



COMMUNITY DEVELOPMENT

PLANNING DIVISION
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M-2 IMPLEMENTATION POLICY

This Implementation Policy specifically addresses the following sections of the Zoning Ordinance:

16.46.010 Permitted uses. Permitted uses in the M-2 district, all within a building and not requiring new construction or structural alterations therefor (except for those structural alterations enumerated below) and not having any noxious or hazardous character, are as follows:

- (1) General industrial uses including but not limited to warehousing, manufacturing, printing, assembling;
- (2) Offices;
- (3) All of the uses listed above involving any of the following structural alterations:
 - (A) seismic or Americans with Disabilities Act (ADA) compliant upgrades,
 - (B) structural alterations that affect 10,000 square feet or less of gross floor area of a building during a 12-month period measured from final inspection to building permit issuance, or
 - (C) structural alterations that affect more than 10,000 square feet of gross floor area of a building, where said alterations do not both change the use and increase the intensity of a building.

16.46.020 Conditional uses. Conditional uses allowed in the M-2 district, subject to obtaining a use permit, are as follows:

- (1) All of the uses listed in Section 16.46.010, for which new construction or structural alterations are required, except for the structural alterations permitted therein.

Issues related to the underlined words or phrases are discussed in this Implementation Policy. In addition, the Policy explains the process for reviewing building modifications and explains the nonconforming issue (or lack thereof). ***The Policy does not address guidelines for Planning Commission review of use permit requests.***

Definitions:

Except for “new construction” and “structural alterations”, which are defined in the Zoning Ordinance, the terms below are defined solely for the purpose of implementing Sections 16.46.010 and 16.46.020 of the Zoning Ordinance.

New construction. "New construction" means the construction of a new building, construction of an addition to an existing building, or construction of a mezzanine or second floor in an existing building. Except in the case of a new building, new construction generally results in a net increase in gross floor area. New construction does not include interior alterations, tenant improvements, repairs, maintenance or reconstruction of buildings destroyed by catastrophe.

Structural alterations. "Structural alteration" means any change in the supporting members of a structure, such as bearing walls, columns, beams or girders.

Comment: Except for the installation of office cubicles, almost any modification to a building could potentially involve a structural alteration. Even if the modification itself is not structural, it usually affects a structural element. The following is a list of modifications to a building that could involve a structural alteration:

- Installing/Reconfiguring a drop (T-bar) ceiling;
- Cutting windows or doors in exterior walls;
- Replacing a roll-up truck door with a storefront system;
- Installing/Upgrading HVAC (Heating Ventilation Air Conditioning) equipment on the roof;
- Upgrading restrooms without increasing the number of fixtures;
- Installing fire sprinklers;
- Constructing acoustical/partition walls (closed offices);
- Making modifications to comply with the Noise Ordinance;
- And similar modifications.

It is important to remember that the ordinance does not differentiate between *major* and *minor* structural alterations. The modifications listed above would be exempt from the requirement for the use permit if the alteration does not "change the use" and does not "increase the intensity" of a building.

Change the use. "Change the use" means any change from one of the following uses to another one of the following uses:

- Office/Laboratory;
- Manufacturing/Assembling;
- Warehouse/Distribution.

Comment: The Change of Use table below indicates the six instances where a change from one use to another could potentially trigger the need for a use permit. The categories are relatively broad and allow flexibility within categories. High-tech-flex space and research & development space shall be considered office/laboratory uses for purposes of considering "change the use." The use would be based on the current use of the building. There may be cases where City staff may need to inspect the uses of buildings prior to issuing a building permit. Intensification of a use is a separate issue discussed below.

USE CATEGORIES			
From Use	To Use		
	Office/ Laboratory	Manufacturing/ Assembling	Warehouse/ Distribution
Office/Laboratory	No	Yes	Yes
Manufacturing/Assembling	Yes	No	Yes
Warehouse/Distribution	Yes	Yes	No

Yes = Use Permit Potentially Required

No = Use Permit Not Required

Increase the intensity. “Increase the intensity” means an increase in the number of paved and striped off-street parking spaces.

Comment: The most conventional measure or regulation of intensity is Floor Area Ratio (FAR). In the M-2 zoning district, there are two maximum FARs: 45% for offices and 55% for general industrial uses. An increase in FAR would be considered new construction; structural alterations alone do not increase FAR. Other measures of intensity are the number of trips or the number of workers. Due to the location of M-2 properties, which are generally isolated from commute alternatives, there is a relationship between the number of workers and the trips to the number of parking spaces. Parking spaces are more efficient to monitor than either the number of trips or workers.

Process:

The attached flow chart diagrams the process for determining whether a use permit is required for a building modification. The flowchart assumes that an applicant’s initial contact with the City would be with the Building Division. The Building Division would review the proposed building modification and ask two questions.

1. Is the modification considered new construction as defined above? If the answer is yes, then the applicant needs to pursue a use permit through the Planning Commission. If the answer is no, then the Building Division asks the second question.
2. Is the modification considered a structural alteration affecting more than 10,000 square feet of gross floor area? If the answer is yes, then the Building Division would forward the modification request to the Planning Division to ask two more questions. If the answer is no, then the Building Division could issue a permit without a use permit from the Planning Commission.

Assuming the modification is a structural alteration, the Planning Division would ask the following two questions.

1. Does the structural alteration “change the use” of the building as defined above?
2. Does the structural alteration “increase the intensity” of the building as defined above?

If the answer to **both** of these questions is yes, then the proposed modification would require a use permit. If the answer to either one of the questions is no, then the proposed modification can return to the Building Division for a building permit.

In cases where a use permit is required, applicants may pursue use permit approval and building permit approval simultaneously. This would allow for the review of the use permit and building plan checking to take place concurrently. Building permits may be issued upon approval of the use permit and the conclusion of the 15-day appeal period that follows action on the use permit.

Nonconforming:

Section 16.46.020 does not render existing buildings or projects non-conforming. If a building complies with all of the use and development regulations for the M-2 zoning district, then the provisions of the Chapter 16.80 Nonconforming Uses and Structures of the Zoning Ordinance would not apply. If a conforming building is completely destroyed by a catastrophe and the property owner wants to rebuild the project without an increase in gross floor area, then a use permit would not be required. If a conforming building is partially destroyed by a catastrophe and the property owner wants to repair the building without changing the use or increasing the intensity, then a use permit would not be required. If a property owner chooses to demolish an existing building and construct a new building, then a use permit would be required.

Amendment to Policy:

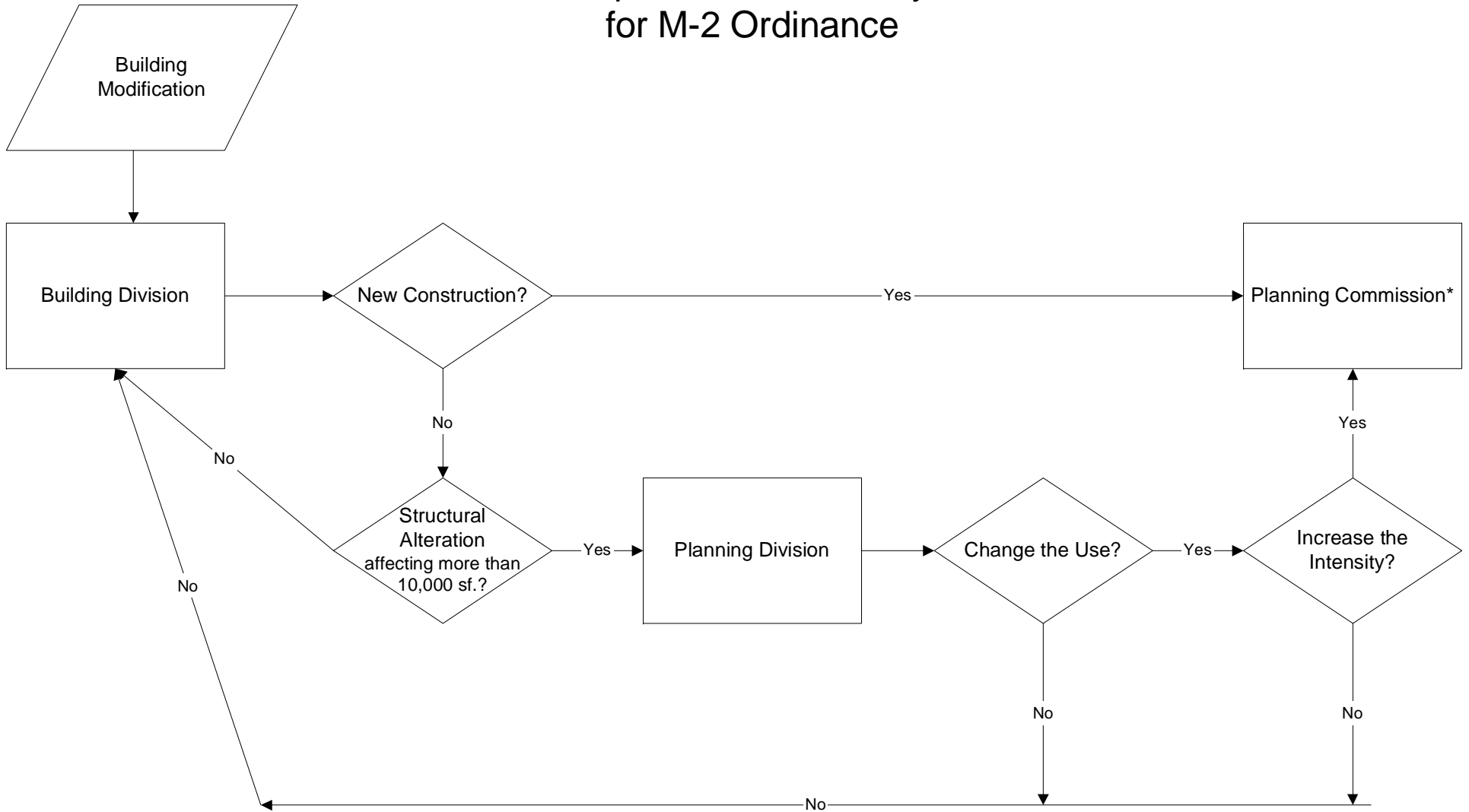
This policy may only be amended or revised by action of the City Council, with input from the Planning Commission. The City Council shall give public notice of any proposed changes before amending or revising the policy.

Adopted by: City Council
Date: June 8, 1999

Revised by: City Council
Date: May 10, 2005

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Implementation Policy for M-2 Ordinance



* The applicant may submit applications for a building permit and a use permit for parallel processing.