

CHAPTER 32.01. - GENERAL PROVISIONS

Sec. 32.01.010. - Purpose-

~~This title regulates and restricts the use and improvement of land and controls the location, soundness, and use of structures, to~~ The purpose of this Chapter is to promote the public health, safety, and welfare by providing appropriate and reasonable controls for the development and use of lands within the City of Fernley, while also protecting the rights of property owners. This Chapter is also intended to:

- ~~• Promote the public health, safety, morals, convenience or general welfare of the community;~~
- ~~• Preserve the quality of the air and water resources;~~
- ~~• Promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment;~~
- ~~• Enhance the aesthetics of the community;~~
- ~~• Provide for recreational needs;~~
- ~~• Protect life and property in areas subject to floods, landslides and other natural disasters;~~
- ~~• Conform to the adopted population and master plans;~~
- ~~• Develop a timely, orderly and efficient arrangement of transportation and public facilities and services;~~
- ~~• Take into account the relative suitability of the land for development, and to ensure that any development of the land is commensurate with the character and physical limitations of the land;~~
- ~~• Lessen traffic congestion;~~
- ~~• Prevent overcrowding of land and undesirable concentrations of population.~~
- Implement the policies, goals, and strategies adopted by the City of Fernley, including those in the Comprehensive Master Plan and other adopted plans and documents;
- Regulate and control the division of land to encourage convenient, compatible, and efficient relationships among land uses;
- Promote economic development and the improvement of property;
- Promote, preserve, and protect the environmental quality and encourage the wise use of natural resources;
- Conserve and enhance established residential neighborhoods through appropriately scaled infill development;
- Encourage innovative and quality residential development and a greater variety of type, design, and layout of dwellings;
- Protect life and property in areas subject to floods, landslides, and other natural disasters;
- Facilitate adequate provision of transportation, water, wastewater, parks, trails, stormwater management, and other public needs;
- Encourage a well-rounded set of City amenities for all age groups and income levels (parks, entertainment venues, activity centers, etc.); and
- Promote fair procedures that are efficient and effective in terms of time and expense and that appropriate process is followed in the review and approval of applications made under this Chapter.

~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020)~~

Sec. 32.01.020. - Title-

This ~~title Chapter~~ is known and cited as the "City of Fernley Development Code," hereinafter "~~development-Development codeCode~~." The City of Fernley shall be known and may be cited in all proceedings as "~~cityCity~~."

~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020)~~

Sec. 32.01.030. – Effective Date

This Code shall take effect and be in force from and after the date of adoption.

Sec. 32.01.040. – Authority

This Code is enacted pursuant to the powers granted and limitations imposed by laws of the State of Nevada, including the statutory authority granted in Nevada Revised Statutes (NRS) Chapter 278, and all other relevant laws of the State of Nevada. Whenever any provision of this Code refers to or cites a section of the NRS and that section is later amended or superseded, this Code shall be deemed amended to refer to the amended section or the section that most closely corresponds to the superseded section.

Sec. 32.01.0350. - Applicability and ~~jurisdiction~~Jurisdiction-

(a) ~~(a)~~ – General applicability.

(1) The provisions of this ~~code~~Code shall apply to all land, buildings, structures, and uses of land, buildings, and structures located within the City of Fernley, unless an exemption is provided by the terms of this ~~code~~Code. The provisions of this ~~code~~Code are the minimum requirements adopted for the promotion of the public health, safety, and welfare.

(2) ~~To the extent allowed by law, the provisions of this ~~code~~Code shall apply to all land, buildings, structures, and uses owned by government agencies. Where the provisions of this ~~code~~Code do not legally control such land, buildings, structures, and uses owned by government agencies, such agencies are encouraged to meet the provisions of this ~~code~~Code.~~

(b) Compliance required.

(1) No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with all of the applicable regulations established by this ~~code~~Code.

(2) No lot of record that did not exist on the effective date of this ~~code~~Code shall be created, by subdivision or otherwise, that does not conform to the applicable requirements of this ~~code~~Code.

(3) No permit or approval may be issued under this ~~code~~Code unless all structures and uses of land and structures to be authorized by the permit or approval conform to this ~~code~~Code, regulations promulgated under this ~~code~~Code, and the terms and conditions of other applicable permits and approvals issued under this ~~code~~Code. A permit or approval issued in violation of this ~~code~~Code is void.

~~(c) Application to governmental agencies. To the extent allowed by law, the provisions of this code shall apply to all land, buildings, structures, and uses owned by government agencies. Where the provisions of this code do not legally control such land, buildings, structures, and uses owned by government agencies, such agencies are encouraged to meet the provisions of this code.~~

~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020)~~

Sec. 32.01.0460. - Consistency with plans-

(a) This ~~development~~Development ~~code~~Code is intended to implement the goals and policies of the City of Fernley Comprehensive Master Plan and is ~~declared to conform~~hereby deemed to be consistent with ~~to the master~~Master plan-Plan of the city pursuant to the provisions of NRS ~~Ch.~~ 278. Per NRS 278.200 the ~~master~~Master plan-Plan shall be a map, together with such charts, drawings, diagrams, schedules, reports, ordinances, or other printed or published material, or any one or a combination of any of the foregoing as may be considered essential to the purposes of NRS 278.010 to 278.630, inclusive.

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~~(b) No regulatory decision by an appointed or elected official or any city employee shall be made with respect to any zoning action or use of property that is not in substantial compliance with the Master Plan as officially adopted or amended.~~

~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020.)~~

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~~Sec. 32.01.0570. - Saving provision-~~

~~The provisions of this development code shall not be construed as abating any action now pending under, or by virtue of, prior existing land development regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the city under any chapter or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the city except as shall be expressly provided for in these regulations. Should any chapter, article, section, clause, or provision of this Chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, the decision shall not affect the validity of the Chapter as a whole or any part thereof other than the part declared to be unconstitutional or invalid.~~

~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020.)~~

~~Sec. 32.01.0680. - Effect of this title on approved development permits, development permits currently being processed, and new applications for development permits~~Transitional Provisions-

~~(a) *Approved development.*~~

- ~~(1) Development for which an application for conditional use permit, variance, tentative parcel map, final parcel map, tentative subdivision map, final subdivision map, tentative land division map or final land division map has been finally approved and which approval remains valid on the effective date of this title shall remain valid unless such approval expires by the terms of the approval or in accordance with this title. Development which has been granted approval may be built in accordance with the development standards in effect at the time of approval, provided that the approval is valid at the time building permits are issued and that the approval is subject to any time limits imposed pursuant to this title; further provided that any subsequent applications for a development permit required by this title prior to issuance of and including a building permit and certificate of occupancy shall be processed in accordance with the procedures established by this title for the processing of such development permit. This Code shall not affect the validity of any lawfully issued and effective development permits issued prior to the effective date of this Title, if construction was commenced prior to the effective date of this Code and if the construction continued uninterrupted until complete. If any such permit expires prior to completion, all future development shall be in conformance with the requirements of this Code.~~
- ~~(2) No provision of this title shall require any change in the plans, permit expiration, construction or designated use of any structure for which a building permit has been issued prior to the effective date of this title or any subsequent amendment. Unless otherwise provided in the initial approval, any proposed amendment to a permit or other form of approval issued under prior regulations shall be reviewed based on the development standards in effect at the time of submission of a complete application for the amendment.~~
- ~~(3) Any reapplication for an expired development permit must meet the standards in effect at the time of reapplication. Unless otherwise provided in the initial approval, any conditions of approval applied to a discretionary approval under the regulations in effect prior to the effective date of this Code shall continue to apply. The Administrator shall have discretion to sunset any conditions of approval applied under the regulations in effect prior to the~~

effective date of this Code upon demonstration that the site is in conformance with the current applicable code standards.

- (b) **Projects in process.** ~~Development for which an application for a development permit has been accepted as complete, but which has not been granted final approval by the appropriate designated official prior to the effective date of this title, shall be subject to the land use regulations, standards for approval, and other requirements in effect at the time the application was deemed complete; provided that any subsequent application for a development permit required by this title prior to issuance of and including a building permit and certificate of occupancy shall be processed in accordance with the procedures established by this title for the processing of such development permit. If approved, the development may be built in accordance with the development standards in effect at the time of application, provided that any design review filed subsequent to the issuance of a conditional use permit or reapplication for an expired permit must meet the standards for approval in effect at the time of application. This provision shall not apply to any application for a master plan amendment or zoning map amendment.~~
- (1) ~~For a period not to exceed twelve months from the effective date of this Code, a development application that has been determined to be complete may be decided under the regulations in effect prior to the adoption of this Code, or may be reviewed and decided under this Code at the request of the applicant. Applications shall not be processed under a combination of prior regulations and this Code.~~
- (2) ~~This Section does not apply to any application for a Master Plan Amendment or Zoning Map Amendment. These applications will be approved under this Code regardless of when they were submitted.~~
- (c) **New applications.** ~~If no application for a development permit has been accepted as complete and the development has received no more than approval of a master plan map amendment or a zoning map amendment prior to the effective date of this title, pending and subsequent applications for development approval shall be subject to all requirements, standards and procedures set forth in this title. All new application submittals received after the effective date of this Code shall be subject to this Code.~~

~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020)~~

Sec. 32.01.0790. - Right to farm-

~~(a) Purpose.~~

- (1) ~~The right to farm all land is recognized to exist as a natural right and is also ordained to exist as a permitted use everywhere in the city except where expressly prohibited under this title, subject only to state health and sanitary codes.~~
- (2) ~~It is the declared policy of the City of Fernley to conserve and protect agricultural land, agricultural irrigation water rights and agricultural operations, and to encourage sustainable agricultural operations within the city. It is the purpose and intent of this section to reduce the loss to the city of its viable agricultural land by limiting circumstances under which agricultural operations may be considered a nuisance, consistent with NRS 40.140.~~

~~(b) Intent.~~

- (1) ~~This section defines and limits cases in which agricultural operations may be perceived a nuisance. It includes a disclosure notice to prospective property buyers, notifying them that if the property they are purchasing is adjacent to agricultural land, they may be subjected to certain inconveniences associated with normal agricultural operations and that special setbacks may be required on the property.~~
- (2) ~~The right to farm includes, but is not limited to, the right to engage in all of the "agricultural operations" defined in this section. This right to farm shall also include the right to use land for agricultural production and grazing by animals, in addition to~~

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agricultural products processing, transportation, sales, and distribution. The foregoing uses and activities included in the right to farm, when necessary for the particular farming, livestock, fowl or crop production, and when conducted in accordance with generally accepted agricultural practices, may occur on holidays, Saturdays, Sundays and weekdays, 24 hours a day, and the traffic, noise, odors, dust, fumes and other disturbances that are caused by such activities are also specifically permitted as part of the exercise of this right.

~~(c) Nuisance.~~

- ~~(1) No present or future agricultural operation or any of its appurtenances conducted or maintained for commercial purposes and in a manner consistent with proper and accepted customs and standards of the agricultural industry on agricultural land or commercial land shall be deemed a nuisance, due to any changed condition of the use of adjacent land and water rights appropriated for that land in or about the locality thereof; provided, that the provisions of this section shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation and its appurtenances or if the agricultural activity or appurtenances obstruct the free passage or use in the customary manner of any navigable lake, stream, river, canal or basin or any public park, square, street or highway. Consistent with NRS 40.140(2), it is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice consistent with proper and accepted customs and standards of the agricultural industry.~~
- ~~(2) It is expressly found that whatever nuisance may be caused to others by such uses and activities so conducted is more than offset by the economic and social benefits from farming to the local and state economy, community aesthetics, and to society in general; by the preservation of open space, the beauty of the countryside and clean air, the provision for continual local economic growth and by the preservation and continuance of farming operations in this city and the state as a source of agricultural products for this and future generations.~~
- ~~(3) As a condition of approval of any subdivision or parcel map of any land in the City of Fernley, the owners or developers of such land and their heirs, assigns and successors, shall agree to provide notice to any and all subsequent purchasers of the provisions of NRS 40.140 and this chapter. Such notice shall include a signed acknowledgment on all land development maps.~~
- ~~(4) If a landowner or resident believes that an agricultural operation is not being conducted or maintained in a manner consistent with proper or accepted customs and standards of the agricultural industry, the landowner or resident may submit a complaint to the administrator.~~

~~(d) Disclosure statement.~~

- ~~(1) Every seller of any real property in the City of Fernley, either directly or through his/her authorized agent shall provide to any prospective buyer a written disclosure statement advising the buyer of the existence of a right to farm ordinance enacted by the City of Fernley. Such disclosure statement shall contain or be accompanied by a copy of the ordinance codified herein or successor, and statement that intensive agricultural operations may be conducted on agricultural and other land within the city. The disclosure statement shall be substantially in the form promulgated by the board, or their designee. The written disclosure statement shall include any agricultural setback requirements and water rights use restrictions applicable to the property. The buyer shall sign a copy of the written disclosure statement acknowledging receipt of the disclosure and accompanying documents and deliver the signed copy to the seller or his/her authorized agent. The seller or his/her authorized agent shall retain the copy of the disclosure statement executed by buyer in the escrow process.~~

(2) The disclosure statement shall contain substantially the following language:
The City of Fernley has determined that the highest and best use for agricultural land as defined below is to develop or preserve said lands for the purposes of agricultural operations and it will not consider the inconveniences or discomforts arising from or related to agricultural operations to be a perceived nuisance if such operations are legal, consistent with accepted customs and standards and operated in a non-negligent manner.

If property you own or may purchase in the future is located adjacent, near, or close to agricultural lands or within agricultural lands, including agriculture land easements, irrigation ditch easements, drain ditch easements, or agricultural products processing facilities, you may be subject to inconveniences or discomfort arising from agricultural operations. These may include but are not limited to the spraying, cleaning, and maintenance of irrigation water delivery systems as well as traffic, noise, odors, dust, chemicals, smoke, insects, operation of machinery (during any 24-hour period), aircraft operation, and storage and disposal of agriculture by-products, including manure. One or more of the inconveniences described above may occur even in the case of an agricultural operation, which is in conformance with existing laws and regulations and locally accepted customs and standards. If you live near an agricultural production area and/or agriculture products facility, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a city with a strong rural character and a healthy agricultural sector. You are prohibited from interfering with or in any way obstructing agricultural operations, including, for example, tampering with irrigation delivery facilities, obstructing irrigation ditches, and obstructing agricultural land easements.

For purposes of this notification:

Land surrounding your property may or may not be presently zoned or designated on the General Plan for primary or substantial agricultural use, the land contains an existing agricultural operation of a type that would be obvious to an uninformed observer after a physical inspection of the property, and that operation began at a time when such use was permissible.

Agricultural operation means all activities relating to agricultural production and use, and shall include, but not be limited to, the cultivation and tillage of the soil, lawful use of appropriated water rights for agricultural irrigation purposes, including groundwater, as well as any agriculture irrigation water delivery system maintenance and improvements, the burning of agricultural waste, weeds and other debris or other agricultural burning, including ditches and fields, lawful use of housing and transportation of labor for the purpose of crop production, lawful use of temporary and permanent facilities for the health, safety and welfare of agricultural workers, protection of crops and livestock from pests (i.e., insects, diseases, weeds, predators) damaging or which could potentially damage crops or livestock, the proper and lawful use of agricultural inputs and chemicals, whether organic or conventional, including but not limited to the ground and aerial (i.e., via aircraft) application of crop protection products and fertilizers, fumigation, or the raising, production, irrigation, pruning, harvesting, or processing of any living organism, organically or conventionally, having value as an agricultural commodity or product, and any commercial practices performed incident to or in conjunction with such operations where the agricultural product is being produced, including preparation for market, delivery to storage, processing and packaging, and distribution to market, or to carriers for transportation to market or processing of an agricultural commodity, and those buildings

~~or related facilities (no matter their zoning) that process, store, package and distribute agriculture products.~~

~~The City of Fernley recognizes the Right to Farm provisions outlined in NRS 40.140.~~

~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020.)~~

Sec. 32.01.1080. - Enforcement authority-

(a) General

~~(1) It is the duty of the zoning administratorCity, to enforce all of the provisions of this title.~~

~~(2) It is unlawful for any person to interfere with City employees in the performance of their duties.~~

~~(3) Enforcement of the provisions of this Code shall be pursued in order to provide for its effective administration, to ensure compliance with any condition of development approval, to promote the City's planning efforts, and to protect the public health, safety, and general welfare.~~

~~(4) In order to prevent a public health or safety hazard (as defined by NAC 444), nuisance (as defined by NRS 40.140) or to require an operation to cease due to a public health or safety hazard or nuisance, the city has the authority to appoint a representative with expertise in the area of violations and determine if a public health or safety hazard or nuisance exists. If the representative determines that such a violation exists, the cost of the city representative and the investigation shall be paid by the property owner.~~

~~(5) The City shall have the authority and powers necessary to determine whether an administrative violation of this Code exists and shall have the authority to take appropriate action to gain compliance with the provisions of this Code. These powers include all power and authority to issue notices of violation, administrative citations, notices and orders, the power to inspect public and private property, and use the administrative remedies available under this Code.~~

(b) ~~It is unlawful for any person to interfere with the zoning administrator in the performance of their duties.~~ Violations

~~(1) Any person who erects, constructs, reconstructs, alters, repairs, converts, or maintains any building, structure, or sign, or part thereof, in violation of the Code, and any person who uses any building, structure, or land in violation of this Title, shall be subject to penalties and enforcement action in accordance with this Chapter.~~

~~(2) Violations can include, but are not limited to, the following activities:~~

~~a. Erect, construct, remodel, alter, maintain, expand, move, or use any land, building, structure, or sign or engage in development or subdivision of any land contrary to the regulations and procedures of this Code.~~

~~b. Excavate, grade, cut, clear, or undertake any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite land use approvals or permits required by the Code or other applicable regulations.~~

~~c. Create, expand, replace, or change a nonconforming use, lot, sign, or site improvement except in compliance with this Code.~~

~~d. Reduce or diminish the lot area, setbacks, or open space below the minimums required by this Code.~~

~~e. Increase the intensity of use of any land or structure, except according to the standards of this Code.~~

~~f. Engage in any development, use, construction, remodeling, or any other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, agreement, or other form of authorized required under this Code to engage in such activity.~~

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g. Fail to comply with any terms, conditions, or limitations placed by the deciding body in any final development plan, subdivision plat, site plan, permit, or other form of authorization.

h. Failure to remove any sign installed, created, erected, or maintained in violation of this Code, or for which the sign permit has lapsed.

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- (c) ~~In order to prevent a public health or safety hazard (as defined by NAC 444), nuisance (as defined by NRS 40.140) or to require an operation to cease due to a public health or safety hazard or nuisance, the city has the authority to appoint a representative with expertise in the area of violations and determine if a public health or safety hazard or nuisance exists. If the city representative is able to verify that such a public health or safety or nuisance exists, then the city may deny or revoke a permit and formally declare a violation of this title and require the operation to rectify or cease such activities until it can be determined that a public health or safety hazard or nuisance will not occur as a result of said activities. If the representative determines that such a violation exists, the cost of the city representative and the investigation shall be paid by the property owner.~~ Remedies and Penalties

(1) Unless otherwise addressed in a specific provision of this Code, the City may deny, withhold, or revoke any permit, approval, or other authorization granted under this Code, as applicable for any of the following reasons:

- a. Inability to make applicable findings required by this Code;
- b. Developing, establishing, or conducting a use of land contrary to the conditions of the permit or in violation of any law or ordinance;
- c. Developing or conducting a use of land in such a manner as to create a public nuisance or constitute a danger to the public health, safety, or welfare; or
- d. Fraud, misrepresentations, or false statements in the permit or development application.

(2) Stop-Work Orders

- a. The City may issue a stop-work order whenever any building, structure, site, or portion of a building, structure, or site is being demolished, constructed, reconstructed, altered, or repaired, in substantial violation of this Code.
- b. The City may issue a stop-work order on any property with an uncorrected violation of this Code or approval issued under this Code.
- c. A stop-work order shall be in writing and directed to the person doing the work and shall specify the provision of this Code or the project approval requirement being violated.
- d. If a stop-work order is issued, no work shall proceed on any building, structure, site or portion of a building, structure, or site subject to the order except to correct the violation or to comply with the order.
- e. Once conditions cited in the stop-work order have been adequately addressed, the City shall rescind the stop-work order.
- f. Failure to comply with a stop-work order or correct the violation may result in further enforcement action by the City Attorney's office.

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~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020)~~

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Sec. 32.01.110090. - Fees-

The ~~city~~ City Council shall establish a schedule of fees for processing of all development and land division applications under this ~~development~~ Development Code by resolution. All such resolutions are incorporated by reference into this ~~development~~ Development Code as though fully set forth.

Except as otherwise established by formal policy adopted by the ~~city~~ City Council, every application for a development permit under this ~~development~~ Development Code shall be accompanied by a fee

as set by resolution of the ~~city~~ City Council. Fees are not required with applications submitted by ~~the city council, planning commission, Lyon County school district, or city agencies or staff~~ other governmental agencies or registered non-profit organizations. Any fees required by this ~~development~~ Development code Code shall be collected and are due at the time of application submittal. ~~Refund of fees may be made less the staff and administrative costs incurred to date by the city. No refund shall be made where the development permit has been noticed for hearing.~~
~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020.)~~

Commented [MR1]: New refund policy attached to fee schedule just approved by Council on 4/17.

Sec. 32.01.100~~20~~. - Payment of ~~taxes~~ Taxes required.

No application shall be considered complete and move forward through the review process until the property taxes have been paid through the entire, current fiscal year and proof of property tax payment from the county treasurer is provided with the application. ~~This provision shall apply, but not be limited to, all applications for change of land, master plan amendments, conditional use permits, variances, reversions to acreage, parcel maps, divisions into large parcels, tentative maps, and final maps.~~
~~(Ord. No. 2020-005, § 1(Exh. A), 3-4-2020.)~~

Sec. 32.01.130. – Conflicting Provisions

- (a) If the provisions of this Code are inconsistent with those of the state or federal governments, the more restrictive provision will control, to the extent permitted by law.
- (b) If the provisions of this Code are inconsistent with one another, or if they conflict with provisions found in other adopted codes, ordinances, or regulations of the City of Fernley, the more restrictive provision will control unless otherwise expressly stated.
- (c) It is not the intent of this Code to interfere with, abrogate, annul, or prevent the private enforcement of any easement, covenant, deed restriction, or other agreement between private parties. The provisions of this Code are in addition to, and not in lieu of, any restriction imposed by a private agreement, provided that when this Code mandates a greater restriction than those imposed or required by such easements, covenants, or agreements, this Code shall govern. The City is not responsible for monitoring or enforcing private agreements or restrictions.

Sec. 32.01.140. - Relationship to Other Laws.

- (a) Other laws—Private restrictions. This title does not impair or interfere with other regulations of effective state or local law, or with private restrictions on the use of land, improvements, and structures. Where this title imposes a greater restriction than that imposed by other law or by private restrictions, this title controls.
- (b) Other regulations. This title is intended to cooperate with other city regulations, including, but not limited to, building, plumbing, electrical and fire prevention codes, and subdivision regulations. In all cases of doubtful interpretation or possible conflict, the proper interpretation of this title is that which favors consistency with other regulations.