent the Board of Supervisor or Planning Commission from at any time initiating any proceedings which either of such bodies may initiate pursuant to this Chapter.

28.112 Appeals

A. The Planning Commission shall have power to hear and decide appeals when it is alleged by the appellant that there is error in any order, requirement, permit, decision or determination made by an administrative official or architectural review committee in the administration or enforcement of this Chapter.

B. Any person, firm, corporation, unincorporated association, public officer, or agency aggrieved or affected by any determination of this Chapter may, within ten days, file an appeal in writing with the Planning Commission secretary. In the written appeal, the reasons of the appeal shall be outlined and said appeal shall be accompanied by such fee or fees as may be set by the Board of Supervisors pursuant to Section 11-111 of this Code. No part of said fee or fees shall be refundable, except that the Zoning Administrator may waive the fee for a nonprofit social service organization, including a church. Filing of an appeal shall stay all proceedings until determination of the appeal. Upon receipt of such appeal, the Planning Commission secretary shall set the date for a public hearing, to be held within thirty-five days thereafter. Notice of the hearing shall be given pursuant to Section 28-14 of this Chapter, except that if the project has been previously posted, it need not be reposted.

C. The Zoning Administrator shall transmit to the commission copies of all papers constituting the record of action appealed, including a written statement setting forth the reason for his decision.

D. Upon hearing the appeal, the Planning Commission shall find that the decision appealed from shall be affirmed, reversed, or modified. Notice of the Commission's decision shall be mailed forthwith to the original applicant who has filed with the Commission a written request therefore.

E. Any person, firm, corporation, unincorporated association, public officer or agency aggrieved or affected by any determination of the Planning Commission may, within ten days, file an appeal in writing with the Board of Supervisors. A copy of such appeal shall be submitted by the appellant to the Planning Commission. In the written appeal, the reasons of the appeal shall be outlined and said appeal shall be accompanied by such fee or fees as may be set by the Board of Supervisors pursuant to Section 11-111 of this Code. No part of said fee or fees shall be refundable, except that the Zoning Administrator may waive the fee of a nonprofit social service organization, including a church. Filing of an appeal shall stay all proceedings until determination of the appeal. Upon receipt of such appeal, the Board of Supervisors shall set the date for a public hearing, to be held within thirty-five days thereafter. Notice of the hearing shall be given pursuant to Section 28-04 of this Chapter, except that if the project has been previously posted, it need not be reposted.

F. Notwithstanding any other provision of this Chapter, the Board of Supervisors, upon its own motion or motion of any individual member thereof made within ten days from the making of any final order, requirement, decision or determination by the Zoning Administrator or Planning Commission, may review, reaffirm, reverse or modify, wholly or in part, such final order, requirement, decision or determination. No fees shall be assessed. Notice of such review shall be delivered or mailed to the Zoning Administrator, the Planning Commission,

and the original applicant. The notice shall include a provision for a public hearing, to be held within thirty-five days from the date of the motion. Notice of the hearing shall be given pursuant to Section 28-04 of this Chapter, except that if the project has been previously posted, it need not be reposted.

28.113 Enforcement of Chapter

A. All departments, officials and public employees of the county which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter, and shall issue no such permits or licenses for uses, buildings, or purposes where the same would be in conflict with the provisions of this chapter; and any such permits or licenses, if issued in conflict with the provisions of this chapter, shall be null and void.

B. It shall be the duty of the zoning administrator, resource management director, or the planning commission to issue a notice of violation to any person who has erected, constructed, reconstructed, moved, converted, altered, or added to any building or structure in violation of these provisions, or who is using or allowing the use of that person's property in violation of these provisions. The notice of violation shall specify what corrective action is required and when the corrective action shall be completed.

C. Any person who sets up, erects, constructs, alters, enlarges, converts, moves, or maintains any building contrary to the provisions of this chapter, or any person who continues an unauthorized use which has not been brought within the provisions of this chapter as required by the notice of violation, is guilty of a violation of this chapter.

D. Notwithstanding Section 1-17 of this code, any violation of this chapter shall be an infraction punishable by a fine not exceeding $250.00 for each separate offense; provided, that in any accusatory pleading charging a violation of this chapter, if the defendant has been previously convicted one or more times of a violation of this chapter, such previous convictions shall be charged in the accusatory pleading, and, if such previous convictions are found to be true, or are admitted by the defendant, any violation shall be a misdemeanor punishable by imprisonment in the county jail for a term not exceeding six (6) months, or by a fine not exceeding $1,000.00, or by both. Every day any violation of this chapter shall continue shall constitute a separate offense.

E. Any violation of the terms or conditions of any permit or entitlement issued by the zoning administrator, planning commission, or board of supervisors pursuant to this Chapter shall constitute a violation of this Chapter and shall be deemed to be a public nuisance.

F. Any violation of the provisions of this Chapter may be remedied by civil action for injunctive relief or other appropriate proceedings.

G. All remedies listed in this Chapter, including permit revocation, shall be cumulative and not exclusive.

28.114 Nonconforming Uses

A. Purpose. The purpose of this section is to establish uniform provisions for the regulation of nonconforming structures, and uses of land that were legally established before the amendment, of this Chapter, or previously adopted County ordinances, but which would be prohibited, regulated, or restricted differently under the current provisions of this Chapter or future amendments.

B. Intent. It is the intent of this Chapter to:

1. Discourage the long-term continuance of these nonconformities, providing for their eventual elimination, but to permit them to exist under the limited conditions outlined in this section.

2. Prevent nonconforming uses and structures from being enlarged, expanded, or extended, or being used as justification for adding other structures or uses that are prohibited by the provisions of this Chapter applicable to the zoning district in which the nonconformity is located.

C. Continuance of Existing Nonconforming Uses. An ongoing use of land or buildings lawfully established and existing prior to the adoption of any provision of this Chapter that renders such use nonconforming with the regulations currently specified by this Chapter for the district in which such land is located, may be continued; provided, that no such use shall be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use at the time such use was rendered nonconforming; and provided further, that if such use ceases as hereinafter provided, the subsequent use of such land shall be in conformity to the regulations specified by this Chapter for the district in which such land is located.

1. Repairs and Maintenance. Except as may be provided in 28.114(H) below, ordinary maintenance and repairs may be made to any nonconforming structure or building; provided that, no structural alterations are made except those required by law or ordinance; and provided further, such work does not exceed twenty-five percent of the actual value of the structure or building in any one-year period.

2. Destruction and Reconstruction. Except as may be provided in 28.114H below, if at any time a building in existence prior to an amendment to this Chapter which does not conform to the regulations, including parking regulations for the district in which it is located, is damaged or destroyed by fire or other natural hazard, explosion, act of God, or act of the public enemy, to the extent of more than sixty percent of the actual value of the structure or building according to the assessment by the County assessor for the fiscal year during which such destruction occurs, the land and building shall be subject to all the regulations specified by this Chapter for the district in which such land and building are located.

3. Expansion. Except as provided in 28.114(H) below, a non-conforming use of the land or structure shall not be permitted to expand.

4. **Structural Alterations.** Except as provided in 28.114(H) below, a non-conforming use of the land or structure shall not be permitted to make structural alterations.

D. Nonconforming Lots. Nonconforming lots are lots legally established prior to the adoption of this Chapter or any subsequent amendments, which do not meet one or more development standards for lot area, lot frontage or lot access. Notwithstanding such nonconformities, development may be approved pursuant to this Chapter if the Director of Resource Management determines that such development is in compliance with all other provisions of this Chapter.

E. Use Permits. Any use for which a use permit is required and may be granted by the terms of this Chapter shall be considered a nonconforming use unless and until a use permit is obtained in accordance with Section 28-106. The approval of a use permit shall supersede and extinguish any grandfathered rights to continue the nonconforming use.

F. Termination. If the actual operation of a nonconforming use of a building ceases for a continuous period of six months, unless the legal owner can establish valid proof to the contrary, such cessation of the nonconforming use shall be considered abandonment. Without further action by the Planning Commission, the building and the land on which the building is located, shall be subject to all the regulations specified by this Chapter for the district in which such land and building are located.

G. Zoning Clearance. Prior to the issuance of a building permit, business license, grading permit, well or septic permit for a nonconforming use, a zoning clearance must be issued by the Director of Resource Management that sets forth the extent of nonconformity and the permissible repair, maintenance, or alteration that may be made to the structures, buildings, and ownership.

H. Exceptions.

1. **Prior Commencement of Construction.** Nothing contained in this Chapter shall be deemed to require any change in the plans, construction or designated use of any building for which a building or other construction permit was issued and upon which actual construction was lawfully begun prior to the adoption of any amendment to this Chapter. Actual construction is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner; actual work in excavating a basement; or the demolition or removal of any existing structure begun preparatory to rebuilding; provided, that in all cases, actual construction work shall be diligently carried on until the completion of the building or structure involved.

2. **Companion Living Units.** Notwithstanding the provisions of Section 10 of this Chapter, where Companion Living Unit and Secondary Living Unit are defined, certain unpermitted, non-conforming dwelling units may be brought into compliance with the Solano County Code and the California Building Code. The provisions set forth in this subsection shall only be applicable through December 31, 1996, after which all provisions of this Code shall apply. In determining whether a non-permitted improved residential

structure may achieve permitted status as either a Companion Living Unit or a Secondary Living Unit, the following criteria shall apply:

a. The unit shall have existed as a substantially improved dwelling prior to December 8, 1994; and

b. In the case of Companion Living Unit, as defined, the improved livable space may be no larger than 850 square feet, either as it existed or as it shall be altered, so as to not exceed the maximum square footage allowable under the Solano County. Code immediately prior to the adoption of Ordinance No. 1497. The 850 sq. ft. maximum livable space shall not be retroactively applied to Secondary Living Units, as defined, seeking permitted status under this section; and

c. All necessary building permits shall be applied for and obtained and as-built construction approved by the Building Official as conforming with the applicable zoning and building codes; and

d. The property owner shall certify that the Companion Living Unit shall be solely used for the purposes of providing independent living quarters for one or more adult persons who are sixty years of age or over, handicapped or convalescent. Either the principal residence or companion living unit shall be owner occupied.

3. **Dwellings.** Nonconforming primary and secondary dwellings, and duplexes, which were lawfully established, may continue subject to the following restrictions:

a. **Repairs and Maintenance.** Ordinary maintenance and repairs may be made to any nonconforming primary or secondary dwelling or duplex, provided that, no expansion or structural alterations are made except those required by law or ordinance, or as provided for below.

b. **Destruction and Reconstruction.** If at any time a primary or secondary dwelling or duplex in existence prior to the adoption of any amendment to this Chapter. which does not conform to the regulations, including parking regulations for the district in which it is located, is damaged or destroyed by fire, explosion, act of God, or act of the public enemy, a new primary or secondary dwelling or duplex may be constructed in the same location, provided it does not expand the area of the previous footprint by more than 25 percent. The new dwelling will remain legal nonconforming.

c. **Expansion.** The square footage area of a primary or secondary dwelling or duplex may be expanded by up to 25 percent, or to the maximum size permitted under current regulations, whichever is less.

d. **Structural Alterations.** Structural alterations are permitted for a nonconforming primary or secondary dwelling or duplex.

e. **Zoning Clearance Required.** Prior to the issuance of a building permit, grading permit, septic or well permit for a nonconforming primary or secondary dwelling or duplex, a zoning clearance must be issued by the Director of Resource Management

which sets forth the extent of nonconformity and the permissible repair, maintenance, alteration or expansion of the dwelling.

28.115 Planning Commission

The Commission shall perform the duties and functions prescribed by State law and Solano County ordinances, including the following:

1. The review and approval, conditional approval or denial of development projects under the jurisdiction of the Commission as provided for by this Chapter; and

2. The making of recommendations to the Board for final decisions on General Plan Amendments, Development Agreements, Zoning Regulation Amendments, Specific Plans and Amendments, Zoning Map Amendments, environmental documents associated with the preceding project types, and other applicable policy or ordinance matters related to the County's planning process.

3. The Planning Commission may establish rules of procedure governing all hearings required by this Chapter and the laws of the state. Upon the adoption of rules of procedure by the Planning Commission, the same shall be filed in the office of the Zoning Administrator and copies of such rules of procedure shall be given to each person requesting the same.

28.116 Reserved

28.117 Zoning Administrator

The Director of Resource Management or his or her designee shall serve as the Zoning Administrator and perform the duties and functions assigned by this Chapter.

28.118 Director of Resource Management

A. Authority.

The Director of Resource Management may designate one or more employees of the Department to perform the duties and functions assigned to the Director by this Chapter.

28.119 Reserved