

# Exhibit A

## Attachment to Ordinance \_\_\_\_\_ for Proposed Amendments to City of San Leandro Zoning Code

### Title 1—General Provisions

#### Chapter 1.04 Title, Components, and Purposes

##### Sections:

- 1.04.100 Title
- 1.04.104 Components
- 1.04.108 Purposes

##### 1.04.100 Title

These regulations and standards shall be known and cited as the “Zoning Code of the City of San Leandro,” or “Zoning Code.” (Ord. 2001-015 § 1)

##### 1.04.104 Components

The Zoning Code shall have the following components:

- A. Regulations, known as the zoning regulations, establishing various classes of zoning districts governing the use of land and the placement of buildings and improvements within districts and providing for the administration and amendment of the Zoning Code.
- B. A map or set of maps, known as the zoning map, delineating the boundaries of zoning districts within the City of San Leandro.

A copy of the zoning regulations and the zoning map, together with a record of all amendments, shall be kept on file with the City Clerk and shall constitute the original record. A copy of the zoning regulations and zoning map currently in effect also shall be kept on file with the Zoning Enforcement Official. (Ord. 2001-015 § 1)

##### 1.04.108 Purposes

The broad purposes of the Zoning Code are to protect and promote the public health, safety, and general welfare, and to implement the policies of the City of San Leandro General Plan and any adopted Specific Plan, as provided in the California Government Code, Title 7, Chapters 3 and 4 and in the California Constitution, Chapter 11, Section 7. More specifically, the Zoning Code is intended to:

- A. Provide a precise guide for the physical development of the City in accord with the policies of the General Plan and any adopted Specific Plan in order to:
  - 1. Preserve the character and quality of residential neighborhoods and commercial and industrial areas consistent with the character of the development districts of the City;

2. Foster convenient, harmonious, and workable relationships among land uses; and
  3. Achieve progressively the land development described in the General Plan.
- B. Promote the economic stability of existing land uses that are consistent with the development policies of the General Plan and protect them from intrusions by inharmonious or harmful land uses.
  - C. Prevent excessive population densities and overcrowding of land or buildings.
  - D. Ensure the provision of adequate open space for light, air, and fire safety.
  - E. Reduce the risk of injury or exposure to hazard of people and property.
  - F. Permit the development of office, commercial, industrial, and related land uses that are consistent with the General Plan in order to strengthen the City's economic base.
  - G. Require the provision of adequate off-street parking and loading facilities, and promote a safe, effective traffic circulation system.
  - H. Ensure that service demands of new development will not exceed the capacities of existing streets, utilities, or public services.
  - I. Conserve and enhance the City's architectural and cultural resources.
  - J. Conserve and enhance key visual features of San Leandro's setting, including the hillsides and bay front, consistent with the General Plan.
  - K. Improve the design and aesthetic quality of new and existing development.
  - L. Provide for the elimination, over time, of land uses and structures that are inconsistent with the policies of the General Plan and adversely affect other property or uses. (Ord. 2001-015 § 1)

# Chapter 1.08 Organization, Applicability, and Interpretation

## Sections:

- 1.08.100 Organization**
- 1.08.104 General Rules for Applicability of Zoning Code**
- 1.08.108 Applicability of Land Use and Development Regulations**
- 1.08.112 Rules for Interpretation: Record-keeping**
- 1.08.116 Effect of this Code on Approved Projects and Projects in Process**

## 1.08.100 Organization

- A. Structure of Regulations. The zoning regulations are divided into six parts:

- Title 1: General Provisions
- Title 2: Base District Regulations
- Title 3: Overlay District Regulations
- Title 4: Regulations Applying in All or Several Districts
- Title 5: Administrative Regulations
- Title 6: Affordable Housing Regulations

- B. Types of Regulations. Three types of zoning regulations control the use and development of property:

1. Land Use Regulations specify land uses permitted, conditionally permitted, or prohibited in each zoning district, and include special requirements, if any, applicable to specific uses. Land use regulations for base zoning districts are in Title 2 of the zoning regulations; land use regulations for overlay districts are in Title 3. Certain regulations, applicable in all or several districts, are in Title 4.
2. Development Regulations control the height, bulk, location, and appearance of structures and development sites. Development regulations for base zoning districts are in Title 2 of the zoning regulations; development regulations for overlay districts are in Title 3. Certain development regulations, applicable in more than one class of base or overlay districts, are in Title 4. These include regulations for site development, parking and loading, signs, and nonconforming uses and structures.
3. Administrative Regulations contain detailed procedures for the administration of zoning regulations, including requirements for zoning permits; notice and public hearings on use permits and variances; site plan review; development agreements; amendments; appeals of zoning decisions; and enforcement. Administrative regulations are in Title 5. (Ord. 2001-015 § 1)

## 1.08.104 General Rules for Applicability of Zoning Code

- A. Applicability to Property. The Zoning Code shall apply to all land within the City of San Leandro and to state or federal agencies, to the extent applicable by law. Application of regulations to specific lots shall be governed by the zoning map.
- B. Applicability to Streets and Rights-of-Way. Public streets, utility, and other rights-of-way shall be in the same zoning district as contiguous property. Where contiguous properties are classified in different zoning districts, the centerline of the street or right-of-way shall be the district boundary, unless otherwise depicted on the zoning map.
- C. Compliance with Code. No land shall be used and no structure shall be constructed, occupied, enlarged, altered, demolished or moved in any zoning district, except in accord with the provisions of this Code.
- D. Public Nuisance. Neither the provisions of this Code nor the approval of any permit authorized by this Code shall authorize the maintenance of any public nuisance.
- E. Compliance with Public Notice Requirements. Compliance with public notice requirements prescribed by this Code shall be deemed sufficient notice to allow the City to proceed with a public hearing and take action on an application, regardless of actual receipt of mailed or delivered notice.
- F. Requests for Notice. Where this Code requires that notice be given by first class mail to “any person who has filed a written request for such notice,” the request shall be filed with the Zoning Enforcement Official and shall be subject to any applicable fees set to cover mailing costs.
- G. Conflict with Other Regulations. Where conflict occurs between the provisions of this Code and any other City code, title, chapter, resolution, guideline, or regulation, the more restrictive provision shall control unless otherwise specified in this Code.
- H. Relation to Previously Approved Planned Developments. All Planned Developments approved under a prior zoning ordinance shall be considered legal uses and legal structures, provided that they conform to all applicable conditions of approval.
- I. Relation to Private Agreements. This Code shall not interfere with or annul any easement, covenant, or other agreement now in effect, provided that where this Code imposes greater restriction than imposed by an easement, covenant, or agreement, this Code shall control.
- J. Relation to Prior Code. The provisions of this Code supersede all prior zoning codes, as amended, of the City of San Leandro, except that no provision of this Code shall validate or legalize any land use or structure established, constructed, or maintained in violation of the prior zoning code, as amended, unless specifically authorized by this Code.

- K. Application During Local Emergency. The San Leandro City Council, under the provisions of Title 3, Chapter 3-4 (Disaster Regulations) of the Municipal Code, may authorize deviations from any provision of this Code during a local emergency. Any deviations so authorized shall be by resolution of the Council, without notice or public hearing, pursuant to Title 3, Chapter 3-4.
- L. Severability. If any section, subsection, sentence, or phrase of this Code is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining portions of this Code shall not be affected. It is expressly declared that this Code and each section, subsection, sentence, and phrase would have been adopted regardless of the fact that one or more other portions of this Code would be declared invalid or unconstitutional. (Ord. 2001-015 § 1)

**1.08.108 Applicability of Land Use and Development Regulations**

- A. Zoning Designation System. Land use and development regulations applicable to specific sites shall be shown on the zoning map by zoning district designations consisting of classes of letter designators:
  1. A land use regulations designator, indicating the principal land uses permitted or conditionally permitted in each zoning district, shall be a component of all zoning designations.
  2. A density designator, indicating the density range, shall be shown for all multiple residential districts.
  3. Overlay district designators shall be included in a zoning designation if the provisions of one or more overlay districts are applicable to a site.
- B. Establishment of Base Zoning Districts. Base zoning districts into which the City is divided are established as follows:

<b>Base District Designator</b>	<b>Base District Name</b>	<b>Chapter</b>
RD	Residential Duplex (Two-Family)	2.04
RM	Residential Multi-Family	2.04
RO	Residential Outer	2.04
RS	Residential Single-Family	2.04
CC	Commercial Community	2.08
CN	Commercial Neighborhood	2.08
CR	Commercial Regional	2.08
C-RM	Commercial Regional Mall	2.08
CS	Commercial Services	2.08
DA-1	Downtown Area-1	2.08
DA-2	Downtown Area-2	2.08

Base District Designator	Base District Name	Chapter
DA-3	Downtown Area-3	2.08
DA-4	Downtown Area-4	2.08
DA-6	Downtown Area-6	2.08
NA-1	North Area-1	2.08
NA-2	North Area-2	2.08
P	Professional	2.08
SA-1	South Area-1	2.08
SA-2	South Area-2	2.08
SA-3	South Area-3	2.08
IG	Industrial General	2.12
IL	Industrial Limited	2.12
IP	Industrial Park	2.12
IT	Industrial Transition	2.12
OS	Open Space	2.16
PS	Public and Semipublic	2.20

- C. References to Classes of Base Districts. References to R districts refer to all residential districts; references to C districts refer to all commercial districts; and references to I districts refer to all industrial districts.
- D. Establishment of Overlay Zoning Districts. Overlay zoning districts, one or more of which may be combined with a base district, are established as follows:

Overlay District Designator	Overlay District Name	Chapter
PD	Planned Development	3.04
IS	Interim Study	3.08
CV	Conservation	3.12
S	Special Review	3.16
AU	Assembly Use	3.20
N	Nonconforming Use	3.24
L	Landmark	3.28

(Ord. 2008-003 § 1; Ord. 2001-015 § 1)

### 1.08.112 Rules for Interpretation: Record-keeping

- A. Zoning Regulations. Where uncertainty exists regarding the interpretation of any provision of this Code or its application to a specific site, the Zoning Enforcement Official shall determine the intent of the provision.
- B. Zoning Map. Where uncertainty exists regarding the boundary of a zoning district the following rules shall apply:

1. District boundaries shown as approximately following the property line of a lot shall be construed to follow such property line.
  2. On un-subdivided land, or where a district boundary divides a lot, the location of the district boundary shall be determined by using the scale appearing on the zoning map, unless the boundary location is indicated by dimensions printed on the map.
  3. District boundaries shown as approximately following right-of-way lines of freeways, streets, alleys, railroads, or other identifiable boundary lines shall be construed to follow such right-of-way or boundary lines.
  4. District boundaries shown as lying within right-of-way lines of freeways, streets, alleys, railroads, or other identifiable boundary lines shall be construed to follow the centerline of such right-of-way or boundary lines.
  5. Should any uncertainty remain as to the location of a district boundary or other feature shown on the zoning map, the location shall be determined by the Zoning Enforcement Official.
- C. Record of Interpretation. The Zoning Enforcement Official shall keep a record of interpretations made pursuant to this section, which shall be available to the public for review.
- D. Appeals. An interpretation of the zoning regulations or zoning map by the Zoning Enforcement Official may be appealed to either the Board of Zoning Adjustments, or the Planning Commission, whichever is most appropriate, as provided in Chapter 5.20 Appeals. (Ord. 2001-015 § 1)

#### **1.08.116 Effect of this Code on Approved Projects and Projects in Process**

##### **A. Approved Projects**

1. No provision of this Code shall require any change in the plans, construction, or designated use of any structure for which a building permit has been issued prior to the effective date of this Code or any subsequent amendment.
2. Use permits, Planned Developments, and other discretionary approvals, any of which are valid on the effective date of this Code, shall remain valid until their expiration date. These projects can be built in accord with the conditions of approval in effect at the time of approval, provided that the approval is valid at the time building permits are issued and that such a permit is subject to any time limits imposed pursuant to the Uniform Building Code, adopted by the City. Unless otherwise expressly established in a use permit, variance, Planned Development or

other discretionary zoning approval, the use permit, variance, Planned Development or other discretionary approval shall lapse one year after the effective date of this Code unless, by that date:

- a. A complete application for a building permit has been accepted; or
  - b. A certificate of occupancy has been issued; or
  - c. The use is established; or
  - d. An extension of time has been duly approved by the City.
3. Any reapplication for an expired permit must meet the standards in effect at the time of reapplication.
  4. Any modification of a valid permit issued prior to the effective date of this Code that results in a change in use that affects more than 10 percent of the floor area or an increase in square footage by more than 10 percent of the floor area shall be approved only as a conditional use under the provisions of Chapter 5.08 Use Permits, Variances, and Parking Exceptions. In no case may an increase in excess of 2,500 square feet be allowed.
- B. Projects in Process. Projects for which no approval or permit has been granted prior to the effective date of this Code shall be subject to the land-use regulations, development standards, and other requirements of this Code.



## Chapter 1.12 Definitions

### Sections:

- 1.12.100 Purpose and Applicability**
- 1.12.104 Rules for Construction of Language**
- 1.12.108 Definitions**
- 1.12.112 Responsibilities**

### **1.12.100 Purpose and Applicability**

The purpose of this chapter is to ensure precision in interpretation of the zoning regulations. The meaning and construction of words and phrases defined in this chapter shall apply throughout the zoning regulations, except where the context clearly indicates a different meaning or construction. (Ord. 2001-015 § 1)

### **1.12.104 Rules for Construction of Language**

In addition to the general provisions of the Municipal Code, the following rules of construction shall apply:

- A. The particular shall control the general.
- B. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
  - 1. “And” indicates that all connected words or provisions shall apply.
  - 2. “Or” indicates that the connected words or provisions may apply singly or in any combination.
  - 3. “Either... or” indicates that the connected words or provisions shall apply singly, but not in combination.
- C. In case of conflict between the text and a diagram, the text shall control.
- D. All references to departments, commissions, boards, or other public agencies are to those of the City of San Leandro, unless otherwise indicated.
- E. All references to public officials are to those of the City of San Leandro, and include designated deputies of such officials, unless otherwise indicated.
- F. All references to days are to calendar days unless otherwise indicated. If a deadline falls on a weekend or holiday, it shall be extended to the next working day.

- G. Chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of any section hereof.
- H. Unless the context clearly indicates the contrary:
1. The present tense includes the future, and the future the present.
  2. The singular number includes the plural, and the plural the singular.
  3. References in the masculine and feminine genders are interchangeable.
  4. The words “activities” and “facilities” include any part thereof. (Ord. 2001-015 § 1)

### **1.12.108 Definitions**

**Abate.** To bring into conformity with the provisions of this Code, either by reconstruction or modification pursuant to a valid permit, or by removal or obliteration as directed by the Chief Building Official or Zoning Enforcement Official.

**Abutting or Adjoining.** Having district boundaries or lot lines in common.

**Accessory Dwelling Unit (ADU).** An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. An ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An ADU also includes: (a) an efficiency unit, or a (b) a manufactured home, as defined in Section 18007 and 17958.1 of the California Health and Safety Code. See also Section 2.04.388 Accessory Dwelling Units (ADUs).

- A. **Accessory Dwelling Unit, Repurposed (Single-Family).** An attached or detached ADU within an existing legally established (a) single-family dwelling, or (b) existing accessory structure on a parcel with an existing or proposed single-family dwelling.
- B. **Accessory Dwelling Unit, Repurposed (Two-Family or Multi-Family).** An attached ADU within existing non-habitable space(s) including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or attached garages in an existing legally established two-family or multi-family structure.
- C. **Junior Accessory Dwelling Unit (JADU).** A unit that is contained within the habitable floor area of a single-family residence and includes a separate exterior entrance. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure. At minimum, a JADU shall include an efficiency kitchen, which shall include a food preparation counter, refrigerator, and storage cabinets.

**Accessory Uses and Structures.** Uses and structures that are subordinate, incidental, and related to the principal permitted or conditionally permitted use or structure on the same lot

and are customarily found on the same site. This classification includes, for example, home occupations, and caretaker's quarters as defined in this Code.

**Acre, Gross.** A measure of land area prior to division or dedication for streets, public improvements, or other purposes.

**Acre, Net.** A measure of developable land area, after excluding existing dedicated rights-of-way and flood control and drainage easements.

**Activity.** The performance of a function or operation.

**Activity Type.** A type of activity which is specially described as such by the use classifications in various sections of the Code on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout the zoning regulations by a special name each word of which starts with a capital letter.

**Administrative Review.** An administrative use permit approval that is granted by the Zoning Enforcement Official, if it meets certain criteria and that does not require a public hearing.

**Adult-Oriented Business.** "Adult-Oriented Business" means any of the following:

- A. **Adult Arcade.** An establishment where, for any form of consideration, one or more still or motion picture projectors or similar machines, for viewing by five or fewer persons each, are used to show films, computer-generated images, motion pictures, video cassettes, slides, or other photographic reproductions, a substantial portion of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- B. **Adult Bookstore.** An establishment that has a substantial portion of its stock in books, magazines, periodicals, or other printed matter or of photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas. Items sold over the Internet are included for the purposes of determining a substantial portion.
- C. **Adult Cabaret.** A nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear semi-nude; and/or (3) shows films, computer-generated images, motion pictures, video cassettes, slides, or other photographic reproductions, a substantial portion of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

- D. **Adult Hotel/Motel.** A hotel, motel or similar commercial establishment which:
1. Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmission, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
  2. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
  3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.
- E. **Adult Motion Picture Theater.** A business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, a substantial portion of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- F. **Adult Theater.** A theater, concert hall, auditorium, or similar establishment which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis upon the depiction or description of specified anatomical areas or specified sexual activities.
- G. **Modeling Studio.** A business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display “specified anatomical areas” to be observed, sketched, photographed, painted, sculpted, or otherwise depicted by persons paying such consideration. “Modeling studio” does not include schools maintained pursuant to standards set by the State Board of Education. “Modeling studio” further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available “specified sexual activities.”

**Air Cargo Processing Centers.** See “Parcel Processing and Shipping Centers” and “Truck Terminals.”

**Airport Safety Zone.** A planning boundary near the ends of airport runways, adopted by the Alameda County Airport Land Use Commission (ALUC) within which land uses are limited in density, building height and type due to accident potential.

**Alley.** A public way having a width of not more than 20 feet permanently reserved primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

**Alter.** To make a change in the exterior appearance or the supporting members of a structure, such as bearing walls, columns, beams, or girders, that will prolong the life of the structure.

**Ambulance Services, Emergency.** Provision of emergency medical care or transportation for critically injured or ill patients, including incidental storage and maintenance of vehicles and residential quarters for employees.

**Ambulance Services, Non-Emergency.** Provisions of non-emergency ambulance services to transport residents home from the hospital or to meet routine medical needs, including incidental storage and maintenance of vehicles. Siren use is not practiced.

**Amendment.** A change in the wording, context or substance of this chapter, or a change in the district boundaries on the zoning map.

**Animal, Domestic.** Small animals of the type generally accepted as pets, including dogs, cats, rabbits, birds, fish and the like, but not including roosters, ducks, geese, pea fowl, goats, sheep, hogs or the like.

**Animal, Exotic.** Any wild animal not customarily confined or cultivated by man for domestic or commercial purposes but kept as a pet or for display.

**Animal, Large.** An animal larger than the largest breed of dogs. This term includes horses, cows, and other mammals customarily kept in corrals or stables.

**Animal Boarding.** Provision of shelter and care for small animals on a commercial basis. This classification includes activities such as feeding, exercising, training, grooming, and incidental medical care.

**Animal Grooming.** Provision of bathing and trimming services for small animals on a commercial basis. This classification includes boarding of domestic animals for a maximum period of 48 hours.

**Animal Hospitals.** Establishments where small animals receive medical and surgical treatment. This classification includes only facilities that are entirely enclosed, soundproofed, and air-conditioned. Grooming and temporary (30 days) boarding of animals is included if incidental to the hospital use.

**Animal Sales.** Retail sales and boarding of small animals, provided such activities take place entirely within an enclosed building. This classification includes grooming if incidental to the retail use, and boarding for a maximum period of 48 hours of animals not offered for sale.

**Animal Shows.** Exhibitions of domestic or large animals for a maximum of seven days.

**Animal, Small.** An animal no larger than the largest breed of dogs. This term includes fish, birds, and mammals customarily kept in kennels or within a dwelling unit.

**Antenna.** Any system of wires, poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency waves including, but not limited to, wireless telecommunications facilities used for transmitting or receiving television, radio, citizen's band or cellular phone communication. (See also "Wireless Telecommunications Facility.")

**Apartment Building.** A multi-family rental housing complex in which individual residential units are rented or leased rather than owned separately.

**Arcade.** See "Game Centers."

**Area, Lot, Parcel, or Site.** The horizontal area within the property lines excluding public-access corridors, public vehicular easements, and areas to be included in future street rights-of-way as established by easement, dedication, or ordinance.

**Artists' Studios.** Work space for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft, but not including residential use.

**Assembly Uses (AU).** Meeting, recreational, social facilities of a private or non-profit organization primarily for use by member or guests, or facilities for religious worship and incidental religious education (but not including schools as defined in this section). This classification includes union halls, social clubs, fraternal organizations, and youth centers.

**Assembly Uses, Temporary.** Meeting, recreational, social facilities of a private or non-profit organization primarily for use by member or guests, or facilities for religious worship and incidental religious education (but not including schools as defined in this section) on a site that is not permanently occupied by an assembly use, for a period of not more than 30 days.

**Attached.** For purposes of determining the requirement for minimum separation between structures, any two structures shall be considered attached and not required to maintain a minimum separation if they are connected by a continuous roofline which conforms to the architectural style of the structures.

**Attached Structure.** A structure joined by a common wall or floor/ceiling assembly to another structure with a door or stairs providing interior access from the one to the other.

**Attic.** For planning and zoning purposes, an attic is the space between the underside of the roof framing (rafters or beams that directly support the roof sheathing) and the upperside of the ceiling framing. Attics are not considered a story. All areas greater than or equal to seven feet in height shall count as area for FAR calculations.

**Automatic Teller Machine.** Automatic banking terminals directly accessible to the public outside of an enclosed building.

**Automobile Parts Sales.** The retail sale of new automotive parts and accessories (excluding service and installation).

**Automobile Rentals.** See “Vehicle/Heavy Equipment Rental.”

**Automobile Washing, Attended.** A place for washing trucks or automobiles that has an attendant on-site while open to the public.

**Automobile Washing, Unattended.** A place for washing trucks or automobiles that has machinery designed to do the washing without allowing access to the bay during the process.

**Awning.** A temporary shelter supported entirely from the exterior wall of a building and composed of rigid material or non-rigid material with a supporting framework.

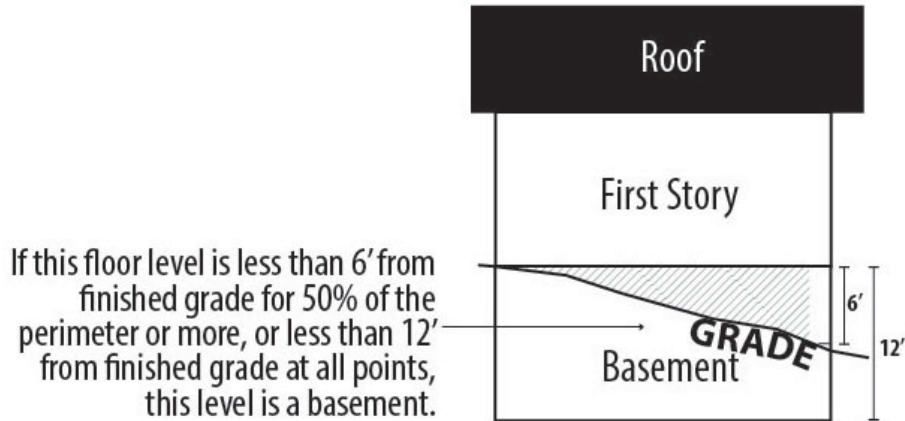
**Balcony.** A platform that projects from the wall of a building, typically above the first level, and is surrounded by a rail balustrade or parapet.

**Banks.** See “Financial Institutions, Retail.”

**Barbed Wire.** See “Razor/Barbed Wire.”

**Bars.** Establishments that provide on-site alcoholic beverage sales for drinking on the premises and do not admit persons under the age of 21. This classification includes businesses with Alcoholic Beverage Control (ABC) licenses of 40, 42, 48, 49 or 61.

**Basement.** For zoning purposes, a basement is the space below the bottom of the floor framing (joists or girders that directly support the floor sheathing) and the basement floor. To qualify as a basement, no more than 50 percent of the perimeter exterior wall may exceed six feet above the exterior grade and no portion may exceed 12 feet above the exterior grade at any point. If any part of a basement is seven feet six inches or higher, then all areas greater than five feet zero inches in height shall count as area for FAR calculations. Basements are not considered as a story (also refer to definition of “Story, First”).



### Basement

(The diagram is illustrative)

**Bedroom.** A room used for sleeping, living, or dining purposes, excluding enclosed places (e.g., closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces).

**Bed and Breakfast Inns.** Establishments with no more than six guest rooms, offering lodging on a short-term rental not to exceed 30 days, typically in a converted single-family or multi-family dwelling, with incidental eating and drinking service for lodgers only provided from a single kitchen and which have a resident manager or owner.

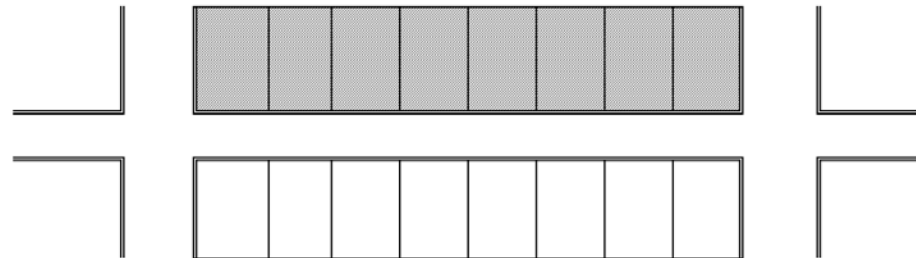
**Beer and Wine Stores.** A retail store principally involved in the business of selling alcoholic beverages, excluding sales of “hard liquor,” “fortified wine,” or distilled spirits for consumption off the premises where sold. Stores shall be managed by a certified wine expert (sommelier or oenologist) or a certified beer expert (cicerone). This classification includes beer- or wine-only shops or facilities that are covered by a State license for “beer and wine” (Class 20 ABC license). This classification includes beer or wine tasting as an accessory use only, but does not allow for the establishment of a bar. This classification allows for accessory food sales, but does not include retail sales of food and other items as defined as a convenience store in this Code.

**Billiard Parlors.** A business establishment where one or more billiard, pool, or snooker tables or combination thereof, are maintained for hire, including, but not limited to, a “family billiard parlor” as defined in the San Leandro Municipal Code Section 4-21-100.



**Bingo Parlors.** A business or non-profit establishment where bingo is played. Bingo means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conforms to numbers or symbols selected at random.

**Blockface.** The properties abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, un-subdivided land, watercourse, city boundary, or other similar substantial boundary. Please refer to the Blockface illustration below.



**BLOCKFACE**  
(This diagram is illustrative)

**Boarding House.** A building with not more than four guest rooms where lodging and meals are provided for not more than 10 persons, but shall not include rest homes or convalescent homes. Guest rooms numbering five or over shall be considered a hotel. This definition includes rooming houses and lodging houses.

**Brewpub.** A public-house (pub) or restaurant that includes an on-site tasting room producing a limited amount of beer for consumption on the premises. Additionally, the sale of beer for consumption off the premises is also allowed.

**Building.** Any structure used or intended for supporting or sheltering any use or occupancy.

**Building Materials and Services.** Retailing, wholesaling, or rental of building supplies or equipment. This classification includes lumber yards, tool and equipment sales or rental establishments, plumbing supply businesses, and building contractors' yards, but excludes establishments devoted exclusively to retail sales of paint, hardware, wall coverings, furniture, decorations, electronics, appliances, and home improvement sales, and activities classified under Vehicle/Equipment Repair and Sales classifications, including vehicle towing services.

**Business and Trade Schools.** Schools providing specialized instructional services in the business and trade fields, including university and college extension programs.

**Business Services.** Establishments providing support services to professional offices and industry, typically limited to graphic arts, graphic reproduction and delivery services, and including such services as drafting, typesetting, printing, copying and duplicating, and mail

receipt, but excluding parcel processing centers and professional services, such as accounting and personnel management.

**Cafés.** Retail uses that primarily provide beverages and/or desserts for either on- or off-site consumption, including, but not limited to, coffee and tea-houses, juice bars, donut shops and ice cream/frozen yogurt parlors.

**Cannabis.** All parts of the plant *Cannabis sativa* L., also referred to as marijuana, whether growing or not, as defined by California Health and Safety Code Section 11018, as amended from time to time. This includes “cannabis” as: the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant incapable of germination.

**Cannabis Dispensary.** A collective, or cooperative, or other non-profit or for profit entity qualified or permitted to do business in the State of California and the City of San Leandro that distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away cannabis (“marijuana”). Baked products (i.e., brownies, bars, cookies, cakes), tinctures and other non-refrigerated type items are acceptable for manufacture and sale at a dispensary.

**Canopy.** A permanent roof-like shelter extending from part or all of a building face and constructed of some durable material, which may or may not project over a public right-of-way.

**Card Room.** A space, room or enclosure, furnished or equipped with one or more tables used for the playing of cards or similar games, the use of which is available to the public or any portion of the public.

**Caretaker’s Quarters.** A dwelling unit on the site of, and accessory to, a commercial, industrial, public, or semipublic use, occupied by a guard or caretaker.

**Carport.** A permanent roofed structure open on at least two sides, designed for providing covered parking for vehicles.

**Catering Services.** Preparation and delivery of food and beverages for off-site consumption without provision for on-site pickup or consumption. (See also “Restaurants, Full-Service.”)

**Cellar.** See “Basement.”

**Cemeteries.** Establishments where the remains of the dead may be kept indefinitely, whether underground or aboveground. This classification includes mausoleums and columbaria.

**Cessation of Use.** The discontinuance or abandonment of a use, as determined by the Zoning Enforcement Official.

**Check-Cashing Business.** See “Financial Institutions, Check Cashing and Personal Loan Services.”

**Christmas Tree and Pumpkin Sales.** Outdoor retail sales of Christmas trees during the Holiday Season, and pumpkins during the month of October.

**Circuses and Carnivals.** Provision of games, eating and drinking facilities, live entertainment, animal exhibitions, or similar activities in a tent or other temporary structure for a maximum of 30 days. This classification excludes events conducted in a permanent entertainment facility.

**City.** The City of San Leandro.

**Coin-Operated Laundry and Coin-Operated Dry Cleaning Businesses.** Any dry cleaning or laundry establishment that provides self-service machines or is not attended.

**Collection Facility.** A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public.

- A. **Small Collection Facility.** Occupy less than 500 square feet and may include:
  - 1. Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet;
  - 2. Kiosk-type units that may include permanent structures; or
  - 3. Unattended containers placed for the donation of recyclable materials.
- B. **Large Collection Facility.** Occupy more than 500 square feet and may include permanent structures as well as mobile units, bulk reverse vending machines, kiosk-type units.

**Commercial Filming.** Commercial motion picture or video photography.

**Commercial Parking Facility.** Lots offering short-term or long-term parking to the public for a fee.

**Commercial Recreation.** Provision of participant or spectator recreation or entertainment. This classification includes amusement parks, bowling alleys and ice/roller skating rinks with spectator stands, golf courses, miniature golf courses, children’s indoor playgrounds, and scale-model courses.

**Communications Facilities.** Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding Utilities (Major) and Telecommunications antennas and towers as defined in this Code, [Section 4.04.376 Wireless Telecommunications Facilities as per Ordinance No. 98-009]. This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices.

**Community Apartment.** A dwelling unit as defined in Civil Code Section 1351 or successor section.

**Community Gardens.** A site that occupies less than one acre for non-commercial raising for family or community use of vegetables, berries, trees, fruits, vines, flowers, ornamental trees or shrubs. Crops from community gardens are limited to personal or group consumption, or for donation, only. Community garden uses may include communally-managed gardens. Community gardens may be the principal or accessory use. Community gardens may not grow cannabis or any other federally-controlled substances. Such use may not keep bees or any other animals unless allowed by Chapter 4-11 of the San Leandro Municipal Code.

**Concertina Wire.** See “Razor/Barbed Wire.”

**Conditional Use Permit.** A use that may locate in certain zoning districts provided it will not be detrimental to the public health, safety, and welfare and will not impair the integrity and character of the zoned district. The Board of Zoning Adjustments either approves subject to conditions or denies such uses. Each application is considered on its individual merits.

**Conditionally Permitted.** Permitted subject to approval of a conditional use permit or temporary conditional use permit.

**Condominium.** A dwelling unit as defined in Section 1350 of the Civil Code of the State of California or successor section. An estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on the real property, such as an apartment, office, or store. A condominium may include, in addition, a separate interest in other portions of the real property.

**Condominium Conversion.** The creation of separate ownership of existing real property together with a separate interest in space of residential, industrial, or commercial buildings.

**Conforming Building.** A building that conforms to all property-development regulations and requirements prescribed for the district in which it is located, except as otherwise provided in this Code.

**Consignment.** A retail establishment that accepts merchandise and related items, such as clothing and accessories, or home furnishings and household goods on a consignment basis, paying the owners of the merchandise a percentage when and if the items are sold. Related items means a clothing store that also sells accessories, such as belts and shoes or a home furnishings store that also sells home décor, and does not include donated items, drop-off bins or outdoor storage or sales.

**Convalescent Facilities.** Establishments providing care on a 24 hour basis for persons requiring regular medical attention, including the aged, ambulatory or nonambulatory persons, the mentally ill and the addicted, but excludes general hospitals and facilities providing surgical or emergency medical services. This classification includes skilled nursing facilities and nursing homes and means only those services and facilities licensed by the State of California.

**Convenience Stores.** Retail sales of food, beverage and small convenience items primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a building with a floor area less than 10,000 square feet. This classification excludes tobacco stores, liquor stores, delicatessens, confectioneries, and specialty food markets, or grocery stores having a sizeable assortment of fresh fruits and vegetables, and fresh-cut meat, fish or poultry. Also see “Tobacconist/Cigarette Store,” “Liquor Store,” “Beer and Wine Store,” and “Neighborhood/Specialty Food Markets.”

**Corner Lot.** See “Lot, Corner.”

**Corporation Yards.** Facilities providing maintenance and repair services for vehicles and equipment, and materials storage areas. This classification includes equipment maintenance and service centers and similar facilities.

**Cottage Food Operation.** A home-based food enterprise that is operated by a resident, and that has not more than one full-time equivalent cottage food employee, not including an immediate family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct and/or indirect sale to consumers. The term “cottage food operation” shall have the same meaning as provided in the California Health and Safety Code, as that section may be amended. Cottage food operations are regulated under Section 2.04.228 Cottage Food Operations of the San Leandro Zoning Code.

**Court.** A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

**Coverage, Lot or Site.** In calculating the percentage of lot coverage for the purpose of applying the regulations of this Zoning Code, the features of a structure as hereafter set forth shall not be included as coverage:

- A. Cornices, canopies, eaves or other projections which do not increase the volume of space enclosed by the building provided that any portion of such projections extending more than two feet from the building shall be included as coverage;
- B. Fire escapes up to three and one-half (3 1/2) feet;
- C. An uncovered stair and landing which does not extend above a ground floor entrance except for the railing; or
- D. Bay windows, balconies or chimneys which project from the wall not more than two feet; provided, that, such features do not in the aggregate occupy more than one-third of the length of a wall which faces an interior side lot line, or more than two-thirds of the length of a wall which faces a street or a rear lot line.

**Covered Porch.** A roofed structure that is open on at least two sides, including the covered, unenclosed portion over porches, entryways, balconies, decks, terraces and patios. A trellis or arbor does not count as a covered porch.

**Credit Union.** See “Financial Institutions, Retail.”

**Cross-Dock.** An industrial shipping facility with truck loading docks and/or doors located on opposing sides of an enclosed or unenclosed platform. Shallow depth cross-docks (such as those with less than 75 feet between the opposing docks and/or doors, and with minimal area for storage) are typically associated with the “Truck Terminals” use classification.

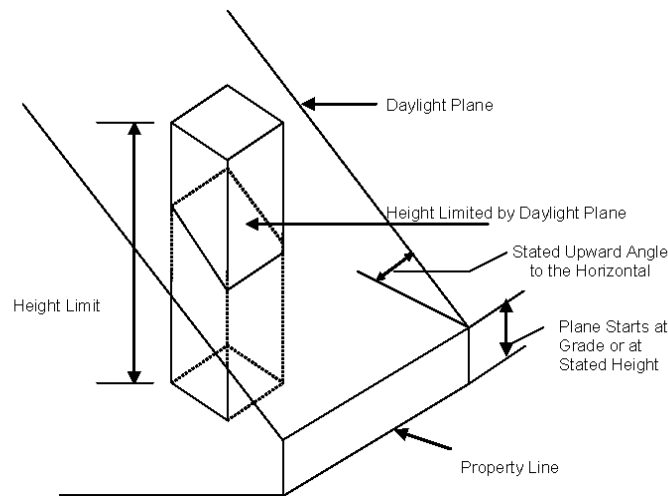
**Cultural Institutions.** Non-profit institutions displaying or preserving objects of interest in one or more of the arts or sciences. This classification includes libraries, museums, and art galleries.

**Dance Clubs.** Any establishment where the primary use is dance and where persons pay admission to dance except where admission charges are to be used for charitable, educational, religious, or social groups which do not include the distribution of profits to the sponsors or members thereof.

**Day Care, Child or Adult.** A State-licensed facility that provides care for adult clients or minor children for periods of less than 24 hours per day for any client. These facilities include the following, all of which are classified and required to be licensed by the California State Department of Social Services. This does not include employer-run day care services that are provided as an accessory use to an established business. For San Leandro zoning purposes, the categories are defined as follows:

- A. **Day Care, General.** As defined by California Health and Safety Code, any child or adult day care facility other than a family day care, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.
- B. **Day Care, Family Home.** A day care facility in a single residence where an occupant of the residence provides family day care for up to 14 clients, inclusive, including adult clients and children under the age of 10 years who reside in the home.

**Daylight Plane.** An inclined plane, beginning at grade or a stated height above grade at a side or rear property line, and extending into the site at a stated upward angle to the horizontal, which may limit the height or horizontal extent of structures at any specific point on the site where the daylight plane is more restrictive than the height limit applicable at such point on the site. Please refer to the Daylight Plane illustration below.



**DAYLIGHT PLANE**  
(This diagram is illustrative)

**Deck.** A platform, either freestanding or attached to a building that is supported by pillars or posts (see also, “Balcony”).

**Department Store.** A retail sales use occupying at least sixty thousand (60,000) square feet of gross leasable area, that is operated subject to the overall management of a single entity or appears as such to the general public, and that sells a range of goods and services including men’s and women’s clothing, clothing accessories, and house wares and home furnishings. Department stores may also sell or provide a range of other goods or services such as appliances, electronic items, toys, giftware, specialty foods, financial or insurance services, travel services, coffee shops, etc., typically included or frequently found in businesses identified in the United States, as “department stores.”

**Depth.** See “Lot Depth.”

**Detention Facilities.** Publicly owned and operated facilities providing housing, care, and supervision for persons confined by law.

**Distinguished or Characterized by an Emphasis upon.** The dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon” the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Corvina, 115 Cal.App.3d 151 (1981).

**Distribution Line.** An electric power line bringing power from a distribution substation to consumers.

**District.** A portion of the City within which the use of land and structures and the location, height, and bulk of structures are governed by this Code.

**Domestic Violence Safe House.** A single housekeeping unit that exclusively houses survivors of domestic abuse and, if applicable, their children. The adult house members are to be within a program that counteracts the impacts of domestic violence and may receive Federal, State or City funding. House members agree to a program that maintains strict confidentiality of the safe houses’ location, with unpublished phone and address numbers, a prohibition on mail deliveries, and limitations or prohibition of visits from friends or family.

**Drive-up Facility.** Service of food, goods or services from a building to persons in vehicles.

**Drugstore.** Establishments which have the primary use devoted to the sale of miscellaneous household items, including hair products, various toiletries, food items, housekeeping supplies, stationery supplies, etc., and which include the sale of prescription and non-prescription drugs as an accessory use.

**Dwelling, Duplex.** See “Two-Family Residential.”

**Dwelling, Multi-Family.** A building containing three or more dwelling units.

**Dwelling, Single-Family.** A building containing one dwelling unit.

**Dwelling Unit.** One room, or a series of rooms that provides not more than one kitchen and one or more bathrooms, and is intended for occupancy by a single housekeeping unit. An individual dwelling unit is characterized by a single main pedestrian entry, with all other points of entry being visually subordinate, and an interior stairway provided between all stories.



**Electronic Cigarette-Related Products.** Any electronic device that can provide an inhalable dose of nicotine by delivering a vaporized solution, as defined by California Revenue and Tax Code Section 30121(b), or any electronic device designed to vaporize a liquid solution that releases flavored vapor and the use or inhalation of such device simulates smoking. This definition shall include any substance containing nicotine or a flavored liquid solution for vaporization through an electronic cigarette, including any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

**Emergency Health Care.** Facilities providing emergency medical service with no provision for continuing care on an inpatient basis.

**Emergency Shelters.** Facility limited to 25 beds and subject to the following requirements: the facility has an adopted management plan that includes hours and staffing; the facility provides sufficient waiting room, parking and loading facilities; and that 24-hour male and female toilets, showers and private lockers are provided.

**Entertainment Events.** Regulations pertaining to entertainment events, defined as a use classification by this Code, apply to the following events where they occur on a scheduled basis more than six days during a calendar year on the site of any permitted or conditionally permitted use, excluding events for the non-profit, charitable or educational purposes of public or private institutional uses. Entertainment events are further defined as events advertised as a stand-alone event with a set start or end time, or where separate admission is charged.

- A. A musical, theatrical, wrestling, cabaret, or comedy act performed by one or more persons, regardless of whether performers are compensated;
- B. A fashion show, except when conducted within an enclosed building used primarily for the manufacture or sale of clothing;
- C. Televised events.

**Equipment Sales.** The sale of large products for commercial and industrial use, e.g. X-ray machines, photocopy machines, etc.

**Establishment of an Adult-Oriented Business.** As used herein, to establish an adult-oriented business shall mean and include any of the following:

- A. The opening or commencement of any adult-oriented business as a new business;

- B. The conversion of an existing business, whether or not an adult-oriented business, to any adult-oriented business defined herein;
- C. The addition of any of the adult-oriented businesses defined herein to any other existing adult-oriented business;
- D. The relocation of any such adult-oriented business; or
- E. The expansion of the floor area of an existing adult-oriented business by 25 percent, or more.

**Family.** A person or a group of persons living together and maintaining a common household.

**Farmers' Market.** The outdoor sale of products, including but not limited to fresh fruits, nuts, vegetables, baked goods, meats and seasonal decorative items such as flowers and Christmas wreaths made from natural materials grown by the vendor, with sales taking place between the consumer and the farmer at tables, booths or similar temporary stands.

**Fast Food Establishments, Large Scale.** Establishments that primarily offer quick, take-out food service, with a menu of items that are either already prepared and held for service, or can be assembled, prepared, fried, or griddled quickly. This classification differs from "Restaurants, Full-Service" in that, generally, orders are not taken at the customer's table; food is served in disposable wrapping or containers with disposable utensils; and limited or no table service is provided. Seating, if provided, typically consists of fixed chairs or benches. This classification excludes coffee and tea-houses, ice cream/frozen yogurt parlors and other food/beverage retailers within the "Cafés" classification. This classification applies to establishments with 2,000 square feet or more in gross floor area, and greater than 1,000 square feet of public dining area. Also see "Fast Food Establishments, Small Scale."

**Fast Food Establishments, Small Scale.** Establishments conforming to the "Fast Food Establishments, Large Scale" classification, but with less than 2,000 square feet in gross floor area, or less than 1,000 square feet of public dining area.

**Fence.** An artificially constructed barrier of any material or combination of materials erected to enclose, separate, or screen areas of land.

**Financial Institutions, Check Cashing and Personal Loan Services.** Businesses whose primary purpose is to provide limited financial services to individuals, such as check cashing, deferred deposit loans and loans on vehicle titles. This includes, but is not limited to, check cashers, payday advance businesses and other businesses regulated by the State of California's Check Casher Permit Program, per the California Civil Code, Section 1789.37. A financial institution, check cashing, or personal loan services use in conjunction

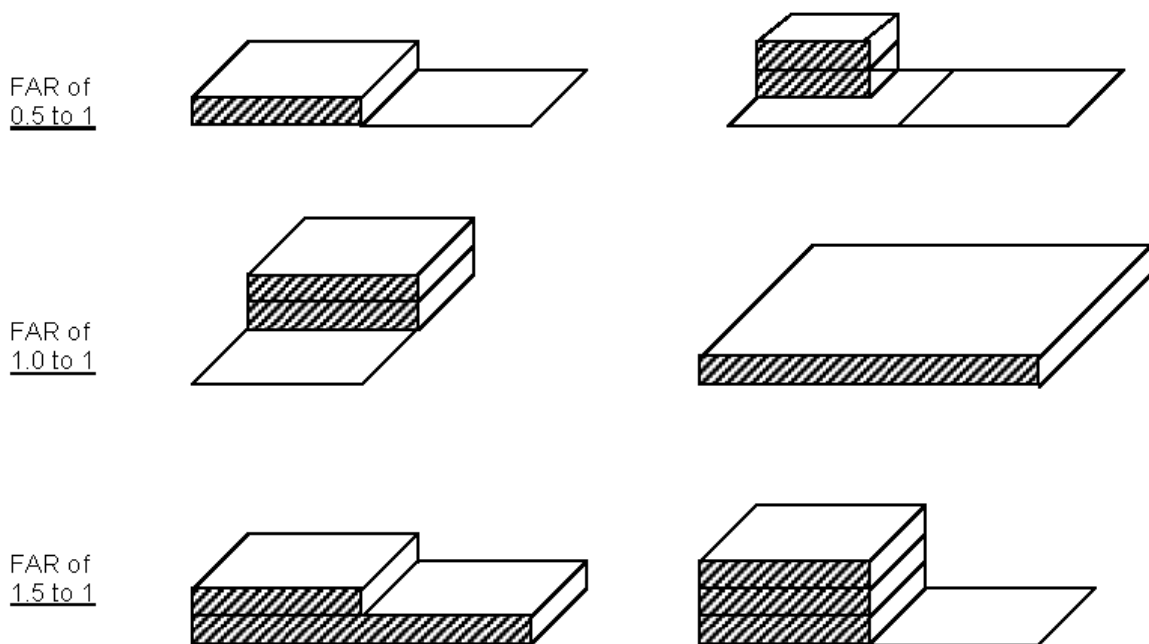
with another use will be considered accessory to the use if said use is not advertised outside the business premises or by signs visible from the outside of the building.

**Financial Institutions, Retail.** Financial institutions that provide retail banking services to individuals and businesses. These institutions include banks, savings and loans, credit unions, security brokers and real property lending institutions. It does not include check cashing or payday advance (see “Financial Institutions, Check Cashing, and Personal Loan Services”).

**First Story.** See “Story, First.”

**Floor Area, Gross.** The total enclosed area of all floors of a building, other than a single-family home in a RO or RS District, measured to the outside face of the structural members in exterior walls, and including halls, stairways, mezzanines, elevator shafts at each floor level, service and mechanical equipment rooms, and basement or attic areas having a height of more than seven feet. For measure of floor area in a single-family home, refer to Section 2.04.404 Residential Site Plan Review—Measure of Floor Area and General Requirements.

**Floor Area Ratio (FAR).** The gross floor area of a building, excluding the area used exclusively for vehicle parking and loading divided by the total lot area of the parcel on which the building is situated. Please refer to the Floor Area Ratio illustration below.



**FLOOR AREA RATIO**  
(The diagram is illustrative)

**Floor Area, Residential.** The measure of floor area in a single-family home in an RO or RS District. Refer to Section 2.04.404 Residential Site Plan Review—Measure of Floor Area and General Requirements.

**Food Processing, General.** Establishments engaged in the manufacturing or processing of food or beverages for consumption and wholesale distribution where the processing of food is primarily from raw materials or involves complex food packaging. This classification includes breweries and establishments where the food processing may involve noxious or unpleasant odors.

**Food Processing, Limited.** Establishments engaged in the manufacturing or processing of food or beverages for consumption and wholesale distribution where the processing of food is primarily from previously prepared foodstuffs or is limited in nature. This classification excludes establishments where the food processing involves noxious or unpleasant odors.

**Footprint.** The ground area covered by a building excluding projections beyond the exterior walls, such as eaves, balconies and bay windows, that do not extend to grade.

**Fortune-Telling Establishment.** Any business establishment where a person purports to predict or influence future events through any magic, mystical, supernatural, occult, psychic, extrasensory, or metaphysical techniques.

**Freight Forwarding Services.** See “Parcel Processing and Shipping Centers” and “Truck Terminals.”

**Frontage.** The linear length of a building or lot facing a public way that contains a public entrance.

**Furniture, Electronic, and Appliance Sales.** Establishments retailing the following goods as their primary business: furniture, electronic equipment, and appliances. This classification excludes retailers who sell furniture, electronics and appliances as a part of a department store or retail sales, big box classification.

**Game Centers.** A commercial establishment, which contains more than four pinball machines, computer games, electronic video games, or any other similar games or devices, for the use of which fees are paid directly into the machines or to an operator regardless of whether the devices constitute the primary use or accessory or incidental use of the premises. This does not include games of chance, Internet sweepstakes, or any gambling activities, which are not permitted in any zoning district in the City.

**Garage, Private.** A building for the private use of the owner or occupant of a principal building with a permanent roof, situated on the same lot as the principal building and designed for the storage of motor vehicles, with no facilities for mechanical service or repair of a commercial or public nature; see also the definition of “Carport.”

**Garage, Storage.** A structure or part thereof used for the storage, parking or servicing of motor vehicles, but not the repair thereof.

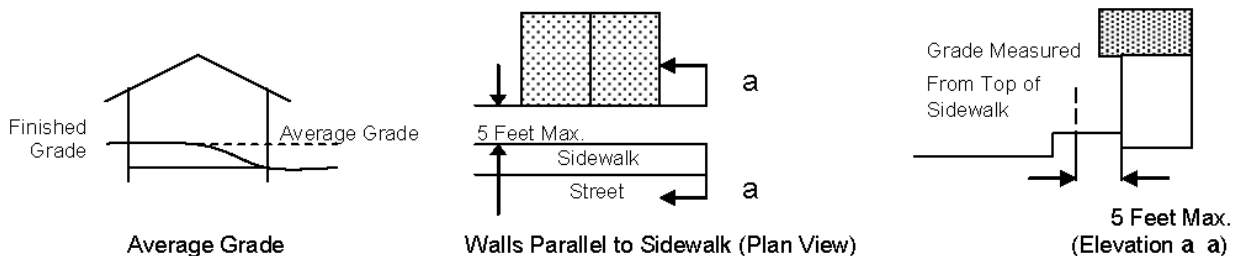
**Garage and Yard Sales.** Sales in an R district of personal property on an occasional basis, not exceeding two (2) times per year and on the premises of the property owner or the premises of a residential property in the immediate vicinity.

**General Plan.** The City of San Leandro General Plan, as amended.

**Government Offices.** Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental parking, storage and maintenance of vehicles.

**Grade, Existing.** The surface of the exterior ground or pavement at a stated location as it exists (i.e. without alteration) prior to disturbance in preparation for a project regulated by this Code.

**Grade, Finished Ground Level.** The lowest point of elevation of finished ground level within the area between a building and the property line or where the property line is more than five feet from the building, between the building and a line five feet from the building. In cases where walls are parallel to and within five feet of a sidewalk, the finished ground level shall be measured at the sidewalk. Please refer to the grade standards illustration below.



**GRADE STANDARDS**  
(The diagram is illustrative)

**Grade, Street.** The top of the curb, or the top of the edge of the pavement or traveled way where no curb exists.

**Group Housing.** Shared living quarters, with a congregate arrangement, where meals are provided in a common dining area, and either no or limited cooking facilities are provided within the individual rooms or units. This classification includes rooming or boarding houses, private residential clubs, congregate and/or assisted care facilities for the elderly or persons with disabilities, and housing for individuals requiring court ordered supervision, but excludes "Residential Hotels," "Hotels, Motels, and Time-Share Facilities," "Convalescent Facilities," and "Residential Congregate Care Facilities" use classifications.

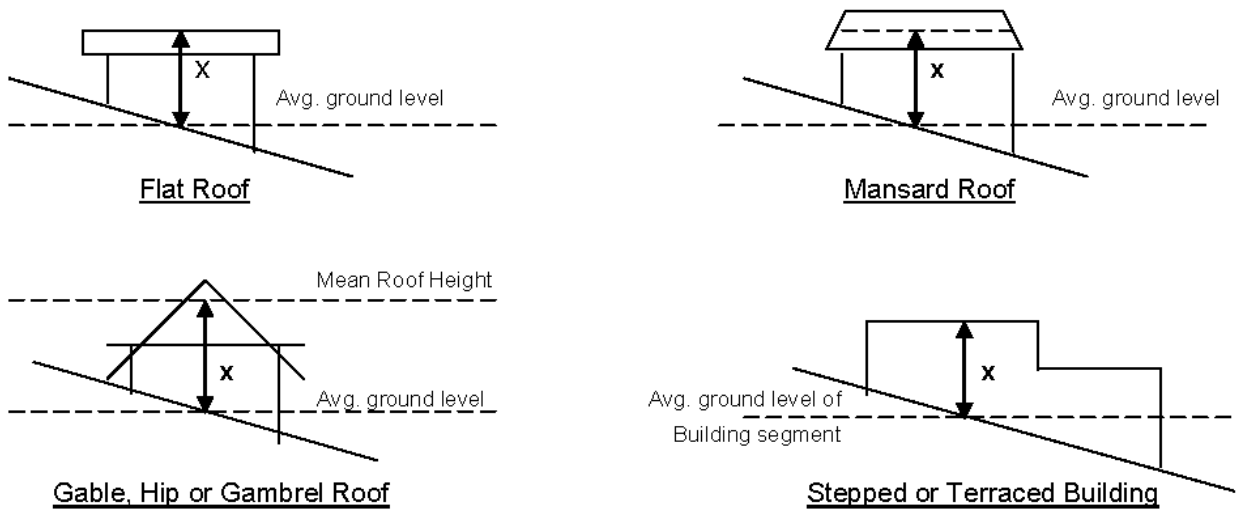
**Gun or Weapon Shop.** A business establishment principally engaged in the business of selling firearms, ammunition or other “deadly weapon” as defined in Part 4, Title 2 of California Penal Code (commencing with Section 12000).

**Hazardous Substances.** Includes all substances on the comprehensive master list of hazardous substances compiled and maintained by the California Department of Health Services pursuant to Section 25282 of the California Health and Safety Code or the California Occupational Safety and Health Agency’s Hazardous Substances List; CCR Title 8, Division 1, Chapter 3.2, Subchapter 1, Article 5, Section 339. See also Section 4.04.212 Hazardous Materials Storage.

**Health and Fitness Centers.** Establishments with equipment for exercise and physical conditioning. This classification includes spas, gyms, tennis clubs, racquet ball clubs, pools, sports courts and fields, climbing walls, skating rinks, batting cages, diet centers, reducing salons, fitness studios, health studios, and massage therapy as an accessory use to another health and fitness center use.

**Hedge.** Any arrangement of plants or trees forming a barrier or erected to enclose or screen areas of land and obstructing the clear view.

**Height.** A vertical dimension measured from finished ground level of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building, unless otherwise specified, to the highest point. Please refer to the Building Height illustration below. (For a definition of “height” in relation to Telecommunications antennas and towers, see Section 4.04.376 Wireless Telecommunications Facilities {as per Ordinance No. 98-009}; and for definition of height restrictions in the RS-VP sub-district, refer to Section 2.04.412 RS-VP Sub-District—Residential Site Plan Review and Exceptions to Height Restrictions).



**BUILDING HEIGHT**  
(The diagram is illustrative)

**Home Improvement and Interior Decoration.** Establishments retailing the following goods: paint, wallpaper, carpeting, tile, floor coverings, plumbing fixtures, lighting fixtures, cabinets, countertops and other kitchen fixtures, window coverings, windows, and doors.

**Home Occupation.** Occupations conducted in a dwelling unit, portions of the garage not required for parking, or accessory building in a residential district that are incidental to the principal residential use of a lot or site and which meet the conditions of Section 2.04.220 Home Occupation in R Districts. This definition does not include “cottage food operations” defined separately herein.

**Horticulture, Limited.** The raising of vegetables, flowers, ornamental trees, and shrubs as a commercial enterprise, provided that no nursery equipment or materials shall be stored and no structures erected. Commercial horticulture accessory to a dwelling unit shall be regulated as a home occupation in the RO District, only, per Section 2.04.208 RO District—Use Regulations.

**Hospitals.** Facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, primarily on an inpatient basis. This classification includes incidental facilities for outpatient treatment, as well as training, research, and administrative services for patients and employees.

**Hotels, Motels, and Time-Share Facilities.** Establishments offering lodging on a less than weekly basis. This classification includes eating, drinking, and banquet service as accessory uses if under the direct control of the primary use.

**Industrial Transfer/Storage/Treatment Facilities for Hazardous Waste:** Any hazardous waste management facility, which is not a small-scale transfer and storage facility or a residuals repository. This facility category includes but is not limited to:

- A. Manifested waste transfer station
- B. Recycling facility
- C. Aqueous treatment facility
- D. Stabilization and solidification facility
- E. Bioremediation facility

**Industry, Cannabis Product Manufacturing.** Cannabis manufacturing, processing, and packaging of products derived from or infused with cannabis, including edibles, concen-

trates and extracts for wholesale or retail to cannabis dispensaries or other cannabis product distributors and manufacturers as allowed by State law. This definition includes cannabis manufacturers requiring a Type 6 or 7 license from the State of California. This definition does not include the cloning, planting or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of manufactured cannabis products to the public.

**Industry, Custom.** Establishments primarily engaged in on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment.

**Industry, General.** Manufacturing of products, primarily from extracted or raw materials, or bulk storage and handling of such products and materials. Uses in this classification typically involve a high incidence of truck or rail traffic, and/or outdoor storage of products, materials, equipment, or bulk fuel. This classification includes chemical manufacture or processing, laundry and dry cleaning plants, and auto dismantling within an enclosed building. This classification excludes the processing of recycled materials as a facility regulated by Section 4.04.232 Recycling Facilities.

**Industry, Hazardous Materials or Hazardous Waste.** Any use which involves the storage, transfer, processing, recycling, or long term disposal (residuals repository) of substantial quantities of hazardous or toxic materials or wastes.

**Industry, Limited.** Manufacturing of finished parts or products, primarily from previously prepared materials; and provision of industrial services; both within an enclosed building. This classification includes processing, fabrication, assembly, treatment, and packaging, but excludes basic industrial processing from raw materials, vehicle/equipment repair services, and the processing of recycled materials as a facility regulated by Section 4.04.232 Recycling Facilities.

**Industry, Research and Development.** Establishments primarily engaged in the research, development, and controlled production of high-technology electronic, industrial or scientific products or commodities for sale, but excludes uses that may be objectionable as determined by the Zoning Enforcement Official, by reason of production of offensive odor, dust, noise, vibration, or storage of or risk associated with hazardous materials. Uses include biotechnology firms, metallurgy, optical, pharmaceutical and X-ray research, data processing, and non-toxic computer component manufacturers.

**In-Law Unit.** See “Accessory Dwelling Unit (ADU).”

**Instruction and Improvement Services.** Provision of instructional services or facilities, including photography, fine arts, crafts, dance or music studios, martial arts studios, and driving schools.

**Internet Sweepstakes Center.** A commercial establishment which sells a service, such as the ability to browse the world wide web or Internet, create and print documents, shop online, play games, watch video and video-related media, fax documents, use telephone services, and also provides customers with promotional sweepstake entries to obtain a prize



through predetermined odds via simulated casino-style games on a computer or other electronic device or via immediate disclosure on a computer or other electronic device or via immediate disclosure from an employee.

**Junior Accessory Dwelling Unit (JADU).** See “Accessory Dwelling Unit (ADU).”

**Junk Yard.** An outdoor space where waste, discarded or salvaged materials in excess of the normal accumulation from the use of the premises are stored or handled.

**Kitchen.** An area designed, intended or used for the preparation of food or a combination of facilities and appliances designed, intended or used for the preparation of food. The kitchen of a dwelling unit is typically that area inside the unit that serves as its primary food preparation area, and is characterized by the provision of both a refrigerator and range requiring either a 220-volt electrical connection, or is fueled by gas (e.g., LP gas, natural gas, white gas).

**Laboratories.** Establishments providing medical or dental laboratory services; or establishments with less than 2,000 square feet providing photographic, analytical, or testing services. Other laboratories are classified as “Industry, Research and Development” or “Laboratories, Cannabis Testing Facilities.”

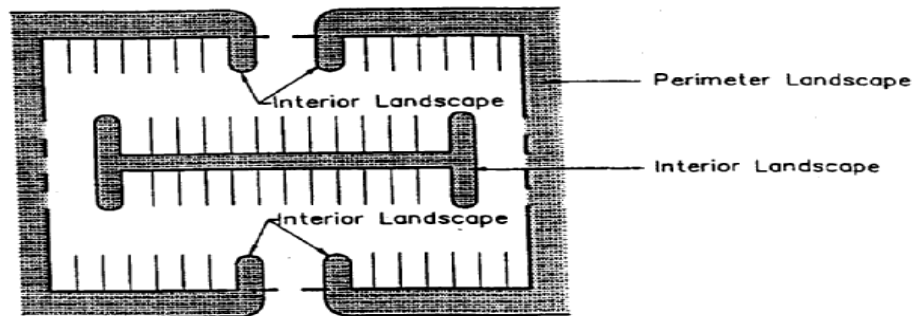
**Laboratories, Cannabis Testing Facilities.** Laboratories conducting safety, quality control, and analytical testing services of cannabis and products derived from cannabis as a service to cannabis dispensaries, medical facilities, government agencies, cannabis product manufacturers, or other entities as allowed by State law. This definition includes cannabis testing and laboratory facilities requiring a Type 8 license from the State of California. This definition does not include the cloning, planting or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of cannabis and cannabis products to the public.

**Landscaping.** An area devoted to or developed and maintained with native or exotic plantings, lawn, ground cover, gardens, trees, shrubs, and other plant materials, decorative outdoor landscape elements, pools, fountains, water features, paved or decorated surfaces of rock, stone, brick, block, or similar material (excluding driveways, parking, loading, or storage areas), and sculptural elements. Plants on rooftops or porches or in boxes attached to buildings are not considered landscaping.

**Landscaping, Interior.** The shortest circumference of a landscaped area or areas defining the perimeter or exterior boundary of the parking or loading area, or similar paved area, excluding driveways or walkways providing access to the facility (as applied to parking and load facilities or to similar paved areas). Please refer to the Landscaping: Perimeter/Interior illustration.

**Landscaping, Perimeter.** A landscaped area adjoining and outside the shortest circumferential line defining the exterior boundary of a parking or loading area, or similar paved area,

excluding driveways or walkways providing access to the facility (as applied to parking and loading facilities or to similar paved areas). Please refer to the Landscaping: Perimeter/Interior illustration.



**Landscaping: Perimeter/Interior**  
(The diagram is illustrative)

**Liquor Stores.** A retail store principally involved in the business of selling alcoholic beverages, including “hard liquor,” for the consumption off the premises where sold. This classification includes stores or facilities that are covered by a State license for “general alcohol sales” (Class 21 ABC license).

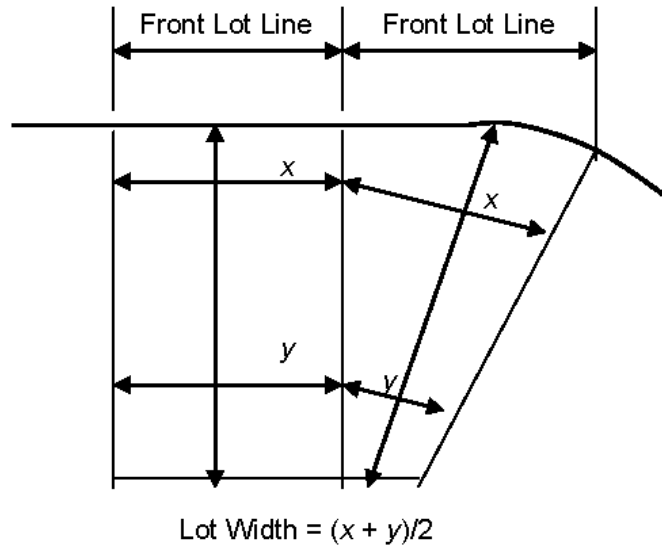
**Live-Work.** A structure or complex of structures that integrates space for both residential and nonresidential uses within individual units. Nonresidential uses shall operate to allow the “quiet enjoyment” expectations of neighbors. Such uses should operate with limited noise, odor and other similar impacts, consistent with applicable city ordinances. Ratios between the residential and nonresidential uses may be established as part of staff review.

**Lot.** A site or parcel of land under one ownership that has been legally subdivided, re-subdivided, or combined.

**Lot, Corner.** A site bounded by two or more adjacent street lines that have an angle of intersection of not more than 135 degrees. For corner lots, the owner may select either street frontage line as the front lot line, subject to approval of the Zoning Enforcement Official.

**Lot Coverage.** See “Coverage, Lot or Site.”

**Lot Depth.** The horizontal distance from the midpoint of the front-lot line to the midpoint of the rear-lot line, or to the most distant point on any other lot line where there is no rear-lot line. Please refer to the Lot Depth and Lot Width illustration.



**LOT DEPTH AND LOT WIDTH**  
(The diagram is illustrative)

**Lot, Double-Frontage.** An interior lot having frontage on more than one street. Each frontage from which access is permitted shall be deemed a front lot line.

**Lot or Property Line, Interior.** A lot line not abutting a street.

**Lot or Property Line, Rear.** A lot line, not a front lot line, that is parallel or approximately parallel to the front lot line. Where no lot line is within 45 degrees of being parallel to the front lot line, a line 10 feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, shall be deemed the rear lot line for the purpose of measuring rear yard depth.

**Lot or Property Line, Side.** Any lot line that is not a front lot line or a rear lot line.

**Lot or Property Line, Street.** A lot line abutting a street.

**Lot Width.** The mean of the horizontal distance between the side lot lines measured at right angles to the lot depth at points 20 feet from the front lot line and 20 feet from the rear lot line, or from the rearmost point of the lot depth in cases where there is no rear lot line. Please refer to the Lot Depth and Lot Width illustration.

**Maintenance and Repair Services.** Establishments providing appliance repair, office machine repair, or building maintenance services. This classification excludes maintenance and repair of vehicles (see Vehicle/Equipment Repair); or boats or ships (see Marine Sales and Services).

**Manufactured Home.** A dwelling unit manufactured elsewhere and placed on a building site as regulated in Section 2.04.392 Manufactured Homes in R Districts and constructed in accord with State of California standards for manufactured homes and with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Section 5401 et seq.), as amended. This definition is intended to include mobile homes and modular homes, which meet Federal and State standards for manufactured homes.

**Marinas.** Water basins with docks, mooring facilities, supplies and equipment for boats.

**Marine Sales and Services.** Establishments providing supplies and equipment for pleasure boating. Typical uses include chandlery, yacht brokerage and sales, boat rentals, and boat yards.

**Marquee.** See “Canopy.”

**Massage Therapy.** Establishments providing massage service, which comply with all local and state regulations.

**Medical Cannabis Dispensary.** A collective, or cooperative, or other non-profit or for profit entity qualified or permitted to do business in the State of California and the City of San Leandro that distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away cannabis (“marijuana”) for medicinal purposes to four or more qualified patients and/ or primary caregivers pursuant to California Health and Safety Code Sections 11362.5 and 11362.7 et seq. Baked medicinal products (i.e., brownies, bars, cookies, cakes), tinctures and other non-refrigerated type items are acceptable for manufacture and sale at a dispensary.

**Medical Supply Stores.** Establishments that sell medical supplies and equipment.

**Mezzanine.** An intermediate floor placed within a room.

**Mini-Warehouse.** See “Public Storage.”

**Mixed-Use Residential.** One or more dwelling units in a building with another principal use. This classification includes housing above retail establishments in a commercial area.

**Mobile Food Vending.** The sale of food from any motorized or trailer vehicle, designed to be portable and not permanently attached to the ground, from which only food and beverages are sold, served free or sampled, displayed or offered for sale, as regulated by the San Leandro Municipal Code.

**Mobile Home.** A structure designed for human habitation and for being moved on a street or highway under permit pursuant to Vehicle Code Section 35790. Mobile home does not include a recreational vehicle, as defined in Civil Code Section 799.24, or a commercial coach, as defined in Health and Safety Code Section 18218.

**Mobile Home Park.** An area of land where two or more mobile home sites are rented or held out for rent to accommodate mobile homes used for human habitation. Mobile home park shall not include a mobile home subdivision or stock cooperative.

**Mobile Home Park Conversion.** A use of a mobile home park for a purpose other than the rental or the holding out for rent of two or more mobile home sites to accommodate mobile homes used for human habitation. Such a conversion may affect an entire mobile home park or any portion thereof. A conversion shall include, but is not limited to, a change of the mobile home park or any portion thereof to a condominium, stock cooperative, planned unit development, or any form of ownership wherein spaces within the mobile home park are to be sold.

**Mortuaries.** Establishments where dead bodies are kept until burial. This classification includes funeral homes, but excludes cremation.

**Multi-Family Residential.** Three or more dwelling units in a single building on a site.

**Municipal Code.** The Municipal Code of the City of San Leandro, as amended.

**Neighborhood/Specialty Food Markets.** Neighborhood grocery stores, and stores specializing in particular or distinctive food items, including, but not limited to, retailers whose primary business maintains a wide inventory of gourmet, health, or ethnic food items not commonly found in area supermarkets or convenience stores. This classification also includes delicatessens, confectioneries, full service bakeries, butcher, fish and poultry shops, and produce markets, and may also include a sandwich shop as an accessory use. Also see "Convenience Stores."

**Nonconforming Structure.** A structure, which was lawfully erected but that does not conform to the development standards for lot coverage, setbacks, height, number of stories, distance between structures, or floor area ratio prescribed in the regulations for the district in which the structure is located by reason of adoption or amendment of this Code or by reason of annexation of territory to the City.

**Nonconforming Use.** A use of a structure or land, which was lawfully established and maintained, but that does not conform with the use regulations for the district in which it is located by reason of adoption or amendment of this Code or by reason of annexation of territory to the City. A use that does not conform to the parking or loading regulations applicable to the district in which it is located shall not be considered a nonconforming use solely because of one or more of these nonconformities.

**Nonhabitable Accessory Structure.** A detached subordinate structure without living space, the use of which is appropriate, subordinate and customarily incidental to that of the main structure or the main use of the land and which is located on the same site with the main structure or use.

**Nurseries.** Any business which sells, primarily at retail, plants which are displayed or otherwise merchandised outside an enclosed building. Merchandise other than plants is kept with an enclosed building or a fully screened enclosure. Fertilizer of any type is stored and sold in package form only.

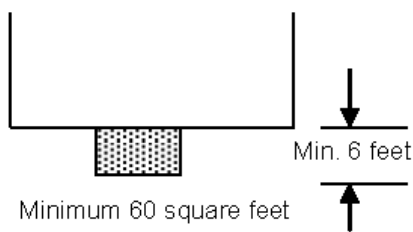
**Offices, Business and Professional.** Offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, engineering, real estate, insurance, investment, legal, dental laboratories, and medical/dental offices. This classification includes firms developing software or providing Internet-based services, and medical/dental laboratories incidental to an office use, but excludes financial institutions.

**Off-Street Loading Facilities.** A site or portion of a site devoted to the loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped areas.

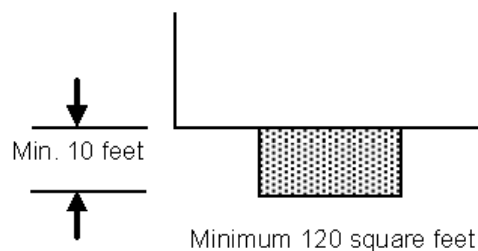
**Open Space, Common.** Usable open space with a minimum dimension of 10 feet in any direction and a minimum area of 300 square feet. (Also, see Section 2.04.356 RM District—Multi-Family Dwellings, Requirements for Open Space.)

**Open Space, Private.** A usable open space adjoining and directly accessible to a dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests and which is any of the following (Also see Section 2.04.356 RM District—Multi-Family Dwellings, Requirements for Open Space.)

- A. A private balcony attached to a dwelling unit with a minimum area of 60 square feet and a minimum horizontal dimension of six feet.
- B. A private porch, deck, patio, or court with a minimum horizontal dimension of 10 feet and a minimum area of 120 square feet.



**PRIVATE BALCONY (A)**



**PRIVATE DECK, PATIO, PORCH OR COURT (B)**

**OPEN SPACE, PRIVATE**  
(The diagram is illustrative)

**Open Space, Total.** The sum of private open space and common open space.

**Open Space, Usable.** Outdoor or unenclosed area on the ground, or on a balcony, deck, porch or terrace designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but excluding parking facilities, driveways, utility or service areas, or any required front or street side yard and excluding any land area with a slope in excess of 20 percent.

**Opposite.** Walls, windows, signs, districts, or property lines shall be deemed opposite if a line perpendicular to the widest horizontal dimension would intersect the facing feature or boundary.

**Parcel Processing and Shipping Facilities.** Establishments for the processing and/or re-distribution of parcels or products, including but not limited to air and ground cargo receiving and distribution centers. This classification includes “Parcel Processing and Shipping Facilities” that provide incidental warehousing, but excludes “Truck Terminals” and parcel processing that is accessory to industrial, manufacturing or warehousing uses.

**Park and Recreation Facilities.** Noncommercial parks, playgrounds, recreation facilities, and open spaces.

**Parking Lot.** A site or portion of a site, that is accessible to the public, devoted to the off-street parking of employees’ and/or customers’ passenger vehicles and light trucks, including areas for parking spaces, aisles, access drives, and landscaped areas, and screening walls, fences, or hedges.

**Parking Structure.** An enclosed or semi-enclosed area containing a ceiling or roof, used primarily for the short-term or temporary parking of motor vehicles, constructed either above or below grade, freestanding, or as part of a commercial or residential building.

**Pawn Shop.** A business establishment engaged in the buying and selling of new or secondhand merchandise and offering loans secured by merchandise.

**Permitted.** Allowed without a requirement for approval of a use permit, temporary use permit, or other discretionary use approval under this Code.

**Pervious Surfaces.** Pervious surfaces are those that allow stormwater to infiltrate the underlying soils. Pervious surfaces shall include, but not be limited to, vegetative planting beds, porous asphalt, porous concrete, single-sized aggregate, open-jointed blocks, stone, pavers or brick that are loose-set and without mortar. Pervious surfaces are required to be contained so neither sediment nor the pervious surface discharges off the site.

**Pharmacies.** Establishments that primarily sell prescription drugs.

**Porch.** A covered platform, usually having a separate roof, at an entrance to a dwelling, or an open or enclosed gallery or room, which is not heated or cooled, that is attached to the outside of a building.

**Pre-Existing.** In existence prior to the effective date of this Code.

**Processing Facility.** A building or enclosed space used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

- A. **Light-Processing Facility.** Occupies less than 45,000 square feet, all activities are conducted entirely within an enclosed building, and includes equipment for baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials, except ferrous metals other than food and beverage containers, and repairing of reusable materials. (See Section 4.04.232 Recycling Facilities, Subsection B Permits Required.
- B. **Heavy-Processing Facility.** Any processing facility other than a light-processing facility.

**Project.** Any proposal for new or changed use, or for new construction, alteration, or enlargement of any structure that is subject to the provisions of this Code.

**Public Safety Facilities.** Facilities for public safety and emergency services, including police and fire protection.

**Public Storage.** Storage in small individual spaces exclusively and directly accessible to a specific tenant and offered on a monthly or other limited basis. This classification includes mini-warehouses.

**Public Transit Seating Sign.** A replaceable panel for non-accessory advertising copy installed upon a fixed or movable bench intended for use by patrons of public transit systems.

**Razor/Barbed Wire.** A flat metal strip or band with regularly spaced sharp points or barbs and placed in continuous coils or strips on fences, buildings or other structures.

**Real Estate Offices, Temporary.** An office for the marketing, sales, or rental of real property.

**Recyclable Material.** Residential, commercial and industrial materials or by-products, which are set aside, handled, packaged or offered for collection separate from garbage for the purpose of being processed and then returned to the economic mainstream in the form of commodities or products. Reusable material, including, but not limited to, metals, glass,



plastic, and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Also see Section 4.04.232 Recycling Facilities.

**Recycling.** The process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Also see Section 4.04.232 Recycling Facilities.

**Recycling Centers.** A facility for the recycling of waste paper, bottles, cans, or other materials, including small collection facilities and reverse vending machines. Also see Section 4.04.232 Recycling Facilities.

- A. **Certified.** A center certified by the State of California for redemption of waste materials having uniform redemption value or for any other recycling program.
- B. **Small Scale Hazardous Waste.** A center for the collection, short-term storage, transfer, or limited processing of hazardous waste from households, small businesses or other small-scale generators.

**Recycling Facility.** A center for the collection and/or processing of recyclable materials, and includes facilities for the drop-off, buyback, deposit, or return for redemption, of recyclable material. Recyclable material is reusable material including, but not limited to, aluminum, glass, plastic and paper which is intended for remanufacture or reconstitution for the purpose of using the altered form. A recycling facility consists of a reverse vending machine, collection facility, or processing facility. A recycling collection facility may also consist of a facility for the collection of reusable household goods or clothes by a charitable organization. Also see Section 4.04.232 Recycling Facilities.

**Regional Mall.** A regional mall is defined as a complex of retail uses and related activity having a total gross leasable floor area of at least 700,000 square feet, plus associated parking and enclosed common space accessible to the public; having a wide range of retail uses including at least two department stores; and selling or providing a wide range of related goods and services such as restaurants or food courts, banks or financial services, entertainment or recreation facilities, child care services, and the like.

**Regularly Features.** The term “regularly features” with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two or more occasions within a 30 day period; three or more occasions within a 60 day period; or four or more occasions within a 180 day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

**Residential Congregate Care Facilities.** Use of a residence for the purpose of providing, for a fee, adult day care and/or 24 hour-a-day, non-medical residential living accommodations, day treatment, or foster agency services for seven or more individuals, and where the duration of stay is determined, in whole or in part, by the individual residents' participation in group or individual activities, such as counseling, recovery planning, and medical or therapeutic assistance. This classification includes facilities licensed by the State of California.

**Residential Congregate Care Facilities, Limited.** Use of a residence for the purpose of providing, for a fee, adult day care and/or 24 hour-a-day, non-medical residential living accommodations, day treatment, or foster agency services for up to six individuals, and where the duration of stay is determined, in whole or in part, by the individual residents' participation in group or individual activities, such as counseling, recovery planning, and medical or therapeutic assistance. This classification includes facilities licensed by the State of California.

**Residential Hotels.** Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests.

**Residuals Repositories for Hazardous Waste:** A hazardous waste disposal facility for collection of residual wastes, defined as the residues from hazardous waste treatment facilities after treatment, and other irreducible stabilized or detoxified hazardous wastes.

**Restaurants, Full-Service.** An establishment which serves food or beverages for consumption primarily on the premises. Food is cooked or prepared on the premises on a customer-demand basis. Generally, seating and tables for on-premises customer dining is provided, with table service (waiters or waitresses) and non-disposable tableware. This classification does not include Bars, Fast Food Establishments, or Cafés (see "Bars", "Fast Food Establishments, Large Scale" and "Fast Food Establishments, Small Scale" and "Cafés").

**Retail Sales.** The retail sale of merchandise not specifically listed under another use classification. This classification includes, but is not limited to, clothing stores, quality re-sale consignment stores, and businesses retailing the following goods: toys, hobby supplies, handcrafted items, gift items, jewelry, books, cameras, photographic supplies, music media, videos, sporting goods (excluding uses where gun and ammunition sale are the primary use - see "Gun or Weapon Shop" definition), kitchen utensils, hardware, antiques and vintage clothing stores, art supplies and services, musical instruments, supplies, and services, office supplies, and bicycles.

**Retail Sales, Big Box.** Large-scale discount or wholesale stores that primarily serve a regional market.

**Retail Sales, Outdoor.** Retail sales of new merchandise on the site of a legally established retail business.

**Retail Services.** Provision of services of a personal nature. This classification includes barber and beauty shops, tattoo studios, seamstresses, tailors, shoe repair shops, dry cleaning businesses (excluding large-scale plants), photocopying, and self-service laundries. Retail services excludes coin-operated self-service laundries and coin-operated dry cleaning businesses.

**Reverse Vending Machine(s).** An automated mechanical device that accepts at least one or more types of empty beverage containers such as aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip. A reverse vending machine may sort and process containers mechanically, provided that the entire process is enclosed within the machine. Also see Section 4.04.232 Recycling Facilities.

- A. **Single-Feed Reverse Vending Machine.** Designed to accept individual containers one at a time.
- B. **Bulk Reverse Vending Machine.** Designed to accept more than one container at a time and to compute the refund or credit due on the basis of weight.

**Roof Line.** The top of the parapet or the midpoint between the eave line and the top of the roof.

**Roof Top.** The covered surface of the uppermost story of a building.

**Room, Habitable.** A room meeting the requirements of the Uniform Housing Code for sleeping, living, cooking, or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms, garages, and similar spaces.

**Rooming House.** See "Boarding House."

**Schools, Public or Private.** Educational institutions having a curriculum comparable to that required in the public schools of the State of California and meeting the requirements of the State compulsory education laws.

**Secondhand Sales.** The retail sale of used items, for example, used appliances and used clothing, by secondhand dealers. This classification excludes antique shops primarily engaged in the sale of used furniture and accessories other than appliances, as well as vintage clothing or consignment stores.

**Semi-Nude.** A state of dress in which clothing covers no more than the genitals, pubic region, areola of the female breasts, as well as portions of the body covered by supporting straps or devices.

**Service Stations.** Establishments engaged in the retail sale of gasoline or other motor fuels, lubricants, parts, and accessories for automobiles and light trucks. This classification

includes incidental maintenance and repair of automobiles and light trucks, but excludes body and fender work or repair of heavy trucks or vehicles.

**Setback Line.** A line within a lot parallel to a corresponding lot line, which is the boundary of any specified front, side or rear yard, or the boundary of any public right-of-way (whether acquired in fee, easement, established as a future right-of-way line, or otherwise) or a line otherwise established to govern the location of buildings, structures, or uses.

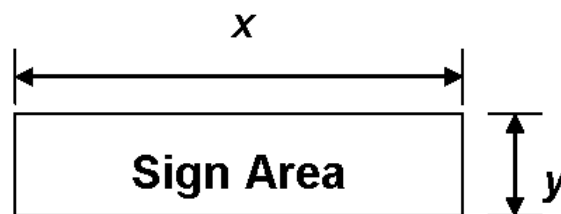
**Sign.** A visual communications device used to convey a message to its viewers. A sign shall mean and include every advertising message, announcement, declaration, insignia, surface or space erected or maintained for identification, advertisement or promotion of the interests of any person, entity, product or service. This shall include any sign located inside the store that is reasonably visible from the street.

**Sign, Abandoned.** A sign on a site or a structure which becomes vacant for a period of three months or more; a sign erected for a previous occupant or business unrelated to the present occupant or business; a sign which pertains to a date, event or purpose, which no longer exists; structural supports to which no sign is attached.

**Sign, Accessory.** A sign which indicates the name of the property, the name or trademark of the person in possession and control of the property, or the business conducted, services rendered, goods produced, distributed or sold, entertainment offered or event to occur upon the property upon which the sign is installed.

**Sign, Animated.** Any sign which is designed to give a message through a sequence of progressive changes of parts or lights or degree of lighting, including, but not limited to reader board signs.

**Sign Area.** The area of each individual sign surface upon, against, or through which the message is displayed or illustrated. The area of a sign surface composed of characters, illustrations, backgrounds, or words attached directly to a wall or vertical surface of a building or structure shall be the area of the smallest rectangle, or series of contiguous rectangles that enclose such characters, illustrations or words.



**Sign Area =  $x$  by  $y$**

**SIGN AREA**

(The diagram is illustrative)

**Sign, Banner.** A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame.

**Sign, Changeable Copy.** A sign of which copy is changed manually or electrically.

**Sign, Construction.** A temporary sign identifying the persons, firms, or businesses directly connected with a construction or development project.

**Sign, Directional.** An on-premises incidental sign designed to guide or direct pedestrian or vehicular traffic.

**Sign, Directly Illuminated.** A sign, which is illuminated by means of light that travels directly from its source to the viewer's eye.

**Sign, Flag.** See "Sign, Freestanding."

**Sign, Flashing.** An illuminated sign, which exhibits changing light or color effect by blinking or any other such means, so as to provide a non-constant illumination.

**Sign, Freestanding.** A sign erected with a freestanding frame or support, mast or pole and not attached to any building. This includes "ground signs," "flag signs," "pole signs," and "monument signs."

**Sign, Ground.** See "Sign, Freestanding."

**Sign, Incidental.** A small sign intended primarily for the convenience of the public, pertaining to goods, products, services, or facilities, which are available on the premises where the sign occurs.

**Sign, Indirectly Illuminated.** A sign, which is illuminated by means only of light cast upon an opaque surface from a concealed source.

**Sign, Interior-illuminated.** A sign illuminated by a non-visible light source located within the sign.

**Sign, Monument.** A freestanding sign with a solid base with approximately the same length and width dimension on the sign.

**Sign, Moving.** Any sign or device that has any visible moving part, visible revolving part, or visible mechanical movement.

**Sign, Nameplate.** A sign designating: (1) the name of a building; (2) the address of property; (3) the name of an occupant; or (4) the profession of an occupant.

**Sign, Nonconforming.** A sign that does not conform to the provisions of this Code.

**Sign, Off-Site Advertising.** Any sign, which advertises goods, products, services, or facilities not necessarily sold on the premises on which the sign is located. These signs are also known as off-site signs, billboards, and poster panels.

**Sign, Pedestrian Advertising Panel.** A freestanding, fixed or movable structure incorporating two (2) or more replaceable panels for non-accessory advertising copy, located and designed primarily for viewing by pedestrians and not substantially legible from a public street.

**Sign, Pole.** See “Sign, Freestanding.”

**Sign, Political.** A sign designed for the purpose of soliciting support of, or opposition to, a candidate or proposition at a public election.

**Sign, Portable.** Any movable sign not permanently attached to the ground or a building, including, but not limited to, stick signs, A-frame signs, or pennant signs.

**Sign, Projecting.** A sign which is attached to and projects from the structure or building face and is not parallel to the structure to which it is attached.

**Sign, Public Service Information.** Any sign intended primarily to promote items of general interest to the community such as time, temperature, date, atmospheric conditions, news or traffic control, including warning signs.

**Sign, Real Estate.** Any temporary sign pertaining to the sale, exchange, lease, or rental of land or buildings.

**Sign, Roof.** Any sign erected upon, against, or directly above a roof or above the parapet of a building.

**Sign, Rotating.** Any sign or portion thereof, which physically revolves about an axis.

**Sign, Special Events.** A temporary sign advertising or pertaining to any civic, patriotic, or special event of general public interest taking place within the City.

**Sign, Temporary.** A sign, which is installed for a limited time.

**Sign, Temporary Window.** A sign painted or constructed of paper or other lightweight material and affixed to the interior or exterior side of a window or glass area on a building for a limited time.

**Sign, Under-Canopy.** A sign installed under a canopy, awning, or marquee.

**Sign, Wall.** Any sign posted or painted or suspended from or otherwise affixed to the wall of any building or structure in an essentially flat position, or with the exposed face of the sign in a plane approximately parallel to the plane of such wall. Any sign suspended from and placed approximately parallel to the front of a canopy, porch or similar covering structure shall be deemed to be a wall sign.

**Sign, Wind.** Flags, banners, pennants, or other similar devices, which consist of any material made in any shape that are fastened together in such manner as to move by wind pressure.

**Sign, Window.** A sign painted or constructed of paper or other lightweight material and affixed to the interior or exterior side of a window or glass area on a building.

**Single-Family Residential.** Buildings containing one dwelling unit and up to one accessory dwelling unit and one junior accessory dwelling unit located on a single lot. This classification includes mobile home and factory-built housing.

**Single Housekeeping Unit.** An individual or two or more persons living together in a dwelling unit, and in which responsibilities for expenses, housekeeping, cooking, and other household maintenance chores are shared among the non-transient occupants. The definition of a "Single Housekeeping Unit" includes a "Domestic Violence Safe House," but excludes "Residential Congregate Care Facilities" and "Group Housing" use classifications (e.g., assisted living facilities). A single housekeeping unit is allowed to occupy any legal dwelling unit subject to the requirements of Section 2.04.236 Maximum Dwelling Unit Occupancy (i.e. occupancy by more than 10 adults requires a zoning permit).

**Single Ownership.** Holding record title, possession under a contract to purchase, or possession under a lease, by a person, firm, corporation, or partnership, individually, jointly, in common, or in any other manner where the property is or will be under unitary or unified control.

**Site.** A lot, or group of contiguous lots not divided by an alley, street, or other right-of-way that is proposed for development in accord with the provisions of this Code, and is in a single ownership or has multiple owners, all of which join in an application for development.

**Site Coverage.** See "Coverage, Lot or Site."

**Small Scale Hazardous Waste Center.** A center for the collection, short-term storage, transfer, or limited processing of hazardous waste from households, small businesses or other small-scale generators. Facilities with waste streams small enough to be exempt from manifest requirements as described in California Health and Safety Code Section 25160. Wastes from any given generator must not exceed a total volume of five gallons or a total weight of 50 pounds. This definition includes household hazardous waste collection facilities. See also "Recycling Centers."

**Social Services Facility.** A use that is operated by an organization that provides a variety of free services or goods to the community on a drop-in basis. Uses usually consist of “walk-in” clientele that utilize the facilities on a limited basis during a 24-hour period.

**Specific Plan.** A plan for a defined area that is consistent with the General Plan and with the provisions of the California Government Code pertaining to Specific Plans (Section 65450 et seq.).

**Specified Anatomical Areas.** As used herein, specified anatomical areas shall mean and include the following:

- A. Less than completely and opaquely covered human: (1) genitals or pubic region; (2) buttocks; and (3) female breasts below a point immediately above the top of the areola;
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and
- C. Any device, costume, or covering that simulates any of the body parts included in Subsection A or B above.

**Specified Sexual Activities.** As used herein, “specified sexual activities” shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:

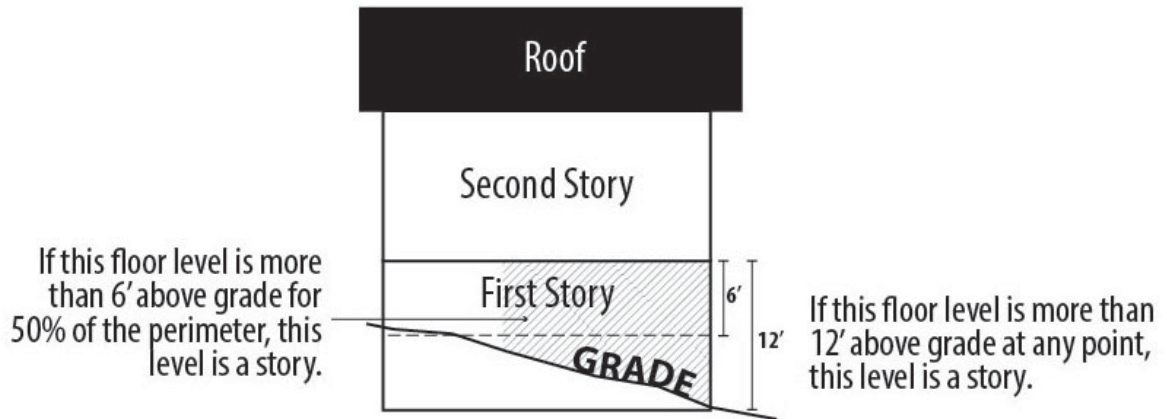
- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
- B. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; and
- D. Excretory functions as part of or in connection with any of the other activities described in Subsections A through C of this definition.

**Stadia and Sports Arenas.** Outdoor or enclosed areas devoted to commercial spectator sports or entertainment.

**Stock Cooperative.** A dwelling unit as defined in Section 11003.2 of the Business and Professions Code of the State of California or successor section.

**Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above it. If there is no floor above the uppermost floor, the space between such floor and the ceiling next above it shall be considered a story. If the finished floor level directly above a usable or unused floor space is more than six feet above grade (for more than 50 percent of the perimeter, or is more than 12 feet above grade at any point, such usable or unused under-floor space) shall be considered a story.

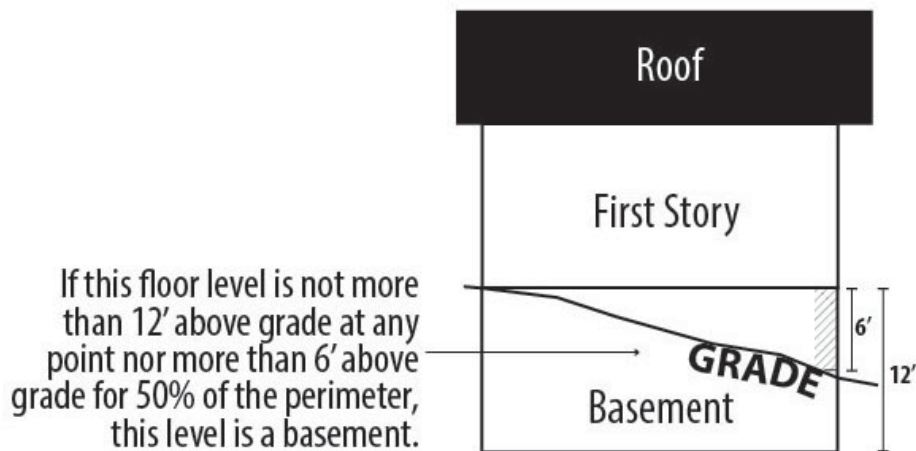




**STORY**

(This diagram is illustrative)

**Story, First.** The lowest story in a building. The lowest level of a building having two or more levels is considered the “first story” when the floor level above is more than six feet above grade for at least 50 percent of the total perimeter, or is more than 12 feet above the exterior grade at any point. [If the floor level above the lowest level is NOT more than six feet above grade for at least 50 percent of the total perimeter, or is NOT more than 12 feet above the exterior grade at any point, the lowest level is considered a “basement” rather than the “first story” - also refer to definition of “basement”.]



**STORY, FIRST**

(This diagram is illustrative)

**Story, Second.** The story above a first story, as defined above. An addition to the upper level(s) of a multilevel hillside building is NOT considered a second story addition when the proposed addition is not directly above a “first story” (e.g., an addition built above a basement, crawlspace or at grade).

**Street.** A right-of-way permanently dedicated to common and general use by the public, including any avenue, drive, boulevard, or similar way, but not including any freeway or highway without a general right of access for abutting properties.

**Street or Neighborhood Fairs.** Provision of games, eating and drinking facilities, live entertainment, or similar activities conducted by a sponsor no more than once per year.

**Structure.** Anything constructed or erected that requires a location on the ground, including a building or a swimming pool, but not including signs, access drives, walks, a fence, or a wall used as a fence if the height does not exceed six feet.

**Supermarkets.** Stores selling a wide variety of food and household items with a community-wide market area.

**Supportive Housing.** Housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (f) of Section 65582 of the California Government Code and that is linked to on-site or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community (See also “Target Population” definition). Under California Government Code Section 65583(a)(5), “supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwelling units of the same type in the same zone.” See development regulations in Section 4.04.316 Supportive and Transitional Housing.

**Swap Meets, Non-Recurring.** Retail sale or exchange of handcrafted, or secondhand merchandise for a maximum period of 48 hours, conducted by a sponsor no more than twice in any year.

**Swap Meets, Recurring.** Retail sale or exchange of handcrafted or secondhand merchandise for a maximum period of 48 hours, conducted by a sponsor on a more than twice yearly basis.

**Swim and Tennis Clubs.** Establishments that have swimming and tennis facilities for members.

**Swimming Pools and Hot Tubs.** Water-filled enclosures having a depth of 18 inches or more used for swimming, recreation, or therapy.

**Target Population.** As defined in subdivision (g) of Section 65582 of the California Government Code, persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans and homeless people.

**Tattoo Studios.** A business establishment principally engaged in the business of creating indelible marks or figures fixed upon the body by insertion of pigment under the skin or by production of scars for pay.

**Temporary Storage Containers.** An enclosed container intended for the storage of goods for a short and specified period of time not to exceed 90 days.

**Temporary Use.** An intermittent (not more than four times per year) commercial activity, the period of operation of which does not exceed 90 days at any one time. A temporary use permit shall be obtained, per Section 5.08.144 Temporary Use Permits.

**Tenant or Existing Tenant.** A person who rents, leases or subleases, through either a written or oral agreement, real property from another.

**Theaters.** An enclosed area for the presentation of motion pictures and entertainment activities.

**Theaters, Small Scale.** Theaters of less than 100 seats primarily used for community theater and motion pictures.

**Theaters, Outdoor.** An outdoor area for the presentation of motion pictures, performing arts, or lectures. This classification includes drive-in theaters and amphitheaters.

**Tobacconist/Cigarette Stores.** Businesses devoted primarily to the sale of tobacco-related and e-cigarettes, and e-cigarette-related products, as defined by: (1) devoting 20 percent or more of total floor area or display area to; or (2) deriving 75 percent or more of gross sale receipts from, the sale or exchange of tobacco-related products.

**Tobacco-Related Products.** Any substance containing tobacco including, but not limited to, cigarettes, cigars, chewing tobacco and dipping tobacco; cigarette papers; vaporizers; or any other instrument or paraphernalia for the smoking or ingestion of tobacco and products prepared from tobacco.

**Townhouse.** A dwelling unit characterized by a separate interest in a building and the land directly beneath it, which may be combined with either an undivided interest in the remainder or easements across common areas.

**Trade Fairs.** Display and sale of goods or equipment related to a specific trade or industry for a maximum period of seven days.

**Transfer Station.** A transfer or processing station or stations which includes those facilities utilized to receive solid waste, recyclable or reusable materials, to temporary store, separate, convert or otherwise process such materials, or to transfer such materials directly from smaller to larger vehicles for transport, and those facilities utilized for such transformation.

**Transitional Housing.** As defined in subdivision (h) of California Government Code Section 65582, buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. Under California Government Code Section 65583(a)(5), transitional housing “shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwelling units of the same type in the same zone.” See development regulations in Section 4.04.316 Supportive and Transitional Housing.

**Transmission Line.** An electric power line bringing power to a receiving or distribution substation.

**Travel Services.** Establishments providing travel information and reservations to individuals and businesses. This classification excludes car rental agencies.

**Tree, Mature.** Any tree with a diameter of 18 inches or more, measured 24 inches above existing grade.

**Truck Terminals.** Establishments whose sole purpose is to provide for the consolidation, division and/or distribution of bulk goods through the use of large trucks and trailers. This classification includes cross-dock trucking uses, which have only minimal warehousing facilities, and establishments that provide services to truck operators, including but not limited to refueling and dispatching. Also, refer to definition of “Cross-Dock.” (This classification excludes trucking activities accessory to industrial, manufacturing or warehousing uses, or to the “Parcel Processing and Shipping Facilities” use classification.)

**Two-Family Residential.** A building containing two dwelling units on a single lot.

**Use.** The purpose for which land or a structure, or both, are designed, constructed, arranged or intended, or for which they are occupied or maintained, let or leased.

**Use, Accessory.** See “Accessory Uses and Structures.”

**Use, Allowed.** Any use which may take place in a particular zone district.

**Used.** This term includes the following meanings: arranged, designed, constructed, altered, rented, leased, sold, occupied, and intended to be occupied.

**Utilities, Major.** Generating plants, electrical substations, above-ground electrical transmission lines, switching buildings, data centers, flood control or drainage facilities, water or wastewater treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities, but excluding wireless telecommunications facilities, see Section 4.04.376 Wireless Telecommunications Facilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification.

**Utilities, Minor.** Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines.

**Utility Rights-of-Way.** Property substantially controlled by, and primarily used by, a public or private utility for high voltage transmission lines, flood control, railroad or similar purposes.

**Vehicle/Equipment Repair, General.** Repair of large commercial trucks [over six wheels or over 10,000 pounds], mobile homes, recreational vehicles or boats, including the sale, installation, and servicing of related equipment and parts.

**Vehicle/Equipment Repair, Limited.** Repair of automobiles, small trucks (e.g., pick-up trucks), or motorcycles, including the sale, installation, and servicing of related equipment and parts. This classification includes auto repair shops, body and fender shops, wheel and brake shops, stereo installation, and tire sales and installations, but excludes vehicle dismantling or salvage and tire re-treading or recapping.

**Vehicle/Heavy Equipment Dealers, New.** Sale or leasing of new automobiles, motor-cycles, boats, trucks, tractors, construction or agricultural equipment, mobile homes, and similar equipment, including storage and incidental maintenance. This includes used car sales in connection with new car sales.

**Vehicle/Heavy Equipment Dealers, Used.** Sale or leasing of used automobiles of numerous model types, motorcycle, boats, trucks, tractors, construction or agricultural equipment, mobile homes, and similar equipment, including storage and incidental maintenance.

**Vehicle /Heavy Equipment Dealers Limited, Used.** Sale or leasing of used automobiles of numerous model types, motorcycles, boats, trucks, tractors, construction or agricultural equipment, mobile homes, and similar equipment, including storage and incidental maintenance, where no more than two parking spaces are devoted for such use and where the purpose is to satisfy the requirements of the California Department of Motor Vehicles to provide an office location where customers can complete required paperwork and take possession of a vehicle purchased primarily via Internet activities or fleet sales. Display of vehicles "For Sale" is prohibited.

**Vehicle/Heavy Equipment Rental.** Rental of automobiles, trucks, trailers, and heavy equipment, including storage and incidental maintenance, but excluding maintenance requiring pneumatic lifts.

**Vehicle Storage.** Storage of operative or inoperative vehicles. This classification includes storage of parking tow-aways, impound yards, storage lots for automobiles, trucks, buses, recreational vehicles, and boats, including re-occurring storage of trucks as an “off-site” annex facility, but does not include “parking lots” or vehicle dismantling.

**Visible.** Likely to be noticed by a person of average height walking on a street or sidewalk. When related to screening or vegetation, it shall refer to conditions two (2) years after installation of any planting intended to screen a view.

**War Games Establishment.** Any business that collects money, for profit or non-profit purposes, to provide a simulated war experience.

**Warehouse - Wholesale/Retail Distribution Facilities.** Distribution and warehousing facilities, such as order-processing fulfillment centers, logistics business, and other facilities that provide for the shipment of an on-site inventory of goods and products directly to retail/wholesale customers or retail stores. This classification includes facilities for the repackaging of consumer goods for shipment to retail stores. (This classification excludes warehousing activity accessory to an industrial and/or manufacturing use, and also excludes “Truck Terminals” and “Parcel Processing and Shipping Centers” with incidental warehousing.)

**Warehouse - Storage Facilities.** Warehousing facilities primarily used for the storage and/or consolidating of items such as raw materials, private goods, and the intermediary storage of bulk goods intended for further distribution. This classification includes moving and furniture storage companies. (This classification excludes warehousing activity accessory to an industrial and/or manufacturing use and, also, excludes “Truck Terminals” and “Parcel Processing and Shipping Centers” with incidental warehousing.)

**Window, Required.** An exterior opening in a habitable room meeting the area requirements of the Property Maintenance Code (Chapter 7-5, Article 3 of the Municipal Code).

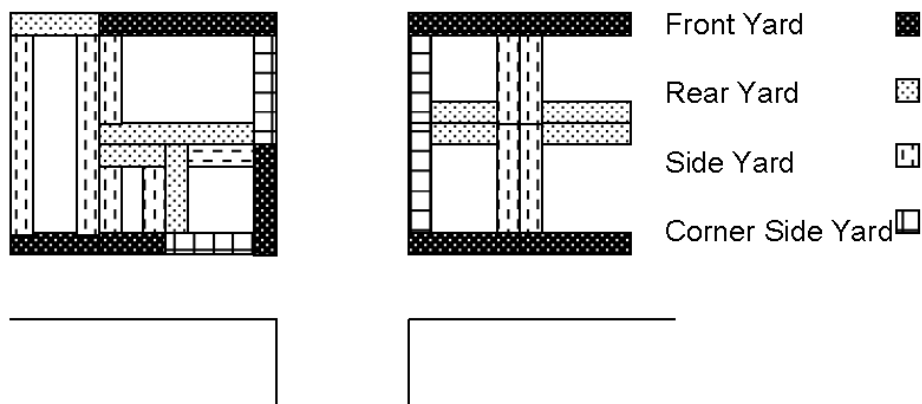
**Wireless Telecommunications Facility.** An unstaffed communications facility containing communication towers and/or antennas and any related equipment for the purpose of transmitting or receiving electromagnetic radio frequency waves, including antennas and all ancillary equipment. It does not include radio and television towers, antennas or related equipment for commercial broadcast or amateur use; citizens band and any other miscellaneous telemetric and control communications systems.

**Yard.** An open space on the same site as a structure, unoccupied and unobstructed by structures from the ground upward except as otherwise provided in this Code, including a front yard, side yard, or rear yard.

**Yard, Front.** A yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the front property line and the front setback line. (See illustrative diagram below.)

**Yard, Rear.** A yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the rear property line and the rear setback line except that on a corner lot the rear yard shall extend only to the side yard abutting the street. (See illustrative diagram below.)

**Yard, Side.** A yard extending from the rear line of the required front yard, or the front property line of the site where no front yard is required, to the front line of the required rear yard, or the rear property line of the site where no rear yard is required, the width of which is the horizontal distance between the side property line and the side setback line except that the side yard on the street side of a corner lot shall extend to the rear lot line. (See illustrative diagram below.)



**YARD TYPES**

(This diagram is illustrative)

**Zoning Enforcement Official.** That person designated by the City Manager as responsible for determining compliance with the Zoning Code. (Ord. 2017-014 § 4; Ord. 2017-003 § 4; Ord. 2017-001 § 4; Ord. 2016-012 § 4; Ord. 2015-011 § 4; Ord. 2014-011 § 2; Ord. 2014-003 § 3; Ord. 2013-006 § 3; Ord. 2011-004 § 1; Ord. 2011-003 § 1; Ord. 2008-002 § 1; Ord. 2007-005 § 1; Ord. 2004-007 § 1; Ord. 2004-004 § 2; Ord. 2001-015 § 1)

### 1.12.112 Responsibilities

Title 1 of the Municipal Code defines responsibilities of the Board of Zoning Adjustments, the Planning Commission, and the City Council for administration of the Zoning Code. Responsibilities of the Zoning Enforcement Official and the Site Development Sub-Commission shall be as follows:

A. Zoning Enforcement Official. The Zoning Enforcement Official's responsibilities shall include interpreting and enforcing all regulations and standards of this Code, and has the following duties, as specified below:

1. Duties of the Zoning Enforcement Official.

- a. Approval of Administrative Permits. Specifically, the Zoning Enforcement Official shall be responsible for approving administrative permits, including administrative reviews, administrative exceptions, certificates of compatibility, game center permits, home occupation permits, outdoor facility permits, satellite and microwave antenna permits, sign permits (including sign exceptions), site plan approvals, temporary use permits, and zoning permits, landscape plans, and, in consultation with the Traffic Engineer, parking requirements for certain uses, collective provision of parking, off-site parking, and specific parking area design.
- b. Approval of Minor Modifications. The Zoning Enforcement Official shall approve minor modifications to previously approved use permit, variance, parking exception and Planned Development approvals.
- c. Inventory and Enforcement. The Zoning Enforcement Official also shall be responsible for inventorying illegal or abandoned signs and nonconforming uses and structures and enforcement of the regulations and standards of this Code.

The Zoning Enforcement Official may refer matters involving major development issues to the Site Development Sub-Commission, Planning Commission, or the Board of Zoning Adjustments for action and may consult with the City Attorney on questions of interpretation.

B. Site Development Sub-Commission. The Site Development Sub-Commission, created pursuant to Chapter 1-3, Article 12, of the Municipal Code, has the following organization and duties, as specified:

1. Membership. The Site Development Sub-Commission shall consist of three members. Notwithstanding the appointment procedure outlined in Section 1-3-105 of the Municipal Code, each of the three members shall be appointed so that: (a) one is either a member of the Planning Commission or the Board of Zoning Adjustment, and is to be appointed to the Sub-Commission by the mayor; (b) one is a member



of the Planning Commission and is to be appointed to the Sub-Commission by the Chair of the Planning Commission; and (c) one is a member of the Board of Zoning Adjustments and is to be appointed to the Sub-Commission by the Chair of the Board of Zoning Adjustments.

2. Duties of the Site Development Sub-Commission.

- a. Site Plan Approval. The Sub-Commission shall review requests for Site Plan, Residential Site Plan, and View Preservation/Site Plan approval that have been referred by the Zoning Enforcement Official.
- b. Signs. The Sub-Commission shall review requests for approval of signs as required by Chapter 4.12 Signs and others that have been referred by the Zoning Enforcement Official.
- c. Industrial Shipping and Loading Performance Standards. As referred by the Zoning Enforcement Official, the Sub-Commission shall review claims made of a business' noncompliance with the performance standards of Section 2.12.328 Parcels Adjoining Residential Districts—Additional Performance Standards, and may propose a resolution between the business and the complaining party. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

# **Title 2—Base District Regulations**

## **Chapter 2.04 R Residential Districts**

### **Sections:**

**2.04.100 Specific Purposes**

### **Article 1. Use Regulations**

- 2.04.200 RD District—Use Regulations**
- 2.04.204 RM District—Use Regulations**
- 2.04.208 RO District—Use Regulations**
- 2.04.212 RS District—Use Regulations**
- 2.04.216 Additional Use Restrictions— Residential Districts**
- 2.04.220 Home Occupation in R Districts**
- 2.04.224 Family Day Care Homes**
- 2.04.228 Cottage Food Operations**
- 2.04.232 Residential Congregate Care Facilities**
- 2.04.236 Maximum Dwelling Unit Occupancy**
- 2.04.240 RO District—Animal Husbandry**

### **Article 2. Development Regulations**

- 2.04.300 Property Development Regulations— Residential Districts**
- 2.04.304 Base Density—Minimum Site Area per Unit**
- 2.04.308 Minimum Lot Area**
- 2.04.312 Minimum Lot Width**
- 2.04.316 Minimum Yards**
- 2.04.320 Maximum Height of Structures**
- 2.04.324 Daylight Planes in R Districts**
- 2.04.328 Maximum Lot Coverage**
- 2.04.332 Maximum Floor Area Ratio (FAR)**
- 2.04.336 Additional Property Development Regulations: Residential Districts**
- 2.04.340 R Districts—Adjustments to Minimum Yard Requirements**
- 2.04.344 Swimming Pools, Hot Tubs and Related Equipment**
- 2.04.348 Accessory Structures in RS, RD and RM Districts**
- 2.04.352 RO District—Applicability of Prior Zoning Code**
- 2.04.356 RO District—Additional Setback and Lot Coverage Requirements**
- 2.04.360 RO District—Accessory Structures**
- 2.04.364 RO District—Additional Dwelling Units**
- 2.04.368 RM District—Multi-Family Dwellings, Requirements for Courts Opposite Windows**
- 2.04.372 RM District—Multi-Family Dwellings, Requirements for Open Space**
- 2.04.376 RM District—Multi-Family Dwellings, Requirements for Planting Areas**
- 2.04.380 RM District—Multi-Family Dwellings, Requirements for Storage Space**
- 2.04.384 RM District—Multi-Family Dwellings, Requirements for Exterior Materials**

- 2.04.388 Accessory Dwelling Units (ADUs)**
- 2.04.392 Manufactured Homes in R Districts**
- 2.04.396 Manufactured Home Parks**

### **Article 3. Administrative Regulations**

- 2.04.400 Administrative Exceptions**
- 2.04.404 Residential Site Plan Review—Measure of Floor Area and General Requirements**
- 2.04.408 RO, RS and RS-40 Districts—Residential Site Plan Review**
- 2.04.412 RS-VP Sub-District—Residential Site Plan Review and Exceptions to Height Restrictions**
- 2.04.416 RO and RS Districts—Overview of Residential Site Plan Review Requirements**

### **2.04.100 Specific Purposes**

In addition to the general purposes listed in Chapter 1.04 Title, Components, and Purposes, the specific purposes of residential districts are to:

- A. Provide appropriately located areas for residential development that are consistent with the General Plan and with standards of public health and safety established by the Municipal Code.
- B. Ensure adequate light, air, privacy, and open space for each dwelling, and protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects.
- C. Protect residential areas from fires, explosions, landslides, toxic fumes and substances, and other public safety hazards.
- D. Protect adjoining single-family residential districts from excessive loss of sun, light, quiet, and privacy resulting from proximity to new development.
- E. Achieve a high standard of site and building design and design compatibility with surrounding neighborhoods.
- F. Promote development of housing affordable by low- and moderate-income households by providing a density bonus for projects in which a portion of the units are affordable for such households.
- G. Provide sites for public and semipublic land uses needed to complement residential development or requiring a residential environment.
- H. Ensure the provision of public services and facilities needed to accommodate planned population densities.

The additional purposes of each R Residential District are:

RD Residential Duplex District. To provide opportunities for two-family housing at appropriate locations.

RM Residential Multi-Family District. To provide opportunities for multiple residential uses, including town houses, condominiums, multi-dwelling structures, or cluster housing with landscaped open space for residents' use, and apartments. Single-family and duplex dwellings are permitted uses in these districts. Four types of multi-family districts are established:

**RM-3000 District**, where the density is 14.5 dwellings per gross acre.

**RM-2500 District**, where the density is 17.5 dwellings per gross acre.

**RM-2000 District**, where the density is 22 dwellings per gross acre.

**RM-1800 District**, where the density is 24 dwellings per gross acre.

RO Residential Outer District. To provide opportunities for additional single- and two-family dwellings on larger lots, subject to appropriate standards and to permit horticulture, animal husbandry, and small-scale truck gardening within limitations consistent with the basic residential character of the district.

RS Residential Single-Family District. To provide opportunities for single-family residential land use in neighborhoods, subject to appropriate standards. There are two sub-districts of the RS District. One, indicated by a "-40" designation, is intended for areas where the minimum front yard setback is 40 feet. The other, indicated by a "-VP", is intended for "view preservation," where the maximum height limit is 18 feet and all new homes and additions are subject to discretionary review to prevent unreasonable blockage of views.

(Ord. 2001-015 § 1)

## **Article 1. Use Regulations**

### **2.04.200 RD District—Use Regulations**

#### **A. RD District—Permitted Uses.**

The following uses are allowed in the RD District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a permitted use.
2. Garage and Yard Sales. (Limited to two times per year on the premises of the property owner or a residential property in the immediate vicinity.)
3. Park and Recreation Facilities, Public.
4. Single-Family Residential.
5. Two-Family Residential.
6. Utilities, Minor.

B. RD District—Conditionally Permitted Uses.

The following uses are allowed in the RD District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditionally permitted use.
2. Assembly Uses.
3. Park and Recreation Facilities, Private Noncommercial.
4. Public Safety Facilities.
5. Schools, Public or Private.
6. Swim and Tennis Clubs.
7. Utilities, Major.

C. RD District—Uses Requiring Administrative Review.

The following uses are allowed in the RD District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Community Gardens. (Subject to the regulations of Section 4.04.380 Community Gardens)
2. Day Care, General.
3. Telecommunications Antennas, Architecturally-Integrated and/or Co-Locations & Modifications to Existing Tower Structures per Section 4.04.376 Wireless Telecommunications Facilities.

D. RD District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the RD District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Assembly Uses, Temporary.
2. Commercial Filming.
3. Street or Neighborhood Fairs. (Ord. 2017-003 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2007-005 § 2; Ord. 2001-015 § 1)

## **2.04.204 RM District—Use Regulations**

### **A. RM District—Permitted Uses.**

The following uses are allowed in the RM District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a permitted use.
2. Garage and Yard Sales. (Limited to two times per year on the premises of the property owner or a residential property in the immediate vicinity.)
3. Multi-Family Residential.
4. Park and Recreation Facilities, Public.
5. Single-Family Residential.
6. Two-Family Residential.
7. Utilities, Minor.

### **B. RM District—Conditionally Permitted Uses.**

The following uses are allowed in the RM District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditionally permitted use.
2. Assembly Uses.
3. Bed and Breakfast Inns.
4. Group Housing.
5. Manufactured Home Parks.
6. Park and Recreation Facilities, Private Noncommercial.
7. Public Safety Facilities.
8. Schools, Public or Private.
9. Swim and Tennis Clubs.
10. Utilities, Major.

### **C. RM District—Uses Requiring Administrative Review.**

The following uses are allowed in the RM District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Community Gardens. (Subject to the regulations of Section 4.04.380 Community Gardens)
2. Day Care, General.

3. Telecommunications Antennas, Architecturally-Integrated and/or Co-Locations & Modifications to Existing Tower Structures per Section 4.04.376 Wireless Telecommunications Facilities

D. RM District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the RM District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Assembly Uses, Temporary.
2. Commercial Filming.
3. Street or Neighborhood Fairs. (Ord. 2017-003 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2007-005 § 2; Ord. 2004-023 § 1; Ord. 2001-015 § 1)

**2.04.208 RO District—Use Regulations**

A. RO District—Permitted Uses.

The following uses are allowed in the RO District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a permitted use.
2. Animal Husbandry. (Subject to the regulations of Section 2.04.240 RO District—Animal Husbandry.)
3. Garage and Yard Sales. (Limited to two times per year on the premises of the property owner or a residential property in the immediate vicinity.)
4. Horticulture, Limited.
5. Park and Recreation Facilities, Public.
6. Single-Family Residential.
7. Additional Residential Dwelling Units, subject to the regulations of Section 2.04.384 RO District—Additional Dwelling Units.
8. Utilities, Minor.

B. RO District—Conditionally Permitted Uses.

The following uses are allowed in the RO District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classifications.)

1. Accessory uses when in conjunction with a conditionally permitted use.
2. Assembly Uses.
3. Park and Recreation Facilities, Private Noncommercial.
4. Public Safety Facilities.
5. Schools, Public or Private.

6. Utilities, Major.

C. RO District—Uses Requiring Administrative Review.

The following uses are allowed in the RO District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Community Gardens. (Subject to the regulations of Section 4.04.380 Community Gardens.)
2. Day Care, General.
3. Telecommunications Antennas, Architecturally-Integrated and/or Co-Locations & Modifications to Existing Tower Structures per Section 4.04.376 Wireless Telecommunications Facilities.

D. RO District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the RO District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Assembly Uses, Temporary.
2. Commercial Filming.
3. Street or Neighborhood Fairs. (Ord. 2017-003 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2007-005 § 2; Ord. 2001-015 § 1)

**2.04.212 RS District—Use Regulations**

A. RS District—Permitted Uses.

The following uses are allowed in the RS District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a permitted use.
2. Garage and Yard Sales. (Limited to two times per year on the premises of the property owner or a residential property in the immediate vicinity.)
3. Park and Recreation Facilities, Public.
4. Single-Family Residential.
5. Two-Family Residential, Pre-Existing. (These pre-existing two-family residential uses shall be allowed to remain and shall not be considered nonconforming, but no new uses shall be established.)
6. Utilities, Minor.

B. RS District—Conditionally Permitted Uses.



The following uses are allowed in the RS District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditionally permitted use.
2. Assembly Uses.
3. Park and Recreation Facilities, Private Noncommercial.
4. Public Safety Facilities.
5. Schools, Public or Private.
6. Swim and Tennis Clubs.
7. Utilities, Major.

C. RS District—Uses Requiring Administrative Review.

The following uses are allowed in the RS District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Community Gardens. (Subject to the regulations of Section 4.04.380 Community Gardens.)
2. Day Care, General.
3. Telecommunications Antennas, Architecturally-Integrated and/or Co-Locations & Modifications to Existing Tower Structures per Section 4.04.376 Wireless Telecommunications Facilities.

D. RS District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the RS District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Assembly Uses, Temporary.
2. Commercial Filming.
3. Street or Neighborhood Fairs. (Ord. 2017-003 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2007-005 § 2; Ord. 2001-015 § 1)

**2.04.216 Additional Use Restrictions— Residential Districts**

All uses not listed as permitted, conditionally permitted, subject to administrative review, or subject to site development review are prohibited, unless a determination is made by the Zoning Enforcement Official pursuant to Section 5.04.112 Uses Not Listed.

In addition to the uses listed above, the following regulations shall apply:

- A. Home Occupations are subject to the regulations of Section 2.04.220 Home Occupation in R Districts.

- B. Nonconforming Uses are subject to the regulations of Chapter 4.20 Nonconforming Uses and Structures.
- C. Family Day Care Homes are subject to the regulations of Section 2.04.224 Family Day Care Homes.
- D. Cottage Food Operations are subject to the regulations of Section 2.04.228 Cottage Food Operations.
- E. Residential Congregate Care Facilities are subject to the regulations of Section 2.04.232 Residential Congregate Care Facilities.

(Ord. 2001-015 § 1)

### **2.04.220 Home Occupation in R Districts**

- A. Permit Required. A home occupation in a residential use shall require a home occupation permit, obtained by filing a completed application form with the Zoning Enforcement Official. The Zoning Enforcement Official shall issue the permit upon determining that the proposed home occupation complies with the requirements of this section.
- B. Contents of Application. An application for a home occupation permit shall contain:
  - 1. The name, address, and telephone number of the applicant;
  - 2. A complete description of the proposed home occupation, including, but not limited to the number and occupation of persons employed or persons retained as independent contractors, or otherwise engaged or participating in the business, amount of floor space occupied, provisions for storage of materials, and number and type of vehicles or equipment used.
- C. Required Conditions. Home occupations shall comply with the following regulations:
  - 1. No one other than a resident of the dwelling shall be employed on site or report to work at the site in the conduct of a home occupation. This prohibition also applies to independent contractors.
  - 2. There shall be no interior or exterior activity related to the home occupation inconsistent with or interfering with residential use of the property or detrimental to property in the vicinity.
  - 3. A home occupation shall be conducted entirely within a building and shall occupy no more than the lesser of 500 square feet or 25 percent of the floor area. No

outdoor storage of materials or supplies shall be permitted in conjunction with the home occupation.

4. The existence of a home occupation shall not be apparent beyond the boundaries of the site, and no home occupation shall involve the use of a sign.
5. A home occupation shall comply with the performance standards prescribed by Section 4.04.340 Performance Standards, provided that no noise shall be perceptible at or beyond the property line.
6. A home occupation shall not create pedestrian, automobile, or truck traffic detrimental to property in the vicinity. All deliveries of materials related to a home occupation shall be by the U.S. Postal Service or similar carrier, or by means of vehicles customarily kept on the site by the permit holder or family members.
7. A home occupation shall not result in a reduction or elimination of any required parking space.
8. Any vehicle or vehicles used by the applicant in conjunction with the home occupation or with any related business activity shall be parked in a manner so as not to be visible from a public street. This limitation shall not apply to standard passenger vehicles or trucks and vans of three-quarter-ton or less in size, so long as no advertising of the home occupation or any related business activity (except that required by law) is displayed in or upon such vehicles.
9. No advertising of the home occupation (including business cards) shall include the applicant's address.

The permit for a home occupation that is not operated in compliance with these regulations shall be revoked by the Zoning Enforcement Official after 30 days' written notice unless the home occupation is altered to comply.

- D. Business License and Renewal. A home occupation permit shall remain effective with the issuance and annual renewal of the required business license.
- E. Appeals. In accord with Chapter 5.08 Use Permits, Variances, and Parking Exceptions, decisions of the Zoning Enforcement Official may be appealed to the Board of Zoning Adjustments by the applicant or by any interested party. (Ord. 2015-11 § 4; Ord. 2001-015 § 1)

#### **2.04.224 Family Day Care Homes**

- A. Family Day Care Homes as a Residential Use. Licensed family day care operations, as defined in Section 1.12.108 Definitions, shall be permitted in any dwelling in the City,

including in apartments and multifamily dwelling units. Family day care homes are considered a residential use of property and may be permitted in all Residential Districts and all other Zoning Districts in which residential uses are either permitted, conditionally permitted, or subject to administrative review. (Ord. 2012-001 § 3; Ord. 2001-015 § 1)

#### **2.04.228 Cottage Food Operations**

Cottage food operations are subject to the following regulations:

- A. Permitted Location. Cottage food operations shall be permitted in any dwelling in the City.
- B. Required Permits. Any dwelling can be used for a cottage food operation when the Zoning Enforcement Official has granted a cottage food operation permit.
- C. Cottage Food Operation Permit—Compliance with Standards. The Zoning Enforcement Official shall grant a permit for the cottage food operation only if after review of the application for such permit, inspection of the premises and any other necessary information, the Zoning Enforcement Official determines that the application complies with the following standards:
  - 1. Spacing. No cottage food operation shall be located within 150 feet of any other cottage food operation, as measured from the exterior lot lines along the property frontages.
  - 2. On-Street Parking. No cottage food operation shall be located upon a lot having less than 32 feet of legally permitted parking along the frontage of the lot.
  - 3. Employee Parking and Customer Parking Circulation Plan. The driveway of a cottage food operation may be used to provide off-street parking required by Chapter 4.08 Off-Street Parking and Loading Regulations if such use will not obstruct a sidewalk or other public right-of-way.

The applicant shall provide the Zoning Enforcement Official with a written plan for the administration of parking and traffic operations related to the proposed cottage food operation. This plan shall include controls for vehicle circulation, drop-off and pick-up of cottage food related products and parking for the employee so that parking, loading, unloading and turning movements are compatible with the residential environment in which the cottage food operation will be located.

- 4. Noise Control. The level of noise in connection with the operation of a cottage food operation shall not be persistently maintained at a level of 55 decibels or greater, as measured from any point along or beyond the property line of the subject premises.

5. Traffic. A cottage food operation shall not create pedestrian, automobile, or truck traffic detrimental to property in the vicinity. All deliveries of materials related to a cottage food operation shall be by the U.S. Postal Service or similar carrier, or by means of vehicles customarily kept on the site by the permit holder or family members in trucks or vans of three-quarter-ton or less in size.
  6. Parking. A cottage food operation shall not result in a reduction or elimination of any required parking space. One off-street parking space shall be provided for employees, per Section 4.08.108 Off-Street Parking and Loading Spaces Required. Said employee parking may be uncovered and located in a driveway.
  7. Vehicles. Any vehicle or vehicles used by the applicant in conjunction with the cottage food operation or with any related business activity shall be parked in a manner so as not to be visible from a public street. This limitation shall not apply to standard passenger vehicles or trucks and vans of three-quarter-ton or less in size.
  8. Required State Permits or Licenses. No permit issued pursuant to this section shall become operative until copies of the Alameda County application/permitting form and City business license have been filed with the Zoning Enforcement Official.
  9. Nontransferable. A permit issued pursuant to this section shall be nontransferable and shall not run with the land.
- D. Notwithstanding the above, Standards C.1: Spacing and C.2: On-Street Parking will not apply to a cottage food operation where the permit applicant declares on the application form that the cottage food operation will not be making any customer sales directly from the dwelling or property.

Notwithstanding the above, Standards C.1: Spacing and C.2: On-Street Parking will not apply to a cottage food operation that operates in a location where there are two or more on-site, off-street, dedicated parking spaces for guests.

- E. Administrative Exception Provision. The Zoning Enforcement Official may approve an Administrative Exception, per Section 2.04.400 Administrative Exceptions, if an applicant cannot meet the provisions of Subsection C.1 through C.7.
- F. Appeals. In accord with Chapter 5.08 Use Permits, Variances, and Parking Exceptions, decisions of the Zoning Enforcement Official may be appealed to the Board of Zoning Adjustments by the applicant or by any interested party. (Ord. 2013-006 § 3)

#### **2.04.232 Residential Congregate Care Facilities**

- A. Purpose and Intent. The City Council finds that elderly persons, persons suffering from chronic illnesses, and persons with mental or physical disabilities, including persons

recovering from drug and/or alcohol addiction, often benefit from living in a non-institutional residential environment, which is frequently cost-effective and more humane and therapeutic. The Council also finds that, under the federal Fair Housing Act, 42 U.S.C. 3601 et seq., the City has an obligation to provide reasonable accommodation for the disabled, including changing, waiving, and making exceptions to zoning rules that would otherwise have the effect of limiting the ability of such individuals to live in the residence of their choice in the community. The Council further finds that the preservation and protection of the character of residential neighborhoods is in the best interest of the public health, safety, and welfare, and that over-concentration of residential facilities for the individuals listed above can impair the character of residential neighborhoods, thereby defeating the very reason for providing residential accommodations for such individuals. Thus, the Council concludes that a set of land use laws that flexibly limits the concentration of residential facilities for the individuals listed above can balance the City's complementary interests in reasonably accommodating disabled individuals seeking a residential living environment and in preserving the character of residential neighborhoods. The purpose of this section is to enact such a law. In enacting this law, the Council has attempted to achieve the goals described above by removing any special requirements for facilities for the disabled that would limit such individuals' choice of places to live; to the extent that such residences are subject to requirements different from those applicable to similar uses of land, the Council has concluded that no less discriminatory alternatives exist that would as effectively promote its interests in reasonable accommodation and the preservation of residential neighborhoods.

- B. Residential Congregate Care Facilities as a Residential Use. Residential Congregate Care Facilities, as defined in Section 1.12.108 Definitions, are considered a residential use of property, and may be permitted in all Residential Districts, and all other Zoning Districts in which residential uses are either permitted, conditionally permitted, or subject to administrative review, and subject to the limitations prescribed in this section.
- C. Applicability of Regulations. Residential Congregate Care Facilities shall be subject to the zoning requirements of this section, and any subdivision, housing, and building regulations and codes expressly applicable to such Facilities, including building and fire safety requirements. Nothing in those regulations and codes shall be construed to prohibit such Facilities from locating where a residential use would otherwise be permitted or conditionally permitted. No privately created covenant, equitable servitude, or other contract or agreement shall be used as the basis of denial of permission to operate a Residential Congregate Care Facilities that has met all other applicable requirements.
- D. Over-Concentration and Minimum Spacing. To prevent an over-concentration of Residential Congregate Care Facilities in the City, all new Facilities for which the contemplated number of residents is more than six (not including live-in staff), and existing Facilities that wish to increase the number of residents to more than six, must be a minimum distance of 1,000 feet from another such Facility. Nothing in this subsection shall prevent more than one Facility from locating in an individual apartment/condomin-

ium complex, providing the spacing requirements of this subsection are met. An adjustment to the required minimum spacing may be granted pursuant to Subsection G: Adjustments to Required Minimum Spacing Requirement below.

- E. Small Facilities Exempt from Required Minimum Spacing. Residential Congregate Care Facilities with six or less residents (not including live-in staff) are exempt from the spacing requirements of Subsection D: Over-Concentration and Minimum Spacing above. Such Facilities, defined as “Residential Congregate Care Facilities, Limited” in Section 1.12.108 Definitions, are permitted in all Residential Districts, and shall be permitted in all other Zoning Districts pursuant to the same regulations as would apply to any other residential use in such Districts.
- F. Facilities with Total Occupancy of More 10 Adults. Residential Congregate Care Facilities with more than 10 residents (including staff) who are 18 years of age, or older, are subject to the requirements of Section 2.04.236 Maximum Dwelling Unit Occupancy.
- G. Adjustments to Required Minimum Spacing Requirement. Approval to locate a Residential Congregate Care Facilities with more than six residents (not including live-in staff) closer than 1,000 feet from another such Facility is subject to approval of an Adjustment to the Minimum Spacing Requirement, as outlined below:
  - 1. Application and Noticing. The Board of Zoning Adjustments shall hold a public hearing on all applications for an Adjustment to the Minimum Spacing Requirement pursuant to this section. Public notices shall provide notice as set forth in Section 5.08.116 Notice and Public Hearing.
  - 2. Findings Requiring Denial of Request. All applications for Adjustment to the Minimum Spacing Requirement pursuant to this section shall be granted unless the Board of Zoning Adjustments finds all of the following:
    - a. That the proposed Residential Congregate Care Facility, at the location being requested, would impose an undue administrative or financial burden on the City;
    - b. That the proposed Residential Congregate Care Facility, at the location being requested, would effect a fundamental change in the nature of the neighborhood in which it proposes to locate; and
    - c. That the proposed Residential Congregate Care Facility, at the location being requested, would significantly compromise the City’s interest in maintaining either the residential character of the surrounding neighborhood or reasonable accommodation to disabled persons seeking a residential living environment.
  - 3. Adjustment Review Process Does Not Limit Number of Facilities. The Board of Zoning Adjustments shall neither interpret nor enforce this subsection in a manner,

which creates a ceiling quota on the number of Residential Congregate Care Facilities that may locate in the City, or impose limitations, beyond those prescribed by Code, as to the number of persons who may live in such Facilities.

4. Ability to Impose Conditions. The Board of Zoning Adjustments may impose conditions on an Adjustment to Spacing Limitations, in the same manner and subject to the same limitations as provided for the approval of a Use Permit or Variance, as prescribed in Section 5.08.128 Conditions of Approval.
5. Appeals. A Decision by Board of Zoning Adjustments may be appealed to the City Council pursuant to the requirements of Chapter 5.20 Appeals. (Ord. 2001-015 § 1)

#### **2.04.236 Maximum Dwelling Unit Occupancy**

To ensure consistency with the density policies of the General Plan and with the rights of individuals living as a household, occupancy by persons living as a single household (whether or not related by blood or marriage) in a dwelling unit shall comply with the California Uniform Housing Code.

- A. A zoning permit shall be required for occupancy of a dwelling unit by more than 10 persons 18 years or older. (Ord. 2001-015 § 1)

#### **2.04.240 RO District—Animal Husbandry**

The maintenance of horses, cows, goats, cats, dogs, rabbits, chinchillas, guinea pigs, poultry, pigeons, and other similar animals is permitted on a lot with one dwelling unit, subject to the following regulations:

- A. The slaughter of small animals, such as poultry and rabbits is permitted only where intended for consumption by the resident family.
- B. The keeping, feeding, and maintenance of horses, cows or goats is permitted for non-profit purposes only. The keeping, feeding and maintenance of dogs, cats, rabbits, chinchillas, guinea pigs, poultry, pigeons, and other similar animals is permitted for the purpose of profit only where the sale of animals or animal products on the site is clearly subordinate and incidental to the residential use of the property.
- C. No animal other than household pets shall be kept within a dwelling, or within 20 feet of a dwelling or of a required front yard, or within 60 feet of the front lot line.
- D. The maximum space devoted to the keeping of such animals shall be 5,000 square feet or 20 percent of the lot, whichever is less.



- E. Housing or caging of animals shall be adequate and sanitary. All animal food except hay and straw shall be stored in rodent-proof containers.
- F. The number of animals other than household pets shall be limited by the following requirements of open space:
  - 1. For each horse or cow - 4,000 square feet
  - 2. For each sheep or goat - 2,000 square feet
  - 3. For each dog not a household pet - 1,000 square feet
  - 4. For each cat not a household pet - 500 square feet
  - 5. For each large animal, other than above - 2,000 square feet
  - 6. For each small animal, such as rabbit or fowl - 250 square feet

Calculation of the total open space requirement shall be cumulative, except that one-half of the total requirement for large animals may be put toward the required space for small animals. Un-weaned young of animals and young of small animals and fowl under the age of six months can be excluded when determining the open space requirements, if the number of such animals is not twice the number of permitted animals at any one time.

- G. If any part of an RO District is recorded to be in a district in which animal husbandry is not a permitted accessory use, such use shall cease within six months from the effective date of the zoning. (Ord. 2001-015 § 1)

## **Article 2. Development Regulations**

### **2.04.300 Property Development Regulations—Residential Districts**

The following sections set forth the property development regulations of the RD, RM, RO and RS Districts. (Ord. 2001-015 § 1)

#### **2.04.304 Maximum Density**

Zoning District	Maximum Density
RD	2 dwelling units per parcel
RM-3000	14.5 dwelling units per acre
RM-2500	17.5 dwelling units per acre
RM-2000	22 dwelling units per acre
RM-1800	24 dwelling units per acre
RO	Varies based on parcel size. See Section 2.04.384 RO District—Additional Dwelling Units
RS	1 dwelling unit per parcel
RS-40	1 dwelling unit per parcel
RS-VP	1 dwelling unit per parcel

- A. Where a corner lot has a property line radius of 20 feet or less, the area bounded by the extended property lines and the corner radius shall be considered part of the lot area.
- B. Accessory dwelling units and junior accessory dwelling units do not count toward the maximum density. See Section 2.04.388 Accessory Dwelling Units (ADUs). (Ord. 2001-015 § 1)

#### 2.04.308 Minimum Lot Area

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Area for Corner Lot (square feet)
RD	5,000	6,000
RM-3000	6,000	7,000
RM-2500	7,500	8,500
RM-2000	10,000	12,000
RM-1800	10,000	12,000
RO	8,000	8,000
RS	5,000	6,000
RS-40	5,000	6,000
RS-VP	5,000	6,000

- A. The Minimum Lot Area shall be subject to the regulations of Sections 4.04.304 Development on Lots Not Meeting Minimum Area or Width, and 4.04.308 Development on Lots Divided by District Boundaries. Where a corner lot has a property line radius of 20 feet or less, the area bounded by the extended property lines and the corner radius line shall be considered part of the lot area. (Ord. 2001-015 § 1)

#### 2.04.312 Minimum Lot Width

Zoning District	Minimum Lot Width (feet)	Minimum Lot Width for Corner Lot (feet)
RD	50	60
RM-3000	60	70

RM-2500	75	85
RM-2000	100	120
RM-1800	100	120
RO	60	60
RS	50	60
RS-40	50	60
RS-VP	50	60

- A. The Minimum Lot Width shall be subject to the regulations of Section 4.04.304 Development on Lots Not Meeting Minimum Area or Width. Where a corner lot has a property line radius of 20 feet or less, the area bounded by the extended property lines and the corner radius line shall be considered part of the lot area. (Ord. 2001-015 § 1)

### 2.04.316 Minimum Yards

- A. Minimum Building Setback. The minimum yard setback for building placement is as prescribed below. Additional building setback requirements may also apply as specified in Subsections B and C.

Zoning District	Front (feet)	Side (feet)	Corner Side (feet)	Rear (feet)
RD	20	5	10	15
RM-3000	20	Min.6; Avg.10	20	15
RM-2500	15	Min.6; Avg.10	15	15
RM-2000	15	Min.6; Avg.10	15	15
RM-1800	15	Min.6; Avg.10	15	15
RO	20	6-12	10	10-25
RS	20	5	10	15
RS-40	40	5	10	15
RS-VP	20	5	10	15

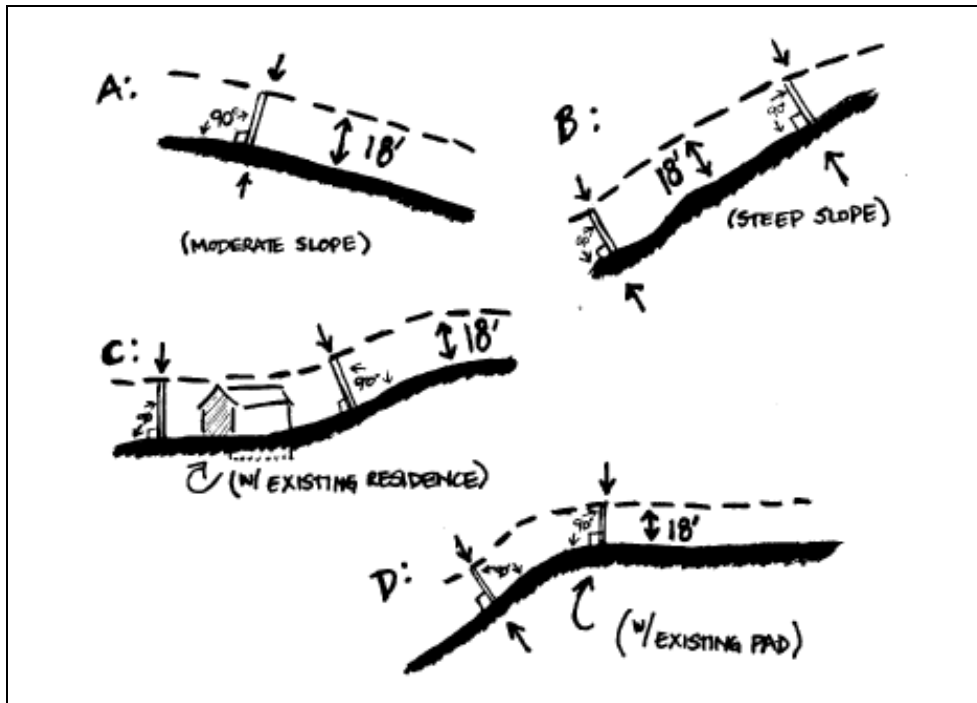
- B. Minimum required yard setbacks shall be subject to the regulations of Section 2.04.340 R Districts—Adjustments to Minimum Yard Requirements; and in the RO District, the regulations of Section 2.04.376 RO District—Additional Setback and Lot Coverage Requirements.
- C. Determination of Front and Corner Side Yards. For corner lots, the owner may select either street frontage line as the front lot line, subject to approval of the Zoning Enforcement Official. (Ord. 2001-015 § 1)

### 2.04.320 Maximum Height of Structures

Zoning District	Height (feet)
RD	30 <sup>(B)</sup>
RM-3000	40 <sup>(B)</sup>
RM-2500	45 <sup>(B)</sup>
RM-2000	50 <sup>(B)</sup>

RM-1800	50 <sup>(B)</sup>
RO	30 <sup>(C)(D)</sup>
RS	30 <sup>(C)</sup>
RS-40	30 <sup>(C)</sup>
RS-VP	18 <sup>(E)</sup>

- A. General Exceptions to Height Limits. The maximum height of a structure, other than in the RS-VP District, shall be subject to the regulations of Section 4.04.320 Exceptions to Height Limits.
- B. Upper Story in RD or RM Districts. Residential construction projects that create or enlarge an upper story are subject to Chapter 5.12 Site Plan Approval.
- C. Two-Story or Three-Story in RO, RS, and RS-40 Districts. Residential construction projects that create or enlarge a second or third story are subject to Section 2.04.408 RO, RS and RS-40 Districts—Residential Site Plan Review.
- D. Additional Height Restriction in RO District. Any portion of a dwelling located within 20 feet of the rear lot line shall not exceed 15 feet in height.
- E. Additional Height Restrictions in RS-VP Sub-District.
  - 1. Alternate Definition to Measure Maximum Height of Structure in RS-VP Sub-District. Notwithstanding the definition of “Height” in Section 1.12.108 Definitions, the height of a structure in the RS-VP sub-district shall not exceed a height of 18 feet, as defined below:
    - a. Establishing Maximum Building Height. The 18-foot height limit is established by an assumed plane 18 feet above existing grade, as measured perpendicularly from the existing grade. Except for chimneys, vents, and non-commercial reception antennas, no portion of the structure, including any part of the roof, may exceed this 18 feet height limit. (See illustration “Examples of 18 Foot Height Limit.”)



**EXAMPLES OF 18 FOOT HEIGHT LIMIT IN RS-VP SUB-DISTRICT**  
 (The diagram is illustrative)

- b. Documenting Compliance with Maximum Building Height. As part of any application for View Preservation/Site Plan Review (which is required for any development in the RS-VP sub-district, as per Section 2.04.412 RS-VP Sub-District—Residential Site Plan Review and Exceptions to Height Restrictions), applicants shall illustrate the proposal’s height by providing no less than two sectional views, drawn through the proposed structure and perpendicular to existing contours, one of which shall illustrate the tallest point of the structure (i.e., where the structure would be at its maximum height above “existing grade”), and the other being drawn at approximately the center of the structure.
2. Definition of “Existing Grade.” See 1.12.108 Definitions “Existing Grade” and illustration “Examples of 18 Foot Height Limit” above.
3. Maximum of One Story. A maximum of one story is permitted in the RS-VP sub-district, except that the improvement of a basement or space below an existing habitable story (i.e., construction of a new habitable story within the building envelope of a pre-existing structure) is exempt from this one-story limitation.
4. Exceptions. Exceptions may be granted to the 18 feet and/or one-story height limit pursuant to Section 2.04.412 RS-VP Sub-District—Residential Site Plan Review and Exceptions to Height Restrictions.

5. Pre-Existing Structures. Notwithstanding the restrictions specified in Subsection B.3 of Section 4.20.108 Alterations and Expansions on allowed improvements to nonconforming structures, single-family residences in the RS-VP sub-district permitted prior to August 15, 2001, and are nonconforming only because they exceed the height limitation of this subsection, may be improved by enlargements or alterations of any value. If damaged or destroyed, such structures may be reconstructed as specified by Subsection B.1 of Section 4.20.116 Restoration of a Damaged Structure and Its Nonconforming Use (Ord. 2001-015 § 1)

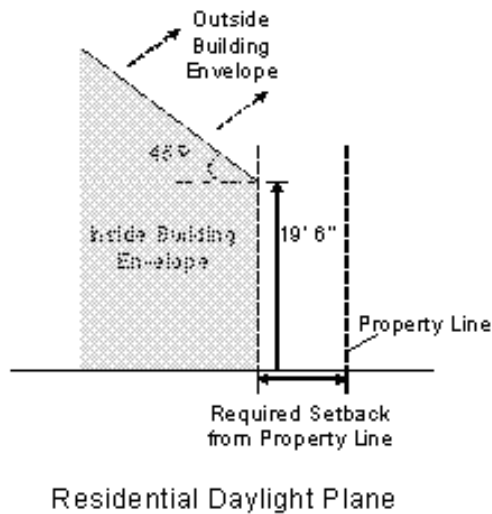
#### **2.04.324 Daylight Planes in R Districts**

Daylight Planes are intended to provide for light and air, and to limit the impacts of bulk and mass on adjacent properties. “Daylight Plane” means a height limitation that, when combined with the maximum height limit, defines the building envelope within which all new structures or additions must be contained. The daylight plane may further limit the height or horizontal extent of the building at any specific point where the daylight plane is more restrictive than the height limit applicable at such point on the site. The daylight plane shall be measured separately for each building on a lot, and separately for each side of each building.

- A. Applicability. Daylight planes are established for lots zoned RD, RO, RS, RS-40, and RS-VP.
- B. Daylight Plane. A daylight plane shall begin at a horizontal line 19 feet, six inches above the grade of each side setback line of each lot and shall slope inwards at a 45-degree angle. (Please refer to Residential Daylight Plane illustration).

No portion of the structure shall intrude beyond the daylight plane except as provided for in Section 4.04.312 Building Projections into Yards and Courts.

- C. Exceptions. Exceptions may be granted with administrative approval by the Zoning Enforcement Official (per Section 5.04.108 Authority of Zoning Enforcement Official, as amended).



(Ord. 2007-001 § 1)

**2.04.328 Maximum Lot Coverage**

District	Coverage (percent)
RO	33-1/3
RS	50
RS-40	50
RS-VP	50
RD	50
RM-3000	50
RM-2500	60
RM-2000	60
RM-1800	70

A. Exceptions. In calculating the percentage of lot coverage for the purpose of applying the regulations of this Zoning Code, the features of a structure as hereafter set forth shall not be included as coverage:

1. Cornices, canopies, eaves or other projections which do not increase the volume of space enclosed by the building provided that any portion of such projections extending more than two feet from the building shall be included as coverage;
2. Fire escapes up to 3 1/2 feet;
3. An uncovered stair and landing which does not extend above a ground floor entrance except for the railing; or

4. Bay windows, balconies or chimneys which project from the wall not more than two feet; provided, that, such features do not in the aggregate occupy more than one-third of the length of a wall which faces an interior side lot line, or more than two-thirds of the length of a wall which faces a street or a rear lot line.

- B. Covered Porch. In determining coverage, one-half of the roofed area of a Covered Porch shall be excluded. Covered Porch is defined in Section 1.12.108 Definitions.

(Ord. 2001-015 § 1)

**2.04.332 Maximum Floor Area Ratio (FAR)**

	<b>RD, RS, RS-40, RS-VP</b>	<b>RO</b>
<b>Lots Less than 5,000 sf</b>	50% + 450 sf if a garage exists; <i>Maximum livable area = 2,500 sf</i>	50% + 500 sf if a garage exists; <i>Maximum livable area = 4,000 sf</i>
<b>Lots 5,001 – 8,000 sf</b>	50% + 500 sf if a garage exists; <i>Maximum livable area = 4,000 sf</i>	
<b>Lots more than 8,000 sf</b>	50% for first 5,000 sf, then 30% for area > 5,000—10,000 sf, then 10% for area >10,000 sf; + 500 sf if 2-car garage exists or 750 sf if 3 or more car garage exists;  <i>Livable area &gt;4,000 sf for any single structure would require Major Site Plan Review approval by the Board of Zoning Adjustments</i>	50% for first 5,000 sf, then 30% for area > 5,000—10,000 sf, then 10% for area >10,000 sf; + 500 sf/unit if a garage exists;  <i>Livable area &gt;6,000 sf cumulatively for the entire site would require Major Site Plan Review approval by the Board of Zoning Adjustments</i>

- A. Floor Area shall be measured as defined per Section 2.04.404 Residential Site Plan Review—Measure of Floor Area and General Requirements.
- B. Exceptions to the Maximum FAR may apply for Major Site Plan Review (Section 2.04.408 RO, RS and RS-40 Districts—Residential Site Plan Review). (Ord. 2007-001 § 1)

**2.04.336 Additional Property Development Regulations: Residential Districts**

In addition to the development regulations listed above, the following regulations shall apply:

- A. Courts shall be subject to the regulations of Section 2.04.352 RM District—Multi-Family Dwellings, Requirements for Courts Opposite Windows.



- B. Outdoor Living Area shall be subject to the regulations of Section 2.04.356 RM District—Multi-Family Dwellings, Requirements for Open Space.
- C. Minimum Site Landscaping shall be subject to the regulations of Section 2.04.360 RM District—Multi-Family Dwellings, Requirements for Planting Areas.
- D. Fences and Walls shall be subject to the regulations of Section 4.04.364 Fences, Walls, and Hedges.
- E. Off-Street Parking and Loading shall be subject to the regulations of Chapter 4.08 Off-Street Parking and Loading Regulations.
- F. Signs shall be subject to the regulations of Chapter 4.12 Signs.
- G. Outdoor Facilities shall be subject to the regulations of Section 4.04.324 Outdoor Facilities and Storage/Loading Facilities.
- H. Screening of Mechanical Equipment shall be subject to the regulations of Section 4.04.328 Screening of Mechanical Equipment.
- I. Refuse Storage Areas shall be subject to the regulations of Section 4.04.332 Refuse Storage Areas.
- J. Underground Utilities shall be subject to the regulations of Section 4.04.336 Underground Utilities.
- K. Performance Standards shall be subject to the regulations of Section 4.04.340 Performance Standards.
- L. Nonconforming Structures shall be subject to the regulations of Chapter 4.20 Nonconforming Uses and Structures.
- M. Multi-Family Storage shall be subject to the regulations of Section 2.04.364 RM District—Multi-Family Dwellings, Requirements for Storage Space. (Ord. 2001-015 § 1)

**2.04.340 R Districts—Adjustments to Minimum Yard Requirements**

- A. RS Districts - Abutting Nonconforming Front Yard Setbacks. Where two or more lots on the same side of a street between intersecting streets, or between an intersecting street and cul-de-sac, have front yards less than what is required for the district, the following shall apply: The front yard for a dwelling hereafter erected or altered shall not be required to be greater than the average of the two abutting lots sharing a common side lot line. When an abutting lot is vacant, the required front yard setback shall be used in calculating the average. Where only one other lot has a common side lot line

with the building site, the front yard may be reduced to match this adjoining lot. However, in no case shall a front yard setback be reduced to less than 10 feet.

- B. R Districts - Religious Assembly Yard Requirements. Yards, height and bulk, and buffering requirements shall be as specified by a use permit, provided that, where adjacent to a building site in an R district, the minimum interior side yard shall be 15 feet and the minimum rear yard shall be 20 feet. Yards adjoining street property lines shall not be less than required for a permitted use.
- C. R Districts—Additional Setback Requirement Adjacent to Building Wall Exceeding 25 Feet. Except as provided below, the width of a required interior side or rear yard adjoining a building wall exceeding 25 feet in height, excluding any portion of a roof, shall be increased five feet over the basic requirement.
  - 1. Exceptions. If the lot width is less than 60 feet, no increase in the side yard is required.
- D. R Districts - Alley Setback. The width of a required interior side or rear yard adjoining an alley may be reduced to five feet.
- E. RS Districts - Rear Yard Requirement Exception. The required depth of the rear yard is 15 feet. However, if there is an open space on the site, exclusive of the required front yard, containing 400 square feet and a minimum dimension of 15 feet, the depth of the rear yard may be reduced to 10 feet. At the discretion of the Zoning Enforcement Official, such reductions may also require an exception to the Daylight Plane requirements as outlined in Sections 2.04.324 Daylight Planes in R Districts and 2.04.400 Administrative Exceptions.
- F. RM District - Single-Family and Two-Family Development. The side and rear yard of a single-family home in a RM District shall be the same as those setbacks required in the RS District. The side and rear yard of a two-family home in a RM District shall be the same as those setbacks required in the RD District.
- G. RM District - Variable Yards in. The average yard should be 10 feet and the minimum width, six feet, unless a zero-side yard development is approved.
- H. Zero-Side Yard Development.
  - 1. Existing. Structures constructed in conformance with the standards for zero-side yard development in effect immediately prior to the time this Code was adopted shall not be considered nonconforming structures, subject to Chapter 4.20 Nonconforming Uses and Structures, provided that any addition or enlargement shall require a use permit issued by the Zoning Enforcement Official, and no addition or enlargement shall increase the existing floor area by more than 10 percent nor increase the lot coverage to more than 50 percent).

2. New. In the RD and RM-3000 districts, the Site Development Sub-Commission may recommend and the Board of Zoning Adjustment may approve a use permit for projects with attached single-family housing subject to the following standards:

Minimum Lot Area (square feet) - 4,000

Minimum Lot Width (feet) - 50 feet

Minimum Front Yard - 20 feet

Minimum Side Yard - One yard shall be 12 feet and no opposite yard is required

Minimum Corner Side Yard - 10 feet

Minimum Rear Yard - 15 feet

(Ord. 2001-015 § 1)

#### **2.04.344 Swimming Pools, Hot Tubs and Related Equipment**

An unenclosed swimming pool, hot tub and related equipment may occupy a required rear yard or side yard but shall not be within five feet of an interior property line or within 10 feet of a street property line. (Ord. 2001-015 § 1)

#### **2.04.348 Accessory Structures in RD, RM and RS Districts**

- A. Timing. Accessory structures shall not be established or constructed prior to the start of construction of a principal structure on a site, except that construction trailers may be placed on a site at the time site clearance and grading begins and may remain on the site only for the duration of construction.
- B. Location. Except as provided in this subsection, accessory structures shall not occupy a required front or corner side yard or court or project beyond the front building line of the principal structure on a site. No accessory uses shall be permitted off-site. Accessory structures must maintain a six foot separation from other structures on the lot.
- C. Maximum Area and Coverage.
  1. The coverage of accessory structures on the lot shall be part of the 50 percent total lot coverage allowed in the RS, RD, and RM-3000 Districts. Accessory structures in the RM-2500 and RM-2000 Districts shall meet the total lot coverage requirement of 60 percent and accessory structures in the RM-1800 District shall meet the total lot coverage requirement of 70 percent.
  2. No single structure, excluding accessory dwelling units as regulated by Section 2.04.388 Accessory Dwelling Units (ADUs), shall occupy more than 500 square feet.

3. Structures that are not required to obtain a building permit under the San Leandro Building Code and which are not over eight feet in height and under 120 square feet shall be exempt from the lot coverage requirement.
4. In determining coverage, one-half of the roofed area of a building open on at least two sides shall be excluded.
5. The Zoning Enforcement Official may approve an Administrative Exception, per Section 2.04.400 Administrative Exceptions, to allow exception to these provisions, or refer the matter to the Board of Zoning Adjustments for a Conditional Use Permit.

D. Maximum Height and Minimum Setbacks.

1. Accessory Structures shall have the following maximum height and minimum setbacks. Maximum height is defined in Section 1.12.108 Definitions of this Zoning Code.

Maximum Height	Minimum Setback
8 feet and 120 square feet or less and not required to obtain a building permit under the City of San Leandro Building Code	0 feet
Greater than 8 feet up to 12 feet	3 feet
Greater than 12 feet up to 15 feet	5 feet

2. The Zoning Enforcement Official may approve an Administrative Exception, per Section 2.04.400 Administrative Exceptions, to allow exception to these provisions, or refer the matter to the Board of Zoning Adjustments for a Conditional Use Permit.

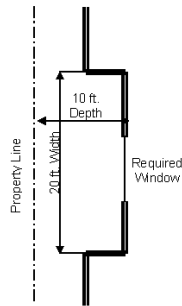
E. Residential Garage Doors in Accessory Structures. The following standards apply only to garage doors for single-family homes, duplexes, and small apartment and condominium complexes giving access to not more than three parking spaces either side-by-side or in tandem:

1. The vehicle access opening shall not have a height in excess of seven and one-half feet;
2. The entire opening shall be covered by a solid or sectional overhead door constructed of wood, metal, or fiberglass;
3. The door shall be painted, stained, or treated to match the exterior of the residential structure.

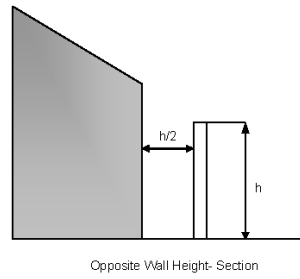
Any door that does not comply with the above standards shall be approved by the Zoning Enforcement Official prior to installation. In reviewing the proposed door, the Zoning Enforcement Official shall find that the door has an appearance that is consistent with the home on which it is installed and with other homes in the vicinity and does not detract from the residential appearance of the neighborhood. (Ord. 2017-003 § 4; Ord. 2012-001 § 3; Ord. 2001-015 § 1)

**2.04.352 RM District—Multi-Family Dwellings, Requirements for Courts Opposite Windows**

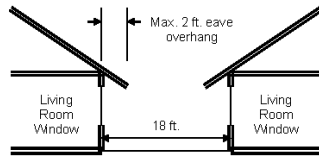
- A. Courts Opposite Walls on the Same Site. The minimum depth shall be one-half the height of the opposite wall but not less than 18 feet opposite a living room and 12 feet opposite a required window for any habitable room.
- B. Courts Opposite Interior Property Line. The minimum depth of a court for a required window of a habitable room shall be 10 feet measured from the property line.
- C. Court Dimensions. Courts shall be 20 feet wide—10 feet on either side of the centerline of the required window and shall be open to the sky, provided that eaves may project two feet into a court.



**COURTS OPPOSITE PROPERTY LINE**

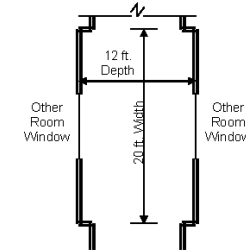
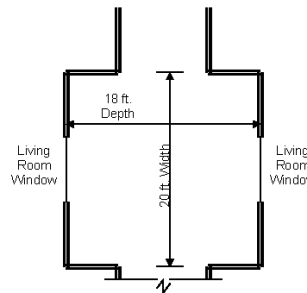


**COURTS OPPOSITE WALLS**



Opposite Habitable Room Windows - Section

**COURTS OPPOSITE WINDOWS**



**PLAN OF COURT DIMENSIONS OPPOSITE WINDOWS**

**REQUIRED COURTS OPPOSITE WINDOWS**

(The diagram is illustrative)

(Ord. 2001-015 § 1)

**2.04.356 RM District—Multi-Family Dwellings, Requirements for Open Space**

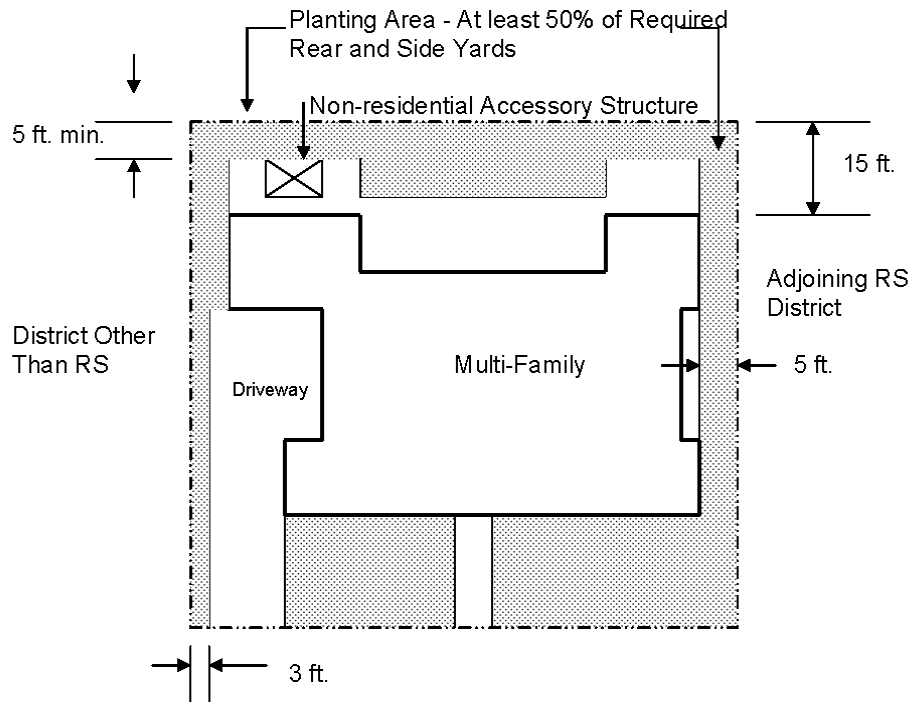
- A. Basic Requirement. Total open space on a site having three or more dwelling units shall be at least 200 square feet per dwelling unit.
- B. Private Open Space. Private open space meeting a portion of the requirement shall be on patios or balconies within which a horizontal rectangle has no dimension less than six feet and a minimum area of 60 square feet for balconies above the first story and 120 square feet for patio or decks at grade level.
- C. Common Open Space. Common open space, provided by non-street side yards, courts, patios, terraces, and rooftops shall be designed so that a horizontal rectangle

inscribed within it has no dimension less than 10 feet and a minimum area of 300 square feet, shall be open to the sky, and shall not include driveways, pedestrian access to units, or parking areas, or area required for front or street side yards. Common open space provided on roof tops shall be surrounded by a parapet, wall, or other enclosure that is at least four feet high, and shall be subject to approval by the Zoning Enforcement Official. The Board of Zoning Adjustments may allow a percentage, not to exceed 30 percent, of the total roof top open space provided to be used to satisfy the open space requirement of Section 2.08.336 Open Space for Multi-Family Residential and Mixed-Use Residential Development of this Code. To approve roof top open space, the Board of Zoning Adjustments must make the following findings:

1. The roof top open space is readily accessible to all residents of the complex;
2. The roof top open space includes areas for active recreation or has significant aesthetic value, or a combination thereof; and
3. The roof top open space is an amenity of the development which adds value to the project overall. (Ord. 2001-015 § 1)

#### **2.04.360 RM District—Multi-Family Dwellings, Requirements for Planting Areas**

- A. Yards Adjoining Streets. All visible portions of a required yard adjoining a street shall be driveways, walks or parking areas, or planting area or landscape that may include areas covered by ornamental gravel, crushed rock or similar materials.
- B. Interior Yards. At least 50 percent of each required interior side yard and rear yard shall be planting area having a minimum width of five feet adjoining a side or rear property line, provided that the width of a required planting area may be reduced to three feet in one side or rear yard adjoining a driveway or patio, and a nonresidential accessory structure may occupy a portion of the planting area in a rear yard.



**PLANTING AREAS**  
(The diagram is illustrative)

- C. A continuous planting area having a minimum width of five feet shall adjoin an RS district. (Ord. 2001-015 § 1)

**2.04.364 RM District—Multi-Family Dwellings, Requirements for Storage Space**

Storage Space shall be required for multi-family dwellings in RM districts. For each dwelling unit there shall be a separate enclosed, lockable storage space area reserved for the occupants of each dwelling unit. Such storage space may be located in the garage space allocated to such unit or elsewhere within the development, but shall not be directly accessible from the dwelling unit. Such storage space shall be at least 250 cubic feet in size and shall have minimum dimensions of four feet by eight feet. (Ord. 2001-015 § 1)

**2.04.368 RM District—Multi-Family Dwellings, Requirements for Exterior Materials**

In all RM districts, exterior materials are subject to review and approval of the Site Plan Approval decision-maker, as per the requirement of Chapter 5.12 Site Plan Approval. (Ord. 2001-015 § 1)

**2.04.372 RO District—Applicability of Prior Zoning Code**



In matters where a difference between this Zoning Code and the latest version of the 1961 Zoning Code occurs in interpreting property development issues in the RO District, the latest version of the 1961 Zoning Code shall apply. (Ord. 2001-015 § 1)

#### **2.04.376 RO District—Additional Setback and Lot Coverage Requirements**

For lots exceeding 60 feet in width, the following additional setback and lot coverage requirements apply:

- A. Side yards shall be 10 percent of lot width up to a maximum of 12 feet.
- B. Rear yards shall be 10 feet or 10 percent of lot depth, whichever is greater, up to a maximum of 25 feet.
- C. On the rear one-quarter of a lot where the rear yard abuts the front yard of another, the side yard shall be not less than 20 feet wide.
- D. The total lot coverage, calculated as explained in the definition of lot coverage, shall not exceed one-third (of the area of the lot). Where animals are housed in tiers, three-fourths of the area of each tier above the first shall be counted as additional lot coverage. (Ord. 2001-015 § 1)

#### **2.04.380 RO District—Accessory Structures**

Accessory buildings may be placed on any part of the lot except within 60 feet of the front lot line, but shall not be located within 15 feet of a dwelling or within 10 feet of another accessory building. In the case of a corner lot, where the rear yard abuts the front yard of another lot, no accessory building shall project beyond the front setback required on such other lot. Accessory buildings may not exceed 15 feet in height. Accessory structures shall not occupy more than 40 percent of the required rear or side yard area in the aggregate, and no single structure may occupy more than 30 percent of the required yard areas. In determining coverage, one-half of the roofed area of a building open on at least two sides shall be excluded. (Ord. 2001-015 § 1)

#### **2.04.384 RO District—Additional Dwelling Units**

- A. Minimum Lot Size and Minimum Area for Each Unit.
  - 1. One additional single-family dwelling may occupy a lot having an area of 12,000 square feet or greater; or
  - 2. One additional two-family dwelling may occupy a lot having an area of 14,000 square feet or greater; and

3. On lots larger than 14,000 square feet, the number of additional dwellings permitted shall be based upon a requirement of 7,000 square feet for the first single dwelling, 5,000 square feet additional for each additional single-family dwelling, and 7,000 square feet additional for each additional two-family dwelling.

**B. Minimum Setback and Separation Requirements.**

1. No additional dwelling shall be less than 20 feet from any other dwelling, nor from a side lot line toward which it faces, nor less than 10 feet from any other side lot line.
2. No additional dwelling shall be less than 60 feet from the front lot line nor less than 25 feet from the rear lot line. (Ord. 2001-015 § 1)

**2.04.388 Accessory Dwelling Units (ADUs)**

This section is intended to implement the Government Code Sections 65852.1, 65852.2, and 65852.22 et seq., by allowing the creation of accessory dwelling units (ADUs) and/or junior accessory dwelling units (JADUs) through ministerial review subject to meeting the criteria defined below.

- A. Location and Number Permitted. Subject to meeting the regulations of this section, ADUs and/or JADUs shall be allowed on a parcel in the following locations and quantities:

Type	Total Number of Units
<b>A Parcel with an Existing or Proposed Single-Family Use</b> (both of the following are permitted)	
Repurposed ADU, Detached ADU, or Attached ADU	Maximum of 1 ADU is permitted.
JADU	Maximum of 1 JADU is permitted.
<b>A Parcel with an Existing Two-Family or Multi-Family Use</b> (both of the following are permitted)	
Repurposed ADU	<ul style="list-style-type: none"> <li>• Minimum of 1 ADU is permitted.</li> <li>• Maximum number of units not to exceed 25 percent of the number of legally established dwelling units on a parcel.</li> <li>• Limited to non-habitable portions of the existing dwelling structure(s).</li> <li>• A fraction of 0.5 or more is rounded up and a fraction that is less than 0.5 is disregarded.</li> </ul>
Detached ADU	<ul style="list-style-type: none"> <li>• Maximum of 2 detached ADUs are permitted.</li> </ul>

	<ul style="list-style-type: none"> <li>The two ADUs are permitted to be attached to one another, but shall be detached from all existing structure(s).</li> </ul>
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- ADUs and JADUs do not count toward the maximum density established by the zoning district in which the property is located.

B. Unit Size. ADUs and JADUs shall not exceed the maximum floor area established below.

Type	Maximum Floor Area
<b>A Parcel with an Existing or Proposed Single-Family Use</b>	
Repurposed ADU, Detached ADU, Attached ADU	The greater of: <ul style="list-style-type: none"> <li>800 square feet; or</li> <li>850 square feet, or 1,000 square feet if two or more bedrooms, subject to Subsection B.1 below; or</li> <li>50% of the total floor area of the primary dwelling, not to exceed 1,200 square feet, subject to Subsection B.1 below.</li> </ul>
JADU	500 square feet, excluding any shared sanitation facility with the primary dwelling.
<b>A Parcel with an Existing Two-Family or Multi-Family Use</b>	
Repurposed ADU	1,200 square feet
Detached ADU	The greater of: <ul style="list-style-type: none"> <li>800 square feet; or</li> <li>850 square feet, or 1,000 square feet if two or more bedrooms, subject to Subsection B.1 below.</li> </ul>

- An ADU greater than 800 square feet is required to comply with the maximum lot coverage, floor area ratio (FAR), and minimum open space requirements established by the zoning district in which the property is located, with the exception of repurposed ADUs on a two-family or multi-family parcel.
- On a parcel with an existing single-family dwelling, the existing structure may be expanded by up to 150 square feet to accommodate ingress and egress for a repurposed ADU, subject to Subsection B.1 above.
- An ADU or JADU shall be a minimum of 150 square feet or the size necessary to accommodate an efficiency unit as defined in Sections 18007 and 17958.1 of the Health and Safety Code, whichever is greater.

C. Setbacks and Separation.

- Minimum four-foot side and rear yard setbacks are required for all attached and detached ADUs.

2. Detached ADUs shall maintain a minimum five-foot separation from other structures on the parcel.
3. ADUs shall not occupy a required front yard and shall be subject to the driveway visibility requirements of Section 4.08.148 Driveways-Visibility.
4. No setbacks are required for the repurposed portions of an ADU. Any expanded portions of a repurposed ADU shall comply with Subsections C.1 and C.2 above.

D. Height. ADUs and JADUs shall not exceed the heights established below.

Type	Maximum Height
<b>A Parcel with an Existing or Proposed Single-Family Use</b>	
Repurposed ADU	Same as existing structure
Detached ADU	16 feet
Attached ADU	Maximum height as established by zoning district. The ADU may project one foot laterally into the required daylight plane.
JADU	Same as existing single-family dwelling
<b>A Parcel with an Existing Two-Family or Multi-Family Use</b>	
Repurposed ADU	Same as existing structure
Detached ADU	16 feet

- E. Parking. No parking spaces shall be required for an ADU or JADU. No replacement parking spaces shall be required when a garage, carport, or parking structure is repurposed as an ADU.
- F. Entrance. An ADU or a JADU shall include its own entrance, separate from the main entrance to the primary dwelling structure(s). An exterior stairway proposed to serve an ADU and/or JADU on a second story or higher shall not be visible from the front public right-of-way.
- G. Design Standards. Attached and/or repurposed ADUs shall incorporate the same roof and exterior wall material, building color(s), door and window trim, and predominate roof form and pitch as the primary dwelling structure. Repurposed garages shall replace garage doors with the same exterior wall material, building color, and door and window trim as the primary dwelling structure.
- H. No Balconies/Decks. ADUs shall not contain balconies, upper-story decks, or rooftop terraces.

- I. No Short-Term Rental. ADUs and JADUs shall not be rented for terms of 30 days or less.
- J. Occupancy. Owner-occupancy shall not be required.
- K. Sale. Neither the ADU nor the JADU shall be sold separately from the primary structure.
- L. Review and Approval Authority. Application for an ADU and/or JADU shall be subject to ministerial building permit review and approval within 60 days of submission of a complete application. However, if an application to create an ADU or JADU is submitted with an application that requires discretionary review, a building permit shall not be issued for the ADU or JADU until the discretionary approval(s) have first been granted and any appeal period(s) has/have passed.(Ord. 2017-003 § 4; Ord. 2012-013 § 3; Ord. 2003-010 § 1; Ord. 2001-015 § 1)

#### **2.04.392 Manufactured Homes in R Districts**

- A. Purpose. It is the intent of the City to provide opportunities for the placement of manufactured homes in R districts, consistent with state law, and to ensure that such manufactured homes are designed and located so as to be harmonious within the context of the surrounding houses and neighborhood.
- B. General Requirements. Manufactured homes may be used for residential purposes if such manufactured homes have been granted a Certificate of Compatibility and are located in an R district.
- C. Requirements for Certificates of Compatibility. Manufactured homes may be located in any R district where a single-family detached dwelling is permitted, subject to the same restrictions on density and to the same property development regulations, provided that such manufactured home receives a Certificate of Compatibility. The Zoning Enforcement Official shall issue a certificate of compatibility if the manufactured home complies with all development regulations of the zoning district and if the Zoning Enforcement Official determines that the manufactured home is compatible with surrounding development. In considering compatibility, the Zoning Enforcement Official shall consider only roof overhang, roofing material, siding material and roof design.
- D. Cancellation of State Registration. Whenever a manufactured home is installed on a permanent foundation, any registration of said manufactured home with the State of California shall be canceled, pursuant to state laws and regulations. Before any occupancy certificate may be issued for use of such a manufactured home, the owner shall provide to the Building Official satisfactory evidence showing: that the state registration of the manufactured home has been or will, with certainty, be canceled; if the manufactured home is new and has never been registered with the state, the owner shall provide the Building Official with a statement to that effect from the dealer selling the home. (Ord. 2001-015 § 1)

## 2.04.396 Manufactured Home Parks

The following supplemental development regulations shall apply to Manufactured Home Parks.

- A. Occupancy—Minimum Lot Size (excluding interior access drives).
  - 1. A manufactured home not more than 12 feet in width containing one unit: 2,400 square feet.
  - 2. A manufactured home more than 12 feet in width containing one unit: 3,000 square feet.
  - 3. A manufactured home containing more than one dwelling unit: 1,500 square feet per dwelling unit.
- B. Maximum Density. Twelve manufactured homes per acre.
- C. Minimum Perimeter Setbacks. Fifteen feet from perimeter property line of manufactured home park.
- D. Minimum Interior Setbacks for Homes.
  - 1. From an interior street: Five feet.
  - 2. From any required screening wall or earth berm: Five feet.
  - 3. From a common utilities area or recreational area: Six feet.
  - 4. Between homes: Ten feet.
- E. Maximum Height. Fifteen feet, except for recreation facilities, which may be 20 feet high.
- F. Screening.
  - 1. Abutting Public Street. A six foot high solid wall or fence shall be installed and maintained along the entire front setback area except for the areas required for vehicular access in which case the wall must be sufficiently lowered for a long enough distance to assure adequate sight distance for the expected speed of traffic.
  - 2. Interior Property Lines. A six foot high solid wall or fence shall be installed and maintained on interior property lines.

- G. Landscaping. At least 35 percent of the site area shall be landscaped, and a landscape plan shall be prepared consistent with Section 4.16.108 Landscaping Plans Required.
- H. Recreation Area Required. At least 100 square feet of recreation area shall be provided for each home. Such recreation area shall include:
  1. Outdoor Recreation Space. Areas for games and activities such as shuffleboard, horseshoes, putting greens and swimming pools.
  2. Clubhouse Space. Areas for indoor activities such as reading and games, rest rooms, show facilities, and cooking facilities.

No recreation area shall be permitted within 100 feet of the perimeter property line.

- I. Outdoor Facilities. Central trash collection and storage areas shall be provided.
- J. Storage Area. Common storage areas shall be provided, within an area enclosed by a wall or screen fence, for the residents of the manufactured home park for the storage of recreational vehicles, trailers, travel trailers, and other licensed or unlicensed vehicles. This area shall total not less than 50 square feet for each manufactured home lot.
- K. Internal Circulation. Internal street widths shall be:

Twenty-five feet if no parking is permitted;  
 Thirty-three feet if parallel parking on one side is permitted;  
 Forty feet if parallel parking on two sides is permitted.

Each park shall have a main access point with a minimum traveled way width of 40 feet, and at least one secondary or emergency access approved by the Police Chief and Fire Chief if only one main access is provided. The main access shall be located on a collector or higher rated roadway as identified in the Master Plan of City Streets and shall conform to City standards for allowable access parking.

- L. Modification of Standards. Modification to the standards of this section may be granted by the Board of Zoning Adjustments following a public hearing when the applicant can clearly show that the proposed manufactured home park will provide for, and be permanently maintained for, low- and moderate-income housing.
- M. Application to Existing Manufactured Home Parks. Manufactured home parks existing on the effective date of the ordinance adopting this section shall be exempt from the requirements of this section. (Ord. 2001-015 § 1)

### **Article 3. Administrative Regulations**

## 2.04.400 Administrative Exceptions

- A. Standards for Which an Administrative Exception May be Approved. The Zoning Enforcement Official may approve an Administrative Exception for the following:
1. Exceptions to the provisions for Maximum Area and Coverage for Accessory Structures, per Subsection C of Section 2.04.348 Accessory Structures in RD, RM and RS Districts.
  2. Exceptions to the provisions for Maximum Height and Minimum Setbacks for Accessory Structures, up to a height not to exceed maximum height allowed in the applicable R District, per Subsection D of Section 2.04.348 Accessory Structures in RD, RM and RS Districts.
  3. An extension of the existing building line of a single-family residence, which legally projects into a required yard area of the applicable R District.
  4. Exceptions to the Daylight Plane, per Section 2.04.324 Daylight Planes in R Districts.
  5. Exceptions to the provisions for cottage food operations, per Subsections C.1 through C.7 of Section 2.04.228 Cottage Food Operations.
- B. Application Requirements. Application for such approval shall be made to the Zoning Enforcement Official on a form prescribed by Planning staff, and shall be accompanied by a plot plan showing location and height of all structures on the premises subject to the application and on all abutting premises, and showing location, height and area of the proposal. Reduced copies of these plans shall also be provided. The Zoning Enforcement Official may require further information as is deemed appropriate to the application.
- C. Neighborhood Notification. The City shall notify abutting property owners in writing of the proposal. A copy of the reduced plan shall be included.
- D. Administrative Review.
1. Findings Necessary for Approval. The Zoning Enforcement Official may approve an Administrative Exception upon a determination that the proposal would not be detrimental to public health, safety or welfare and would not cause undue damage, hardship, nuisance or other detriment to persons or property in the vicinity. The Zoning Enforcement Official shall deny, approve or conditionally approve the application.
  2. Notice of Decision. The Zoning Enforcement Official shall notify by mail the applicant and all abutting property owners. Said notice shall contain a statement that



the action taken will become final within 15 days from the date thereof unless appealed in writing to the Board of Zoning Adjustments. The action of the Zoning Enforcement Official shall be final unless an appeal is so filed.

- E. Appeals. Any person aggrieved with the action of the Zoning Enforcement Official may appeal such action to the Board of Zoning Adjustments, pursuant to the requirements of Chapter 5.20 Appeals. (Ord. 2013-006 § 3; Ord. 2012-001 § 3; Ord. 2007-001 § 1; Ord. 2001-015 § 1)

#### **2.04.404 Residential Site Plan Review—Measure of Floor Area and General Requirements**

- A. Intent. This section defines the measure of “floor area” for single-family homes in the RO, RS, RS-40, and RS-VP Districts, and imposes a requirement for Residential Site Plan Approval on certain new, and newly enlarged, single-family homes in the RO, RS, and RS-VP Districts, in order to prevent such homes from appearing out-of-scale relative to homes and structures in the vicinity.
- B. Applicability. The requirements of this section apply to a proposal for an individual new and/or enlarged single-family home, on an existing parcel. Requirements for Residential Site Plan Review in the RO, RS, and RS-40 District are as prescribed in Subsection B of Section 2.04.408 RO, RS and RS-40 Districts—Residential Site Plan Review, and requirements for View Preservation/Site Plan Review in the RS-VP District are as prescribed in Subsection D.1 of Section 2.04.412 RS-VP Sub-District—Residential Site Plan Review and Exceptions to Height Restrictions.
- C. Exemption for Planned Developments Approved After July 15, 2001. A new home may be permitted without Residential Site Plan Approval, if plans and/or design standards for such homes are approved by the City Council as an integral component of a residential Planned Development Overlay District.
- D. Calculation of Floor Area. The floor area of a single-family dwelling shall be calculated as follows:
  - 1. The floor area shall include the total horizontal area of each floor within the exterior walls of the building(s) that comprise the primary residence, include any enclosed space with a seven foot or greater ceiling height, and as measured at the exterior face of the enclosing walls. The calculated floor area shall be doubled for that portion of interior space with an interior ceiling height of 15 feet or greater.
  - 2. The floor area shall exclude:
    - a. Garages, carports and accessory buildings, excluding accessory dwelling units;

- b. Portions of attics and lofts which have less than a seven-foot ceiling height, see definition of “Attic” in Section 1.12.108 Definitions;
  - c. Basements, unless any part of the basement is seven feet six inches or higher, then all areas greater than five feet in height shall count as area for FAR calculations, see definition of “Basement” in Section 1.12.108 Definitions; and
  - d. A balcony, porch, deck or other structure where at least one of the longest dimensions is completely unenclosed.
- E. Deed Restriction for Use of Large Homes. The City may require that the owners of a home with a residential floor area of 4,000 square feet, or larger, record a deed restriction limiting the structure to a single-family residential use. (Ord. 2017-003 § 4; Ord. 2001-015 § 1)

#### **2.04.408 RO, RS and RS-40 Districts—Residential Site Plan Review**

- A. Intent. The purpose of this section is to provide a process of Residential Site Plan Review, assuring that certain new homes and major additions are evaluated through a publicly noticed discretionary procedure, so that potential adverse impacts to neighbors are minimized and such single-family residences are visually compatible with their surroundings.
- B. Applicability: Certain Single-Family Construction Projects. The requirements of this section apply to single-family construction projects in RO, RS, and RS-40 Districts. Single-family construction in the RS-VP District is regulated by Subsection D of Section 2.04.412 RS-VP Sub-District—Residential Site Plan Review and Exceptions to Height Restrictions, View Preservation/Site Plan Review. Single-family construction in the RD, RM, C, and I Districts is regulated by Chapter 5.12 Site Plan Approval.
1. MAJOR Residential Site Plan Review. MAJOR Residential Site Plan Approval is required for either a new and/or enlarged single-family home, on an existing parcel, which would either:
    - a. Large Home: Result in a home with floor area greater than 4,000 square feet (also applicable to multiple units on a single parcel in the RO district, with a cumulative floor area greater than 6,000 square feet); or
    - b. Major Addition: Result in an addition that exceeds 100 percent of the existing home’s floor area (i.e. more than doubles the floor area of the existing home), and/or exceeds the maximum floor area ratio (FAR) established for the parcel; or
    - c. Third Story: Result in a three-story home, or enlarge a third story.

Floor area for single-family homes shall be calculated as per the requirements of Subsection D of Section 2.04.404 Residential Site Plan Review—Measure of Floor Area and General Requirements.

2. MINOR Residential Site Plan Review. For single-family construction projects NOT subject to MAJOR Residential Site Plan Review as required in Subsection 1 above, MINOR Residential Site Plan Approval is required prior to issuance of a building permit for the construction of:
  - a. A new two-story home; or
  - b. An addition that creates a new second story; or
  - c. An addition to any existing second story.
- C. Applicability: Certain Two-Family Construction Projects. Additions to existing two-family dwellings as listed in Subsection B of Section 5.12.104 Applicability, if within the RS and RS-40 Districts, require MAJOR Residential Plan Review pursuant to this section.
- D. Exemptions. Non-structural alterations that do not require building permits are exempt from this chapter.
- E. Review and Approval Authority.
  1. MAJOR Residential Site Plan Review—Large Home. For projects that meet the requirements for Major Residential Site Plan Review as specified in Subsections B.1.a and B.1.c above, the Board of Zoning Adjustments (BZA) shall review and either approve, conditionally approve or deny a Residential Site Plan.
  2. MAJOR Residential Site Plan Review—Major Addition or Third Story. For projects that meet the requirements for Major Residential Site Plan Review as specified in Subsection B.1.b or B.1.c above, a public hearing is required and the Zoning Enforcement Official (ZEO) shall be the decision-maker, unless the ZEO defers action to the Site Development Sub-Commission (SDSC). The ZEO or SDSC shall approve, conditionally approve, or deny the Residential Site Plan.
  3. MINOR Residential Site Plan Review. For projects that meet the requirements for Minor Residential Site Plan Review as specified in Subsection B.2 above, no public hearing is required and the Zoning Enforcement Official (ZEO) shall be the decision-maker, unless the ZEO defers action to the Site Development Sub-Commission (SDSC). The ZEO or SDSC shall approve, conditionally approve, or deny the Residential Site Plan.

F. Noticing, Review and Hearing Requirements. Prior to a decision-maker's action on an application as outlined in Subsection E above, public notice shall be given as specified below:

1. MAJOR Residential Site Plan Review—Large Home. For single-family construction projects that require Major Residential Site Plan Review pursuant to Subsection E.1 above, written notification of the time, place and purpose of the hearing by the Board of Zoning Adjustments (BZA) shall be mailed to the applicant, property owner, and property owners adjoining and across the street from the subject site, not less than 10 days prior to the public hearing.
2. MAJOR Residential Site Plan Review—Major Addition or Third Story. For single-family construction projects that require Major Residential Site Plan Review pursuant to Subsection E.2 above, written notification of the time, place and purpose of the hearing by the Zoning Enforcement Official (ZEO) shall be mailed to the applicant, property owner, and property owners adjoining and across the street from the subject site, not less than 10 days prior to the public hearing.
3. MINOR Residential Site Review. Notice of an application for single-family construction projects that require MINOR Residential Site Plan Review pursuant to Subsection E.3 shall be mailed to property owners adjoining and across the street from the subject site, not less than 10 days prior to action on the application by the Zoning Enforcement Official. Upon review of the application and any correspondence received from those sent notice of the application, the Zoning Enforcement Official may take action on the application without holding a public hearing. The applicant, and those who submitted written comments regarding the application, shall be given written notification of the Zoning Enforcement Official's action so that an appeal (per Subsection G, below) can be filed within 15 days from when such notification is sent.

G. Appeals.

1. A decision by the Zoning Enforcement Official may be appealed to the Board of Zoning Adjustments pursuant to the requirements of Chapter 5.20 Appeals.
2. A decision by the Site Development Sub-Commission may be appealed to the Board of Zoning Adjustments pursuant to the requirements of Chapter 5.20 Appeals.
3. A decision by the Board of Zoning Adjustments may be appealed to the City Council pursuant to the requirements of Chapter 5.20 Appeals.

- H. Residential Site Plan Review Standards. To approve or conditionally approve a Residential Site Plan, the decision-maker or the decision making body shall find that the proposed project is in substantial compliance with all of the following standards:
1. The Residence's Architecture is Appropriate and Consistently Applied. The structure has adequate articulation, with appropriate window placement, architectural detailing, roof forms and/or changes in wall planes to provide visual interest. Additions shall not have a "tacked on" appearance, and either the addition should be consistent with the existing residence in terms of design and use of materials, or the existing residence should be remodeled concurrently with construction of the proposed addition in order to achieve the desired consistency.
  2. The Visual Mass of the Home is De-Emphasized. The home appears in scale with the surrounding homes. The building's surfaces should be articulated in a manner that reduces the appearance of blocky or massive features, and architectural features, detailing and/or landscaping should subdue, rather than accentuate the prominence of larger homes.
  3. The Neighborhood's Existing Visual Character is Valued. The proposal "fits in" to the neighborhood's existing architectural and landscape context, utilizing a compatible architectural vocabulary and retaining existing trees to the degree feasible and where conducive to achieving the purposes of this chapter. The landscaping to be retained and/or provided around the new and/or remodeled residence should include an appropriate balance of trees, shrubs and living ground covers, and should be designed to blend the project into its larger setting.
  4. The Physical Impacts to Neighbors Are Minimized. The proposed home or addition does not substantially impair the privacy and access to light and air of adjacent residences, while balancing the applicant's ability to improve the subject property in accordance with all applicable restrictions.
- I. Conditions of Approval. In approving a MAJOR or MINOR Residential Site Plan, reasonable conditions may be imposed as necessary to achieve consistency with the intent of the applicable R District's development standards and the standards of this chapter. Such conditions may include, but are not limited to, a requirement that the size of the proposed home and/or addition be reduced.
- J. Conditions Effective Date; Lapse and Renewal; Alterations.
1. Effective Date. Site Plan approval shall become effective on the 15<sup>th</sup> day after the date the decision-maker or the decision making body approves the site plan, unless appealed, as provided in Chapter 5.20 Appeals.

2. Lapse of Approvals, and Renewals. Site Plan approval shall lapse after one year or at an alternate time specified as a condition of approval after its date of approval unless:
  - a. A grading permit or building permit has been issued, coupled with diligent progress evidencing good faith intention to commence the intended use; or
  - b. An occupancy permit has been issued; or
  - c. The approval is renewed, as provided for in Subsection E of Section 5.08.136 Lapse of Approval; Transferability; Discontinuance; Revocation.
3. Changed Plans. The Zoning Enforcement Official may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications, to be reviewed as a new project by the decision making body as required by Subsection E. (Ord. 2007-001 § 1; Ord. 2001-015 § 1)

#### **2.04.412 RS-VP Sub-District—Residential Site Plan Review and Exceptions to Height Restrictions**

- A. Intent of RS-VP (View Preservation) Sub-District. The regulations and review requirements of the RS-VP Sub-District are intended to restrict new construction that would impair residents' enjoyment of distant views of scenic features. New single-family construction projects are regulated so that neighbors' views are not unreasonably blocked by the new construction. Pursuant to Section 2.04.320 Maximum Height of Structures, the maximum height of structures in the RS-VP Sub-District is not to exceed 18 feet or one story. In addition, all new homes and additions are evaluated through a publicly noticed discretionary procedure to prevent unreasonable blockage of views, minimize potential adverse impacts to neighbors and to assure single-family residences are visually compatible with their surroundings ("View Preservation/Site Plan Review").
- B. Height Restrictions in the RS-VP Sub-District.
  1. Maximum Height of Structure Shall Not Exceed 18 Feet. Notwithstanding the definition of "height" in Section 1.12.108 Definitions, the maximum height of a structure in the RS-VP Sub-District shall not exceed 18 feet, pursuant to Subsection D of Section 2.04.320 Maximum Height of Structures.
  2. Maximum of One Story. A maximum of one story is permitted in the RS-VP Sub-District, except that the improvement of a basement or space below an existing habitable story (i.e., construction of a new habitable story within the building envelope of a pre-existing structure) is exempt from this one story limitation.

C. Exceptions to Height Restrictions of the RS-VP Sub-District.

1. Exceptions Authorized. The Board of Zoning Adjustments is authorized to grant Exceptions to the height limits of the RS-VP Sub-District, up to a height not to exceed the 30 feet height limit of the base RS District. Construction in excess of the base RS District's limit of 30 feet is subject to approval of both an Exception, as authorized by this section, and a Variance pursuant to the requirements of Chapter 5.08 Use Permits, Variances, and Parking Exceptions.
2. Required Finding for Granting of an Exception. To approve an Exception to the height limit of the RS-VP Sub-District, the decision-making body shall make the following finding:
  - a. Mandatory Finding—The Views Currently Enjoyed by Neighbors Are Retained. The proposed construction that is in excess of the height limit of the RS-VP Sub-District does not unreasonably block or diminish neighbors' views of distant and scenic features, such as the San Francisco Bay and surrounding open spaces and skylines, to any greater degree than would a proposal for construction that conformed to the height limits of the RS-VP Sub-District.
  - b. Mandatory Denial. Failure to make the required finding under (a) shall require denial of the application for an Exception made under this section.
3. Notice, Review and Appeal Process. Requests for granting of an Exception shall be made concurrently with, and have the same noticing requirements as, an application for MAJOR View Preservation/Site Plan Review as specified in Subsection D, below.

D. View Preservation/Site Plan Review.

1. Applicability. Single-family construction projects in the RS-VP Sub-District:
  - a. MAJOR View Preservation/Site Plan Review. MAJOR View Preservation/Site Plan approval is required for either:
    - i. New Home: A new single-family home; or
    - ii. Single-Story Addition: Any addition, including accessory structures or garages, containing 250 square feet, or more; or
    - iii. Large Home: Any addition that results in a home with floor area greater than 4,000 square feet; or

- iv. Height Exception. Any addition for which a Variance or an Exception (per Subsection C, above) is requested.
- b. MINOR View Preservation/Site Plan Review. For single-family construction projects NOT subject to MAJOR View Preservation/Site Plan Review as required in Subsection D.1.a above, MINOR View Preservation/Site Plan Approval is required for either:
  - i. Construction for any addition requiring a building permit, including accessory structures and garages;
  - ii. For outdoor features such as gazebos, trellises, and other architectural/landscape elements that are more than 120 square feet in size, and/or 10 feet or more in height.

Floor area for the primary residential structure shall be calculated as specified in Subsection D of Section 2.04.404 Residential Site Plan Review—Measure of Floor Area and General Requirements.

- 2. Exemptions. Non-structural alterations that do not require building permits are exempt from this section.
- 3. Review and Approval Authority.
  - a. MAJOR View Preservation/Site Plan Review—Height Exception and/or Large Home. For projects that meet the requirements for Major View Preservation/Site Plan Review as specified in Subsection D.1.a.iii or D.1.a.iv above, the Board of Zoning Adjustments (BZA) shall review and either approve, conditionally approve or deny a Residential Site Plan.
  - b. MAJOR View Preservation/Site Plan Review—Single-Story Addition or New Home. For projects that meet the requirements for Major View Preservation/Site Plan Review as specified in Subsection D.1.a.i or D.1.a.ii above, a public hearing is required and the Zoning Enforcement Official (ZEO) shall be the decision-maker, unless the ZEO defers action to the Site Development Sub-Commission (SDSC). The ZEO or SDSC shall approve, conditionally approve, or deny a Major View Preservation/Site Plan Review.
  - c. MINOR View Preservation/Site Plan Review. For projects that meet the requirements for Minor View Preservation/Site Plan Review as specified in Subsection D.1.b above, no public hearing is required and the Zoning Enforcement Official (ZEO) shall be the decision-maker, unless the ZEO defers action to the Site Development Sub-Commission (SDSC). The ZEO or SDSC shall approve, conditionally approve, or deny a Major View Preservation/Site Plan Review.



4. Noticing, Review and Hearing Requirements. Prior to a decision-makers' action on an application as outlined in Subsection 3, above, public notice shall be given as specified below:
  - a. MAJOR View Preservation/Site Plan Review—Height Exception and/or Large Home. For projects that require Major View Preservation/Site Plan Review pursuant to Subsection D.3.a above, written notification of the time, place and purpose of the hearing by the Board of Zoning Adjustments (BZA) shall be mailed to the applicant, property owner, and property owners within a 500-foot radius from the subject site not less than 10 days prior to the public hearing.
  - b. MAJOR View Preservation/Site Plan Review—Single-Story Addition and/or New Home. For projects that require Major View Preservation/Site Plan Review pursuant to Subsection D.3.b above, written notification of the time, place and purpose of the hearing by the Zoning Enforcement Official (ZEO) or Site Development Sub-Commission (SDSC) shall be mailed to the applicant, property owner, and property owners within a 500-foot radius from the subject site not less than 10 days prior to the public hearing.
  - c. MINOR View Preservation/Site Plan Review. For projects that require MINOR View Preservation/Site Plan Review pursuant to Subsection D.3.c above, written notice shall be mailed to property owners adjoining and across the street from the subject site, not less than 10 days prior to action on the application by the Zoning Enforcement Official (ZEO). Upon review of the application and any correspondence received from those sent notice of the application, the ZEO may take action on the application without holding a public hearing. The applicant, and those who submitted written comments regarding the application, shall be given written notification of the ZEO's action so that an appeal (per Subsection 5, below) can be filed within 15 days from when such notification is sent.
  - d. Simulation of Proposed Construction Required.
    - i. Methods of Simulation to be Used. The Applicant for MAJOR or MINOR View Preservation/Site Plan Review shall erect "story poles" to simulate height and mass of the proposed construction project. Poles shall be placed at all exterior corners of the proposed structure, and to illustrate the height of the tallest proposed roof ridge. Additional visual aids, including but not limited to photo montages or computer simulations, may be required by the Zoning Enforcement Official or Board of Zoning Adjustments if it is found that such additional documentation is necessary to determine the impacts the proposed construction will have on neighbors' existing views. The Zoning Enforcement Official may also

waive the requirement for a simulation if he or she determines that the project has a low probability of impacting existing views.

- ii. Simulations Must be Installed Prior to Action on Applications. Applicants must install the required story poles not less than 10 days before a scheduled public hearing for MAJOR View Preservation/Site Plan Review, or 10 days before an action by the Zoning Enforcement Official to approve or deny an application for MINOR View Preservation/Site Plan Review.
- iii. Simulations to be Retained During Appeals. Applicants shall not remove the story poles until the 15 day appeal period has passed. If an appeal is filed, the poles are not to be removed until action is taken on the appeal, and any subsequent administrative appeal period has passed.

5. Appeals.

- a. A decision by the Zoning Enforcement Official may be appealed to the Board of Zoning Adjustments pursuant to the requirements of Chapter 5.20 Appeals.
- b. A decision by the Site Development Sub-Commission may be appealed to the Board of Zoning Adjustments pursuant to the requirements of Chapter 5.20 Appeals.
- c. A decision by the Board of Zoning Adjustments may be appealed to the City Council pursuant to the requirements of Chapter 5.20 Appeals.

6. View Preservation/Site Plan Review Standards. To approve or conditionally approve a View Preservation Site Plan, the decision-maker or the decision-making body shall find that the proposed project is in substantial compliance with all of the following standards:

- a. The Views Currently Enjoyed by Neighbors Are Respected. The proposed construction does not unreasonably block or diminish neighbors' views of distant and scenic features, such as the San Francisco Bay and surrounding open spaces and skylines, while balancing the applicant's ability to improve the subject property in accordance with the applicable restrictions.
- b. The Residence's Architecture is Appropriate and Consistently Applied. The structure has adequate articulation, with appropriate window placement, architectural detailing, roof forms and/or changes in wall planes to provide visual interest. Additions shall not have a "tacked on" appearance, and either the addition should be consistent with the existing residence in terms of design

and use of materials, or the existing residence should be remodeled concurrently with construction of the proposed addition in order to achieve the desired consistency.

- c. The Visual Mass of the Home is De-Emphasized. The home appears in scale with the surrounding homes. The building's surfaces should be articulated in a manner that reduces the appearance of blocky or massive features, and architectural features, detailing and/or landscaping should subdue, rather than accentuate, the prominence of larger homes.
  - d. The Neighborhood's Existing Visual Character is Valued. The proposal "fits in" to the neighborhood's existing architectural and landscape context, utilizing a compatible architectural vocabulary and retaining existing trees to the degree feasible and where conducive to achieving the purposes of this chapter. The landscaping to be retained and/or provided around the new and/or remodeled residence should include an appropriate balance of trees, shrubs and living ground covers, and should be designed to blend the project into its larger setting.
  - e. The Physical Impacts to Neighbors Are Minimized. The proposed home or addition does not substantially impair the privacy and access to light and air of adjacent residences, while balancing the applicant's ability to improve the subject property in accordance with all applicable restrictions.
7. Conditions of Approval. In approving a View Preservation/Site Plan, reasonable conditions may be imposed as necessary to achieve consistency with the intent of the RS-VP Sub-District's development standards and the standards of this chapter. Such conditions may include, but are not limited to, a requirement that the size of the proposed home and/or addition be reduced.
  8. Conditions Effective Date; Lapse and Renewal; Alterations.
    - a. Effective Date. View Preservation/Site Plan approval shall become effective on the 15th day after the date the decision-maker or the decision-making body approves the site plan, unless appealed, as provided in Chapter 5.20 Appeals.
    - b. Lapse of Approvals, and Renewals. View Preservation/Site Plan approval shall lapse after one year or at an alternate time specified as a condition of approval after its date of approval unless:
      - i. A grading permit or building permit has been issued, coupled with diligent progress evidencing good faith intention to commence the intended use; or
      - ii. An occupancy permit has been issued; or

iii. The approval is renewed, as provided for in Subsection E of Section 5.08.136 Lapse of Approval; Transferability; Discontinuance; Revocation.

c. Changed Plans. The Zoning Enforcement Official may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications, to be reviewed as a new project by the decision making body as required by Subsection 4. (Ord. 2007-001 § 1; Ord. 2001-015 § 1)

**2.04.416 RO and RS Districts—Overview of Residential Site Plan Review Requirements**

TYPE OF SINGLE-FAMILY CONSTRUCTION	DISTRICT & TYPE OF REVIEW REQUIRED	
	RO, RS, & RS-40 Refer to Section 2.04.408 RO, RS and RS-40 Districts—Residential Site Plan Review	RS-VP Refer to Sections 2.04.320 Maximum Height of Structures, 2.04.412 RS-VP Sub-District—Residential Site Plan Review and Exceptions to Height Restrictions
<b>I. SINGLE -STORY CONSTRUCTION</b>		
<b>MINOR ADDITIONS</b> Additions less than 250 square feet, including additions of accessory buildings or garages, and gazebos, trellises and other architectural and landscape features that are more than 120 square feet and/or 10 feet in height or taller.	<b>None required</b>	<b>MINOR View Preservation/Site Plan Review</b> • Notice to adjacent properties • No hearing required, action by ZEO
<b>ADDITIONS or NEW HOMES</b> Additions of 250 square feet or larger, and new homes, but not “major additions and new large homes” as outlined below.	<b>None required</b>	<b>MAJOR View Preservation/Site Plan Review</b> • Notice to properties within 500 foot radius • Action by ZEO or SDSC at public hearing
<b>MAJOR ADDITIONS</b> An addition that exceeds 100% of the existing residence’s floor area and/or exceeds the maximum established FAR.	<b>MAJOR Residential Site Plan Review</b> • Notice to adjacent properties • Action by ZEO or SDSC at public hearing	
<b>NEW LARGE HOMES</b> New homes or additions to existing homes that would result in a residence exceeding 4,000 square feet of livable area. (For multiple units in the RO on a	<b>MAJOR Residential Site Plan Review</b> • Notice to adjacent properties	<b>MAJOR View Preservation/Site Plan Review</b> • Notice to properties within 500 foot radius

	<b>DISTRICT &amp; TYPE OF REVIEW REQUIRED</b>	
	<b>RO, RS, &amp; RS-40</b> Refer to Section 2.04.408 RO, RS and RS-40 Districts—Residential Site Plan Review	<b>RS-VP</b> Refer to Sections 2.04.320 Maximum Height of Structures, 2.04.412 RS-VP Sub-District—Residential Site Plan Review and Exceptions to Height Restrictions
<b>TYPE OF SINGLE-FAMILY CONSTRUCTION</b>		
single parcel, applies if cumulative square footage for all units exceeds 6,000 square feet of livable area.)	• Action by BZA at public hearing	• Action by BZA at public hearing
<b>II. TWO-STORY CONSTRUCTION</b>		
<b>MINOR ADDITIONS, ADDITIONS, or NEW HOMES</b> All additions and new homes, other than “major additions” and “new large homes” as outlined below.	<b>MINOR Residential Site Plan Review</b> • Notice to adjacent properties • No hearing required, action by ZEO	<b>MAJOR View Preservation/Site Plan Review &amp; Exception (TO EXCEED SINGLE STORY/18-FOOT HEIGHT LIMIT)</b> • Notice to properties within 500 foot radius
<b>MAJOR ADDITIONS</b> An addition that exceeds 100% of the existing residence’s floor area and/or exceeds the maximum established FAR.	<b>MAJOR Residential Site Plan Review</b> • Notice to adjacent properties • Action by ZEO or SDSC at public hearing	• Action by BZA at public hearing
<b>NEW LARGE HOMES</b> New homes or additions to existing homes that would result in a residence exceeding 4,000 square feet of livable area. (For multiple units in the RO on a single parcel, applies if cumulative square footage for all units exceeds 6,000 square feet of livable area.)	<b>MAJOR Residential Site Plan Review</b> • Notice to adjacent properties • Action by BZA at public hearing	<b>MAJOR View Preservation/Site Plan Review</b> • Notice to properties within 500 foot radius • Action by BZA at public hearing
<b>III. THREE-STORY CONSTRUCTION</b>		
<b>(All Additions and New Homes)</b>	<b>MAJOR Residential Site Plan Review</b> Same as Above	<b>MAJOR View Preservation/Site Plan Review &amp; Exception</b> Same as Above

(Ord. 2007-001 § 1; Ord. 2001-015 § 1)

## **Chapter 2.08 Commercial and Professional Districts**

### **Sections:**

**2.08.100 Specific Purposes**

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- 2.08.204 CN District—Use Regulations**
- 2.08.208 CR District—Use Regulations**
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- 2.08.220 DA Districts—Application of DA Zoning Districts to the Downtown Area**
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### **Article 2. Development Regulations**

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- 2.08.332 Density for Multi-Family Residential and Mixed-Use Residential Development**
- 2.08.336 Open Space for Multi-Family Residential and Mixed-Use Residential Development**

**2.08.340 Additional Property Development Regulations: CC, CN, CR, C-RM, CS, DA-1, DA-2, DA-3, DA-4, DA-6, NA-1, NA-2, P, SA-1, SA-2, and SA-3 Districts**

**2.08.344 Amenities, Design Criteria for Multi-Family Residential, Mixed-Use Residential Developments**

### **Article 3. Discretionary Permits**

#### **2.08.400 Administrative Exceptions**

#### **2.08.100 Specific Purposes**

In addition to the general purposes listed in Chapter 1.04 Title, Components, and Purposes, the specific purposes of commercial district regulations are to:

- A. Provide appropriately located areas consistent with the General Plan for a full range of office, retail commercial, and service commercial uses needed by residents, businesses, and visitors in the City and region.
- B. Strengthen the City's economic base, and provide employment opportunities close to home for residents of the City and surrounding communities.
- C. Create suitable environments for various types of commercial uses, and protect them from the adverse effects of inharmonious uses.
- D. Minimize the impact of commercial development on adjacent residential districts.
- E. Ensure that the appearance and effects of commercial buildings and uses are harmonious with the character of the area or with planned changes in the character of the area in which they are located and that the quality of site and building design enhances the community.
- F. Ensure the provision of adequate off-street parking and loading facilities.
- G. Provide sites for public and semipublic uses needed to complement commercial development or compatible with a commercial environment.

The additional purposes of each C, DA, NA, P, and SA districts are as follows:

CC Commercial Community District. To provide sites for commercial centers containing a wide variety of commercial establishments, including banking and financial establishments and businesses selling home furnishings, apparel, durable goods, and specialty items and generally having a citywide market area. Facilities, such as entertainment, eating-and-drinking establishments, hotels and motels are permitted, subject to certain limitations to avoid adverse effects on adjacent uses.

CN Commercial Neighborhood District. To provide sites for businesses serving the daily needs of nearby residential areas, subject to development standards that prevent significant adverse effects on adjoining neighborhoods. In addition to uses serving nearby residential areas, business and professional offices and residential uses are permitted above the ground floor.

CR Commercial Recreation District. To provide sites for recreation-oriented uses and commercial activities, such as hotels, and restaurants that are compatible with waterfront recreation and open space uses, conveniently located near the marina.

C-RM Commercial-Regional Mall District. To provide for development and operation of large regional shopping malls to encourage the economic stability and viability of regional malls, to recognize the unique characteristics of regional malls with regard to such factors as mix of uses, scale and design, parking, traffic and transit, signage, and other factors, and to promote the economic and fiscal prosperity of the City in accordance with the General Plan.

CS Commercial Services District. To provide sites for commercial services, including automobile sales and services, building materials, contractors' yards, warehousing, storage and similar uses; offices not accessory to a permitted use are excluded.

DA-1 (Downtown Area 1). To implement specific provisions of the Downtown San Leandro Transit-Oriented Development Strategy for the Downtown retail core area centered on East 14<sup>th</sup> Street between Davis Street and Castro Street. Ground floor retail is required on parcels fronting on East 14<sup>th</sup> Street and Washington Avenue north of Parrott Street and encouraged on all other parcels in this District. Residential mixed use development is allowed.

DA-2 (Downtown Area 2). To implement specific provisions of the Downtown San Leandro Transit-Oriented Development Strategy by providing for designated areas on the periphery of the Downtown core where new development shall be sensitive to and of a scale consistent with adjacent Residential Districts and where mixed use developments are allowed and encouraged but not required.

DA-3 (Downtown Area 3). To implement specific provisions of the Downtown San Leandro Transit-Oriented Development Strategy in areas adjacent to the Downtown retail core. Infill development shall respect the scale and fabric of the neighborhood while increased building height and higher residential densities are allowed.

DA-4 (Downtown Area 4). To implement specific provisions of the Downtown San Leandro Transit-Oriented Development Strategy on land located near transit facilities or where sensitivity to increased height and density is not significant. Residential use is required and limited ground-floor retail and office uses are permitted.



DA-6 (Downtown Area 6). To implement specific provisions of the Downtown San Leandro Transit-Oriented Development Strategy by clustering office uses in the vicinity of Davis Street and San Leandro Boulevard that will benefit from visibility from these streets and the nearby BART station. Off-site and shared parking is encouraged.

NA-1 North Area-1. To provide opportunities for small scale, pedestrian-oriented retail and service uses which serve the neighborhood, encourage mixed use development, especially multi-story mixed developments, minimize auto traffic, and promote new development consistent with existing neighborhood quality. The NA-1 Zoning District will serve to implement the North Area Specific Plan.

NA-2 North Area-2. To provide opportunities for and encourage mixed use development, especially multi-story residential, commercial retail and service-oriented uses, and promote new development consistent with existing neighborhood quality. The NA-2 Zoning District will also serve to implement the North Area Specific Plan.

P Professional Office District. To provide opportunities for offices, mixed-use and multi-family residential uses at appropriate locations, subject to development standards and landscaping requirements that prevent significant adverse effects on adjacent uses. Retail activity is appropriate, subject to limitations to ensure development is consistent with the existing neighborhood quality.

SA-1 (South Area-1). To promote quality mixed-use developments, especially multi-story developments, with neighborhood-oriented commercial uses. A primary intent is to ensure that new development will be quality in-fill projects. Provisions for reduced parking are included. The SA-1 Zoning District will serve to implement the East 14<sup>th</sup> Street South Area Development Strategy, particularly, policies and design guidelines for the Palma District and International and Cultural District.

SA-2 (South Area-2). To promote in-fill residential uses that would be sensitive to the adjoining neighborhoods. Residential, commercial and community-oriented uses would also be encouraged in mixed use multi-story buildings. Provisions for reduced parking are included. The SA-2 Zoning District will serve to implement the East 14<sup>th</sup> Street South Area Development Strategy, particularly, policies and design guidelines for the McKinley Residential District.

SA-3 (South Area-3). To provide opportunities for larger commercial and office developments, and to promote additional commercial opportunities that would exhibit quality design. Provisions for reduced parking are included. The SA-3 Zoning District will serve to implement the East 14<sup>th</sup> Street South Area Development Strategy, particularly, policies and design guidelines in the Gateway District. (Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

## **Article 1. Use Regulations**

## 2.08.200 CC District—Use Regulations

### A. CC District—Permitted Uses.

The following uses are allowed in the CC District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Ambulance Service, Emergency. (A conditional use permit is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
3. Ambulance Service, Non-Emergency. (An Administrative Review approval is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
4. Animal Grooming.
5. Animal Sales.
6. Artists' Studios.
7. Automobile Washing, Attended. (Subject to Section 4.04.208 Service Stations and Automobile Washing.)
8. Brewpubs.
9. Business Services.
10. Business and Trade Schools.
11. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
12. Catering Services.
13. Communication Facilities.
14. Drugstores.
15. Fast Food Establishment, Small Scale. (Subject to the regulations of Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts, and Section 4.04.200 Fast Food Establishments.)
16. Financial Institutions, Retail.
17. Furniture, Electronics, and Appliance Sales.
18. Health and Fitness Centers.
19. Home Improvement and Interior Decoration.
20. Instruction and Improvement Services.
21. Maintenance and Repair Services.
22. Medical Supply Stores.
23. Neighborhood/Specialty Food Markets.
24. Nurseries.
25. Offices, Business and Professional.
26. Pharmacies.
27. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)

28. Retail Sales.
29. Retail Services.
30. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
31. Theaters, Small Scale.
32. Travel Services.
33. Utilities, Minor.

**B. CC District—Conditionally Permitted Uses.**

The following uses are allowed in the CC District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses in conjunction with a conditionally permitted use.
2. Animal Boarding.
3. Animal Hospitals.
4. Automobile Washing, Unattended. (Subject to Section 4.04.208 Service Stations and Automobile Washing.)
5. Bars.
6. Bed and Breakfast Inns. (Subject to the regulations of Section 4.04.348 Bed and Breakfast Inns.)
7. Beer and Wine Stores. (Beer and wine stores shall not be located within 1,000 feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Beer and wine stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-existing beer and wine store shall not be deemed a nonconforming use solely due to non-compliance with the 1,000 foot minimum distance requirement.)
8. Billiard Parlors.
9. Bingo Parlors.
10. Building Materials and Services.
11. Cannabis Dispensary. (Subject to performance standards in the San Leandro Municipal Code Section 4-33-500 Cannabis Dispensary Permits.)
12. Coin-Operated Laundry Businesses.
13. Commercial Parking Facility.
14. Commercial Recreation.
15. Convenience Stores. (Convenience markets shall not be located within 1,000 feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Convenience markets may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-

existing convenience store shall not be deemed a nonconforming use solely due to non-compliance with the 1,000 foot minimum distance requirement.)

16. Cultural Institutions.
17. Dance Clubs.
18. Department Stores.
19. Drive-Up Facilities.
20. Emergency Health Care.
21. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
22. Farmers' Market.
23. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
24. Financial Institutions, Personal Loan Services. (Financial institutions, personal loan services uses shall not be located within 1,500 feet from other financial institutions, personal loan services uses. Financial institutions, personal loan services uses may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses.)
25. Fortune-Telling Establishments.
26. Game Centers.
27. Government Offices.
28. Gun or Weapon Shop.
29. Hospitals.
30. Hotels, Motels, and Time-Share Facilities.
31. Laboratories, Cannabis Testing Facilities.
32. Liquor Stores. (Liquor stores shall not be located within 1,000 feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Liquor stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-existing liquor store shall not be deemed a nonconforming use solely due to non-compliance with the 1,000 foot minimum distance requirement.)
33. Massage Therapy.
34. Mixed-Use Residential.
35. Multi-Family Residential.
36. Park and Recreation Facilities.
37. Pawn Shop.
38. Public Safety Facilities.
39. Retail Sales, Big Box.
40. Secondhand Sales.

41. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
42. Supermarkets.
43. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
44. Theaters.
45. Tobacconist/Cigarette Stores. (Tobacconist/cigarette stores shall not be located within 1,500 feet of a site occupied by a public or private school, park, library, or recreational facilities, or of other tobacconist/cigarette stores, and no exterior vending machines shall be permitted. Tobacconist/cigarette stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses.)
46. Two-Family Residential.
47. Utilities, Major.
48. Vehicle/Equipment Repair, Limited.
49. Vehicle/Equipment Repair, General.
50. Vehicle/Heavy Equipment Dealers, New.
51. Vehicle/Heavy Equipment Dealers, Used.
52. Vehicle/Heavy Equipment Rentals.

C. CC District—Uses Requiring Administrative Review.

The following uses are allowed in the CC District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machines.
2. Automobile Parts Sales.
3. Community Gardens.
4. Day Care, General.
5. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by the Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
6. Parking Lot.
7. Recycling Facilities, Bulk Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
8. Recycling Facilities, Single-Feed Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
9. Recycling Facilities, Small Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
10. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
11. Vehicle/Heavy Equipment Dealers Limited, Used.

D. CC District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the CC District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Circuses and Carnivals.
3. Commercial Filming.
4. Real Estate Offices, Temporary.
5. Retail Sales, Outdoor.
6. Storage Containers, Temporary.
7. Street or Neighborhood Fairs.
8. Trade Fairs. (Ord. 2017-014 § 4; Ord. 2017-001 § 4; Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2014-003 § 3; Ord. 2008-002 § 2; Ord. 2004-007 § 2; Ord. 2004-004 § 3; Ord. 2003-006 § 1; Ord. 2001-015 § 1)

**2.08.204 CN District—Use Regulations**

A. CN District—Permitted Uses.

The following uses are allowed in the CN District, and a conditional use permit is not required, provided that the use does not operate between the hours of 10:00 p.m. and 7:00 a.m. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Animal Grooming.
3. Animal Sales.
4. Brewpubs.
5. Business Services.
6. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
7. Catering Services.
8. Financial Institutions, Retail.
9. Maintenance and Repair Services.
10. Medical Supply Stores.
11. Neighborhood/Specialty Food Markets.
12. Nurseries.
13. Offices, Business and Professional.
14. Park and Recreation Facilities.
15. Pharmacies.
16. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)

17. Retail Sales.
18. Retail Services.
19. Utilities, Minor.

B. CN District—Conditionally Permitted Hours of Operation.

The operation of a permitted use in the CN District, as identified in Subsection A, between the hours of 10:00 p.m. and 7:00 a.m., is subject to the approval of a conditional use permit.

C. CN District—Conditionally Permitted Uses.

The following uses are allowed in the CN District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses in conjunction with a conditionally permitted use.
2. Animal Hospitals.
3. Artists' Studios.
4. Bed and Breakfast Inns.
5. Cultural Institutions.
6. Drugstores.
7. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
8. Farmers' Market.
9. Furniture, Electronics, and Appliance Sales.
10. Government Offices.
11. Home Improvement and Interior Decoration.
12. Massage Therapy.
13. Mixed-Use Residential.
14. Multi-Family Residential.
15. Public Safety Facilities.
16. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
17. Supermarkets.
18. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
19. Theaters.
20. Theaters, Small Scale.
21. Two-Family Residential.
22. Utilities, Major.

D. CN District—Uses Requiring Administrative Review.

The following uses are allowed in the CN District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machines.
2. Community Gardens.
3. Day Care, General.
4. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
5. Health and Fitness Centers.
6. Instruction and Improvement Services.
7. Parking Lot.
8. Recycling Facilities, Bulk Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
9. Recycling Facilities, Single-Feed Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
10. Recycling Facilities, Small Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
11. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

E. CN District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the CN District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Commercial Filming.
3. Real Estate Offices, Temporary.
4. Retail Sales, Outdoor.
5. Storage Containers, Temporary.
6. Street or Neighborhood Fairs. (Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2004-004 § 3; Ord. 2001-015 § 1)

**2.08.208 CR District—Use Regulations**

A. CR District—Permitted Uses.

The following uses are allowed in the CR District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)



1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Brewpubs.
3. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
4. Commercial Recreation. (Arcades and game centers prohibited.)
5. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
6. Health and Fitness Centers.
7. Instruction and Improvement Services.
8. Marine Sales and Service.
9. Neighborhood/Specialty Food Markets.
10. Park and Recreation Facilities.
11. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
12. Retail Sales.
13. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
14. Theaters, Small Scale.
15. Travel Services.
16. Utilities, Minor.

B. CR District—Conditionally Permitted Uses.

The following uses are allowed in the CR District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses in conjunction with a conditionally permitted use.
2. Artists' Studios.
3. Bars.
4. Bed and Breakfast Inns. (Subject to the regulations of Section 4.04.348 Bed and Breakfast Inns.)
5. Coin-Operated Laundry Businesses.
6. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
7. Farmers' Market.
8. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
9. Hotels, Motels, and Time-Share Facilities.
10. Marinas.
11. Massage Therapy.
12. Public Safety Facilities.

13. Stadia and Sports Arenas.
14. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
15. Theaters.
16. Theaters, Outdoor.
17. Utilities, Major.

C. CR District—Uses Requiring Administrative Review.

The following uses are allowed in the CR District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machines.
2. Community Gardens.
3. Day Care, General.
4. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.
5. Parking Lot.
6. Recycling Facilities, Single-Feed Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)

D. CR District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the CR District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Circuses and Carnivals.
2. Commercial Filming.
3. Retail Sales, Outdoor.
4. Storage Containers, Temporary.
5. Trade Fairs. (Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2004-004 § 3; Ord. 2003-006 § 3; Ord. 2001-015 § 1)

**2.08.212 C-RM District—Use Regulations**

A. C-RM District—Permitted Uses within Regional Mall. The following uses are allowed in the C-RM District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Animal Grooming.

3. Artist's Studios.
4. Automobile Rentals. (Permitted use limited to automobile rental office or counter, including on-site drop off or pick-up of rented automobiles, but excluding on-site storage of vehicles. If additional activities are proposed, a use permit for the "Vehicle/Heavy Equipment Rentals" classification shall be required.)
5. Brewpubs.
6. Business Services.
7. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
8. Commercial Parking Facility.
9. Day Care, General.
10. Department Stores.
11. Drugstores.
12. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
13. Financial Institutions, Retail.
14. Furniture, Electronics, and Appliance Sales.
15. Government Offices.
16. Health and Fitness Centers.
17. Home Improvement and Interior Decoration.
18. Instruction and Improvement Services.
19. Medical Supply Stores.
20. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending,
21. Neighborhood/Specialty Food Markets.
22. Offices, Business and Professional.
23. Pharmacies.
24. Public Safety Facilities.
25. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
26. Retail Sales.
27. Retail Services.
28. Supermarkets.
29. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
30. Theaters, Small Scale.
31. Travel Services.
32. Utilities, Minor.
33. Vehicle/Equipment Repair, Limited.

B. C-RM—Conditionally Permitted Uses.

The following uses are allowed in the C-RM District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses in conjunction with a conditionally permitted use.
2. Animal Hospitals.
3. Bars.
4. Beer and Wine Stores.
5. Business and Trade Schools.
6. Commercial Recreation.
7. Communications Facilities.
8. Cultural Institutions.
9. Emergency Health Care.
10. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
11. Farmers' Market.
12. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
13. Hotels, Motels, and Time-Share Facilities.
14. Liquor Stores.
15. Maintenance and Repair Services.
16. Massage Therapy.
17. Mixed Use Residential.
18. Multi-Family Residential.
19. Retail Sales, Big Box.
20. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
21. Theaters.
22. Two-Family Residential.
23. Utilities, Major.
24. Vehicle/Heavy Equipment Rentals.

C. C-RM District—Uses Requiring Administrative Review.

The following uses are allowed in the C-RM District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Accessory Uses and Structures.
2. Animal Boarding, Indoor.
3. Automatic Teller Machines.
4. Catering Services.
5. Community Gardens.
6. Game Centers.

7. Nurseries.
8. Parking Lot.
9. Recycling Facilities, Single-Feed Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)

D. C-RM District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the C-RM District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Animal Shows.
2. Christmas Tree and Pumpkin Sales.
3. Circuses and Carnivals.
4. Commercial Filming.
5. Retail Sales, Outdoor.
6. Special Promotions, for the regional mall as a whole.
7. Storage Containers, Temporary. (Ord. 2016-012 § 4; Ord. 2014-011 § 2; Ord. 2004-004 § 3; Ord. 2001-015 § 1)

**2.08.216 CS District—Use Regulations**

A. CS District—Permitted Uses.

The following uses are allowed in the CS District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Animal Boarding.
3. Animal Grooming.
4. Animal Hospitals.
5. Automobile Washing, Attended. (Subject to Section 4.04.208 Service Stations and Automobile Washing.)
6. Brewpubs.
7. Building Materials and Services.
8. Business Services.
9. Business and Trade Schools.
10. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
11. Equipment Sales.
12. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
13. Furniture, Electronics, and Appliance Sales.
14. Health and Fitness Centers.

15. Home Improvement and Interior Decoration.
16. Instruction and Improvement Services.
17. Maintenance and Repair Services.
18. Medical Supply Stores.
19. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
20. Retail Sales, Big Box.
21. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
22. Utilities, Minor.
23. Vehicle/Equipment Repair, Limited.

B. CS District—Conditionally Permitted Uses.

The following uses are allowed in the CS District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses in conjunction with a conditionally permitted use.
2. Artists' Studios.
3. Automobile Washing, Unattended. (Subject to Section 4.04.208 Service Stations and Automobile Washing.)
4. Cultural Institutions.
5. Drive-up Facilities.
6. Farmers' Market.
7. Industry, Custom.
8. Industry, Limited.
9. Massage Therapy.
10. Public Safety Facilities.
11. Public Storage.
12. Recycling Facilities, Small Scale Hazardous Waste. (Use permit requires specific finding that use is consistent with any adopted Alameda County Hazardous Waste Management Plan and any provisions of the San Leandro General Plan, specifically applicable to hazardous waste or material. Also subject to the regulations of Section 4.04.232 Recycling Facilities.)
13. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
14. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
15. Utilities, Major.
16. Vehicle/Equipment Repair, General.
17. Vehicle/Heavy Equipment Dealers, New.
18. Vehicle/Heavy Equipment Dealers, Used.

19. Vehicle/Heavy Equipment Rentals.
20. Vehicle Storage.
21. Warehouse—Storage Facilities.
22. Warehouse—Wholesale/Retail Distribution Facilities.

C. CS District—Uses Requiring Administrative Review.

The following uses are allowed in the CS District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
2. Parking Lot.
3. Recycling Facilities, Bulk Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
4. Recycling Facilities, Single-Feed Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
5. Recycling Facilities, Small Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
6. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
7. Vehicle/Heavy Equipment Dealers Limited, Used.

D. CS District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the CS District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Commercial Filming.
3. Real Estate Offices, Temporary.
4. Retail Sales, Outdoor.
5. Storage Containers, Temporary.
6. Street or Neighborhood Fairs. (Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2007-020 § 2; Ord. 2004-004 § 3; Ord. 2001-015 § 1)

**2.08.220 DA Districts—Application of DA Zoning Districts to the Downtown Area**

A. Relationship to the Downtown San Leandro Transit-Oriented Development Strategy.

The DA-1, DA-2, DA-3, DA-4, and DA-6 zoning districts have been created to implement the Downtown San Leandro Transit Oriented Development Strategy (Development Strategy). The Development Strategy identifies five activity areas. The zoning for these activity areas are generally as follows:

<b>TOD Development Strategy District Areas</b>	<b>Corresponding Zoning District</b>
Retail Mixed-Use (East 14 <sup>th</sup> Street between Davis and Castro Streets)	DA-1
Multi-Use Infill (Periphery of Downtown Core)	DA-2
TOD—Transition Mixed-Use (Immediately Adjacent to Retail Core)	DA-3
TOD—Residential Mixed-Use (Near Transit Facilities)	DA-4
Office Mixed-Use (Davis Street at San Leandro Boulevard)	DA-6

(Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2001-015 § 1)

## **2.08.224 DA-1—Use Regulations**

### **A. DA-1 District—Permitted Uses.**

The following uses are allowed in the DA-1 District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Animal Grooming. (Indoor only.)
3. Animal Sales.
4. Artists' Studios.
5. Brewpubs.
6. Business Services.
7. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
8. Catering Services.
9. Communication Facilities.
10. Department Stores. (Single tenants 10,000 sf in size or less only.)
11. Drugstores. (Single tenants 10,000 sf in size or less only.)
12. Financial Institutions, Retail.
13. Furniture, Electronic, and Appliance Sales. (Single tenants 10,000 sf in size or less only.)
14. Government Offices.
15. Health and Fitness Centers.
16. Home Improvement and Interior Decoration. (Single tenants 10,000 sf in size or less only.)
17. Instruction and Improvement Services.
18. Medical Supply Stores.



19. Mixed-Use Residential. (Subject to Ground Floor Retail Regulations in Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
20. Neighborhood/Specialty Food Markets. (Single tenants 10,000 sf in size or less only.)
21. Offices, Business and Professional.
22. Pharmacies. (Single tenants 10,000 sf in size or less only.)
23. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming.)
24. Residential Uses Without Mixed Use Component allowed on Parcels Not Fronting on East 14<sup>th</sup> Street or Washington Avenue Corridors.
25. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
26. Retail Sales. (Single tenants, 10,000 sf in size or less only.)
27. Retail Services.
28. Theaters, Small Scale.
29. Travel Services.
30. Utilities, Minor.

B. DA-1 District—Conditionally Permitted Uses.

The following uses are allowed in the DA-1 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses in conjunction with a conditionally permitted use.
2. Bars.
3. Bed and Breakfast Inns. (Subject to the regulations of Section 4.04.348 Bed and Breakfast Inns.)
4. Beer and Wine Stores. (Beer and wine stores shall not be located within 1,000 feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Beer and wine stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-existing beer and wine store shall not be deemed a nonconforming use solely due to non-compliance with the 1,000 foot minimum distance requirement.)
5. Coin-Operated Laundry Businesses.
6. Commercial Parking Facility.
7. Commercial Recreation.
8. Cultural Institutions.
9. Dance Clubs.
10. Department Stores. (Single tenants greater than 10,000 sf in size.)
11. Drive-Up Facilities.
12. Drugstores. (Single tenants greater than 10,000 sf in size.)
13. Emergency Health Care.

14. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
15. Farmer's Market.
16. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments. Fast food establishments are not permitted on parcels fronting East 14<sup>th</sup> Street.)
17. Furniture, Electronic, and Appliance Sales. (Single tenants greater than 10,000 sf in size.)
18. Game Centers.
19. Home Improvement and Interior Decoration. (Single tenants greater than 10,000 sf in size.)
20. Hotels, Motels and Time-Share Facilities.
21. Massage Therapy.
22. Multi-Family Residential.
23. Neighborhood Specialty Food Markets. (Single tenants greater than 10,000 sf in size.)
24. Pharmacies. (Single tenants greater than 10,000 sf in size.)
25. Public Safety Facilities.
26. Retail Sales. (Single tenants greater than 10,000 sf in size.)
27. Secondhand Sales.
28. Service Stations. (Subject to the regulations of Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
29. Supermarkets. (Single tenants greater than 10,000 sf in size.)
30. Telecommunications, New Monopoles and Towers. (Subject to Section 4.04.376 Wireless Telecommunications Facilities.)
31. Theaters.

C. DA-1 District—Uses Requiring Administrative Review.

The following uses are allowed in the DA-1 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machines.
2. Business and Trade Schools.
3. Community Gardens.
4. Day Care, General.
5. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
6. Maintenance and Repair Services.
7. Parking Lot.
8. Recycling Facilities, Single-Feed Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)

9. Supermarkets. (Single tenants 10,000 sf in size or less only.)
10. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

D. DA-1 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the DA-1 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Commercial Filming.
3. Real Estate Offices, Temporary.
4. Retail Sales, Outdoor.
5. Street or Neighborhood Fairs.
6. Trade Fairs. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2011-003 § 1; Ord. 2008-011 § 1; Ord. 2008-003 § 2; Ord. 2007-020 § 2; Ord. 2001-015 § 1)

**2.08.228 DA-2—Use Regulations**

A. DA-2 District—Permitted Uses.

The following uses are allowed in the DA-2 District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Animal Grooming (Indoor only.)
3. Artists' Studios.
4. Brewpubs.
5. Business Services.
6. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
7. Financial Institutions, Retail.
8. Instruction and Improvement Services.
9. Medical Supply Stores.
10. Mixed-Use Residential with ground floor retail and/or office uses.
11. Multi-Family Residential.
12. Neighborhood/Specialty Food Markets.
13. Offices, Business and Professional.
14. Pharmacies. (Single tenants 10,000 sf in size or less only.)
15. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming)

16. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
17. Retail Sales. (Single tenants 10,000 sf in size or less only.)
18. Retail Services.
19. Travel Services.
20. Utilities, Minor.

B. DA-2 District—Conditionally Permitted Uses.

The following uses are allowed in the DA-2 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses in conjunction with a conditionally permitted use.
2. Assembly Uses.
3. Bars.
4. Bed and Breakfast Inns.
5. Catering.
6. Commercial Parking Facility.
7. Commercial Recreation.
8. Convalescent Facilities.
9. Cultural Institutions.
10. Drugstores.
11. Emergency Health Care.
12. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
13. Farmers' Market.
14. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
15. Group Housing.
16. Health and Fitness Centers.
17. Home Improvement and Interior Decoration.
18. Hospitals.
19. Industry, Custom.
20. Laboratories.
21. Massage Therapy.
22. Mortuaries.
23. Park and Recreation Facilities.
24. Pharmacies. (Single tenants greater than 10,000 sf in size.)
25. Public Safety Facilities.
26. Schools, Public or Private.
27. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
28. Theaters.

29. Theaters, Small Scale.
30. Utilities, Major.

C. DA-2 District—Uses Requiring Administrative Review.

The following uses are allowed in the DA-2 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machines.
2. Business and Trade Schools.
3. Community Gardens.
4. Day Care, General.
5. Furniture, Electronics, and Appliance Stores.
6. Parking Lot.
7. Recycling Facilities, Single-Feed Reverse Vending Machine (subject to the regulations of Section 4.04.232 Recycling Facilities).
8. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

D. DA-2 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the DA-2 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Assembly Uses, Temporary.
2. Christmas Tree and Pumpkin Sales.
3. Commercial Filming.
4. Real Estate Sales, Temporary.
5. Retail Sales, Outdoor.
6. Street or Neighborhood Fairs.
7. Trade Fairs. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2008-011 § 1; Ord. 2008-003 § 3; Ord. 2007-020 § 2; Ord. 2001-015 § 1)

**2.08.232 DA-3—Use Regulations**

A. DA-3 District—Permitted Uses.

The following uses are allowed in the DA-3 District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a permitted use.
2. Animal Grooming. (Indoor only.)

3. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
4. Garage and Yard Sales. (Limited to two times per year on the premises of the property owner or a residential property in the immediate vicinity.)
5. Multi-Family Residential.
6. Park and Recreation Facilities, Public.
7. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming.)
8. Utilities, Minor.

B. DA-3 District—Conditionally Permitted Uses.

The following uses are allowed in the DA-3 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditionally permitted use.
2. Assembly Uses.
3. Bed and Breakfast Inns.
4. Brewpubs.
5. Cultural Institutions.
6. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
7. Group Housing.
8. Home Improvement and Interior Decoration.
9. Industry, Custom.
10. Manufactured Home Parks.
11. Mixed-Use Residential with ground floor office and/or retail.
12. Neighborhood/Specialty Food Markets. (Single tenants 10,000 square feet in size or less only.)
13. Park and Recreation Facilities, Private Noncommercial.
14. Public Safety Facilities.
15. Restaurants, Full-Service.
16. Retail Sales.
17. Retail Services.
18. Single-Family Residential.
19. Schools, Public or Private.
20. Travel Services.
21. Two-Family Residential.
22. Utilities, Major.

C. DA-3 District—Uses Requiring Administrative Review.

The following uses are allowed in the DA-3 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Artist's Studios.
2. Business and Trade Schools.
3. Community Gardens.
4. Day Care, General.
5. Health and Fitness Centers.
6. Instruction and Improvement Services.
7. Offices, Business and Professional.
8. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

D. DA-3 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the DA-3 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Assembly Uses, Temporary.
2. Commercial Filming.
3. Street or Neighborhood Fairs. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2012-002 § 1; Ord. 2011-003 § 1; Ord. 2008-011 § 1; Ord. 2008-003 § 4; Ord. 2007-020 § 2; Ord. 2001-015 § 1)

**2.08.236 DA-4—Use Regulations**

A. DA-4 District—Permitted Uses.

The following uses are allowed in the DA-4 District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a permitted use.
2. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
3. Garage and Yard Sales. (Limited to two times per year on the premises of the property owner or a residential property in the immediate vicinity.)
4. Multi-Family Residential.
5. Offices, Business and Professional.
6. Park and Recreation Facilities, Public.
7. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming.)
8. Utilities, Minor.

B. DA-4 District—Conditionally Permitted Uses.

The following uses are allowed in the DA-4 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditionally permitted use.
2. Assembly Uses.
3. Bed and Breakfast Inns. (Subject to the regulations of Section 4.04.348 Bed and Breakfast Inns.)
4. Brewpubs.
5. Cultural Institutions.
6. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
7. Group Housing.
8. Home Improvement and Interior Decoration.
9. Industrial Uses. (Pre-existing industrial uses shall not be considered nonconforming and may continue. Expansion up to 25 percent may be considered with a conditional use permit.)
10. Industry, Custom.
11. Mixed-Use Residential with retail and/or office on the ground floor.
12. Neighborhood/Specialty Food Markets. (Single tenants 10,000 sf in size or less only.)
13. Park and Recreation Facilities, Private Noncommercial.
14. Public Safety Facilities.
15. Restaurants, Full-Service.
16. Retail Sales.
17. Retail Services.
18. Schools, Public or Private.
19. Single-Family Residential.
20. Travel Services.
21. Two-Family Residential.
22. Utilities, Major.

C. DA-4 District—Uses Requiring Administrative Review.

The following uses are allowed in the DA-4 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Artist's Studios.
2. Business and Trade Schools.
3. Community Gardens.
4. Day Care, General.



5. Health and Fitness Centers.
6. Instruction and Improvement Services.
7. Telecommunications, Architecturally-Integrated Antennas or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

D. DA-4 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the DA-4 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Assembly Uses, Temporary.
2. Commercial Filming.
3. Street or Neighborhood Fairs. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2011-003 § 1; Ord. 2008-011 § 1; Ord. 2008-003 § 5; Ord. 2007-020 § 2; Ord. 2001-015 § 1)

**2.08.240 DA-6—Use Regulations**

A. DA-6 District—Permitted Uses.

The following uses are allowed in the DA-6 District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Artists' Studios.
3. Brewpubs.
4. Business Services.
5. Business and Trade Schools.
6. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
7. Catering Services.
8. Financial Institutions, Retail.
9. Health and Fitness Centers.
10. Instruction and Improvement Services.
11. Mixed-Use Residential with office and/or retail uses on the ground floor.
12. Multi-Family Residential.
13. Offices, Business and Professional.
14. Park and Recreation Facilities.
15. Pre-Existing Residential Uses. (These pre-existing residential uses shall be allowed to remain and shall not be considered nonconforming.)
16. Pharmacies.

17. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
18. Retail Sales when in conjunction with mixed-use residential.
19. Retail Services.
20. Travel Services.
21. Utilities, Minor.

B. DA-6 District—Conditionally Permitted Uses.

The following uses are allowed in the DA-6 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses in conjunction with a conditionally permitted use.
2. Communication Facilities.
3. Cultural Institutions.
4. Drugstores.
5. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
6. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
7. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
8. Government Offices.
9. Home Improvement and Interior Decoration.
10. Hotels, Motels, and Time-Share Facilities.
11. Industry, Custom.
12. Neighborhood/Specialty Food Markets.
13. Schools, Public or Private.
14. Service Stations. (Subject to the regulations of Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
15. Supermarkets.
16. Theaters.
17. Utilities, Major.
18. Vehicle/Heavy Equipment Dealers, New.

C. DA-6 District—Uses Requiring Administrative Review.

The following uses are allowed in the DA-6 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machines.

2. Community Gardens.
3. Day Care, General.
4. Game Centers.
5. Parking Lot.
6. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

D. DA-6 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the DA-6 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Circuses and Carnivals.
3. Commercial Filming.
4. Real Estate Offices, Temporary.
5. Retail Sales, Outdoor.
6. Street or Neighborhood Fairs.
7. Trade Fairs. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2008-011 § 1; Ord. 2008-003 § 7; Ord. 2007-020 § 2; Ord. 2001-015 § 1)

**2.08.244 NA-1 District—Use Regulations**

A. NA-1 District—Permitted Uses.

The following uses are allowed in the NA-1 District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Brewpubs.
3. Business Services.
4. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
5. Financial Institutions, Retail.
6. Furniture, Electronics, and Appliance Sales.
7. Health and Fitness Centers.
8. Instruction and Improvement Services.
9. Maintenance and Repair Services.
10. Medical Supply Stores.
11. Neighborhood/Specialty Food Markets.
12. Offices, Business and Professional.
13. Pharmacies.

14. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
15. Retail Sales.
16. Retail Services.
17. Travel Services.
18. Utilities, Minor.

B. NA-1 District—Conditionally Permitted Uses.

The following uses are allowed in the NA-1 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses in conjunction with a conditional use.
2. Bars.
3. Bed and Breakfast Inns. (Subject to the regulations of Section 4.04.348 Bed and Breakfast Inns.)
4. Commercial Recreation.
5. Drugstores.
6. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
7. Farmers' Market.
8. Home Improvement and Interior Decoration.
9. Mixed-Use Residential.
10. Multi-Family Residential.
11. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
12. Theaters.
13. Theaters, Small Scale.
14. Two-Family Residential.
15. Utilities, Major.

C. NA-1 District—Uses Requiring Administrative Review.

The following uses are allowed in the NA-1 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machines.
2. Community Gardens.
3. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
4. Parking Lot.

5. Recycling Facilities, Bulk Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
6. Recycling Facilities, Single-Feed Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
7. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

D. NA-1 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the NA-1 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Circuses and Carnivals.
3. Commercial Filming.
4. Real Estate Offices, Temporary.
5. Retail Sales, Outdoor.
6. Storage Containers, Temporary.
7. Street or Neighborhood Fairs.
8. Trade Fairs. (Ord. 2014-011 § 2; Ord. 2004-004 § 3; Ord. 2003-006 § 5; Ord. 2001-015 § 1)

**2.08.248 NA-2 District—Use Regulations**

A. NA-2 District—Permitted Uses.

The following uses are allowed in the NA-2 District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Artist's Studios.
3. Brewpubs.
4. Business Services.
5. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
6. Financial Institutions, Retail.
7. Furniture, Electronics and Appliance Sales.
8. Health and Fitness Centers.
9. Instruction and Improvement Services.
10. Maintenance and Repair Services.
11. Medical Supply Stores.
12. Neighborhood/Specialty Food Markets.

13. Offices, Business and Professional.
14. Pharmacies.
15. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
16. Retail Sales.
17. Retail Services.
18. Travel Services.
19. Two-Family Residential.
20. Utilities, Minor.

B. NA-2 District—Conditionally Permitted Uses.

The following uses are allowed in the NA-2 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses in conjunction with a conditionally permitted use.
2. Assembly Uses.
3. Bars.
4. Bed and Breakfast Inns. (Subject to the regulations of Section 4.04.348 Bed and Breakfast Inns.)
5. Commercial Recreation.
6. Drugstores.
7. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
8. Farmers' Market.
9. Home Improvement and Interior Decoration.
10. Mixed-Use Residential.
11. Multi-Family Residential.
12. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
13. Theaters.
14. Theaters, Small Scale.
15. Utilities, Major.

C. NA-2 District—Uses Requiring Administrative Review.

The following uses are allowed in the NA-2 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machines.
2. Community Gardens.

3. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
4. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
5. Parking Lot.
6. Recycling Facilities, Bulk Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
7. Recycling Facilities, Single-Feed Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
8. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

D. NA-2 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the NA-2 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Circuses and Carnivals.
3. Commercial Filming.
4. Real Estate Offices, Temporary.
5. Retail Sales, Outdoor.
6. Storage Containers, Temporary.
7. Street or Neighborhood Fairs.
8. Trade Fairs. (Ord. 2014-011 § 2; Ord. 2012-002 § 1; Ord. 2004-004 § 3; Ord. 2003-006 § 6; Ord. 2001-015 § 1)

**2.08.252 P District—Use Regulations**

A. P District—Permitted Uses.

The following uses are allowed in the P District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Brewpubs.
3. Business Services.
4. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
5. Financial Institutions, Retail.
6. Medical Supply Stores.

7. Neighborhood/Specialty Food Markets.
8. Offices, Business and Professional.
9. Pharmacies.
10. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
11. Retail Services.
12. Travel Services.
13. Utilities, Minor.

B. P District—Conditionally Permitted Uses.

The following uses are allowed in the P District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses in conjunction with a conditionally permitted use.
2. Bed and Breakfast Inns. (Subject to the regulations of Section 4.04.348 Bed and Breakfast Inns.)
3. Commercial Parking Facility.
4. Convalescent Facilities.
5. Cultural Institutions.
6. Emergency Health Care.
7. Farmers' Market.
8. Group Housing.
9. Health and Fitness Centers.
10. Hospitals.
11. Laboratories.
12. Massage Therapy.
13. Mixed-Use Residential.
14. Mortuaries.
15. Multi-Family Residential.
16. Public Safety Facilities.
17. Schools, Public or Private.
18. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
19. Utilities, Major.

C. P District—Uses Requiring Administrative Review.

The following uses are allowed in the P District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machines.
2. Day Care, General.



3. Parking Lot.
4. Recycling Facilities, Single-Feed Reverse Vending Machine (subject to the regulations of Section 4.04.232 Recycling Facilities).
5. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

D. P District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the P District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Commercial Filming.
2. Real Estate Sales, Temporary.
3. Retail Sales, Outdoor.
4. Storage Containers, Temporary. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2004-004 § 3; Ord. 2003-006 § 4; Ord. 2001-015 § 1)

**2.08.256 SA Districts—Application of South Area Zoning Regulations to the East 14th Street South Area**

A. Relationship to the East 14<sup>th</sup> Street South Area Development Strategy.

The South Area 1, 2, and 3 zoning districts have been created to implement the East 14<sup>th</sup> Street Development Strategy (Development Strategy). The Development Strategy identifies five activity areas. The zoning for these activity areas are as follows:

<b>Development Strategy District Name</b>	<b>Corresponding Zoning District</b>
Southern Downtown	DA-1 (Downtown Area)
McKinley Residential	SA-2
Palma	SA-1
International & Cultural	SA-1
Gateway	SA-3

(Ord. 2007-020 § 2; Ord. 2004-007 § 3)

**2.08.260 SA-1 District—Use Regulations**

A. SA-1 District—Permitted Uses.

The following uses are allowed in the SA-1 District, and a conditional use permit is not required, for tenant spaces up to 25,000 square feet. Spaces in excess of 25,000 square feet can be allowed through the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Animal Sales.
3. Artists' Studios.
4. Brewpubs.
5. Business and Trade Schools.
6. Business Services.
7. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
8. Communications Facilities.
9. Financial Institutions, Retail.
10. Government Offices.
11. Health and Fitness Centers.
12. Instruction and Improvement Services.
13. Medical Supply Stores.
14. Neighborhood/Specialty Food Markets.
15. Offices, Business and Professional.
16. Pharmacies.
17. Restaurants, Full-Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
18. Retail Sales.
19. Retail Services.
20. Travel Services.
21. Utilities, Minor.

B. SA-1 District—Permitted Hours of Operation.

The operation of a permitted use in the SA-1 District between the hours of 10:00 p.m. and 7:00 a.m. is subject to approval of a conditional use permit.

C. SA-1 District—Conditionally Permitted Uses.

The following uses are allowed in the SA-1 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a conditionally permitted use.
2. Animal Grooming.
3. Animal Hospitals.
4. Bars.
5. Bed and Breakfast Inns. (Subject to the regulations of Section 4.04.348 Bed and Breakfast Inns.)

6. Beer and Wine Stores. (Beer and wine stores shall not be located within 1,000 feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Beer and wine stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-existing beer and wine store shall not be deemed a nonconforming use solely due to non-compliance with the 1,000 foot minimum distance requirement.)
7. Billiard Parlors.
8. Coin-Op Laundry and Dry Cleaning Businesses.
9. Commercial Recreation.
10. Convalescent Facilities.
11. Cultural Institutions.
12. Dance Clubs.
13. Department Store.
14. Drive-Up Facility.
15. Emergency Health Care.
16. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
17. Farmers' Market.
18. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
19. Financial Institutions, Check Cashing and Personal Loans. (Financial institutions, personal loan services uses shall not be located within 1,500 feet from other financial institutions, personal loan services uses. Financial institutions, personal loan services uses may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses.)
20. Fortunetelling Establishments.
21. Furniture, Electronic and Appliance Sales.
22. Game Centers.
23. Group Housing.
24. Home Improvement and Interior Decoration.
25. Hospitals.
26. Hotels, Motels, and Time-Share Facilities.
27. Laboratories.
28. Maintenance and Repair Services.
29. Multi-Family Residential. (For sites 25,000 square feet or larger, and on ground floor next to East 14<sup>th</sup> Street.)
30. Massage Therapy.
31. Park and Recreation Facilities.
32. Parking Lot.
33. Public Safety Facilities.

34. Residential Hotels.
35. Schools, Public or Private.
36. Secondhand Sales.
37. Social Service Facilities.
38. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
39. Theaters.
40. Tobacconist/Cigarette Stores (Tobacconist/cigarette stores shall not be located within 1,500 feet of a site occupied by a public or private school, park, library, or recreational facilities, or of other tobacconist/cigarette stores, and no exterior vending machines shall be permitted. Tobacconist/cigarette stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses.)
41. Utilities, Major.
42. Vehicle/Equipment Repair, Limited.

D. SA-1 District—Uses Requiring Administrative Review.

The following uses are allowed in the SA-1 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machine.
2. Catering Services.
3. Community Gardens.
4. Day Care, General.
5. Drugstores.
6. Fast Food Establishment, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
7. Live-Work.
8. Mixed-Use Residential.
9. Multi-Family Residential (for sites 25,000 square feet or less).
10. Recycling Facilities, Bulk Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
11. Recycling Facilities, Single-Feed Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
12. Recycling Facilities, Small Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
13. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
14. Supermarkets.
15. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

16. Theaters, Small Scale.
17. Two-Family Residential.

E. SA-1 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the SA-1 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Circuses and Carnivals.
3. Commercial Filming.
4. Real Estate Offices, Temporary.
5. Retail Sales, Outdoor.
6. Storage Containers, Temporary.
7. Street or Neighborhood Fairs.
8. Trade Fairs. (Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2004-009 § 1; Ord. 2004-007 § 3)

**2.08.264 SA-2 District—Use Regulations**

A. SA-2 District—Permitted Uses.

The following uses are allowed in the SA-2 District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Live-Work.
3. Mixed-Use Residential.
4. Multi-Family Residential.
5. Two-Family Residential.

B. SA-2 District—Permitted Hours of Operation.

The operation of a permitted nonresidential use in the SA-2 District between the hours of 10:00 p.m. and 7:00 a.m. is subject to approval of a conditional use permit.

C. SA-2 District—Conditionally Permitted Uses.

The following uses are allowed in the SA-2 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a conditionally permitted use.
2. Assembly Uses.
3. Bed and Breakfast Inns. (Subject to the regulations of Section 4.04.348 Bed and Breakfast Inns.)
4. Beer and Wine Stores. (Beer and wine stores shall not be located within 1,000 feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Beer and wine stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-existing beer and wine store shall not be deemed a nonconforming use solely due to non-compliance with the 1,000 foot minimum distance requirement.)
5. Business and Trade Schools.
6. Coin-Op Laundry and Dry Cleaning Businesses.
7. Convalescent Facilities.
8. Cultural Institutions.
9. Drugstore. (Single tenants, 10,000 square feet in size or less, only.)
10. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
11. Fast Food Establishment, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
12. Financial Institution, Retail.
13. Fortunetelling Establishments.
14. Furniture, Electronic and Appliance Sales. (Single tenants 10,000 square feet in size or less, only.)
15. Group Housing.
16. Home Improvement and Interior Decoration. (Single tenants 10,000 square feet in size or less, only.)
17. Library.
18. Maintenance and Repair Services.
19. Massage Therapy.
20. Medical Supply Stores.
21. Park and Recreation Facilities.
22. Pharmacies. (Single tenants 10,000 square feet in size or less, only.)
23. Public Safety Facilities.
24. Retail Sales. (Single tenants greater than 10,000 square feet in size, only. Single tenants less than 10,000 square feet in size require Administrative Review.)
25. Retail Services.
26. Schools, Public or Private.
27. Social Service Facilities.
28. Theaters, Small Scale.

D. SA-2 District—Uses Requiring Administrative Review.

The following uses are allowed in the SA-2 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Artists' Studios.
2. Automatic Teller Machine.
3. Brewpubs.
4. Business Services.
5. Cafés. (Standards for review are specified in Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
6. Community Gardens.
7. Day Care, General.
8. Government Offices.
9. Health and Fitness Centers.
10. Instruction and Improvement Services.
11. Neighborhood/Specialty Food Markets.
12. Offices, Business and Professional.
13. Recycling Facilities, Bulk Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
14. Recycling Facilities, Single-Feed Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
15. Recycling Facilities, Small Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
16. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
17. Restaurants, Full-Service.
18. Retail Sales. (Single tenants over 10,000 square feet in size require approval of a conditional use permit.)
19. Supermarkets.
20. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
21. Travel Services.
22. Utilities, Minor.

E. SA-2 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the SA-2 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Circuses and Carnivals.
3. Commercial Filming.
4. Real Estate Offices, Temporary.

5. Retail Sales, Outdoor.
6. Storage Containers, Temporary.
7. Street or Neighborhood Fairs.
8. Trade Fairs. (Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2012-002 § 1; Ord. 2008-011 § 1; Ord. 2004-009 § 1; Ord. 2004-007 § 3)

## **2.08.268 SA-3 District—Use Regulations**

### **A. SA-3 District—Permitted Uses.**

The following uses are allowed in the SA-3 District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Ambulance Services, Emergency. (A conditional use permit is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
3. Ambulance Services, Non-Emergency. (An Administrative Review approval is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
4. Animal Sales.
5. Artists' Studios.
6. Brewpubs.
7. Business and Trade Schools.
8. Business Services.
9. Cafés. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
10. Catering Services.
11. Communications Facilities.
12. Fast Food Establishments, Small Scale. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts and Section 4.04.200 Fast Food Establishments.)
13. Financial Institutions, Retail.
14. Furniture, Electronic and Appliance Sales.
15. Government Offices.
16. Health and Fitness Centers.
17. Home Improvement and Interior Decoration.
18. Instruction and Improvement Services.
19. Medical Supply Stores.
20. Neighborhood/Specialty Food Markets.
21. Offices, Business and Professional.
22. Pharmacies.



23. Restaurants, Full Service. (Subject to Section 2.08.272 Additional Use Restrictions: Commercial and Professional Districts.)
24. Retail Sales.
25. Retail Services.
26. Supermarkets.
27. Travel Services.
28. Utilities, Minor.

B. SA-3 District—Permitted Hours of Operation.

The operation of a permitted nonresidential use in the SA-3 District between the hours of 10:00 p.m. and 7:00 a.m. is subject to approval of a conditional use permit.

C. SA-3 District—Conditionally Permitted Uses.

The following uses are allowed in the SA-3 District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a conditionally permitted use.
2. Animal Grooming.
3. Animal Hospitals.
4. Automobile Parts Sales.
5. Automobile Washing, Attended. (Subject to Section 4.04.208 Service Stations and Automobile Washing.)
6. Automobile Washing, Unattended. (Subject to Section 4.04.208 Service Stations and Automobile Washing.)
7. Bars.
8. Beer and Wine Stores. (Beer and wine stores shall not be located within 1,000 feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Beer and wine stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-existing beer and wine store shall not be deemed a nonconforming use solely due to non-compliance with the 1,000 foot minimum distance requirement.)
9. Billiard Parlors.
10. Bingo Parlors.
11. Coin-Op Laundry and Dry Cleaning.
12. Commercial Parking Facility.
13. Commercial Recreation.
14. Convenience Stores. (Convenience markets shall not be located within 1,000 feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Convenience markets

may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-existing convenience store shall not be deemed a nonconforming use solely due to non-compliance with the 1,000 foot minimum distance requirement.)

15. Cultural Institutions.
16. Dance Clubs.
17. Department Store.
18. Drive-Up Facility.
19. Emergency Health Care.
20. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
21. Farmers' Market.
22. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
23. Financial Institutions, Check Cashing/Personal Loans. (Financial institutions, personal loan services uses shall not be located within 1,500 feet from other financial institutions, personal loan services uses. Financial institutions, personal loan services uses may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses.)
24. Fortunetelling Establishments.
25. Game Centers.
26. Group Housing.
27. Hotels, Motels, and Time-Share Facilities.
28. Liquor Stores. (Liquor stores shall not be located within 1,000 feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Liquor stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-existing liquor store shall not be deemed a nonconforming use solely due to non-compliance with the one 1,000 foot minimum distance requirement.)
29. Live-Work.
30. Maintenance and Repair Services.
31. Massage Therapy.
32. Mixed-Use Residential.
33. Multi-Family Residential.
34. Nurseries.
35. Park and Recreation Facilities.
36. Public Safety Facilities.
37. Retail Sales, Big Box.
38. Schools, Public or Private.

39. Secondhand Sales.
40. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
41. Social Service Facilities.
42. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
43. Theaters.
44. Tobacconist/Cigarette Stores. (Tobacconist/cigarette stores shall not be located within 1,500 feet of a site occupied by a public or private school, park, library, or recreational facilities, or of other tobacconist/cigarette stores, and no exterior vending machines shall be permitted. Tobacconist/cigarette stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses.)
45. Utilities, Major.
46. Vehicle/Equipment Repair, Limited.
47. Vehicle/Heavy Equipment Dealers, New.
48. Vehicle/Heavy Equipment Dealers, Used.
49. Vehicle/Heavy Equipment Rental.

C. SA-3 District—Uses Requiring Administrative Review.

The following uses are allowed in the SA-3 District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Automatic Teller Machine.
2. Community Gardens.
3. Drugstores.
4. Laboratories.
5. Parking Lot.
6. Recycling Facilities, Bulk Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
7. Recycling Facilities, Single-Feed Reverse Vending Machine. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
8. Recycling Facilities, Small Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
9. Theaters, Small Scale.
10. Two-Family Residential.
11. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
12. Vehicle/Heavy Equipment Dealers Limited, Used.

D. SA-3 District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the SA-3 District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Circuses and Carnivals.
3. Commercial Filming.
4. Real Estate Offices, Temporary.
5. Retail Sales, Outdoor.
6. Storage Containers, Temporary.
7. Street or Neighborhood Fairs.
8. Trade Fairs. (Ord. 2014-011 § 2; Ord. 2004-009 § 1; Ord. 2004-007 § 3)

**2.08.272 Additional Use Restrictions: Commercial and Professional Districts**

All uses not listed as permitted, conditionally permitted, or subject to administrative review are prohibited, unless a decision is made by the Zoning Enforcement Official pursuant to Section 5.04.112 Uses Not Listed.

In addition to the uses listed above, the following regulations shall apply:

- A. Development of Lots Divided by District Boundaries. Lots located within two districts shall be subject to the regulations of Section 4.04.308 Development on Lots Divided by District Boundaries.
- B. Nonconforming Uses. Subject to the regulations of Chapter 4.20 Nonconforming Uses and Structures.
- C. Relocated Buildings. A use permit shall be required for any commercial use, residential use, public or semipublic use, or industrial use occupying a relocated building.
- D. Restaurants, Full-Service or Cafés in Various Commercial Districts. Subject to Administrative Review if the proposal has, or would result in, either a gross floor area of 2,000 square feet, or larger, or a dining area of 1,000 square feet, or larger. Zoning permit review pursuant to Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits shall include, but is not limited to, a review of the proposal's generation of parking demand, hours of operation, and signage. In order to assure consistency with the purpose of the various Commercial Districts as stated in Section 2.08.100 Specific Purposes, the Zoning Enforcement Official may impose conditions to limit hours of operations and signage further than what is prescribed elsewhere in this Code. The standard for approval is the Zoning Enforcement Official's ability to make the required findings, as listed below:

1. That the proposed location and operation of the restaurant, full-service or café is in accord with the provisions of this Code, and the purposes and specific standards of the Commercial District in which the site is located;
  2. That the proposed location of the restaurant, full-service or café and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City;
  3. That the proposed restaurant, full service or café will not create adverse impacts on traffic, including, but not limited to, on-street parking demand, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.
- H. Fast Food Establishments, Small Scale in the CC and SA-3 Districts. Subject to Administrative Review if the proposal is to establish or enlarge a fast food establishment, small scale within 500 feet of a Residential District. Zoning permit review pursuant to Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits shall include, but is not limited to, a review of the proposal's generation of parking demand, hours of operation, and signage. In order to assure consistency with the purpose of the applicable commercial district, the Zoning Enforcement Official may impose conditions to limit hours of operations and signage further than what is prescribed elsewhere in this Code. The standard for approval is the Zoning Enforcement Official's ability to make the required findings, as listed below:
1. That the proposed location and operation of the fast food establishment, small scale, is in accord with the provisions of this Code, and the purposes and specific standards of the commercial district in which the site is located;
  2. That the proposed location of the fast food establishment, small scale, and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety, or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City;
  3. That the proposed fast food establishment, small scale will not create adverse impacts on traffic, including, but not limited to, on-street parking demand, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. (Ord. 2016-012 § 4; Ord. 2014-011 § 2; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2004-004 § 3; Ord. 2001-015 § 1)

**Article 2. Development Regulations**

**2.08.300 Property Development Regulations: Commercial and Professional Districts**

The following sections set forth the property development regulations of the CC, CN, CR, C-RM, CS, DA-1, DA-2, DA-3, DA-4, DA-6, NA-1, NA-2, P, SA-1, SA-2, and SA-3 Districts. In addition, development in the SA-1, SA-2 or SA-3 Districts shall be consistent with the Design Guidelines in the East 14th Street South Area Development Strategy. Development in the DA-1, DA-2, DA-3, DA-4, and DA-6 Districts shall be consistent with the provisions contained in the Design Guidelines in the Downtown San Leandro Transit-Oriented Development Strategy. (Ord. 2018-021 § 3; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

**2.08.304 Minimum Lot Area and Minimum Lot Width**

Zoning District	Minimum Lot Area (sq. ft.)	Minimum Lot Width (feet)
CC, CS, NA-1, NA-2	10,000	100
CN, P	5,000	50
CR	10,000	n.a.
C-RM	25 acres <sup>(A)</sup>	n.a.
DA-1, DA-6	10,000 <sup>(A)</sup>	100
DA-2, DA-3, DA-4	5,000 <sup>(A)</sup>	50
SA-1, SA-2, SA-3	5,000	50

- A. Exceptions to Minimum Lot Size—C-RM and DA Districts. The Zoning Enforcement Official may administratively approve an exception to the minimum lot size to allow for lots less than the minimum size required by this section if adequate shared ingress, egress and access to parking facilities can be provided to accommodate each proposed new lot. (Ord. 2018-021 § 3; Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2005-002 § 1; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

**2.08.308 Minimum Yards**

- A. Minimum Building Setback. The minimum setback for building placement, is as prescribed below. Additional building setback may also apply as specified in Subsections B, C, D, E, F, G, H, I and J.

Zoning District	Front (ft.)	Side (ft.)	Corner Side (ft.)	Rear (ft.)	Daylight Plane and Yards Abutting R Districts
CC	10	0	10	0	15 ft. side or rear <sup>(J)</sup>
CN, P	10	0	10	0	15 ft. side or rear <sup>(J)</sup>
CR	20	0	20	0	15 ft. side or rear <sup>(J)</sup>
C-RM	0	0	0	0	40 ft. from a structure in an R District <sup>(C)</sup>

Zoning District	Front (ft.)	Side (ft.)	Corner Side (ft.)	Rear (ft.)	Daylight Plane and Yards Abutting R Districts
CS	10	0	10	0	15 ft. side or rear <sup>(J)</sup>
DA-1	Varies <sup>(D)(G)</sup>	0	0	Varies <sup>(D)(G)</sup>	Varies <sup>(J)</sup>
DA-2; DA-3, DA-6	Varies <sup>(E)(G)</sup>	0	0	Varies <sup>(E)(G)</sup>	Varies <sup>(J)</sup>
DA-4	Varies <sup>(F)(G)</sup>	0	0	Varies <sup>(F)(G)</sup>	Varies <sup>(J)</sup>
NA-1	0	4	0	5	n.a.
NA-2	20 or 25 <sup>(H)</sup>	15 <sup>(H)</sup>	20 <sup>(H)</sup>	15 <sup>(H)</sup>	25 ft. rear for second story 35 ft. rear for third story <sup>(H)</sup>
SA-1, SA-3	0 <sup>(I)</sup>	0	0 <sup>(I)</sup>	0	8 ft. side or rear <sup>(J)</sup>
SA-2	Varies <sup>(I)</sup>	0	0	0	8 ft. side or rear <sup>(J)</sup>

**B. Additional Regulations—All Commercial and Professional Districts.**

1. Front, side, corner side, and rear yards shall be subject to the regulations of Section 4.04.312 Building Projections into Yards and Courts.
2. Double-frontage lots shall provide the minimum front setback on each frontage.

**C. Additional Building Setback Requirements—CR-M District.** No building in the C-RM District shall be constructed within 40 feet of a structure in an R District. Any other restriction on yards shall be as established pursuant to a conditional use approval or development agreement.

**D. Additional Building Setback Requirements—DA-1 District.**

1. Along East 14th Street, a minimum front setback of seven feet is required to create a minimum 15-foot wide pedestrian zone.
2. Rear yards shall be consistent with the prevailing condition on each block.

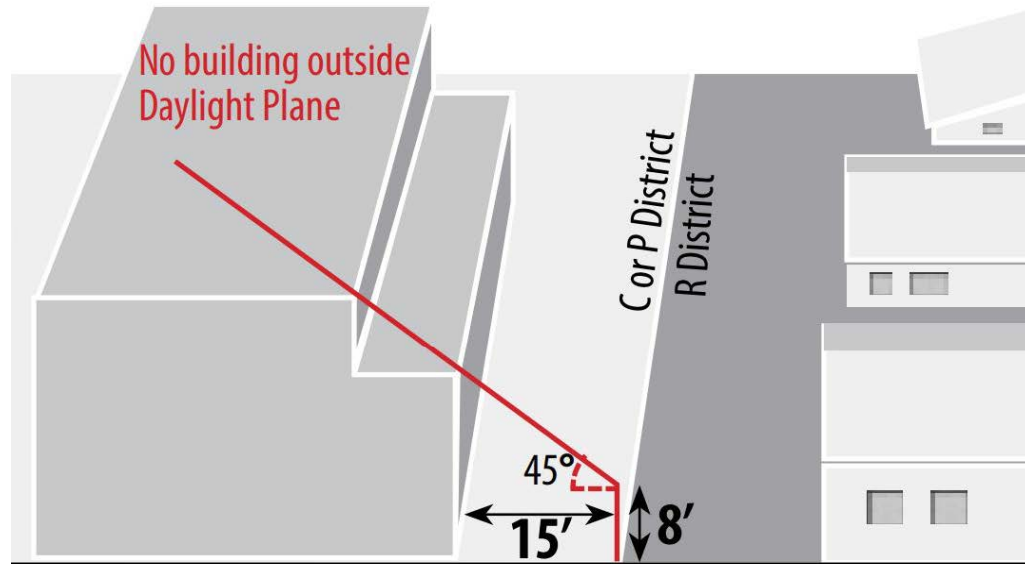
**E. Additional Building Setback Requirements—DA-2, DA-3, and DA-6 Districts.**

1. Front setbacks shall be consistent with the prevailing condition on each block.
2. Where ground floor residential is proposed, a minimum front setback of 10 feet and a maximum of 15 feet shall be provided.
3. For mixed-use buildings, the front setback shall not exceed 10 feet.

4. Rear yards shall be consistent with the prevailing condition on each block.
- F. Additional Building Setback Requirements—DA-4 District.
1. Front setbacks shall be consistent with the prevailing condition on each block.
  2. Rear yards shall be consistent with the prevailing condition on each block.
  3. Along the San Leandro Creek, the Zoning Enforcement Official shall determine the applicable building setback for a creek trail and open space.
- G. Pre-Existing Residential in DA Districts. The Zoning Enforcement Official shall determine the applicable building setback standards for modifications or additions to pre-existing residential development based on the prevailing conditions on each block.
- H. Additional Building Setback Requirements—NA-2 District.
1. The front setback in the NA-2 District shall be as follows: 20 feet for one- and two-story buildings and 25 feet for three-story buildings.
  2. Side setbacks in the NA-2 District shall be 15 feet or one-half the building height, whichever is greater.
  3. Corner side setbacks in the NA-2 District shall be 20 feet, or one-half the building height, whichever is greater.
  4. Rear yard requirements in the NA-2 District, when adjoining RS Districts, shall be increased to 25 feet for the second story and 35 feet for the third story. Rear yards in the NA-2 District, when adjoining RD or RM Districts, shall be increased to 25 feet.
- I. Additional Building Setback Requirements—SA-1, SA-2, and SA-3 Districts.
1. If ground floor residential is proposed, a 10-foot building setback shall be required.
  2. South of Blossom Way: front setbacks will vary to achieve a 13.5-foot wide sidewalk. No front setback is required.
  3. North of Blossom Way: front setbacks will vary to achieve a 13-foot wide sidewalk. A minimum 4.5-foot setback shall be required.
- J. Daylight Plane Regulations for Parcels Adjacent to R Districts.
1. For C and P Districts, structures shall not intercept a one-to-one (1:1) or 45 degree daylight plane inclined inward from a height of 8 feet above existing grade at the

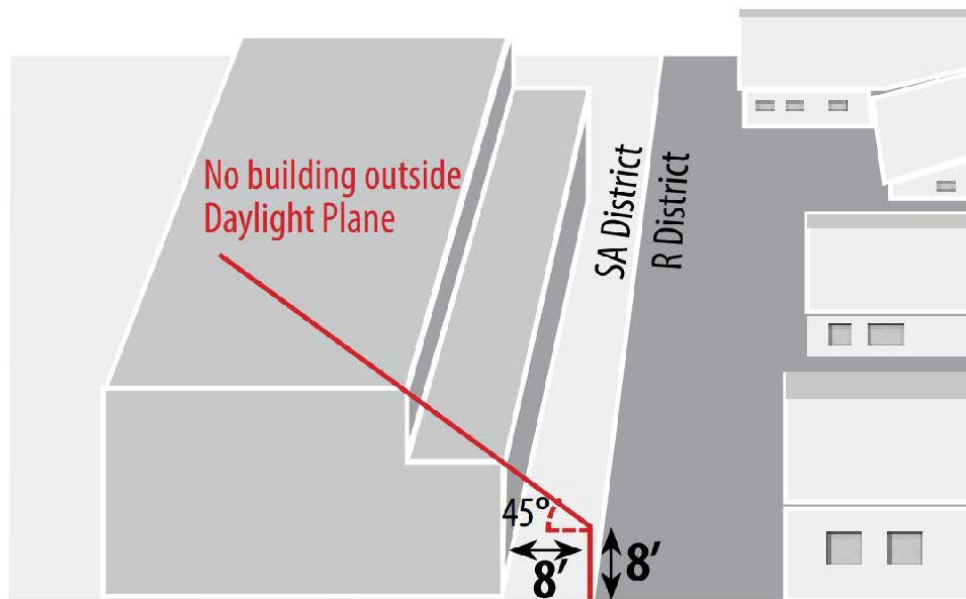


R District boundary line. (Please refer to illustration “Required Daylight Plane at Adjoining Districts—C or P Districts.”)



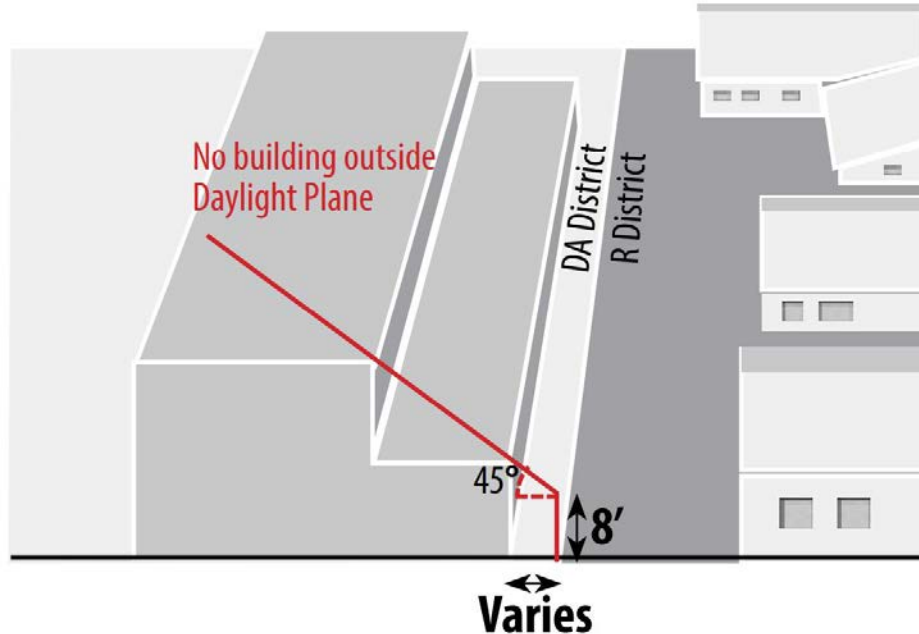
**Required Daylight Plane at Adjoining Districts—C or P Districts**  
(The diagram is illustrative)

2. For SA districts, structures shall not intercept a one-to-one (1:1) or 45 degree daylight plane inclined inward from a height of eight feet above existing grade at the R District boundary line. (Please refer to illustration “Required Daylight Plane at Adjoining Districts—SA Districts.”)



**Required Daylight Plane at Adjoining Districts—SA Districts**  
(The diagram is illustrative. Also refer to the East 14th Street South Area Design Guidelines)

- For DA districts, structures shall not intercept a one-to-one (1:1) or 45 degree daylight plane inclined inward from a height of eight feet above existing grade at an RS or RD District boundary line. (Please refer to illustration “Required Daylight Plane at Adjoining Districts—DA Districts.”)



**Required Daylight Plane at Adjoining Districts—DA Districts**

(The diagram is illustrative. Also refer to the Design Guidelines in the Downtown San Leandro Transit-Oriented Development Strategy)

- In instances in which the zoning district boundary is located at the centerline of an adjacent public right-of-way, the daylight plane shall be measured from the nearest property line.
- The Zoning Enforcement Official may approve an Administrative Exception if an applicant cannot meet these provisions per Section 2.08.400 Administrative Exceptions. (Ord. 2018-021 § 3; Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2004-009 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

**2.08.312 Height of Structures**

Zoning District	Non-Residential Development		Residential and Mixed-Use Residential Development	
	Minimum Height (ft.)	Maximum Height (ft.)	Minimum Height (ft.)	Maximum Height (ft.)
CC	n.a.	50	n.a.	50
CN, NA-1, NA-2	n.a.	30	n.a.	50
CR, CS	n.a.	40	n.a.	n.a.

C-RM	n.a.	80 <sup>(A)</sup>	n.a.	50
DA-1	n.a. or 24 <sup>(B)</sup>	75 <sup>(C)</sup>	n.a. or 24 <sup>(B)</sup>	75 <sup>(C)</sup>
DA-2	n.a. or 24 <sup>(B)</sup>	50 <sup>(C)</sup>	n.a. or 24 <sup>(B)</sup>	50 <sup>(C)</sup>
DA-3	n.a.	50 <sup>(C)</sup>	n.a.	50 <sup>(C)</sup>
DA-4	n.a.	60-75 <sup>(C)</sup>	n.a.	60-75 <sup>(C)</sup>
DA-6	n.a.	75 <sup>(C)</sup>	n.a.	75 <sup>(C)</sup>
P	n.a.	30	n.a.	30
SA-1, SA-2, SA-3	24	50	24	50

- A. Exceptions to Maximum Height—C-RM District. No building in the C-RM District shall exceed a height of 80 feet or four stories unless a greater height is expressly permitted by a Conditional Use Permit or development agreement.
- B. Exceptions to Minimum Height—DA-1 and DA-2 Districts. The 24-foot minimum height standard only applies along East 14th Street between Chumalia Street and Georgia Way. No minimum height applies elsewhere in the DA-1 or DA-2 districts.
- C. Specific Heights and Height Exceptions—DA Districts. The Downtown San Leandro Transit-Oriented Development Strategy Figure 8 Building Height Framework establishes the locations of specific height limits. Exceptions to the maximum height requirement may be allowed subject to the approval of a Conditional Use Permit.
- D. Other Exceptions to Height Limits. The maximum height of structures shall be subject to the regulations of Section 4.04.320 Exceptions to Height Limits. (Ord. 2018-021 § 3; Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

### 2.08.316 Lot Coverage

Zoning District	Maximum Lot Coverage
CC, CN, CS, P	50%
CR	25%
C-RM, DA-1, DA-2, DA-3, DA-4, DA-6, NA-1, NA-2, SA-1, SA-2, SA-3	100%

- A. Exceptions. In calculating the percentage of lot coverage for the purpose of applying the regulations of this Zoning Code, the features of a structure as hereafter set forth shall not be included as coverage:
1. Cornices, canopies, eaves or other projections which do not increase the volume of space enclosed by the building provided that any portion of such projections extending more than two feet from the building shall be included as coverage at a ratio of 1/2: 1;
  2. Fire escapes up to 3 1/2 feet;

3. An uncovered stair and landing which does not extend above a ground floor entrance except for the railing; or
4. Bay windows, balconies or chimneys which project from the wall not more than two feet; provided, that, such features do not in the aggregate occupy more than one-third of the length of a wall which faces an interior side lot line, or more than two-thirds of the length of a wall which faces a street or a rear lot line.

(Ord. 2018-021 § 3; Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

### 2.08.320 Floor Area Ratio (FAR)

Zoning District	Minimum FAR	Maximum FAR	
CC	n.a.	1.0	
CN	n.a.	0.5	
CR	n.a.	1.0	
C-RM	n.a.	1.0	
CS	n.a.	0.5	
DA-1	n.a.	3.5	
DA-2	n.a.	1.0	Residential or Mixed Use Residential: 1.5 <sup>(D)</sup> Downtown Mixed Use: 3.5 <sup>(A)</sup> Transit-Oriented Mixed Use: 4.0 <sup>(B)</sup> Adjacent to BART: 5.0 <sup>(C)</sup>
DA-3	n.a.	3.5	Transit-Oriented Mixed Use: 4.0 <sup>(B)</sup>
DA-4	n.a.	4.0	Adjacent to BART: 5.0 <sup>(C)</sup>
DA-6	1.0	4.0	Adjacent to BART: 5.0 <sup>(C)</sup>
NA-1, NA-2	n.a.	1.0	Residential or Mixed Use Residential: 1.5 <sup>(D)</sup>
P	n.a.	0.5	Downtown Mixed Use: 3.5 <sup>(A)</sup>
SA-1, SA-2, SA-3	n.a.	1.0	Residential or Mixed Use Residential: 1.5 <sup>(D)</sup>

- A. Maximum FAR in Downtown Mixed Use—DA-2, DA-3, and P Districts. Maximum of 3.5 FAR allowed for parcels within the General Plan Downtown Mixed Use land use category.
- B. Maximum FAR in Transit-Oriented Mixed Use—DA-2, and DA-3 Districts. Maximum of 4.0 FAR allowed for parcels within the General Plan Transit-Oriented Mixed Use land use category.
- C. Parcels Adjacent to BART—DA-2, DA-3, DA-4, and DA-6 Districts. Maximum of 5.0 FAR allowed for parcels within a 0.5 mile radius to a BART station.
- D. Maximum FAR for Residential or Mixed-Use Residential Developments—DA-2, NA-1, NA-2, SA-1, SA-2, and SA-3 Districts. Maximum of 1.5 FAR for residential or mixed-

use residential development. (Ord. 2018-021 § 3; Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2008-011 § 1; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

**2.08.324 Minimum Site Landscaping**

- A. General Landscape Requirements. In addition to the general requirements prescribed in Chapter 4.16 Landscape Requirements, the following requirements for minimum site landscaping apply to all property within commercial and professional districts. The minimum percentage of the site that shall be used for landscaping shall be as prescribed below:

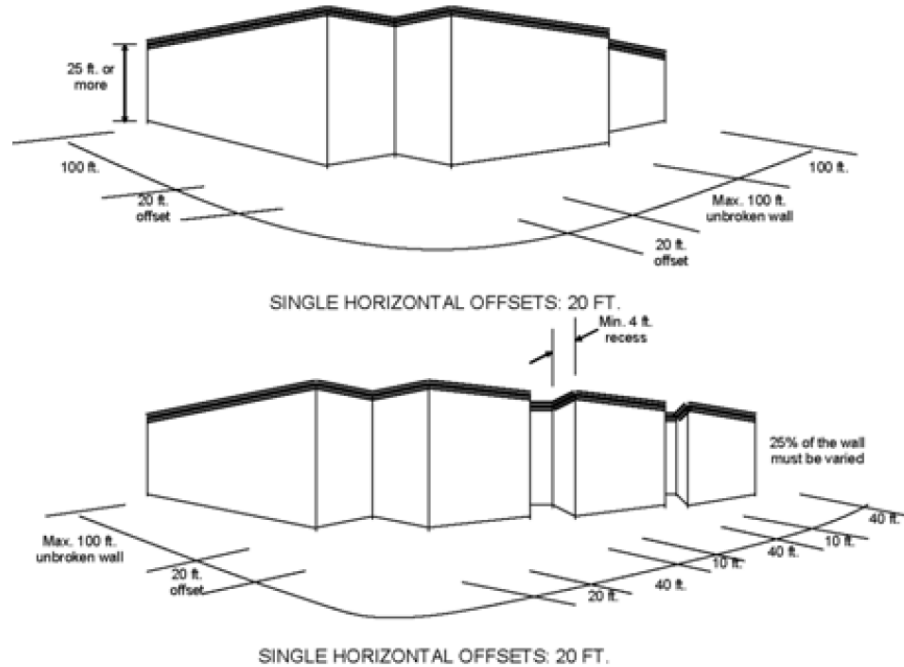
Zoning District	Minimum Site Landscaping
CN, NA-1, P, SA-1, SA-3	5% <sup>(C)(D)</sup>
CC, CS, NA-2, SA-2	10% <sup>(C)(D)</sup>
CR, C-RM, DA-1, DA-2, DA-3, DA-4, DA-6	Determined at the time of project Site Plan Review, pursuant to Chapter 5.12 Site Plan Approval <sup>(C)</sup>

- B. Landscape Requirements in All Districts. Notwithstanding the minimum setback and landscaped yard requirements of this chapter, all open areas within, and adjacent to, a required front or corner side yard, other than areas used for walks, drives or parking and loading facilities, shall be landscaped. For projects requiring Site Plan Review pursuant to Chapter 5.12 Site Plan Approval, all landscaping shall be installed consistent with Chapter 4.16 Landscape Requirements.
- C. Minimum Site Landscaping—CC, CN, CR, CS, P, and NA-2 Districts. A landscaped yard or planter strip with a minimum depth of 10 feet shall be provided within the front and corner side setbacks prescribed in Section 2.08.308 Minimum Yards.
- D. Minimum Site Landscaping—SA-1, SA-2 and SA-3 Districts. A minimum five foot landscaped yard or planter strip shall be provided for any parking facility or other open space area abutting a public street.
- E. Exceptions for Minimum Site Landscaping. As part of the Site Plan Review pursuant to Chapter 5.12 Site Plan Approval, exceptions to the requirements of this subsection may be permitted if such requirements are found not to be practical due to pre-existing site constraints. (Ord. 2018-021 § 3; Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

**2.08.328 Wall Setback or Offsets**

- A. Building Articulation. Buildings over 25 feet in height with walls that extend longer than 100 feet shall provide architectural details such as offsets, recesses, reveals, window

patterns, columns, or pilasters. Alternative design solutions that achieve an equivalent level of building articulation and visual interest may be approved by the ZEO, or may be approved as part of the site plan review or other approval process by the approval authority. (Please refer to “Maximum Wall Length and Required Break” illustration.)



**Maximum Wall Length and Required Break**  
(The diagram is illustrative)

(Ord. 2018-021 § 3; Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

**2.08.332 Density for Multi-Family Residential and Mixed-Use Residential Development**

A. Density for Multi-Family Residential and Mixed-Use Residential Development. The minimum and maximum density for residential and mixed-use development is as prescribed below. For minimum and maximum density calculations that result in fractional amounts, numbers of 0.5 or greater shall be rounded up to the nearest whole integer, numbers less than 0.5 shall be rounded down to the nearest whole integer.

Zoning District	Minimum Density ( Dwelling Unit / Acre)	Maximum Density ( Dwelling Unit / Acre)
CC, CN, C-RM	n.a.	24 <sup>(B)</sup>
CR, CS	n.a.	n.a.
DA-1	Parcels < 10,000 sf: n.a. Parcels ≥ 10,000 sf: 35	Parcels < 10,000 sf: 24 <sup>(B)</sup> Parcels ≥ 10,000 sf: 100 <sup>(B)</sup>
DA-2	Parcels < 10,000 sf: n.a. Parcels ≥ 10,000 sf: 20	Parcels < 10,000 sf: 24 <sup>(B)</sup> Parcels ≥ 10,000 sf: 40 <sup>(B)</sup>

Zoning District	Minimum Density (Dwelling Unit / Acre)	Maximum Density (Dwelling Unit / Acre)
DA-3	Parcels < 10,000 sf: n.a. Parcels ≥ 10,000 sf: 20	Parcels < 10,000 sf: 24 <sup>(B)</sup> Parcels ≥ 10,000 sf: 60 <sup>(B)</sup>
DA-4	Parcels < 10,000 sf: n.a. Parcels ≥ 10,000 sf: 60	Parcels < 10,000 sf: 24 <sup>(B)</sup> Parcels ≥ 10,000 sf: 100 <sup>(B)</sup>
DA-6	Parcels < 10,000 sf: n.a. Parcels ≥ 10,000 sf: 60	Parcels < 10,000 sf: 24 <sup>(B)</sup> Parcels ≥ 10,000 sf: n.a.
NA-1, NA-2, P	n.a.	24
SA-1, SA-2, SA-3	18 <sup>(C)</sup>	35

- B. Small Unit Density Bonus—Downtown Mixed Use. A 20 percent density bonus for average unit size less than 750 square feet is allowed. This bonus may not be added to the State-required density bonus for affordable housing. Only one density bonus program may be applied to any given development.
- C. Exceptions to Minimum Density—SA Districts. Exceptions to this minimum density requirement may be approved at the discretion of the Zoning Enforcement Official.
- D. Accessory dwelling units and junior accessory dwelling units do not count toward the maximum density. See Section 2.04.388 Accessory Dwelling Units (ADUs). (Ord. 2018-021 § 3; Ord. 2001-015 § 1)

### 2.08.336 Open Space for Multi-Family Residential and Mixed-Use Residential Development

In addition to the general landscape requirements prescribed in Chapter 4.16 Landscape Requirements and Subsection A of Section 2.08.324 Minimum Site Landscaping, the following requirements for minimum required open space apply to all multi-family residential and mixed-use residential development in the C, P, NA, DA or SA Districts.

Zoning District	Required Open Space (sf / DU)
CN, CC, NA-1, NA-2, P	200
SA-1, SA-2, SA-3, DA-1, DA-2, DA-3, DA-4, DA-6	60

(Ord. 2018-021 § 3; Ord. 2016-012 § 4)

### 2.08.340 Additional Property Development Regulations: Commercial and Professional Districts

- A. Ground Floor Retail in DA-1. Retail uses required on ground floor on parcels fronting on East 14th Street and Washington Avenue, north of Parrott Street.
- B. Views into Buildings. On commercial ground floors in the DA and SA Districts, not less than 50 percent of the first story of that portion of a building facing a street shall consist

of opening or clear or tinted glass windows providing views of merchandise displayed, building interiors, or courtyards.

- C. Security Roll-Up Doors. Retractable security gates, window bars, and mall-style roll-up doors shall be installed to the inside of existing windows or glass doors for installation of physical security measures on a building façade. A mall-style roll-up door must not be visible during business hours. Metal gates, stored in a wall pocket or similar enclosure so as not to be visible during business hours, and scissor-style security grilles, retracted into casing during business hours, are subject to the review and approval of the Zoning Enforcement Official.
  
- D. Other Requirements: C-RM (Commercial—Regional Mall) District. The following additional requirements shall apply to development approvals in the C-RM District at the time when new improvements are constructed and only in that area of the site that is related to such new construction.
  - 1. All signs shall be subject to the Chapter 4.12 Signs with respect to requirements for installation permits and maintenance.
  - 2. All outdoor storage and surface mounted mechanical equipment shall be screened from view from public streets, on-site parking and vehicular or pedestrian circulation areas open to the public.
  - 3. Roof-mounted mechanical equipment either shall be screened from view from public streets, the elevated BART line, and on-site public parking and vehicular or pedestrian circulation areas open to the public, or such equipment shall be designed or treated so as to be unobtrusive or visually attractive.
  - 4. All utilities on-site shall be placed underground. (Ord. 2018-021 § 3; Ord. 2016-012 § 4; Ord. 2014-011 § 2; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

#### **2.08.344 Amenities, Design Criteria for Multi-Family Residential, Mixed-Use Residential Developments**

- A. Projects subject to Site Plan Review shall include amenities and design criteria that enhance the quality of tenants' living or the appearance of the project and not cited elsewhere in this chapter. Projects shall include at least seven of these amenities. Amenities and criteria may include:
  - 1. Fitness center
  - 2. Lap pool
  - 3. Common areas that are not private balconies
  - 4. Tenant activity areas. (Examples: joint eating and cooking areas, clubhouse, play areas, screening room)



5. Electric vehicle (EV) charging stations or 220 V power outlet for 15 percent of required parking spaces.
6. Use of three or more colors
7. Use of three or more materials on the façade
8. Public art
9. Storage rooms
10. Main door-staffed with attendant
11. Bicycle lockers
12. Permeable concrete pavers in driveway and parking areas
13. Indoor and outdoor furniture in common areas
14. Façade or corner modulation of minimum 18-inch depth. (Examples: Bay windows, corner feature)
15. Playground
16. Pet relief area
17. Pet washing facility
18. On-site commercial child care facility
19. Study room and/or library
20. Conference room (Ord. 2018-021 § 3; Ord. 2016-012 § 4; Ord. 2008-011 § 1; Ord. 2007-020 § 2; Ord. 2004-007 § 2; Ord. 2001-015 § 1)

### **Article 3. Discretionary Permits**

#### **2.08.400 Administrative Exceptions**

- A. Standards for Which an Administrative Exception May be Approved. The Zoning Enforcement Official may approve an Administrative Exception for the following:
  1. Exceptions to the Daylight Plane requirements set forth in 2.08.308 Minimum Yards.
- B. Application Requirements. Application for such approval shall be made to the Zoning Enforcement Official on a form prescribed by Planning staff, and shall be accompanied by a plot plan showing location and height of all structures on the premises subject to the application and on all abutting premises, and showing location, height and area of the proposal. Reduced copies of these plans shall also be provided. The Zoning Enforcement Official may require further information as is deemed appropriate to the application.
- C. Neighborhood Notification. The City shall notify abutting property owners in writing of the proposal. A copy of the reduced plan shall be included.
- D. Administrative Review.
  1. Findings Necessary for Approval. The Zoning Enforcement Official may approve an Administrative Exception upon a determination that the proposal would not be

detrimental to public health, safety or welfare and would not cause undue damage, hardship, nuisance or other detriment to persons or property in the vicinity. The Zoning Enforcement Official shall deny, approve or conditionally approve the application.

2. Notice of Decision. The Zoning Enforcement Official shall notify by mail the applicant and all abutting property owners. Said notice shall contain a statement that the action taken will become final within 15 days from the date thereof unless appealed in writing to the Board of Zoning Adjustments. The action of the Zoning Enforcement Official shall be final unless an appeal is filed.
- E. Appeals. Any person aggrieved with the action of the Zoning Enforcement Official may appeal such action to the Board of Zoning Adjustments, pursuant to the requirements of Chapter 5.20 Appeals. (Ord. 2016-012 § 4)

## **Chapter 2.12 I Industrial Districts**

### **Sections:**

#### **2.12.100 Specific Purposes**

### **Article 1. Use Regulations**

- 2.12.200 IG District—Use Regulations**
- 2.12.204 IL District—Use Regulations**
- 2.12.208 IP District—Use Regulations**
- 2.12.212 IT District—Use Regulations**
- 2.12.216 IG(AU) District—Use Regulations**
- 2.12.220 IL(AU) District—Use Regulations**
- 2.12.224 IP(AU) District—Use Regulations**
- 2.12.228 Additional Use Restrictions: IG, IL, IP, and IT Districts**

### **Article 2. Development Regulations**

- 2.12.300 Property Development Regulations: IG, IL, IP, and IT Districts**
- 2.12.304 Minimum Lot Area and Minimum Lot Width**
- 2.12.308 Minimum Yards**
- 2.12.312 Maximum Height of Structures**
- 2.12.316 Maximum Lot Coverage and Maximum FAR**
- 2.12.320 Minimum Site Landscaping**
- 2.12.324 Parcels Adjoining Residential Districts—Additional Development Requirements for New Construction**
- 2.12.328 Parcels Adjoining Residential Districts—Additional Performance Standards**
- 2.12.332 Additional Property Development Regulations: IG, IL, IP, and IT Districts**
- 2.12.336 Review of Plans**

#### **2.12.100 Specific Purposes**

In addition to the general purposes listed in Chapter 1.04 Title, Components, and Purposes, the specific purposes of the industrial district regulations are to:

- A. Provide appropriately located areas consistent with the General Plan for a broad range of manufacturing, distribution and storage, and service uses.
- B. Strengthen the City's economic base, and provide employment opportunities close to home for residents of the City and surrounding communities.
- C. Provide a suitable environment for various types of industrial uses, and protect them from the adverse impacts of inharmonious uses.
- D. Encourage adaptive reuse of existing industrial buildings.

- E. Ensure high quality site and building design for new or reused buildings, and that the appearance and effects of industrial uses are compatible with the character of the area in which they are located.
- F. Minimize the impact of industrial uses on adjacent residential districts.
- G. Ensure the provision of adequate off-street parking and loading facilities.

The additional purposes of each I district are as follows:

IL Industrial Limited District. To provide areas appropriate for a wide range of: (1) low-to moderate-intensity industrial uses capable of being located adjacent to residential areas through provision of adequate buffering and attenuation measures; and (2) commercial services and light manufacturing, and to protect these areas, to the extent feasible, from disruption and competition for space from unrelated retail or commercial uses or general industrial uses. Certain types of retail sales are permitted under specified limitations.

IG Industrial General District. To provide and protect existing industrial sites and allow for continued operation of existing general industry, subject to performance standards and buffering requirements to minimize potential environmental impacts. Certain types of retail sales are permitted under specified limitations.

IP Industrial Park District. To provide and protect industrial lands for the development in a landscaped setting of communities of high technology, research and development facilities, limited industrial activities (including production and assembly but not raw materials processing or bulk handling), small-scale warehousing and distribution, industrial office centers, certain types of specified retail sales, and related uses.

IT Industrial Transition District. To provide and protect industrial lands for the development of emerging technologies, artisanal production, and light manufacturing methods, while preserving existing businesses and allowing additional commercial uses under specified limitations and residential development within one-half mile of a BART station. (Ord. 2016-012 § 4; Ord. 2014-011 § 2; Ord. 2001-015 § 1)

## Article 1. Use Regulations

### 2.12.200 IG District—Use Regulations

#### A. IG District—Permitted Uses.

The following uses are allowed in the IG District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

In the “S” Overlay District, permitted uses may require a Conditional Use Permit if not regional retail, new auto sales, or other compatible regional market use.

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Adult-Oriented Business. (Subject to the requirements and limitations prescribed in Section 4.04.368 Adult-Oriented Business Regulations.)
3. Ambulance Services, Emergency. (If the proposed use is located within 1,000 feet of either an R District or the boundaries of a site occupied by a public or private school or park and recreation facility, a conditional use permit shall be required.)
4. Ambulance Services, Non-Emergency. (An Administrative Review approval is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
5. Artists’ Studios.
6. Automobile Parts Sales.
7. Building Materials and Services.
8. Business Services.
9. Business and Trade Schools.
10. Catering Services.
11. Communications Facilities.
12. Emergency Health Care.
13. Equipment Sales.
14. Financial Institutions, Retail.
15. Food Processing, General.
16. Food Processing, Limited.
17. Government Offices.
18. Health and Fitness Centers.
19. Home Improvement and Interior Decoration.
20. Industry, Custom.
21. Industry, General.
22. Industry, Limited.

23. Industry, Research and Development.
24. Laboratories.
25. Maintenance and Repair Services.
26. Marine Sales and Services.
27. Medical Supply Stores.
28. Nurseries.
29. Offices, Business and Professional.
30. Parcel Processing and Shipping Centers. (Subject to Section 2.12.228 Additional Use Restrictions: Industrial Districts.)
31. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming.)
32. Retail Sales, Big Box.
33. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
34. Utilities, Minor.
35. Vehicle/Heavy Equipment Dealers, New.
36. Warehouse—Storage Facilities. (If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)
37. Warehouse—Wholesale/Retail Distribution Facilities. (Permitted if the proposed use is utilizing an existing building or continuing an existing use. If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)

**B. IG District—Conditionally Permitted Uses.**

The following uses are allowed in the IG District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.
2. Animal Boarding (with outside use).
3. Bars.
4. Cannabis Dispensary. (Subject to performance standards in the San Leandro Municipal Code Chapter 4-33 Cannabis Dispensary Permits.)
5. Corporation Yards.
6. Cultural Institutions.
7. Dance Clubs.
8. Drive-Up Facilities.
9. Drugstores.

10. Farmers' Market.
11. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
12. Furniture, Electronics and Appliance Sales.
13. Game Centers.
14. Industrial Transfer/Storage/Treatment Facilities for Hazardous Waste. (Subject to Section 4.04.212 Hazardous Materials Storage and Section 4.04.372 Hazardous Waste Facilities.)
15. Industry, Cannabis Product Manufacturing.
16. Industry, Hazardous Materials or Hazardous Waste. (Subject to Section 4.04.212 Hazardous Materials Storage and Section 4.04.372 Hazardous Waste Facilities. Provided that the use is consistent with the Alameda County Hazardous Waste Management Plan and the San Leandro General Plan.)
17. Laboratories, Cannabis Testing Facilities.
18. Massage Therapy.
19. Public Safety Facilities.
20. Public Storage.
21. Recycling Facilities, Heavy Processing. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
22. Residuals Repositories for Hazardous Waste. (Subject to Section 4.04.212 Hazardous Materials Storage and Section 4.04.372 Hazardous Waste Facilities.)
23. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
24. Small Scale Hazardous Waste Center. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
25. Supermarkets.
26. Transfer Stations.
27. Trucking Terminals.
28. Utilities, Major.
29. Vehicle/Equipment Repair, General.
30. Vehicle/Equipment Repair, Limited.
31. Vehicle/Heavy Equipment Dealers, Used.
32. Vehicle/Heavy Equipment Rentals.
33. Vehicle Storage.

C. IG District—Uses Requiring Administrative Review.

The following uses are allowed in the IG District, subject to the approval of a Zoning Permit by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Animal Boarding (indoor, only).
2. Animal Grooming (indoor, only).
3. Animal Hospital.
4. Automatic Teller Machines.
5. Brewpub.
6. Cafés.
7. Community Gardens.
8. Day Care, General.
9. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
10. Instruction and Improvement Services.
11. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.
12. Parking Lot.
13. Recycling Facilities, Bulk Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
14. Recycling Facilities, Single-Feed Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
15. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
16. Recycling Facilities, Light Processing. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
17. Restaurants, Full Service.
18. Retail Sales.
19. Retail Services.
20. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
21. Vehicle/Heavy Equipment Dealers Limited, Used.

D. IG District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the IG District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Animal Shows.
2. Christmas Tree and Pumpkin Sales.
3. Commercial Filming.
4. Trade Fairs. (Ord. 2017-014 § 4; Ord. 2017-001 § 4; Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2014-003 § 3; Ord. 2012-004 § 1; Ord. 2008-012 § 1; Ord. 2007-020 § 2; Ord. 2004-004 § 4; Ord. 2001-015 § 1)



## 2.12.204 IL District—Use Regulations

In the “S” Overlay District, permitted uses may require a conditional use permit if not regional retail, new auto sales, or other compatible regional market use.

### A. IL District—Permitted Uses.

The following uses are allowed in the IL District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Adult-Oriented Business. (Subject to the requirements and limitations prescribed in Section 4.04.368 Adult-Oriented Business Regulations.)
3. Ambulance Services, Emergency. (If the proposed use is located within 1,000 feet of either an R District or the boundaries of a site occupied by a public or private school or park and recreation facility, a conditional use permit shall be required.)
4. Ambulance Services, Non-Emergency. (An Administrative Review approval is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
5. Animal Hospitals.
6. Artists’ Studios.
7. Building Materials and Services.
8. Business Services.
9. Business and Trade Schools.
10. Catering Services.
11. Communications Facilities.
12. Emergency Shelters.
13. Equipment Sales.
14. Financial Institutions, Retail.
15. Food Processing, Limited.
16. Government Offices.
17. Health and Fitness Centers.
18. Home Improvement and Interior Decoration.
19. Industry, Custom.
20. Industry, Limited.
21. Industry, Research, and Development.
22. Laboratories.
23. Maintenance and Repair Services.
24. Marine Sales and Services.

25. Medical Supply Stores.
26. Nurseries.
27. Offices, Business, and Professional. (Note: The conversion of an industrial use to an office use is subject to the minimum off-street parking requirements of Section 4.08.108 Off-Street Parking and Loading Spaces Required; as prescribed for changes of use by Subsections A.1 and A.2 of 4.08.104 Basic Requirements for Off-Street Parking and Loading)
28. Parcel Processing and Shipping Centers. (Subject to Section 2.12.228 Additional Use Restrictions: Industrial Districts.)
29. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming.)
30. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
31. Utilities, Minor.
32. Vehicle/Heavy Equipment Dealers, New.
33. Warehouse—Storage Facilities. (If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)
34. Warehouse—Wholesale/Retail Distribution Facilities. (Permitted if the proposed use is utilizing an existing building or continuing an existing use. If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)

B. IL District—Conditionally Permitted Uses.

The following uses are allowed in the IL District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.
2. Animal Boarding (with outdoor use).
3. Automobile Parts Sales.
4. Bars.
5. Corporation Yards.
6. Cultural Institutions.
7. Dance Clubs.
8. Drive-Up Facilities.
9. Drugstores.
10. Emergency Health Care.
11. Farmers' Market.

12. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
13. Food Processing, General.
14. Furniture, Electronics and Appliance Sales.
15. Game Centers.
16. Industry, Hazardous Materials or Hazardous Waste. (Subject to Section 4.04.212 Hazardous Materials Storage and Section 4.04.372 Hazardous Waste Facilities. Provided that the use is consistent with the Alameda County Hazardous Waste Management Plan and the San Leandro General Plan.)
17. Massage Therapy.
18. Public Safety Facilities.
19. Public Storage.
20. Retail Sales, Big Box.
21. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
22. Small Scale Hazardous Waste Center. (Subject to Section 4.04.212 Hazardous Materials Storage, Section 4.04.232 Recycling Facilities, and Section 4.04.372 Hazardous Waste Facilities.)
23. Utilities, Major.
24. Vehicle/Equipment Repair, General.
25. Vehicle/Equipment Repair, Limited.
26. Vehicle/Heavy Equipment Dealers, Used.
27. Vehicle/Heavy Equipment Rentals.
28. Vehicle Storage.

C. IL District—Uses Requiring Administrative Review.

The following uses are allowed in the IL District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Animal Boarding (indoor, only).
2. Animal Grooming (indoor, only).
3. Automatic Teller Machines.
4. Brewpub.
5. Cafés.
6. Community Gardens.
7. Day Care, General.
8. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
9. Instruction and Improvement Services.

10. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
12. Parking Lot.
13. Recycling Facilities, Bulk Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
14. Recycling Facilities, Single-Feed Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
15. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
16. Recycling Facilities, Light Processing. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
17. Restaurants, Full Service.
18. Retail Sales.
19. Retail Services.
20. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
21. Vehicle/Heavy Equipment Dealers Limited, Used.

D. IL District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the IL District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Christmas Tree and Pumpkin Sales.
2. Commercial Filming.
3. Trade Fairs. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2012-004 § 1; Ord. 2011-004 § 2; Ord. 2008-012 § 1; Ord. 2007-020 § 2; Ord. 2004-004 § 4; Ord. 2001-015 § 1)

**2.12.208 IP District—Use Regulations**

A. IP District—Permitted Uses.

The following uses are allowed in the IP District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

In the “S” Overlay District, permitted uses may require a Conditional Use Permit if not regional retail, new auto sales, or other compatible regional market use.

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Adult-Oriented Business. (Subject to the requirements and limitations prescribed in Section 4.04.368 Adult-Oriented Business Regulations.)
3. Ambulance Services, Emergency. (If the proposed use is located within 1,000 feet of either an R District or the boundaries of a site occupied by a public or private school or park and recreation facility, a conditional use permit shall be required.)
4. Ambulance Service, Non-Emergency. (An Administrative Review approval is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
5. Artist's Studios.
6. Building Materials and Services. (Permitted if the proposed use is within an enclosed structure.)
7. Business Services.
8. Business and Trade Schools.
9. Catering Services.
10. Communication Facilities.
11. Equipment Sales.
12. Food Processing, Limited.
13. Financial Institutions, Retail.
14. Health and Fitness Centers.
15. Home Improvement and Interior Decoration.
16. Industry, Custom.
17. Industry, Limited.
18. Industry, Research and Development.
19. Laboratories.
20. Maintenance and Repair Services.
21. Medical Supply Stores.
22. Offices, Business and Professional. (The conversion of an industrial use to an office use is subject to the minimum off-street parking requirements of Section 4.08.108 Off-Street Parking and Loading Spaces Required; as prescribed for changes of use by Subsections A.1 and A.2 of Section 4.08.104 Basic Requirements for Off-Street Parking and Loading.)
23. Parcel Processing and Shipping Centers. (Subject to Section 2.12.228 Additional Use Restrictions: Industrial Districts.)
24. Park and Recreational Facilities.
25. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming uses.)
26. Retail Sales, Big Box.
27. Retail Services. (As a secondary use in a building.)

28. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
29. Utilities, Minor.
30. Vehicle/Heavy Equipment Dealers, New.
31. Warehouse—Storage Facilities. (If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)
32. Warehouse—Wholesale/Retail Distribution Facilities. (Permitted if the proposed use is within an enclosed structure, is utilizing an existing building or continuing an existing use. If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)

**B. IP District—Conditionally Permitted Uses.**

The following uses are allowed in the IP District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.
2. Animal Boarding (with outdoor use).
3. Automobile Parts Sales.
4. Bars.
5. Cannabis Dispensary. (Subject to performance standards in the San Leandro Municipal Code Chapter 4-33 Cannabis Dispensary Permits.)
6. Cultural Institutions.
7. Dance Clubs.
8. Drive-Up Facilities.
9. Emergency Health Care.
10. Farmers' Market.
11. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
12. Food Processing, General.
13. Furniture, Electronics, and Appliance Sales.
14. Industry, Cannabis Product Manufacturing.
15. Industry, General.
16. Industry, Hazardous Materials, or Hazardous Waste. (Subject to Section 4.04.212 Hazardous Materials Storage and Section 4.04.372 Hazardous Waste Facilities. Provided that the use is consistent with the Alameda County Hazardous Waste Management Plan and the San Leandro General Plan.)
17. Laboratories, Cannabis Testing Facilities.

18. Massage Therapy.
19. Public Safety Facilities.
20. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
21. Utilities, Major.
22. Vehicle/Heavy Equipment Dealers, Used.

C. IP District—Uses Requiring Administrative Review.

The following uses are allowed in the IP District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Animal Boarding (indoor only).
2. Animal Grooming (indoor only).
3. Animal Hospital.
4. Automatic Teller Machines.
5. Brewpub.
6. Cafés.
7. Community Gardens.
8. Day Care, General.
9. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
10. Instruction and Improvement Services.
11. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
12. Parcel Processing and Shipping Centers.
13. Parking Lot.
14. Recycling Facilities, Bulk Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
15. Recycling Facilities, Single-Feed Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
16. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
17. Restaurants, Full Service.
18. Retail Sales.
19. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
20. Vehicle/Heavy Equipment Dealers Limited, Used.

D. IP District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the IP District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Commercial Filming.
2. Storage Containers, Temporary.
3. Trade Fairs. (Ord. 2017-014 § 4; Ord. 2017-001 § 4; Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2014-003 § 3; Ord. 2012-004 § 1; Ord. 2008-012 § 1; Ord. 2007-020 § 2; Ord. 2004-004 § 4; Ord. 2001-015 § 1)

**2.12.212 IT District—Use Regulations**

A. IT District—Permitted Uses.

The following uses are allowed in the IT District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

In the “S” Overlay District, permitted uses may require a conditional use permit if not regional retail, new auto sales, or other compatible regional market use.

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Ambulance Services, Emergency. (If the proposed use is located within 1,000 feet of either an R District or the boundaries of a site occupied by a public or private school or park and recreation facility, a conditional use permit shall be required.)
3. Ambulance Service, Non-Emergency. (An Administrative Review approval is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
4. Artists’ Studios.
5. Business Services.
6. Business and Trade Schools.
7. Catering Services.
8. Communications Facilities.
9. Emergency Health Care.
10. Equipment Sales.
11. Financial Institutions, Retail.
12. Food Processing, General.
13. Food Processing, Limited.
14. Government Offices.
15. Health and Fitness Centers.



16. Home Improvement and Interior Decoration.
17. Industry, Custom.
18. Industry, Limited.
19. Industry, Research and Development.
20. Laboratories.
21. Maintenance and Repair Services.
22. Marine Sales and Services.
23. Medical Supply Stores.
24. Nurseries.
25. Offices, Business and Professional.
26. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming uses.)
27. Restaurants, Full-Service.
28. Retail Sales.
29. Retail Services.
30. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
31. Utilities, Minor.
32. Vehicle/Heavy Equipment Dealers, New.
33. Warehouse—Storage Facilities. (If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)
34. Warehouse—Wholesale/Retail Distribution Facilities. (Permitted if the proposed use is utilizing an existing building or continuing an existing use. If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)

B. IT District—Conditionally Permitted Uses.

The following uses are allowed in the IT District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.
2. Adult-Oriented Business. (Subject to the requirements and limitations prescribed in Section 4.04.368 Adult-Oriented Business Regulations.)
3. Animal Boarding (with outdoor use).
4. Assembly Uses.
5. Automobile Parts Sales.
6. Bars.

7. Bed and Breakfast Inns (within one-half mile of a BART station).
8. Cannabis Dispensary. (Subject to performance standards in the San Leandro Municipal Code Chapter 4-33 Cannabis Dispensary Permits.)
9. Coin-Operated Laundry and Dry Cleaning Businesses.
10. Corporation Yards.
11. Dance Clubs.
12. Drive-Up Facilities.
13. Drugstores.
14. Emergency Shelters (within one-half mile of a BART station).
15. Entertainment Events.
16. Farmers Markets.
18. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
18. Furniture, Electronics and Appliance Sales.
19. Game Centers.
20. Hotels, Motels and Time-Share Facilities.
21. Massage Therapy.
22. Mixed-Use Residential. (Within one-half mile of a BART station and with a maximum density of 40 dwelling units per acre).
23. Multi-Family Residential. (Within one-half mile of a BART station and with a maximum density of 40 dwelling units per acre).
24. Public Safety Facilities.
25. Public Storage.
26. Recycling Facilities, Heavy Processing. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
27. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
28. Recycling Facilities, Light Processing. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
29. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
30. Single-Family Residential (Within one-half mile of a BART station).
31. Stadia and Sports Arenas.
32. Supermarkets.
33. Utilities, Major.
34. Vehicle/Equipment Repair, General.
35. Vehicle/Equipment Repair, Limited.
36. Vehicle/Heavy Equipment Dealers, Used.
37. Vehicle/Heavy Equipment Rentals.

C. IT District—Uses Requiring Administrative Review.

The following uses are allowed in the IT District, subject to the approval of a Zoning Permit by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Animal Boarding (indoor, only).
2. Animal Grooming (indoor, only).
3. Animal Hospitals.
4. Automatic Teller Machines.
5. Bars (in conjunction with a brewery or winery, when not considered incidental).
6. Brewpubs.
7. Building Materials and Services.
8. Cafés.
9. Commercial Recreation.
10. Community Gardens.
11. Cultural Institutions.
12. Day Care, General.
13. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
14. Industry, General.
15. Instruction and Improvement Services.
16. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by the Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
17. Neighborhood/Specialty Food Markets.
18. Parcel Processing and Shipping Centers. (Subject to Section 2.12.228 Additional Use Restrictions: Industrial Districts.)
19. Park and Recreation Facilities.
20. Parking Lot.
21. Recycling Facilities, Bulk Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
22. Recycling Facilities, Single-Feed Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
23. Retail Sales, Big Box.
24. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
25. Theaters.
26. Theaters, Outdoor.
27. Theaters, Small Scale.
28. Vehicle/Heavy Equipment Dealers Limited, Used.

D. IT District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the IT District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Animal Shows.
2. Assembly Uses, Temporary.
3. Christmas Tree and Pumpkin Sales.
4. Circuses and Carnivals.
5. Commercial Filming.
6. Trade Fairs. (Ord. 2016-012 § 4)

### **2.12.216 IG(AU) District—Use Regulations**

#### **A. IG(AU) District—Permitted Uses.**

The following uses are allowed in the IG(AU) District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

In the “S” Overlay District, permitted uses may require a conditional use permit if not regional retail, new auto sales, or other compatible regional market use.

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Adult-Oriented Business. (Subject to the requirements and limitations prescribed in Section 4.04.368 Adult-Oriented Business Regulations)
3. Ambulance Services, Emergency. (If the proposed use is located within 1,000 feet of either an R District or the boundaries of a site occupied by a public or private school or park and recreation facility, a conditional use permit shall be required.)
4. Ambulance Service, Non-Emergency. (An Administrative Review approval is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
5. Artists’ Studios.
6. Automobile Parts Sales.
7. Building Materials and Services.
8. Business Services.
9. Business and Trade Schools.
10. Catering Services.
11. Communications Facilities.
12. Emergency Health Care.
13. Equipment Sales.
14. Financial Institutions, Retail.

15. Food Processing, General.
16. Food Processing, Limited.
17. Government Offices.
18. Health and Fitness Centers.
19. Home Improvement and Interior Decoration.
20. Industry, Custom.
21. Industry, General.
22. Industry, Limited.
23. Industry, Research and Development.
24. Laboratories.
25. Maintenance and Repair Services.
26. Marine Sales and Services.
27. Medical Supply Stores.
28. Nurseries.
29. Offices, Business and Professional.
30. Parcel Processing and Shipping Centers. (Subject to Section 2.12.228 Additional Use Restrictions: Industrial Districts.)
31. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming uses, but no new uses shall be established.)
32. Retail Sales, Big Box.
33. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
34. Utilities, Minor.
35. Vehicle/Heavy Equipment Dealers, New.
36. Warehouse—Storage Facilities. (If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)
37. Warehouse—Wholesale/Retail Distribution Facilities. (Permitted if the proposed use is utilizing an existing building or continuing an existing use. If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)

B. IG(AU) District—Conditionally Permitted Uses.

The following uses are allowed in the IG(AU) District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.

2. Animal Boarding (with outdoor use).
3. Assembly Uses.
4. Bars.
5. Commercial Recreation.
6. Corporation Yards.
7. Cultural Institutions.
8. Dance Clubs.
9. Drive-Up Facilities.
10. Drugstores.
11. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
12. Farmers' Market.
13. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
14. Furniture, Electronics and Appliance Sales.
15. Game Centers.
16. Industrial Transfer/Storage/Treatment Facilities for Hazardous Waste.
17. Industry, Cannabis Product Manufacturing.
18. Industry, Hazardous Materials or Hazardous Waste. (Subject to Section 4.04.212 Hazardous Materials Storage and Section 4.04.372 Hazardous Waste Facilities. Provided that the use is consistent with the Alameda County Hazardous Waste Management Plan and the San Leandro General Plan.)
19. Laboratories, Cannabis Testing Facilities.
20. Massage Therapy.
21. Cannabis Dispensary. (Subject to performance standards in the San Leandro Municipal Code Chapter 4-33 Cannabis Dispensary Permits.)
22. Public Safety Facilities.
23. Public Storage.
24. Recycling Facilities, Heavy Processing. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
25. Residuals Repositories for Hazardous Waste. (Subject to Section 4.04.212 Hazardous Materials Storage and Section 4.04.372 Hazardous Waste Facilities.)
26. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
27. Small Scale Hazardous Waste Center. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
28. Supermarkets.
29. Transfer Stations.
30. Trucking Terminals.
31. Utilities, Major.

32. Vehicle/Equipment Repair, General.
33. Vehicle/Equipment Repair, Limited.
34. Vehicle/Heavy Equipment Dealers, Used.
35. Vehicle/Heavy Equipment Rentals.
36. Vehicle Storage.

C. IG(AU) District—Uses Requiring Administrative Review.

The following uses are allowed in the IG(AU) District, subject to the approval of a Zoning Permit by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Animal Boarding (indoor, only).
2. Animal Grooming (indoor, only).
3. Animal Hospitals.
4. Automatic Teller Machines.
5. Brewpubs.
6. Cafés.
7. Community Gardens.
8. Day Care, General.
9. Fast Food Establishments, Small Scale. (Subject to the regulations of Section 4.04.200 Fast Food Establishments.)
10. Instruction and Improvement Services.
11. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
12. Parking Lot.
13. Recycling Facilities, Bulk Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
14. Recycling Facilities, Single-Feed Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
15. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
16. Recycling Facilities, Light Processing. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
17. Restaurants, Full Service.
18. Retail Sales.
19. Retail Services.
20. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
21. Vehicle/Heavy Equipment Dealers Limited, Used.

D. IG(AU) District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the IG(AU) District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Animal Shows.
2. Assembly Uses, Temporary.
3. Christmas Tree and Pumpkin Sales.
4. Commercial Filming.
5. Trade Fairs. (Ord. 2017-014 § 4; Ord. 2017-001 § 4; Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2014-003 § 3; Ord. 2012-004 § 1; Ord. 2001-015 § 1)

**2.12.220 IL(AU) District—Use Regulations**

In the “S” Overlay District, permitted uses may require a conditional use permit if not regional retail, new auto sales, or other compatible regional market use.

A. IL(AU) District – Permitted Uses.

The following uses are allowed in the IL(AU) District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Adult-Oriented Business. (Subject to the requirements and limitations prescribed in Section 4.04.368 Adult-Oriented Business Regulations.)
3. Ambulance Services, Emergency. (If the proposed use is located within 1,000 feet of either an R District or the boundaries of a site occupied by a public or private school or park and recreation facility, a conditional use permit shall be required.)
4. Ambulance Service, Non-Emergency. (An Administrative Review approval is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
5. Animal Hospitals.
6. Artists’ Studios.
7. Building Materials and Services.
8. Business Services.
9. Business and Trade Schools.
10. Catering Services.
11. Communications Facilities.
12. Emergency Shelters.



13. Equipment Sales.
14. Financial Institutions, Retail.
15. Food Processing, Limited.
16. Government Offices.
17. Health and Fitness Centers.
18. Home Improvement and Interior Decoration.
19. Industry, Custom.
20. Industry, Limited.
21. Industry, Research, and Development.
22. Laboratories.
23. Maintenance and Repair Services.
24. Marine Sales and Services.
25. Medical Supply Stores.
26. Nurseries.
27. Offices, Business, and Professional. (Note: The conversion of an industrial use to an office use is subject to the minimum off-street parking requirements of Section 4.08.108 Off-Street Parking and Loading Spaces Required; as prescribed for changes of use by Subsections A.1 and A.2 of 4.08.104 Basic Requirements for Off-Street Parking and Loading)
28. Parcel Processing and Shipping Centers. (Subject to Section 2.12.228 Additional Use Restrictions: Industrial Districts.)
29. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered non-conforming uses, but no new uses shall be established.)
30. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
31. Utilities, Minor.
32. Vehicle/Heavy Equipment Dealers, New.
33. Warehouse—Storage Facilities. (If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)
34. Warehouse—Wholesale/Retail Distribution Facilities. (Permitted if the proposed use is utilizing an existing building or continuing an existing use. If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)

B. IL(AU) District—Conditionally Permitted Uses.

The following uses are allowed in the IL(AU) District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.
2. Animal Boarding (with outdoor use).
3. Assembly Uses.
4. Automobile Parts Sales.
5. Bars.
6. Commercial Recreation.
7. Corporation Yards.
8. Cultural Institutions.
9. Dance Clubs.
10. Drive-Up Facilities.
11. Drugstores.
12. Emergency Health Care.
13. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
14. Farmers' Market.
15. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
16. Food Processing, General.
17. Furniture, Electronics and Appliance Sales.
18. Game Centers.
19. Industry, Hazardous Materials or Hazardous Waste. (Provided that the use is consistent with the Alameda County Hazardous Waste Management Plan and the San Leandro General Plan.)
20. Massage Therapy.
21. Public Safety Facilities.
22. Public Storage.
23. Retail Sales, Big Box.
24. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
25. Small Scale Hazardous Waste Center. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
26. Utilities, Major.
27. Vehicle/Equipment Repair, General.
28. Vehicle Equipment Repair, Limited.
29. Vehicle/Heavy Equipment Dealers, Used.
30. Vehicle/Heavy Equipment Rentals.

31. Vehicle Storage.

C. IL(AU) District—Uses Requiring Administrative Review.

The following uses are allowed in the IL(AU) District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Animal Boarding (indoor, only).
2. Animal Grooming (indoor, only).
3. Automatic Teller Machines.
4. Brewpubs.
5. Cafés.
6. Community Gardens.
7. Day Care, General.
8. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
9. Instruction and Improvement Services.
10. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
12. Parking Lot.
13. Recycling Facilities, Bulk Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
14. Recycling Facilities, Single-Feed Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
15. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
16. Recycling Facilities, Light Processing. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
17. Restaurants, Full Service.
18. Retail Sales.
19. Retail Services.
20. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
21. Vehicle/Heavy Equipment Dealers Limited, Used.

D. IL(AU) District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the IL(AU) District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Assembly Uses, Temporary.
2. Christmas Tree and Pumpkin Sales.
3. Commercial Filming.
4. Trade Fairs. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2012-004 § 1; Ord. 2001-015 § 1)

## **2.12.224 IP(AU) District—Use Regulations**

### **A. IP(AU) District—Permitted Uses.**

The following uses are allowed in the IP(AU) District, and a conditional use permit is not required. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

In the “S” Overlay District, permitted uses may require a conditional use permit if not regional retail, new auto sales, or other compatible regional market use.

1. Accessory uses, other than entertainment events, when in conjunction with a permitted use.
2. Adult-Oriented Business. (Subject to the requirements and limitations prescribed in Section 4.04.368 Adult-Oriented Business Regulations.)
3. Ambulance Services, Emergency. (If the proposed use is located within 1,000 feet of either an R District or the boundaries of a site occupied by a public or private school or park and recreation facility, a conditional use permit shall be required.)
4. Ambulance Service, Non-Emergency. (An Administrative Review approval is required if located within 1,000 feet of an R District or the boundaries of a site occupied by a public or private school or park and recreation facility.)
5. Artist’s Studios.
6. Building Materials and Services. (Permitted if the proposed use is within an enclosed structure.)
7. Business Services.
8. Business and Trade Schools.
9. Catering Services.
10. Communication Facilities.
11. Equipment Sales.
12. Food Processing, Limited.
13. Financial Institutions, Retail.
14. Health and Fitness Centers.
15. Home Improvement and Interior Decoration.
16. Industry, Custom.
17. Industry, Limited.

18. Industry, Research and Development.
19. Laboratories.
20. Maintenance and Repair Services.
21. Medical Supply Stores.
22. Offices, Business and Professional. (The conversion of an industrial use to an office use is subject to the minimum off-street parking requirements of Section 4.08.108 Off-Street Parking and Loading Spaces Required; as prescribed for changes of use by Subsections A.1 and 2 of 4.08.104 Basic Requirements for Off-Street Parking and Loading.)
23. Parcel Processing and Shipping Centers. (Subject to Section 2.12.228 Additional Use Restrictions: Industrial Districts.)
24. Park and Recreational Facilities.
25. Pre-Existing Residential Uses. (These residential uses shall be allowed to remain and shall not be considered nonconforming uses, but no new uses shall be established.)
26. Retail Sales, Big Box.
27. Retail Services. (As a secondary use in a building.)
28. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
29. Utilities, Minor.
30. Vehicle/Heavy Equipment Dealers, New.
31. Warehouse—Storage Facilities. (If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)
32. Warehouse—Wholesale/Retail Distribution Facilities. (Permitted if the proposed use is within an enclosed structure, is utilizing an existing building or continuing an existing use. If an existing building will be expanded 10,000 square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use, a conditional use permit is required.)

**B. IP(AU) District—Conditionally Permitted Uses.**

The following uses are allowed in the IP(AU) District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.
2. Animal Boarding (with outdoor use).
3. Assembly Uses.
4. Automobile Parts Sales.
5. Bars.

6. Cultural Institutions.
7. Dance Clubs.
8. Commercial Recreation.
9. Drive-Up Facilities.
10. Emergency Health Care.
11. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
12. Farmers' Market.
13. Fast Food Establishments, Large Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
14. Food Processing, General.
15. Furniture, Electronics, and Appliance Sales.
16. Industry, General.
17. Industry, Hazardous Materials, or Hazardous Waste. (Provided that the use is consistent with the Alameda County Hazardous Waste Management Plan and the San Leandro General Plan.)
18. Massage Therapy.
19. Public Safety Facilities.
20. Service Stations. (Subject to Section 4.04.208 Service Stations and Automobile Washing, and Section 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages.)
21. Utilities, Major.
22. Vehicle/Heavy Equipment Dealers, Used.

C. IP(AU) District—Uses Requiring Administrative Review.

The following uses are allowed in the IP(AU) District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Animal Boarding (indoor only).
2. Animal Grooming (indoor only).
3. Animal Hospital
4. Automatic Teller Machines.
5. Brewpubs.
6. Cafés.
7. Community Gardens.
8. Day Care, General.
9. Fast Food Establishments, Small Scale. (Subject to Section 4.04.200 Fast Food Establishments.)
10. Instruction and Improvement Services.

11. Mobile Food Vending. (Subject to approval of operation and restrictions on operation as established by Zoning Enforcement Official and compliance with San Leandro Municipal Code Chapter 4-34 Mobile Food Vending.)
12. Parking Lot.
13. Recycling Facilities, Bulk Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
14. Recycling Facilities, Single-Feed Reverse Vending Machines. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
15. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4.04.232 Recycling Facilities.)
16. Restaurants, Full Service.
17. Retail Sales.
18. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
19. Vehicle/Heavy Equipment Dealers Limited, Used.

D. IP(AU) District—Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the IP(AU) District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Assembly Uses, Temporary.
2. Commercial Filming.
3. Storage Containers, Temporary.
4. Trade Fairs. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2012-004 § 1; Ord. 2001-015 § 1)

**2.12.228 Additional Use Restrictions: Industrial Districts**

In addition to the uses listed above, the following regulations shall apply:

- A. Relocated Structures. A use permit shall be required for any commercial use, residential use, day care, animal hospital, or industrial use occupying relocated structures. (See Section 4.04.300 Relocated Buildings.)
- B. Industrial Uses. Subject to the regulations in Section 4.04.212 Hazardous Materials Storage.
- C. Temporary Uses. Subject to the regulations in Section 5.08.144 Temporary Use Permits.

- D. Parcel Processing and Shipping Centers. Subject to Administrative Review in order to occupy 30,000 square feet or more, in a building constructed after August 15, 2001. Administrative Review pursuant to Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits shall include a review of the proposal's trip generation, potential circulation, and noise generation impacts. Additional information, including but not limited to a traffic study, may be required.

The standard for approval is the Zoning Enforcement Official's ability to make the findings required as listed below:

1. That the proposed location of the Parcel Processing and Shipping Center is in accord with the objectives of this Code and the purposes of the I District in which the site is located;
2. That the proposed location of the Parcel Processing and Shipping Center and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety, or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City;
3. That the proposed parcel processing and shipping center will comply with the provisions of this Code, including any specific condition required for the proposal in the district in which it would be located; and
4. That the proposed parcel processing and shipping center will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated. (Ord. 2016-012 § 4; Ord. 2014-011 § 2; Ord. 2001-015 § 1)

**Article 2. Development Regulations**

**2.12.300 Property Development Regulations: Industrial Districts**

The following sections set forth the property development regulations of the IG, IL, IP, and IT Districts. (Ord. 2016-012 § 4; Ord. 2001-015 § 1)

**2.12.304 Minimum Lot Area and Minimum Lot Width**

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)
IG	5,000	50
IL	5,000	50



IP	7,500	50
IT	5,000	50

**Section 4.04.304 Development on Lots Not Meeting Minimum Area or Width.** Development on substandard lots shall apply to substandard lots. Smaller lot dimensions may be permitted with an approved development plan and tentative subdivision map. (Ord. 2016-012 § 4; Ord. 2001-015 § 1)

**2.12.308 Minimum Yards**

A. **Minimum Building Setback and Landscaping.** The minimum yard setback for building placement, and minimum area required as a landscaped yard, is as prescribed below.

Additional building setback and landscape requirements may also apply as specified in Subsections B, C and D.

Zoning District	Front (feet)	Side (feet)	Corner Side (feet)	Rear (feet)
IG	10	0	10	0
IL	10	0	10	0
IP	20	0	20	0
IT	10	0	10	0

B. **Minimum Yard Setbacks, Additional Regulations.**

1. Front, side, corner side, and rear yards shall be subject to the regulations of Section 4.04.312 Building Projections into Yards and Courts.
2. Double-frontage lots shall provide the minimum front yard setback on each frontage.
3. The setback of an adjacent R, C, or P district applies if within 100 feet.
4. The areas within a minimum required front and corner side yard shall be landscaped, excepting limited areas for driveways and walks, and prescribed by Chapter 4.16 Landscape Requirements.
5. The maximum allowable height of a fence or wall in minimum yards required by this section is three feet.

C. **Additional Setback Requirement for Properties on Doolittle Drive.** The minimum required front and corner side yard is 20 feet. As part of the approval of a Site Plan pursuant to Chapter 5.12 Site Plan Approval, a setback of less than 20 feet, but not less than 10 feet, may be permitted if a 20 foot setback is not practical due to pre-existing

site constraints and substantial landscaping is provided to mitigate the reduced yard setback.

- D. Additional Setback Requirement for Buildings Over 20 Feet in Height (IG, IL, and IT Districts). For buildings over 20 feet but not over 40 feet in height, the minimum required front and corner side yard of 10 feet shall be increased by one foot for each additional two feet of building height in excess of 20 feet. For buildings over 40 feet in height, the minimum required yard is 20 feet. As part of the approval of a Site Plan pursuant to Chapter 5.12 Site Plan Approval, a setback of less than 20 feet but not less than 10 feet, may be permitted if a 20 foot setback is not practical due to pre-existing site constraints and substantial landscaping is provided to mitigate the reduced yard setback. (Ord. 2016-012 § 4; Ord. 2001-015 § 1)

**2.12.312 Maximum Height of Structures**

- A. Maximum Height. The maximum height of structures shall be as prescribed below. Additional height regulations may also apply as specified in Subsection B and C:

Zoning District	Height (feet)
IG	35
IL	35
IP	35
IT	35

- B. Additional Height Limitations for Buildings within 100 Feet of an R District. The allowed height within 100 feet of an R District building shall be limited to 25 feet.
- C. Height Limit May Be Adjusted. A maximum building height of 50 feet in the IG, IL, and IT Districts may be approved by the Zoning Enforcement Official. The allowed height within 100 feet of an IP District building shall be limited to 35 feet. (Ord. 2016-012 § 4; Ord. 2001-015 § 1)

**2.12.316 Maximum Lot Coverage and Maximum FAR**

Zoning District	Maximum Lot Coverage	Maximum FAR
IG	75%	1.0
IL	75%	1.0
IP	40%	0.8
IT	75%	1.0

(Ord. 2016-012 § 4; Ord. 2001-015 § 1)

A. Coverage Exceptions. In calculating the percentage of lot coverage for the purpose of applying the regulations of this Zoning Code, the features of a structure as hereafter set forth shall not be included as coverage:

1. Cornices, canopies, eaves or other projections which do not increase the volume of space enclosed by the building provided that any portion of such projections extending more than two feet from the building shall be included as coverage at a ratio of 1/2: 1;
2. Fire escapes up to 3 1/2 feet;
3. An uncovered stair and landing which does not extend above a ground floor entrance except for the railing; or
4. Bay windows, balconies or chimneys which project from the wall not more than two feet; provided, that, such features do not in the aggregate occupy more than one-third of the length of a wall which faces an interior side lot line, or more than two-thirds of the length of a wall which faces a street or a rear lot line.

**2.12.320 Minimum Site Landscaping**

A. General Landscape Requirements. In addition to the general Landscape Requirements prescribed in Chapter 4.16 Landscape Requirements, the following requirements for minimum site landscaping apply to all property within any I District. As part of the Site Plan Approval process pursuant to Chapter 5.12 Site Plan Approval, exceptions to the stated requirements for “minimum site landscaping” may be permitted in cases where such standards are found not to be practical due to pre-existing site constraints.

B. Minimum Site Landscaping. The minimum percentage of the site that shall be used for landscaping shall be as prescribed below:

Zoning District	Minimum Site Landscaping
IG	5%
IL	5%
IP	15%
IT	5%

(Ord. 2016-012 § 4; Ord. 2001-015 § 1)

**2.12.324 Parcels Adjoining Residential Districts—Additional Development Regulations for New Construction**

- A. Intent. The purpose of this section is to reduce the potential negative impacts of expanding industrial activities to the residents within adjoining Residential Districts by establishing heightened screening and site development standards for new and expanded projects.
- B. Applicability. The requirements of this section apply to construction and/or activities within 200 feet from the edge of a Residential District. The requirements of this section do not apply to industrial parcels that are separated from a Residential District by either an active mainline railroad right-of-way or Interstate 880.
- C. Development Requirements. Notwithstanding the minimum yard and landscape requirements for property within the IG, IL, IP, and IT Districts, the following additional development standards shall apply:
  - 1. Orientation of Truck and Storage Facilities. The sound, traffic and visual impacts of truck facilities, such as new or expanded truck bays and docks, and truck staging/storage yards, shall be minimized by such design features as building placement, sound walls, and/or landscaping. Truck facilities shall be oriented and/or screened as to provide the greatest possible physical and/or visual separation between the truck facility and the residences.
    - a. Certain New Facilities Require Site Plan Approval. Per Subsection B.4.d of Section 5.12.104 Applicability, the creation of, or addition to, any substantial outdoor storage area or truck loading bays that would be visible from off-site require Site Plan Approval as prescribed in Chapter 5.12 Site Plan Approval.
  - 2. Required Installation of Mitigating Features for New Truck Docks. When new truck docks are built, or unused truck docks that have been “glassed in” by previous tenants/users are to be newly used, the following mitigating features are to be installed, and shall be made a requirement of Building Permit approval:
    - a. Rubber Loading Bay Bumpers shall be installed on all new and newly used truck dock bays.
    - b. Notification signage, advising employees and truck operators that the subject establishment is adjacent to residences, and that as a courtesy to neighbors, noise from shipping and trucking activity should be kept to a minimum, shall be placed in the truck staging area.
  - 3. Attenuation of Noise Generating Equipment. Noise generating equipment, such as generators, HVAC units, and garbage facilities, shall be located and/or structurally

screened, or enclosed, as to minimize impacts on adjacent residents. Prior to issuance of a building permit or electrical permit for the installation of such equipment, the Zoning Enforcement Official may require that the applicant/owner provide a noise study by an acoustical engineer and may impose conditions to reduce noise impacts.

- a. Adjustments to Attenuation Requirements for Emergency Generators. The Zoning Enforcement Official, in reviewing a request for a building or electrical permit for the installation of an emergency generator (such as one to be used during temporary power outages or in similar limited use situations), may adjust or reduce the requirements for noise attenuation to correspond to the duration, frequency or intensity that the generator is to operate.
4. Required Separation/Mitigation Adjacent to Residential Parcel. Either a landscaped buffer and/or a masonry wall shall be provided along rear and side property lines, which are adjacent to residential parcels, as required as part of an approved Site Plan per Chapter 5.12 Site Plan Approval.
    - a. Option of Yard Setback. In cases where a building would otherwise be permitted with no rear or side yard setback, a minimum side and/or rear yard of 10 feet shall be provided, which shall be used exclusively for the planting of a landscape screen. Evergreen trees with spacing not to exceed 20 feet, and of a minimum 15 gallon size, shall be provided within the required yard. Tree selection shall provide for a near total screen, up to a height of 20 feet within five years from planting. Such landscaping shall be permanently maintained.
    - b. Option of Masonry Wall. A minimum eight foot high wall shall be provided adjacent to residential parcels, as required by Section 4.04.224 Walls Adjoining Residential Use, or as high as required by acoustical analysis (to be provided by applicant), when a vacant industrial parcel is developed or an existing use is expanded so as to significantly increase the potential for additional traffic and/or noise impacts to the residential areas. A wall will typically be required whenever an active service, staging and/or storage yard is immediately adjacent to a residential parcel. (Ord. 2016-012 § 4; Ord. 2001-015 § 1)

#### **2.12.328 Parcels Adjoining Residential Districts—Additional Performance Standards**

- A. Intent. The purpose of this section is to reduce the potential noise impacts to the residents within adjoining Residential Districts, from late night/early morning activity, by establishing performance standards for all businesses.

- B. Applicability. The requirements of this section apply to activities within 200 feet from the edge of a Residential District. The requirements of this section do not apply to industrial parcels that are separated from a Residential District by either an active main-line railroad right-of-way or Interstate 880.
- C. Performance Standards for Loading and Shipping Activity. To reduce impacts on adjoining residents, those uses conducting loading and shipping activity between the hours of 10:00 p.m. and 7:00 a.m. shall avoid generating extraneous noise that can be heard by adjoining residents (e.g. loud conversations, playing of recorded music and/or radio broadcasts, or motorized noises from prolonged use of equipment or vehicles).
- D. Adjoining Residents May File Complaint Against Industrial Businesses. Residents may file a written complaint against businesses that are alleged to be in violation of the performance standards outlined in Subsection C, above. If the Zoning Enforcement Official determines that the business is in violation, written notification of the violation shall be given to the violator and the complaining party. Determination of a violation, and/or resolution of continuing violations once notification has been made, may be subject to a hearing of the Site Development Sub-Commission. Failure to conform to the requirements of the Sub-Commission hearing may be cited as a violation of this Code, pursuant to Section 5.24.112 Violations as Misdemeanors or Infractions. (Ord. 2001-015 § 1)

### **2.12.332 Additional Property Development Regulations: Industrial Districts**

In addition to the development regulations listed above, the following regulations shall apply:

- A. Fences, Walls, and Hedges. Subject to the regulations of Section 4.04.364 Fences, Walls, and Hedges.
- B. Off-Street Parking and Loading. Subject to the regulations of Chapter 4.08 Off-Street Parking and Loading Regulations.
- C. Signs. Subject to the regulations of Chapter 4.12 Signs.
- D. Outdoor Facilities and Outdoor Storage. Subject to the regulations of Section 4.04.324 Outdoor Facilities and Storage/Loading Facilities and 4.04.344 Earth Station and Microwave Equipment. All outdoor storage and refuse storage areas shall be maintained in a neat and orderly manner and screened so as not to be visible from any street, public way, or R district.

- E. Screening of Mechanical Equipment. Subject to the regulations of Section 4.04.328 Screening of Mechanical Equipment and 4.04.344 Earth Station and Microwave Equipment.
- F. Refuse Storage Areas. Subject to the regulations of Section 4.04.332 Refuse Storage Areas. All outdoor storage and refuse storage areas shall be maintained in a neat and orderly manner and screened so as not to be visible from any street, public way, or R district.
- G. Underground Utilities. Subject to the regulations of Section 4.04.336 Underground Utilities.
- H. Performance Standards. Subject to the regulations of Section 4.04.340 Performance Standards.
- I. Airport Safety Zones. Subject to the regulations of Section 4.04.352 Airport Safety Zones.
- J. Nonconforming Structures and Nonconforming Signs. Subject to the regulations of Chapter 4.20 Nonconforming Uses and Structures. (Ord. 2016-012 § 4; Ord. 2001-015 § 1)

### **2.12.336 Review of Plans**

Certain projects shall be subject to Site Plan Review (see Chapter 5.12 Site Plan Approval). (Ord. 2001-015 § 1)

## **Chapter 2.16 OS Open Space District**

### **Sections:**

- 2.16.100 Specific Purposes**
- 2.16.104 Applicability**

### **Article 1. Use Regulations**

- 2.16.200 OS District—Use Regulations**
- 2.16.204 Additional Use Restrictions: OS District**

### **Article 2. Development Regulations**

- 2.16.300 Property Development Regulations**
- 2.16.304 Review of Plans**

#### **2.16.100 Specific Purposes**

In addition to the general purposes listed in Chapter 1.04 Title, Components, and Purposes the specific purposes of the OS district are to:

- A. Provide a suitable classification for large public or private sites permanently designated for park or open space use.
- B. Protect public health and safety by limiting lands, which are subject to flooding, slides, or other hazards to open space use.
- C. Allow the Planning Commission and City Council to consider the most appropriate use of a site following discontinuance of a large public or private open space use without the encumbrance of a base zoning district that may or may not provide appropriate regulations for development of the site. (Ord. 2001-015 § 1)

#### **2.16.104 Applicability**

The OS district is intended to be the base district for the use classifications listed in Subsections A and B of Section 2.16.200 OS District—Use Regulations and Section 2.16.204 Additional Use Restrictions: OS District where these classifications have a minimum contiguous site area of two acres, including alleys, streets or other rights-of-way and the area has a primarily open or natural character. Open space use classifications on sites of less than two acres shall be subject to the regulations of the base and any overlay districts in which they are located. (Ord. 2001-015 § 1)

### **Article 1. Use Regulations**

#### **2.16.200 OS District—Use Regulations**



A. OS District—Permitted Uses.

The following uses are allowed in the OS District, and a conditional use permit is not required.

1. Managed Open Space intended for the Protection of Natural Habitat.
2. Utilities, Minor.
3. Accessory uses are permitted on the site of a permitted use and are limited to facilities incidental to an open space use. (Ord. 2001-015 § 1)

B. OS District—Conditionally Permitted Uses.

The following uses are allowed in the OS District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses are subject to a use permit when on the site of a conditional use and are limited to facilities incidental to an open space use.
2. Farmers' Market.
3. Park and Recreation Facilities.
4. Public Safety Facilities.
5. Placement of Dredged Material from San Francisco Bay.
6. Utilities, Major. (A use permit is required for electrical substations, switching buildings, recycling or disposal facilities, water storage facilities, water or wastewater treatment facilities, transportation or communication utilities, and similar facilities of public agencies, or public utilities.)
7. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.) (Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2001-015 § 1)

C. OS District—Uses Requiring Administrative Review.

The following use is allowed in the OS District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to Section 4.04.376 Wireless Telecommunications Facilities.)

**2.16.204 Additional Use Restrictions: OS District**

In addition to the uses listed above, the following regulations shall apply: Nonconforming Uses shall be subject to the regulations of Chapter 4.20 Nonconforming Uses and Structures. (Ord. 2001-015 § 1)

## **Article 2. Development Regulations**

### **2.16.300 Property Development Regulations**

Development regulations shall be as specified by the use permit, provided that, if the use permit fails to regulate an element regulated by an abutting base district, the regulations of the nearest base district shall apply. (Ord. 2001-015 § 1)

### **2.16.304 Review of Plans**

Certain projects shall be subject to Site Plan Review (see Chapter 5.12 Site Plan Approval). (Ord. 2001-015 § 1)

## **Chapter 2.20 PS Public and Semipublic District**

### **Sections:**

- 2.20.100 Specific Purposes**
- 2.20.104 Applicability**

### **Article 1. Use Regulations**

- 2.20.200 PS District—Use Regulations**
- 2.20.204 Additional Use Restrictions: PS District**
- 2.20.208 Interim Uses**

### **Article 2. Development Regulations**

- 2.20.300 Property Development Regulations**
- 2.20.304 Review of Plans**

### **2.20.100 Specific Purposes**

In addition to the general purposes listed in Chapter 1.04 Title, Components, and Purposes, the specific purposes of the PS Public and Semipublic District are to:

- A. Allow consideration of a large public or semipublic use separately from regulations for an underlying base zoning that may or may not be appropriate in combination with the public or semipublic use.
- B. Allow consideration of establishment or expansion of a large public or semipublic use at rezoning hearings rather than at use permit hearings only, and give notice to all of the extent of a site approved for a large public or semipublic use by delineating it on the zoning map.
- C. Allow the Planning Commission and City Council to consider the most appropriate use of a site following discontinuance of a large public or semipublic use without the encumbrance of a base zoning district that may or may not provide appropriate regulations for reuse of the site. (Ord. 2001-015 § 1)

### **2.20.104 Applicability**

The PS District is intended to be the base district for use classifications listed in Section 2.20.200 PS District—Use Regulations where these have a contiguous site area of two acres or more, including alleys, streets, or other rights-of-way, and the area has a developed or “urban” character. Public and semipublic use classifications on sites of less than two acres shall be subject to the regulations of the base and overlay districts in which they are located. (Ord. 2001-015 § 1)

## Article 1. Use Regulations

### 2.20.200 PS District—Use Regulations

#### A. PS District—Permitted Uses.

The following uses are allowed in the PS District, and a conditional use permit is not required.

1. Utilities, Minor, except recycling centers within convenience zones, as defined by the California Beverage Container Recycling and Litter Reduction Act. (Ord. 2001-015 § 1)

#### B. PS District—Conditionally Permitted Uses.

The following uses are allowed in the PS District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses.
2. Convalescent Facilities.
3. Cultural Institutions
4. Day Care, General.
5. Detention Facilities.
6. Government Offices.
7. Heliports. (Allowed if located more than 1,000 feet from an R District or the site of a public or private school and if applicant obtains a Use Permit and Heliport Permit from the California Department of Transportation, Division of Aeronautics.)
8. Hospitals.
9. Maintenance and Service Facilities.
10. Park and Recreation Facilities.
11. Public Safety Facilities.
12. Religious Assembly.
13. Residential Care, General. (Allowed with a use permit as a secondary use associated with hospitals and convalescent facilities.)
14. Schools, Public or Private.
15. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)
16. Utilities, Major. (Recreational vehicle storage within electric power-line transmission corridors may be approved, subject to a use permit. Landscaping and screening requirements may be established as a condition of approval.)
17. Utilities, Minor. (Recycling centers within convenience zones, as defined by the California Beverage Container Recycling and Litter Reduction Act require a use permit.) (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

C. PS District—Uses Requiring Administrative Review.

The following uses are allowed in the PS District, subject to the approval of an Administrative Review by the Zoning Enforcement Official, as per the requirements of Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits.

1. Telecommunications, Architecturally-Integrated Antennas and/or Co-Locations on Existing Tower Structures. (Subject to the regulations of Section 4.04.376 Wireless Telecommunications Facilities.)

D. PS District— Temporary Uses Requiring Administrative Review.

The following temporary uses are allowed in the PS District, subject to the regulations of Section 5.08.144 Temporary Use Permits.

1. Animal Shows.
2. Circuses and Carnivals.
3. Commercial Filming.
4. Street or Neighborhood Fairs.
5. Trade Fairs.

Ord. 2014-011 § 2; Ord. 2001-015 § 1)

**2.20.204 Additional Use Restrictions: PS District**

In addition to the uses listed above, the following regulations shall apply: Nonconforming Uses shall be subject to the regulations of Chapter 4.20 Nonconforming Uses and Structures. (Ord. 2001-015 § 1)

**2.20.208 Interim Uses**

A. Conversion of buildings and grounds of schools satisfying the requirements of the compulsory education laws of the State of California to any of the following uses is permitted provided such uses may only be approved for a maximum interim period of five years; and provided further that such uses do not cause or result in the substantial alteration of any buildings or activity areas on the school site:

1. Public assembly or dance;
2. Instruction in skills or disciplines not otherwise required by the State of California;
3. Meetings and offices for community organizations;
4. Theater, concert or lecture;
5. Temporary or permanent display of works of art or of historical or cultural significance;
6. Church or other religious service;
7. Professional, administrative and executive offices;

8. Social counseling services;
  9. Recreational classes;
  10. Athletic contests or practices, including offices for athletic clubs or organizations;
  11. Day nurseries, nursery schools, kindergarten and child care centers; and
  12. Assembly and packaging of previously prepared materials provided such activity is conducted entirely within a completely enclosed building.
- B. Any such conditional use may be approved for additional periods of up to five years pursuant to Chapter 5.08 Use Permits, Variances, and Parking Exceptions. (Ord. 2001-015 § 1)

## **Article 2. Development Regulations**

### **2.20.300 Property Development Regulations**

Development regulations shall be as specified by the use permit, provided that if the use permit fails to regulate an element regulated by an abutting base district, the regulations of the nearest base district shall apply to each portion of a PS district. (Ord. 2001-015 § 1)

### **2.20.304 Review of Plans**

Certain projects shall be subject to Site Plan Approval (See Chapter 5.12 Site Plan Approval). (Ord. 2001-015 § 1)

# **Title 3—Overlay Zoning Districts**

## **Chapter 3.04 Planned Development Overlay District and Planned Development Project Approval**

### **Sections:**

- 3.04.100 Specific Purposes**
- 3.04.104 Land Use Regulations**
- 3.04.108 Rezone to Authorize a Planned Development Designation**
- 3.04.112 Rezone Approval Procedures**
- 3.04.116 Zoning Map Designation**
- 3.04.120 Conditional Use—Planned Development Project Approval**
- 3.04.124 Planned Development Project Application**
- 3.04.128 Planned Development Project—Hearing**
- 3.04.132 Planned Development Project—Planning Commission Review**
- 3.04.136 Planned Development Project—Action by City Council**
- 3.04.140 Planned Development Project—Exception from Provisions of Zoning Code**
- 3.04.144 Status of Planned Development Approval**
- 3.04.148 Modification of a Planned Development Project**

### **3.04.100 Specific Purposes**

The specific purposes of this chapter are to:

- A. Establish a procedure for the development of larger parcels of land in order to reduce or eliminate the rigidity, delays, and inequities that otherwise would result from application of zoning standards and procedures designed primarily for small parcels.
- B. Ensure orderly and thorough planning and review procedures that will result in high-quality urban design.
- C. Encourage variety and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space, and amenity.
- D. Provide a mechanism for considering mixes of uses that can be made compatible by application of careful and imaginative treatment of interrelationships of activity.
- E. Encourage allocation and improvement of common open space in residential areas, and provide for maintenance of the open space at the expense of those who will directly benefit from it.

- F. Encourage the preservation of serviceable existing structures of historic value or artistic merit by providing the opportunity to use them imaginatively for purposes other than that for which they were originally intended.
- G. Encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods. (Ord. 2001-015 § 1)

### **3.04.104 Land Use Regulations**

In all base districts where a Planned Development is a conditionally permitted use, the City may process an application for such Planned Development consistent with the requirements set forth herein. (Ord. 2001-015 § 1)

### **3.04.108 Rezone to Authorize a Planned Development Designation**

A zoning amendment to rezone property to a Planned Development Overlay District may be initiated by a property owner or authorized agent, or by resolution of the Planning Commission or the City Council. If initiated by a property owner and the property is not under a single ownership, all owners shall join in the application, and a map showing the extent of ownerships shall be submitted. In addition to the plans and materials required by Chapter 5.16 Amendments to accompany an application for a zoning map amendment, an application for rezoning to a Planned Development Overlay District shall include a "Planned Development Concept Plan," which includes the following materials:

- A. A conceptual site plan and a vicinity map showing the relationship of the site to the surrounding area.
- B. Preliminary calculations in tabular form showing compliance with applicable density, coverage, floor area, parking, and open-space regulations.
- C. Conceptual elevations of proposed structures and signs, with exterior materials and wall openings indicated.
- D. Photos of the site and of existing development in the immediate vicinity.

The Zoning Enforcement Official also may require any of the following items, based on the type, location, and potential impacts of proposed development:

- A. A map showing proposed district boundaries and the relationship of the district to uses and structures directly affected by the proposed Planned Development Overlay District. Evidence establishing that the land proposed for rezone to Planned Development Overlay District is owned by one individual or that the application is filed jointly by all property owners owning property in the proposed district or that the application is filed by an agency of the City.



- B. A map or aerial photo of the proposed district and 100 feet beyond its boundary showing sufficient topographic data to indicate clearly the character of the terrain; the type, location, and condition of mature trees and other natural vegetation; and the location of existing development.
- C. The proposed pattern of land use, with acreage and residential density computations.
- D. The proposed street and lot pattern.
- E. Scale models or perspective renderings of proposed development.
- F. Such other information as is reasonably necessary to describe the Planned Development and its effects on other property or the community. (Ord. 2001-015 § 1)

#### **3.04.112 Rezone Approval Procedures**

- A. The Planning Commission shall consider an application for rezone to a Planned Development Overlay District as prescribed in Chapter 5.16 Amendments.
- B. The Planning Commission may recommend approval of the rezone to a Planned Development Overlay District upon finding that the Planned Development Concept Plan is consistent with the adopted Land Use Element of the General Plan and other applicable policies of the General Plan and is compatible with surrounding development.
- C. After approval by the Planning Commission or on appeal from a Planning Commission denial, the City Council shall hold a hearing as provided by Section 5.16.112 Public Hearing Scope and Notice on any application to rezone a property to Planned Development Overlay District. Following the hearing, the City Council may approve a Planned Development Overlay District for the area described in the application if the City Council makes the findings required by Subsection B above.
- D. The City Council shall adopt each Planned Development Overlay District by ordinance pursuant to Chapter 5.16 Amendments. (Ord. 2001-015 § 1)

#### **3.04.116 Zoning Map Designation**

A Planned Development Overlay District shall be noted by the designation "PD." This reference will follow the designation of the base district the Planned Development Overlay District modifies. (Ord. 2001-015 § 1)

#### **3.04.120 Conditional Use—Planned Development Project Approval**

In an area that has been zoned to include a Planned Development Overlay District, a Planned Development project, as a form of conditional use permit, may be approved by the

City Council, after recommendation by or appeal from the Planning Commission, and in accordance with the following regulations:

- A. Minimum Area. The minimum net area of a Planned Development shall be 10,000 square feet for any project. The calculation of areas necessary to qualify for Planned Development consideration shall not include the area in any street or way or public open space existing at the time of application.
- B. Residential Unit Density. The number of dwelling units in a Planned Development Project shall be established at the time the Planned Development Project is approved. The minimum residential density in any South Area district, for a stand-alone residential development or a mixed-use development, shall be 18 units per acre. Exceptions to the minimum density requirement shall be considered as part of the Planned Development application, but shall be supported with a preliminary pro forma or other statement from the applicant/developer that indicates reasons for reduced density.
- C. Performance Standards. The performance standards prescribed by Section 4.04.340 Performance Standards shall apply.
- D. Additional Development Regulations Condition. Additional development conditions may be as established in the Planned Development Project approval. For Planned Developments proposed in any South Area Zoning District, additional development conditions may result to achieve consistency with the Design Guidelines that are contained in the East 14<sup>th</sup> Street South Area Development Strategy. (Ord. 2004-007 § 4; Ord. 2001-015 § 1)

### **3.04.124 Planned Development Project Application**

Every application for Planned Development Project must be accompanied by a proposed time schedule for the development. The Planned Development Project plan shall consist of a site plan of the proposed development drawn accurately to scale and correctly showing the following, as appropriate:

- A. The boundary of the area included within the Planned Development Project;
- B. Existing and proposed property lines and boundaries within the Planned Development Project;
- C. Property lines of adjacent properties and the location and height of each building thereon;
- D. Use, location, and height of all proposed structures and signs and existing structures to remain;

- E. The width of the existing and proposed right-of-way for each adjacent street, including sidewalks;
- F. Vehicular and pedestrian circulation systems;
- G. Proposed grading, if site is not essentially level;
- H. Utility plans indicating provision of services to the development including provision of underground electrical service;
- I. Location and height of screen walls or fences;
- J. Designation of areas to be reserved or dedicated for public purposes including but not limited to streets;
- K. Provisions for conserving non-renewable energy resources, including but not limited to the use of solar energy;
- L. A precise site plan accurately drawn to scale showing:
  - 1. The surveyed boundary, complete with bearings, distances, and description of corner monuments shall be shown.
  - 2. Plant materials and initial planting size shall be identified. Irrigation systems shall be shown.
- M. Provisions for parking, loading, and access shall be shown in detail. Parking stalls shall be numbered and typical stalls and aisle widths shall be dimensioned;
- N. Area and building lighting shall be identified as to its color, intensity and visibility from adjacent public streets and residential areas;
- O. Facilities for refuse storage and pick-up, air compressors, incinerators, or other equipment constituting a potential nuisance or undesirable view from adjacent properties or streets shall be identified, and adequate provisions to minimize their undesirable aspects shall be set forth;
- P. Detailed elevations of all signs to be erected shall be submitted for approval. Such plans shall accurately show the location of such signs in the development. Signs to be mounted flush with the wall of a building shall be shown on any elevation or rendering of such building;
- Q. A time schedule indicating the date by which construction of the project will begin, and the completion date. This schedule, as approved, shall become a part of the Planned Development Project approval; and

- R. Major elevations or perspective renderings of all buildings in the Planned Development Project shall be submitted. Notwithstanding any other provisions herein, such elevations or renderings must include all buildings to be built in the planned unit to enable the reviewing body to determine whether the entire development will have architectural unity and be in harmony with surrounding development. (Ord. 2004-007 § 4; Ord. 2001-015 § 1)

#### **3.04.128 Planned Development Project—Hearing**

- A. Upon receipt of an application for a Planned Development Project as a conditional use, the application shall be set for public hearing before the Planning Commission. The public hearing on any Planned Development Project submitted with a petition to reclassify property to the Planned Development Project District shall be held before the Planning Commission on the same date and in conjunction with the hearing on said reclassification.
- B. Notice of the public hearing shall be as specified in Section 5.08.116 Notice and Public Hearing. (Ord. 2001-015 § 1)

#### **3.04.132 Planned Development Project—Planning Commission Review**

- A. Planned Development Plan—Action by Planning Commission. Within thirty (30) days after close of the public hearing on a Planned Development Project, the Planning Commission shall take action on the Planned Development Project unless such time limit is extended by agreement of the parties having an interest in the proceedings. Failure to take action within the time limit or any agreed extension thereof shall constitute a denial of the Planned Development Project. The Planning Commission may approve, conditionally approve, or disapprove any Planned Development Project. To recommend approval of a Planned Development Project, the Planning Commission must first make the findings provided in Subsection A of Section 5.08.124 Required Findings. The Commission must also find:
  - 1. The Planned Development Project Plan will provide superior urban design in comparison with the development under the base district zoning regulations;
  - 2. The Planned Development project includes adequate provisions for utilities, services, and emergency vehicle access; and that public service demands will not exceed the capacity of existing and planned systems.
- B. Planned Development Project—Disapproval of Application. If the action of the Planning Commission is to disapprove an application for a Planned Development Project as a conditional use, its action shall be final unless appealed.

- C. Planned Development Project—Report to City Council. If the action of the Planning Commission is to approve, or if an appeal of a disapproval is filed, the Commission shall report its findings and recommendations to the City Council. (Ord. 2001-015 § 1)

### **3.04.136 Planned Development Project—Action by City Council**

Upon receipt of such report or notice of appeal, the City Council shall set the matter for public hearing. Notice of time, place and purpose of such hearing shall be given in the same manner as provided in Section 5.08.116 Notice and Public Hearing. After conclusion of the public hearing, the Council may approve, conditionally approve, or deny the application for the Planned Development Project as a conditional use. Failure of the Council to act within thirty (30) days after the conclusion of any such public hearing shall constitute disapproval of the application and shall terminate the proceedings thereon. No approval of a Planned Development Project as a conditional use may be made by the Council unless and until the substance thereof has first been referred to and reported upon by the Planning Commission. Prior to approving a Planned Development Project, the City Council must make the findings provided in Subsection A of Section 5.08.124 Required Findings. The City Council must also find:

- A. The Planned Development Project Plan will provide superior urban design in comparison with the development under the base district zoning regulations;
- B. The Planned Development Project includes adequate provisions for utilities, services, and emergency vehicle access; and that public service demands will not exceed the capacity of existing and planned systems. (Ord. 2001-015 § 1)

### **3.04.140 Planned Development Project—Exception from Provisions of Zoning Code**

The Planned Development Project as authorized shall be subject to all conditions so imposed and shall be excepted from other provisions of the Zoning Code to the extent specified in the authorization.

Property in any DA Zoning District that has a PD Overlay shall be governed by the design and uses provided in the conditions of the approved PD. Any changes proposed to the property shall be subject to the uses and zoning standards of the underlying DA zone subject to the review, discretion and approval of the Community Development Director. The Director shall review additions or changes to the property relative to the design context and planning issues of the adjacent properties and to the intent of the DA zone, to the TOD strategy, and to the General Plan. (Ord. 2011-003 § 1; Ord. 2001-015 § 1)

### **3.04.144 Status of Planned Development Approval**

- A. A Planned Development Project approval shall expire one year after the approval date unless a building permit has been issued and construction diligently pursued, or unless the Planned Development Project specifies an alternative development or phasing

schedule. If a Planned Development Project approval expires, the Planning Commission shall initiate a zoning map amendment, as provided by Chapter 5.16 Amendments, to re-establish the prior district designation or such other district designation as it may deem appropriate.

- B. The Planning Commission may renew a Planned Development Project approval for up to two (2) years if it finds the renewal consistent with the purposes of this chapter and that no substantive change has occurred in conditions or circumstances pertinent to the Planned Development or its approval. The Planning Commission may attach additional conditions or require compliance with additional or new development requirements or fees, either in effect at the time of renewal or necessary to make the findings required by Section 3.04.132 Planned Development Project—Planning Commission Review to achieve the purposes of the district and comply with the General Plan. Application for renewal shall be made in writing to the Zoning Enforcement Official not less than 30 days or more than 120 days prior to expiration of the Planned Development approval. Denial of a request for renewal of a Planned Development Project approval may be appealed, as prescribed in Chapter 5.20 Appeals. (Ord. 2001-015 § 1)

#### **3.04.148 Modification of a Planned Development Project**

- A. A request for any change in conditions of approval, residential unit density, or other land use and property development regulations set forth in a Planned Development Project approval shall be treated as a new application for a Planned Development Project approval, subject to the submittal requirements of Section 3.04.124 Planned Development Project Application.
- B. If the Zoning Enforcement Official determines that the requested changes are minor and do not include substantial alterations to the Planned Development Project approval or conditions of approval and are consistent with the intent of the original Planned Development approval, the Zoning Enforcement Official may approve the changes or may refer the proposed changes to the Planning Commission. The Planning Commission may either approve or conditionally approve the requested changes or determine that the proposed changes shall be treated as a new application for a Planned Development Project approval. Decisions of the Planning Commission may be appealed in accord with Chapter 5.20 Appeals. (Ord. 2001-015 § 1)

## Chapter 3.08 IS Interim Study Overlay District

### Sections:

- 3.08.100 Specific Purpose and Applicability**
- 3.08.104 Initiation and Zoning Map Designation**
- 3.08.108 Land Use Regulations**
- 3.08.112 Property Development Regulations**
- 3.08.116 Expiration of IS District Ordinance—Renewal**
- 3.08.120 Resubmittal of Development Proposals**

### **3.08.100 Specific Purpose and Applicability**

In addition to the general purposes listed in Chapter 1.04 Title, Components, and Purposes the specific purpose of the IS Interim Study Overlay District is to allow discretionary review of development proposals in areas where major changes in zoning regulations and development standards are contemplated and under study. (Ord. 2001-015 § 1)

### **3.08.104 Initiation and Zoning Map Designation**

The IS Overlay District may be initiated under the procedures for Zoning Map amendments prescribed by Chapter 5.16 Amendments. Prior to or in conjunction with approving an amendment reclassifying land to an IS Overlay District, the Planning Commission and City Council shall approve a study plan that identifies regulatory problems and state land-use and development issues to be resolved for the area proposed for reclassification. The IS Overlay District may be combined with any base district. Each IS Overlay District shall be shown on the zoning map with an “-IS” designator. A reference to the enacting ordinance and the expiration date of the IS Overlay District also shall be included on the Zoning Map. (Ord. 2001-015 § 1)

### **3.08.108 Land Use Regulations**

- A. Use Permit Required. Approval of a use permit shall be required for establishment of a new or expanded use in an IS Overlay District and may be approved for any use classification permitted or conditionally allowed with a use permit in the base district with which the IS Overlay District is combined.
- B. Required Findings. In addition to the findings required for use permits by Chapter 5.08 Use Permits, Variances, and Parking Exceptions and additional findings that may be required for specific use classifications, approval of a use permit in the IS Overlay District shall require a finding that the proposed use does not fall within the scope of the land-use and development issues to be resolved for the area at the time the IS Overlay District was adopted. (Ord. 2001-015 § 1)

### **3.08.112 Property Development Regulations**

Development regulations for the IS Overlay District shall be specified by a use permit or shall be those of the base district with which the IS Overlay District is combined. (Ord. 2001-015 § 1)

### **3.08.116 Expiration of IS District Ordinance—Renewal**

An ordinance establishing an IS Overlay District shall contain a provision terminating the IS designation not more than two years from its effective date. An ordinance establishing an IS Overlay District may be amended, reenacted, or superseded by a zoning map amendment adopted as prescribed by Chapter 5.16 Amendments. (Ord. 2001-015 § 1)

### **3.08.120 Resubmittal of Development Proposals**

Notwithstanding the provisions of Chapter 5.08 Use Permits, Variances, and Parking Exceptions, a use permit application that has been denied or approved subject to conditions unacceptable to the applicant may be resubmitted on or after the effective date of a zoning map and/or text amendment superseding an IS Overlay District designation. (Ord. 2001-015 § 1)



## Chapter 3.12 CV Conservation Overlay District

### Sections:

- 3.12.100 Specific Purposes and Applicability**
- 3.12.104 Area Requirements**
- 3.12.108 Status of CV Overlay District and Approved Plans**
- 3.12.112 Allowable Modifications to Land Use Regulations and Property Development Standards**
- 3.12.116 Application for Zoning Map Designation**
- 3.12.120 Adoption Procedures**
- 3.12.124 Zoning Map Designation**
- 3.12.128 Building Permits to Conform to Adopted Plan**

### **3.12.100 Specific Purposes and Applicability**

The CV Conservation Overlay District is intended for property owners to initiate and implement programs for the revitalization or conservation of areas or districts possessing distinctive features, identity, or character worthy of retention and enhancement. The CV district takes effect through adoption of a plan and a set of regulations that will facilitate maintenance and upgrading of the neighborhood and development of vacant or under-used lots while reducing or eliminating incompatible mixes of uses. (Ord. 2001-015 § 1)

### **3.12.104 Area Requirements**

Each CV Overlay District shall include a minimum contiguous area of three acres, including intervening streets and alleys, and shall contain at least three separate parcels. (Ord. 2001-015 § 1)

### **3.12.108 Status of CV Overlay District and Approved Plans**

- A. Adoption of a CV Overlay District proposal shall be by amendment to the Zoning Map, in accord with the provisions of Chapter 5.16 Amendments, but the map amendment shall not alter the use regulations or development standards of the underlying sub-district. A use permit approving a Neighborhood Conservation Plan shall be approved by the City Council at the same time as the map amendment is adopted and shall establish standards and conditions for development consistent with the purposes of the Plan.
- B. All development shall be in accordance with an approved Neighborhood Conservation Plan and the use permit, which may be amended as provided in the conditions of approval. The Planning Commission may recommend and the City Council may approve amendments to the Neighborhood Conservation Plan to allow development in accordance with the underlying zoning regulations rather than as specified by the Conservation Plan if the Commission and Council find that the Conservation Plan, as approved,

is unlikely to be implemented for the site in question and if limitations on development of the site have not been recorded as a condition of approval of development elsewhere within the Conservation Plan area. (Ord. 2001-015 § 1)

### **3.12.112 Allowable Modifications to Land Use Regulations and Property Development Standards**

After a duly noticed public hearing, the following changes in use regulations and development standards may be approved as part of a Neighborhood Conservation Plan:

- A. Regulations for specific use classifications may be modified by the Neighborhood Conservation Plan to accommodate unique or mixed uses serving the neighborhood consistent with the General Plan.
- B. Site development standards may be modified by the Neighborhood Conservation Plan consistent with the General Plan. (Ord. 2001-015 § 1)

### **3.12.116 Application for Zoning Map Designation**

- A. Owners of 51 percent or more of the land in an area meeting the area requirements of Section 3.12.104 Area Requirements and one or more of the criteria of Subsection C of Section 3.12.120 Adoption Procedures may file an application with the City for the designation of the area as a CV Conservation Overlay District. The application may include lots within one or more base zoning districts. The City Council or Planning Commission may initiate a Conservation Overlay District as prescribed in Chapter 5.16 Amendments.
- B. The application shall include the following:
  - 1. A statement of purpose and explanation of how the criteria of Subsection C of Section 3.12.120 Adoption Procedures are met.
  - 2. A map indicating the boundaries of all lots in the proposed Conservation Overlay District and the base district(s) contained within the proposed CV Overlay District.
  - 3. A Neighborhood Conservation Plan consisting of a map and such other textual and graphic material as may be necessary, indicating land uses, building types and designs, site development requirements, signing, circulation, off-street parking, and modifications in base district regulations. (Ord. 2001-015 § 1)

### **3.12.120 Adoption Procedures**

- A. The Planning Commission shall hold a duly noticed public hearing on the application in accordance with the provisions of Chapter 5.16 Amendments. Following the hearing, the Commission may recommend approval or conditional approval of the Neighborhood

Conservation Plan if it implements the purposes for which designation of the CV Overlay District is proposed and is consistent with the General Plan and shall transmit the application and the plan with its recommendation to the Council.

- B. The City Council shall hold a hearing in accord with the provision of Chapter 5.16 Amendments on any application and plan transmitted to it by the Planning Commission.
- C. Following the hearing, the City Council may approve or conditionally approve a Neighborhood Conservation Plan and adopt a CV Conservation Overlay District for the area described in the application if the area meets one or more of the following criteria:
  - 1. Distinctive building features, such as period of construction, style, size, scale, rhythm, mass, color, and material;
  - 2. Distinctive features or articles associated with the streetscape, such as light fixtures and devices, signs, benches, curb markers, kiosks, and bollards;
  - 3. Distinctive site planning and natural features, such as lot platting, street layout, setbacks, alleyways, sidewalks, creek beds, parks, and gardens; or
  - 4. Distinctive land uses or land-use patterns, such as mixed or unique uses or activities, not permitted by base district regulations without modification.
- D. The City Council shall adopt each Conservation Overlay District by ordinance pursuant to Chapter 5.16 Amendments. The adopting ordinance shall include a reference to the approved Neighborhood Conservation Plan for the district, a statement of purposes, and a list of the modifications to the base district regulations. (Ord. 2001-015 § 1)

### **3.12.124 Zoning Map Designation**

Each Conservation Overlay District shall be shown on the zoning map by a “-CV” designator applied to the base district designations. A reference to the enacting ordinance also shall be included on the zoning map. (Ord. 2001-015 § 1)

### **3.12.128 Building Permits to Conform to Adopted Plan**

Applications for building permit for projects located in a Conservation Overlay District shall be accepted only if project plans are consistent with the adopted CV Overlay District ordinance and the approved Neighborhood Conservation Plan and all other applicable requirements of this Code and the Municipal Code. (Ord. 2001-015 § 1)

## **Chapter 3.16 S Special Review Overlay District**

### **Sections:**

- 3.16.100 Specific Purposes and Applicability**
- 3.16.104 Applicability and Zoning Map Designation**
- 3.16.108 Land Use and Property Development Regulations**
- 3.16.112 Use Permit Required**
- 3.16.116 Review Criteria**
- 3.16.120 Conditions of Approval**
- 3.16.124 Procedures**

### **3.16.100 Specific Purposes and Applicability**

In addition to the general purposes listed in Chapter 1.04 Title, Components, and Purposes the specific purpose of the S Special Review Overlay District is to provide for discretionary review of development proposals in the Marina Automall area and in other geographic areas of the City with unique needs, which may be designated by the City Council, consistent with General Plan policies. This will ensure an orderly transition from older obsolete uses to new activities that are compatible with adjacent uses and will prevent development that may be detrimental to the community. (Ord. 2001-015 § 1)

### **3.16.104 Applicability and Zoning Map Designation**

The S Special Review Overlay District may be combined with any zoning district. It may be initiated by the City Council or Planning Commission under the procedures established by Chapter 5.16 Amendments. Each S Overlay District shall be shown on the zoning map by adding an “-S” to the base district designation. The zoning map also shall include a reference to the adopting ordinance establishing the S Overlay District. (Ord. 2001-015 § 1)

### **3.16.108 Land Use and Property Development Regulations**

The land use and development regulations applicable in an S Overlay District shall be those of the base zoning district with which the S Overlay District is combined unless modified by another overlay district or by the ordinance establishing the S Overlay District. The requirements of the applicable S Overlay District shall govern where conflicts arise. (Ord. 2001-015 § 1)

### **3.16.112 Use Permit Required**

A use permit is required for any of the following actions within an S Overlay District:

- A. Establishment of any new land use and/or structure, excluding accessory structures that are minor in nature.

- B. Substantial expansion or alteration of any existing land use and/or structure.
- C. Approval of any tentative or parcel map.
- D. Any other action specified by the City Council at the time of the establishment of an S Overlay District.
- E. In addition to or in lieu of a use permit, the City Council may establish other review procedures or requirements at the time of establishment of an S Overlay District or necessary to assure conformance of uses and buildings with purposes and objectives of the S District.
- F. Exceptions. The Zoning Enforcement Official may waive the requirement for a use permit or other specified discretionary approval for the following activities, provided that any such waiver is not inconsistent with any policy directive or review criteria incorporated in the legislation establishing the S Overlay District. These exceptions include alterations of existing structures that are minor in nature or that do not add more than 10 percent to existing floor area, and maintenance or repair of existing structures. (Ord. 2001-015 § 1)

### **3.16.116 Review Criteria**

In addition to the requirements of Sections 5.08.124 Required Findings and 5.08.128 Conditions of Approval, the City Council, upon recommendation of the Planning Commission, may establish specific review criteria for each S Overlay District. These may address the relationship of the proposed land use and/or development to the surrounding area, site planning and architectural design, landscaping, parking and loading, access and on-site public facilities, the displacement and relocation of existing uses, and any policies or aspects of the General Plan or any Specific Plan applicable to the area. (Ord. 2001-015 § 1)

### **3.16.120 Conditions of Approval**

In addition to the conditions of approval that may be imposed under Section 5.08.128 Conditions of Approval, the Planning Commission or Board of Zoning Adjustments may impose reasonable conditions to ensure compliance with the specific purposes and intent of the applicable S Overlay District, including time limits or restrictions on certain improvements to mitigate potential adverse effects, protect existing uses, and/or facilitate orderly change, at a later date, consistent with the General Plan. (Ord. 2001-015 § 1)

### **3.16.124 Procedures**

- A. General Procedures. An application for approval of a use permit in an S Overlay District shall be processed in accord with the procedures established by Sections 5.08.112 Initiation and 5.08.116 Notice and Public Hearing and any additional requirements applicable to that S district.

- B. Additional Requirements. The ordinance establishing the S Overlay District may impose additional requirements for information to be submitted with each application, such as an independent analysis of economic and fiscal impacts, an independent evaluation of compatibility between the new use(s) and adjacent development, or an assessment of alternative development concepts. If required, this information shall be considered by the Planning Commission or Board of Zoning Adjustments in making a decision to approve, conditionally approve, or deny a use permit or other discretionary approval. (Ord. 2001-015 § 1)

## **Chapter 3.20 AU Assembly Use Overlay District**

### **Sections:**

- 3.20.100 Specific Purposes and Applicability**
- 3.20.104 Applicability and Zoning Map Designation**
- 3.20.108 Land Use and Property Development Regulations**
- 3.20.112 Use Permit Required**
- 3.20.116 Review Criteria and Conditions of Approval**
- 3.20.120 Procedures**

### **3.20.100 Specific Purposes and Applicability**

In addition to the general purposes listed in Chapter 1.04 Title, Components, and Purposes, the specific purpose of the AU Assembly Use Overlay District is to provide for discretionary review of assembly uses on certain non-residentially zoned properties which may be designated by the City Council, consistent with General Plan policies. This allows Assembly Uses, as defined in Section 1.12.108 Definitions, to be considered on non-residentially zoned properties on a conditional use basis, beyond the residential-zoned properties for which they are already conditionally permitted. (Ord. 2007-005 § 3)

### **3.20.104 Applicability and Zoning Map Designation**

The AU Assembly Use Overlay District may be combined with any zoning district. It may be initiated by the City Council or Planning Commission under the procedures established by Chapter 5.16 Amendments. Each AU Overlay District shall be shown on the zoning map by adding an “-AU” to the base district designation. The zoning map also shall include a reference to the adopting ordinance establishing the AU Overlay District. (Ord. 2007-005 § 3)

### **3.20.108 Land Use and Property Development Regulations**

The land use and development regulations applicable in an AU Overlay District shall be those of the base zoning district with which the AU Overlay District is combined unless modified by another overlay district or by the ordinance establishing the AU Overlay District. The requirements of the applicable AU Overlay District shall govern where conflicts arise. (Ord. 2007-005 § 3)

### **3.20.112 Use Permit Required**

A use permit is required for any of the following actions within an AU Overlay District:

- A. Establishment of any new assembly use.
- B. Substantial expansion or alteration of any existing assembly use and/or structure.

- C. In addition to or in lieu of a use permit, the City Council may establish other review procedures or requirements at the time of establishment of an AU Overlay District or necessary to assure conformance of uses and buildings with purposes and objectives of the AU District.
- D. Exceptions. The Zoning Enforcement Official may waive the requirement for a use permit or other specified discretionary approval for the following activities, provided that any such waiver is not inconsistent with any policy directive or review criteria incorporated in the legislation establishing the AU Overlay District. These exceptions include alterations of existing structures that are minor in nature or that do not add more than 10 percent to existing floor area, and maintenance or repair of existing structures. (Ord. 2007-005 § 3)

### **3.20.116 Review Criteria and Conditions of Approval**

The review criteria and conditions of approval shall be as required in Sections 5.08.124 Required Findings and 5.08.128 Conditions of Approval. (Ord. 2007-005 § 3)

### **3.20.120 Procedures**

An application for approval of a use permit in an AU Overlay District shall be processed in accord with the procedures established by Sections 5.08.112 Initiation and 5.08.116 Notice and Public Hearing and any additional requirements applicable to that AU district. (Ord. 2007-005 § 3)



## **Chapter 3.24 N Nonconforming Use Overlay District**

### **Sections:**

- 3.24.100 Specific Purposes**
- 3.24.104 Applicability and Zoning Map Designation**
- 3.24.108 Requirements for Establishment of District**
- 3.24.112 Initiation and Adoption Procedures**
- 3.24.116 Alternative Schedule for Termination of Nonconforming Use**

### **3.24.104 Specific Purposes**

The N Nonconforming Use Overlay District is intended to modify the regulations governing the required termination of nonconforming uses, as prescribed in Chapter 4.20 Nonconforming Uses and Structures, in order to promote the timely and orderly conversion to conforming use in areas that have several properties occupied by nonconforming uses. (Ord. 2001-015 § 1)

### **3.24.108 Applicability and Zoning Map Designation**

The N Nonconforming Use Overlay District may be combined with any base district. Where so combined, the provisions of this chapter shall apply to require termination of certain nonconforming uses, in lieu of the comparable provision of Chapter 4.20 Nonconforming Uses and Structures. The N Overlay District boundaries shall be shown on the zoning map by adding the “-N” designator to the base district regulations. A reference to the enacting ordinance also shall be included on the zoning map. (Ord. 2001-015 § 1)

### **3.24.112 Requirements for Establishment of District**

The N Nonconforming Use Overlay District may be established only when the Planning Commission recommends and the City Council makes the following findings:

- A. That the proposed district contains three or more nonconforming uses covering one-third or more of the parcels in a prescribed area;
- B. That the formation of such district would tend to reduce deterioration, blight, long-term vacancies, or other adverse conditions in the proposed district; and
- C. That the formation of such district would not be injurious to the property or to improvements for conforming uses within the proposed district and the immediately surrounding area. (Ord. 2001-015 § 1)

### **3.24.116 Initiation and Adoption Procedures**

The N Overlay District may be initiated by the City Council or the Planning Commission under the procedures for zoning map amendments prescribed by Chapter 5.16 Amendments. The City Council shall adopt each N Overlay District by ordinance after holding a public hearing and receiving a recommendation from the Planning Commission. (Ord. 2001-015 § 1)

### **3.24.120 Alternative Schedule for Termination of Nonconforming Use**

Upon establishment of an N Nonconforming Use Amortization Overlay District, the Planning Commission shall recommend and the City Council shall adopt a time schedule for required termination for nonconforming uses within the district, which are subject to termination as provided in Section 4.20.124 Elimination of Nonconforming Uses (Abatement). In establishing the district, the Planning Commission may recommend and the City Council may provide that the district and time schedules shall apply to some or to all nonconforming uses or conditions within the district. This time schedule shall apply to nonconforming uses within the N District and shall supersede the time periods set forth in Section 4.20.124 Elimination of Nonconforming Uses (Abatement). Any ordinance enacted pursuant to this chapter shall state the applicable amortization period. In recommending and adopting such time periods, the Planning Commission and City Council shall take into consideration but not be limited to the nature of construction of the structures within the district subject to amortization, the ages of such structures, the nature of the existing zoning, and the ability to convert such structures to accommodate conforming uses. (Ord. 2001-015 § 1)

## **Chapter 3.28 L Landmark Overlay District**

### **Sections:**

- 3.28.100 Specific Purposes**
- 3.28.104 Applicability and Zoning Map Designator**
- 3.28.108 Land Use and Property Development Regulations**
- 3.28.112 Criteria for Establishment of L District**
- 3.28.116 Criteria for Designating Landmark Buildings**
- 3.28.120 Conservation Plan Required**
- 3.28.124 Application Requirements**
- 3.28.128 Review and Approval**
- 3.28.132 Establishment of L Districts**
- 3.28.136 Issuance of Building Permits**
- 3.28.140 Maintenance of Structures and Premises**

### **3.28.100 Specific Purposes**

The specific purposes of the L Landmark Overlay District are to:

- A. Implement the City's General Plan with respect to the City's historical, cultural, or architectural heritage.
- B. Deter demolition, destruction, alteration, misuse, or neglect of historic or architecturally significant buildings that form an important link to San Leandro's past.
- C. Promote the conservation, preservation, protection, and enhancement of landmarks and historic districts.
- D. Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property.
- E. Encourage development tailored to the character and significance of each landmark or historic district through a Landmark District Conservation Plan that includes goals, objectives, and design criteria. (Ord. 2001-015 § 1)

### **3.28.104 Applicability and Zoning Map Designator**

The L Landmark Overlay District may be combined with any zoning district. Each L Overlay District shall be shown on the zoning map by adding an "-L" designator to the base district designation. (Ord. 2001-015 § 1)

### **3.28.108 Land Use and Property Development Regulations**

The land use and development regulations applicable in an L district shall be as prescribed for the base district with which it is combined unless modified by another overlay district or by the ordinance establishing the L Overlay District, provided that the requirements of the Landmark District Conservation Plan shall govern where conflicts arise.

A. Exceptions for Historic and Architecturally Significant Structures.

The Board of Zoning Adjustments may grant a use permit for an exception to the land use regulations of the base district with which an L District is combined when such an exception is necessary to permit the preservation or restoration of a historic or architecturally significant building, structure, or site.

Applications for such use permits shall be filed with the Zoning Enforcement Official. The Board of Zoning Adjustments may refer applications for an exception under this section to the Library-Historical Commission for a report and recommendation to be submitted to the Board of Zoning Adjustments. In making a decision, the Board of Zoning Adjustments shall make a written finding that shall specify the facts relied upon in rendering their decision. (Ord. 2001-015 § 1)

**3.28.112 Criteria for Establishment of L District**

An area shall be eligible for inclusion in an L district if one or more of the following criteria are met:

- A. The area possesses character, interest, or value as part of the heritage of the City.
- B. The area is the location of a significant historical event.
- C. The area is identified with a person or group that contributed significantly to the culture and development of the City.
- D. Structures within the area exemplify a particular architectural style or way of life important to the City.
- E. Structures within the area are the best remaining examples of an architectural style in a neighborhood.
- F. The area or its structures are identified as the work of a person or group whose work has influenced the heritage of the City, the state, or the United States.
- G. The area or its structures embody elements of outstanding attention to architectural or landscape design, detail, materials, or craftsmanship.
- H. The area is related to a designated historic or landmark building or district in such a way that its preservation is essential to the integrity of the building or district.

- I. The area's unique location or singular physical characteristics represent an established and familiar visual feature of a neighborhood.
- J. The area has potential for yielding information of archaeological interest.
- K. The area's integrity as a natural environment strongly contributes to the well-being of the people of the City.

Portions of a base zoning district that do not meet the above criteria may be included in an L District if inclusion is found to be essential to the integrity of the district. (Ord. 2001-015 § 1)

### **3.28.116 Criteria for Designating Landmark Buildings**

Individual buildings may be designated as historic or architecturally significant landmarks if one or more of the criteria set forth in Section 3.28.112 Criteria for Establishment of L District are met. A landmark so designated shall be eligible for the same review procedures as buildings and structures within an L District. (Ord. 2001-015 § 1)

### **3.28.120 Conservation Plan Required**

Prior to filing an application for an L District, the applicant shall prepare a Landmark District Conservation Plan with the assistance of the Development Services Department. Each Landmark District Conservation Plan shall contain:

- A. A map and description of the proposed district, including boundaries; the age, setting, and character of structures; urban design elements and streetscapes; major public improvements; and proposed objectives to be achieved.
- B. A statement of the architectural or historical significance of the proposed district.
- C. A list of specific alterations that should be subject to design review in order to protect the architectural or historical character of the proposed district.
- D. A set of specific performance guidelines for new construction and alterations necessary to preserve the character of the proposed district.
- E. Proposed rules and regulations for design review. (Ord. 2001-015 § 1)

### **3.28.124 Application Requirements**

- A. Initiation. An application for an L District or landmark designation may be initiated by the Planning Commission or City Council, or by owners of 51 percent or more of the property within the proposed district.

- B. L District Application. If initiated by property owners, the application for an L District designation shall include:
1. A proposed Landmark District Conservation Plan for the district as prescribed by Section 3.28.120 Conservation Plan Required;
  2. A form bearing the signatures of the owners of 51 percent of the land area within the proposed district; and
  3. The required fee.
- C. Landmark Building Applications. An application for a landmark building designation shall include:
1. A map showing the location of the building or structure and building plans or photographs of the building exterior;
  2. A statement of the architectural or historical significance of the building and description of the particular features that should be preserved;
  3. Except when initiated by the City, the consent of the owner or authorized agent to the proposed designation is required. For purposes of this section, each condominium owners' association shall be deemed the property owner of common areas. Prior to accepting the application as complete, the Zoning Enforcement Official may request additional information, plans, or materials deemed necessary to support the application. Upon referral, a Library-Historical Commission public review of the application shall be held within 60 days of the date the application is accepted as complete; and
  4. The required fee. (Ord. 2001-015 § 1)

### **3.28.128 Review and Approval**

- A. Neighborhood Workshop on Proposed Districts. Prior to public review of application, the Library-Historical Commission may conduct a neighborhood workshop in the proposed district to explain the proposal and the amendment process to neighborhood residents. Notice of any workshop shall be given in the same manner prescribed for zoning map amendments by Section 5.16.112 Public Hearing Scope and Notice.
- B. Notice and Public Hearing. After any neighborhood workshop deemed appropriate, the proposed district shall be the subject of public hearings before the Planning Commission and the City Council.
- C. Contents of Public Notice. In addition to the information prescribed by Section 5.16.112 Public Hearing Scope and Notice, notice of a public hearing for the establishment of an

L District or designation of a landmark shall include a statement that original petitioners have the right to withdraw their support of the district at any time prior to the hearing, and that property owners who have not signed the petition have the right to do so prior to the date of the hearing. (Ord. 2001-015 § 1)

### **3.28.132 Establishment of L Districts**

- A. Required Findings. In addition to the findings required by Subsection B of Section 5.16.116 Duties of Planning Commission, the Planning Commission and City Council shall find that the proposed district or landmark has a significant architectural or historical character that can be preserved and enhanced through appropriate controls on new development and alterations to existing buildings and landscaping.
- B. Adoption of Conservation Plan. An ordinance establishing an L District shall include a Landmark District Conservation Plan in the form submitted or as revised by the City Council. The Plan's performance guidelines may modify the land use and development regulations of the base zoning district, but shall not significantly alter the regulations. A performance guideline shall be found to be a significant alteration of base district regulations if it substantially prevents property from being used in accord with the provisions of the base district or creates a substantial number of nonconforming uses or structures.
- C. Effect on Projects Initiated Prior to Effective Date. No provision of this chapter shall apply to projects initiated prior to the effective date of an ordinance establishing an L District or designating a landmark. Such projects shall be considered nonconforming uses, subject to the provisions of Chapter 4.20 Nonconforming Uses and Structures. For the purposes of this subsection, a project shall be deemed initiated if an application, plans, and materials for concept or development plan review have been filed and accepted as complete.
- D. Amendments to Adopted Conservation Plans. Procedures for an amendment to an adopted Landmark District Conservation Plan shall be initiated in the same manner as an application for a zoning map amendment (see Chapter 5.16 Amendments). (Ord. 2001-015 § 1)

### **3.28.136 Issuance of Building Permits**

The Building Official shall not issue a permit for construction, alteration, enlargement, or demolition of a building or structure located in an L District or of a designated landmark except in accordance with the requirements of the L Overlay District and approved Landmark District Conservation Plan. (Ord. 2001-015 § 1)

### **3.28.140 Maintenance of Structures and Premises**

All property owners in L Districts and owners of designated landmarks shall have the obligation to maintain structures and premises in good repair. Structures and premises in good repair shall present no material variance in apparent condition from surrounding structures in compliance with the provisions of this chapter. Good repair includes and is defined as the level of maintenance that ensures the continued availability of the structure and premises for a lawfully permitted use and prevents deterioration, dilapidation, and decay of the exterior portions of the structure and premises. (Ord. 2001-015 § 1)



# **Title 4—Regulations Applying in All or Several Districts**

## **Chapter 4.04 Development Regulations**

### **Sections:**

**4.04.100 Specific Purposes and Applicability**

### **Article 1. Nonresidential Districts**

- 4.04.200 Fast Food Establishments**
- 4.04.204 Entertainment Activities**
- 4.04.208 Service Stations and Automobile Washing**
- 4.04.212 Hazardous Materials Storage**
- 4.04.216 Game Centers**
- 4.04.220 Cannabis Product Manufacturing**
- 4.04.224 Walls Adjoining Residential Use**
- 4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages**
- 4.04.232 Recycling Facilities**

### **Article 2. All Districts**

- 4.04.300 Relocated Buildings**
- 4.04.304 Development on Lots Not Meeting Minimum Area or Width**
- 4.04.308 Development on Lots Divided by District Boundaries**
- 4.04.312 Building Projections into Yards and Courts**
- 4.04.316 Supportive and Transitional Housing**
- 4.04.320 Exceptions to Height Limits**
- 4.04.324 Outdoor Facilities and Storage/Loading Facilities**
- 4.04.328 Screening of Mechanical Equipment**
- 4.04.332 Refuse Storage Areas**
- 4.04.336 Underground Utilities**
- 4.04.340 Performance Standards**
- 4.04.344 Earth Station and Microwave Equipment**
- 4.04.348 Bed and Breakfast Inns**
- 4.04.352 Airport Safety Zones**
- 4.04.356 Restrictions on Use of Razor/Barbed Wire**
- 4.04.360 Site Remediation Screening Review**
- 4.04.364 Fences, Walls, and Hedges**
- 4.04.368 Adult-Oriented Business Regulations**
- 4.04.372 Hazardous Waste Facilities**
- 4.04.376 Wireless Telecommunications Facilities**
- 4.04.380 Community Gardens**

**4.04.100 Specific Purposes and Applicability**

This chapter contains development regulations, other than parking, loading, sign, and landscape regulations that are applicable to development in all or several districts. These regulations shall be applied as specified in Title 2—Base District Regulations, Title 3—Overlay Zoning Districts Regulations, and as presented in this Chapter. (Ord. 2001-015 § 1)

## **Article 1. Nonresidential Districts**

### **4.04.200 Fast Food Establishments**

The following supplementary development regulations shall apply to fast food establishments, large scale and fast food establishments, small scale use classifications.

- A. No Exterior Walk-Up Service. Food shall be delivered to patrons within a car or within a building, or enclosed or covered outdoor eating area.
- B. Minimum Separation. Fast food establishment, large scale uses on separate freestanding sites that are: (a) not associated as being either a part of or within a shopping center; and (b) have independent access to adjoining parking shall not be closer than 500 feet to a public or private school, park, library, or playground. This minimum separation requirement does not apply to the fast food establishment, small scale classification.
- C. Litter Control. Fast food establishment operators shall be responsible for pick-up of patrons' litter within a minimum of 1,000 feet from the restaurant site. Identifiable containers and napkins shall be used for all carryout food, and all litter resulting shall be promptly removed. A condition of use or zoning permit approval may require the operator to retain a contract litter cleanup service or to take other litter clean-up measures if the Zoning Enforcement Official determines that a litter problem exists. (Ord. 2004-007 § 5; Ord. 2004-004 § 5; Ord. 2001-015 § 1)

### **4.04.204 Entertainment Activities**

The following regulations shall apply to any use offering entertainment activities as defined in Section 1.12.108 Definitions, more than six times per calendar year:

- A. Exits, not limited to emergency-use-only, shall not be opposite a Residential (R) District adjoining the site.
- B. A use permit shall establish conditions ensuring that no litter problem will exist.
- C. A use permit for entertainment activities shall apply only to the type of entertainment approved, and a different type of entertainment shall require approval of a new use permit.
- D. A use permit may limit hours, duration, or days on which entertainment activities is provided. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **4.04.208 Service Stations and Automobile Washing**

The following supplementary development regulations shall apply to the Service Stations and Automobile Washing use classifications.

- A. Site Layout. Conditions of approval of a use permit may require buffering, screening, planting areas, or limit hours of operation necessary to avoid adverse impacts on properties in the surrounding area.
- B. Planting Areas. Perimeter planting areas shall be provided, as required for parking lots by Chapter 4.08 Off-Street Parking and Loading Regulations, except where a building adjoins an interior property line. Required interior planting areas may adjoin perimeter-planting areas.
- C. Storage of Materials and Equipment. The provisions of Section 4.04.324 Outdoor Facilities and Storage/Loading Facilities shall apply. Storage of inoperative vehicles is prohibited. The location of display racks and vending machines shall be specified by the use permit.
- D. Automobile Washing. Automobile washing or cleaning shall not be permitted in conjunction with a service station unless specifically approved by the use permit. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **4.04.212 Hazardous Materials Storage**

- A. Definitions. See Section 1.12.108 Definitions “Hazardous Substances”.
- B. Permit Required. A use permit shall be required for any new commercial, industrial, or institutional use, or accessory use, or major addition or alteration to an existing use that involves the manufacture, storage, handling, or processing of hazardous substances in sufficient quantities that would require permits for hazardous materials under Section 105 of the California Fire Code, with the following exceptions:
  - 1. Underground storage of bulk flammable and combustible liquids complying with requirements of the San Leandro Fire Code;
  - 2. Hazardous substances in container sizes of 10 gallons or less that are stored or maintained for the purposes of retail or wholesale sales; and
  - 3. Any manufacture, storage, handling, or processing of hazardous substances which the Zoning Enforcement Official, after consultation with the Fire Marshall and review of any required hazardous materials response plan (“business plan”) determines is not likely to substantially and adversely affect property in the vicinity.

- C. Above-Ground Storage Tanks. Aboveground storage tanks for any flammable liquids shall not be allowed except as permitted in the California Fire Code. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **4.04.216 Game Centers**

The following supplemental regulations shall apply in addition to the requirements of Section 4-3-110 Amusement Center of the Municipal Code to the operation of game centers, including mechanical or electronic games or any other similar machine or device.

- A. Restrictions. The Zoning Enforcement Official may impose reasonable restrictions on the physical design, location, and operation of a game center in order to minimize the effects of noise, congregation, parking, and other nuisance factors that may be detrimental to the public health, safety, and welfare of the surrounding community.
- B. Appeals. Any person may appeal the decision of the Zoning Enforcement Official on an application for an initial permit or a renewal of a permit for a game center to the Board of Zoning Adjustments. (Ord. 2001-015 § 1)

#### **4.04.220 Cannabis Product Manufacturing**

The following supplemental regulations shall apply to the permitting and operation of any land use involving the manufacturing of cannabis products.

- A. Conditional Use Permit Required. A conditional use permit shall be required for cannabis product manufacturing.
- B. State Licensure Required for Operation. Cannabis product manufacturers and all third-party distributors responsible for the delivery of cannabis and finished cannabis products to and from cannabis product manufacturing facilities shall hold a valid State license.
- C. Public Sale Limited to Dispensaries. The direct sales, distribution, delivery, and dispensing of manufactured cannabis products to the public shall be limited to licensed cannabis dispensaries.
- D. Findings for Approval. In addition to the required findings for all use permits, the following additional findings shall be made:
  - 1. The cannabis product manufacturing facility is situated in an appropriate location where schools, residences, childcare centers, parks, or other sensitive land uses will not be adversely impacted.
  - 2. Appropriate measures have been taken to address nuisances related to odor, noise, exhaust, and waste.

3. The cannabis product manufacturing facility is suitably designed to be secure and aesthetically compatible with the surrounding area.
4. The cannabis product manufacturing facility will not place a burden on the provision of public services disproportionate to other industrial uses. (Ord. 2017-014 § 4; Ord. 2001-015 § 1)

#### **4.04.224 Walls Adjoining Residential Use**

A solid masonry or concrete wall at least six feet and not more than eight feet high shall adjoin the property line of the site of a new nonresidential use abutting an existing ground-floor residential use. However, where the portion of the site within 10 feet of the property line is occupied by planting area or by a building having no openings except openings opposite a street property line, the Zoning Enforcement Official may grant an exception to this requirement. A wall within 15 feet of a street property line shall not exceed three feet in height. (Ord. 2001-015 § 1)

#### **4.04.228 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages**

No person shall engage in the concurrent sale of motor vehicle fuel and alcoholic beverages unless authorized as a conditional use in accord with Chapter 5.08 Use Permits, Variances, and Parking Exceptions, subject to the minimum standards for approval established by this section and any additional conditions of approval determined by the Board of Zoning Adjustments to be reasonable and necessary.

- A. Minimum Standards for Approval. All persons applying for conditional use approval to engage, and all persons actually engaged as of January 1, 1988, in the concurrent sale of motor vehicle fuel and alcoholic beverages shall comply with all of the following minimum standards:
1. No alcoholic beverages shall be displayed within five feet of the cash register or the front door of the establishment, unless it is in a permanently affixed cooler;
  2. No sale of alcoholic beverages shall be made from a drive-up window;
  3. No display of alcoholic beverages shall be made from an ice tub;
  4. No alcoholic beverage advertising shall be located on motor fuel islands or otherwise visible from outside the building in which the alcoholic beverage is sold; and
  5. Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. shall be at least 21 years of age to sell alcoholic beverages.

- B. Conditions of Approval. In addition to the minimum standards set forth, the Board of Zoning Adjustments may provide that any approvals for the concurrent sale of motor vehicle fuel and alcoholic beverages be contingent upon acceptance and observance of specified conditions or limitations determined by the Board to be reasonable and necessary in order to make the required findings, including but not limited to any of the following conditions or limitations relating to:
1. Additional limitations on advertising and display of alcoholic beverages;
  2. Banning of video game machines and/or jukeboxes or similar devices where concurrent sale of motor vehicle fuel and alcoholic beverages take place;
  3. Limitations on hours of operation and on amount of shelf space devoted to alcoholic beverages;
  4. Requirement for security guards and other security devices on the premises;
  5. Minimum parking lot lighting and fencing;
  6. Minimum training for sales personnel and/or security guards;
  7. Policies to discourage drinking alcoholic beverages outside the premises; or
  8. A minimum distance required between businesses engaged in the concurrent sale of motor vehicle fuel and alcoholic beverages. (Ord. 2001-015 § 1)

**4.04.232 Recycling Facilities**

- A. Definitions. See Section 1.12.108 Definitions for definitions of: Recycling; Recyclable Material; Recycling Facility; Collection Facility (Small Collection Facility, Large Collection Facility); Processing Facility (Light Processing facility, Heavy Processing Facility); Reverse Vending Machine (Single-Feed Reverse, Bulk Reverse); and Small Scale Hazardous Waste Center.
- B. Permits Required. No person shall permit the placement, construction, or operation of any recycling facility without first obtaining a permit as follows:

Type of Facility	Districts Permitted	Permit Required
Single-Feed Reverse Vending Machine(s)	CC, CN, C-RM, CS, DA-1, DA-2, I (AU), NA, P, SA-1, SA-2, SA-3	Admin. Review
Bulk Reverse Vending Machine	CC, CN, CS, I, I (AU), NA, SA-1, SA-2, SA-3	Admin. Review
Small Collection	CC, CS, CN, SA-1, SA-2 and SA-3	Admin. Review
Small Scale Hazardous Waste Center	CS	Admin. Review

Large Collection	CC, CS, IG, IG(AU), IL, IL(AU), IP, IP(AU)	Admin. Review
	IT	Use Permit
Light Processing	IL, IL(AU), IG and IG(AU)	Admin. Review
	IT	Use Permit
Heavy Processing	IG, IG(AU), and IT	Use Permit

1. The Zoning Enforcement Official shall be the decision-maker but may refer to the Board of Zoning Adjustments for a Conditional Use Permit.

**C. Permits for Multiple Sites.**

1. The Zoning Enforcement Official may grant a single zoning permit to allow more than one reverse vending machine or small collection facility located on different sites under the following conditions:
  - a. The operator of each of the proposed facilities is the same;
  - b. The proposed facilities are determined to be similar in nature, size, and intensity of activity; and
  - c. All the applicable criteria and standards set forth in Subsection D are met for each such proposed facility.

**D. Design Criteria and Standards.**

1. Reverse Vending Machine(s).
  - a. Each machine shall be located so as not to obstruct pedestrian or vehicular circulation.
  - b. No required parking space shall be occupied, and machine shall not encroach into aisles.
  - c. Each machine shall occupy no more than 50 square feet of space, including any protective enclosure, and shall not exceed eight feet in height.
  - d. Each machine shall be clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative.
  - e. The maximum sign area is four square feet per machine, exclusive of operating instructions of Subsection D.1.d, above;

f. Adequate nighttime lighting shall be provided, if warranted.

2. Small Collection Facilities.

- a. Small collection facilities shall be no larger than 500 square feet, shall be set back at least 10 feet from a front or side property line, and 20 feet from an R district boundary or lot developed for residential use, and shall not obstruct pedestrian or vehicular circulation or parking areas. Small collection facilities shall be located no closer than one-half mile distance from one another.
- b. Applicants of small collection facilities shall submit an Administrative Review application, along with a site plan showing the proposed location and written authorization from a property or business owner for each separate facility location.
- c. No power-driven processing equipment shall be used except for reverse vending machines.
- d. All containers shall be constructed and maintained with durable waterproof and rustproof material, covered when the site is not attended, secured from unauthorized entry or removal of material, and of a capacity sufficient to accommodate materials collected.
- e. All recyclable material shall be stored in containers or in a mobile unit vehicle.
- f. Attended facilities located within 100 feet of the boundary of an R district shall operate only between 7:00 a.m. and 7:00 p.m.
- g. Containers shall be clearly marked to identify the type of material that may be deposited; the facility shall be clearly marked to identify the name, address, website and telephone number of the facility operator or organization and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers.
- h. The maximum sign area shall be 16 square feet exclusive of informational requirements and operational instruction of Subsection c above. Directional signs bearing no advertising message may be installed if necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way.
- i. No additional parking spaces will be required for customers of a small collection facility located at the established parking lot of a host use. One space may be provided for the attendant, if needed.
- j. Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during hours when the mobile unit is scheduled to be present.



k. No required parking spaces shall be occupied by the facility.

3. Large Collection Facilities.

- a. A large collection facility shall be located at least 200 feet from an R district.
- b. Each facility shall be in an enclosed building or within an area enclosed by a fence at least eight feet in height that substantially screens the site.
- c. Six parking spaces shall be for customers and one parking space shall be provided for each commercial vehicle operated by the recycling facility.
- d. Power-driven processing, including aluminum foil and can compacting, baling, plastic shredding, or other light-processing activities necessary for efficient temporary storage and shipment of material may be allowed if noise and other conditions are met.

4. Processing Facilities.

- a. Light processors shall operate in a wholly enclosed building except for incidental storage, in compliance with the regulations set forth in Section 4.04.324 Outdoor Facilities and Storage/Loading Facilities.
- b. Heavy processors shall operate in a wholly enclosed building, except for incidental storage or within an area enclosed on all sides by an opaque fence or wall not less than eight feet in height and landscaped on all street frontages located at least 150 feet from an R district.
- c. Power-driven processing shall be permitted provided all noise-level requirements are met.
- d. If the facility is open to the public, space shall be provided for a minimum of 10 customers or the peak load, whichever is higher, except where the Zoning Enforcement Official determines that allowing overflow traffic is compatible with surrounding businesses and public safety.
- e. One parking space will be provided for each commercial vehicle operated by the processing center.

5. All Collection and Processing Facilities.

- a. No facility shall occupy a required front or corner side yard, and all regulations applicable to the principal structure on the site shall apply to collection and processing facilities except as provided in this section.

- b. A large collector or processing facility may accept used motor oil for recycling from the generator in accordance with Section 25250.11 of the California Health and Safety Code.
- c. All exterior storage of material shall be in sturdy containers or enclosures that are covered, secured, and maintained in good condition. Storage containers for flammable material shall be constructed of non-flammable material. No storage, excluding truck trailers and overseas containers, will be visible above the height of the fencing.
- d. Noise levels shall not exceed sixty decibels (60 dBA) as measured at the property line of an R district or otherwise shall not exceed seventy decibels (70 dBA).
- e. All facilities shall be administered by on-site personnel during hours the facility is open. If a large collection or processing facility is located within 500 feet of an R district, it shall not be in operation between 7:00 p.m. and 7:00 a.m.
- f. Any containers provided for after-hours donation of recyclable materials shall be of sturdy, rustproof construction; shall have sufficient capacity to accommodate materials collected; and shall be secure from authorized entry or removal of materials.
- g. The site of the facility shall be kept free of litter and any other undesirable material. Containers shall be clearly marked to identify the type of material that may be deposited. A notice stating that no material shall be left outside the recycling containers shall be displayed.
- h. Sign requirements shall be those provided for the zoning district in which the facility is located. In addition, each facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation.
- i. No dust, fumes, smoke vibration or odor above ambient level may be detectable on neighboring properties. (Ord. 2016-012 § 4; Ord. 2014-011 § 2; Ord. 2008-013 § 1; Ord. 2004-007 § 5; Ord. 2001-015 § 1)

## **Article 2. All Districts**

### **4.04.300 Relocated Buildings**

In addition to the requirements of San Leandro's Municipal Code, Title 5, Chapter 5-1, Article 5 Moving Buildings, Oversized Vehicles or Objects, a permit for relocation of a building shall be required. This permit, to be issued by the Zoning Enforcement Official, shall estab-

lish conditions necessary to ensure that the relocated building and its new site will be compatible with its surroundings in terms of architectural character, height and bulk, and quality of exterior appearance. (Ord. 2001-015 § 1)

#### **4.04.304 Development on Lots Not Meeting Minimum Area or Width**

A legally created lot having a width or area less than required for the base district in which it is located may be occupied by a permitted or conditional use if it meets the following requirements:

- A. R Districts. Such lots shall be subject to the same yard, setback, density, and FAR requirements as a standard lot. One dwelling unit, notwithstanding accessory dwelling units, may be located on a lot of less than required area or width if it conforms to all requirements for a single-family dwelling in the RS District. A use permit shall be required for any other proposed new use.
- B. Other Districts. A use permit shall be required for any proposed new use. (Ord. 2017-003 § 4; Ord. 2004-007 § 5; Ord. 2001-015 § 1)

#### **4.04.308 Development on Lots Divided by District Boundaries**

The regulations applicable to each district shall be applied to the area within that district, and no use other than parking serving a principal use on the site shall be located in a district in which it is not a permitted or conditional use. Pedestrian or vehicular access from a street to a use shall not traverse a portion of the site in a district in which the use is not a permitted or conditional use. (Ord. 2004-007 § 5; Ord. 2001-015 § 1)

#### **4.04.312 Building Projections into Yards and Courts**

Projections into required yards or required open space shall be permitted as follows. In addition, all development proposals in the SA Districts shall be reviewed by City staff to ensure general consistency with the provisions contained in the Design Guidelines in the East 14<sup>th</sup> Street South Area Development Strategy.

- A. Cornices, eaves, mechanical equipment, and ornamental features: Two feet.
- B. Uncovered porches, terraces, platforms, decks, subterranean garages, and patios not more than 30 inches in height: Three feet in a side yard, and six feet in a front or rear yard for a length of 10 feet parallel to the adjoining property line.
- C. Balconies, stairs, canopies, awnings, and covered porches: Six feet into a front or rear yard, and two feet into an interior side yard.
- D. Fire escapes: Three and one-half feet.

- E. Bay windows: Two and one-half feet for a width of no more than eight feet.
- F. Chimneys: Two feet, except where the required setback from an interior property line is three feet or less in which case no projection is permitted.
- G. Wheelchair Ramps. Ramps constructed as part of an accessible route are permitted in required front or side yard (for corner properties) setbacks with administrative approval. Ramps shall not be allowed to encroach into the City right-of-way. In addition, ramps shall not block access to or encroach into any required off-street parking space or driveway leading to such place; unless there is no other feasible location for the ramp. Ramps may be constructed of concrete and wood or galvanized metal/aluminum and shall comply with the Uniform Federal Accessibility Standards (UFAS) Section 4.8 Ramps. Wood railings shall be stained or painted to be compatible with the color/trim of the home. Metal handrails, spindles and hardware shall be powder-coated to be compatible with the color/trim of the home. (Ord. 2006-011 § 1; Ord. 2001-015 § 1)

#### **4.04.316 Supportive and Transitional Housing**

Pursuant to California Government Code Section 65583(c)(3), supportive and transitional housing must be considered a residential use of property, subject only to restrictions that apply to other residential dwellings of the same type in the applicable zoning districts in the Code. See Section 1.12.108 Definitions for definitions of supportive housing, transitional housing, and target population. Applicable parking standards for supportive and transitional housing can be found in Chapter 4.08 Off-Street Parking and Loading Regulations. (Ord. 2015-11 § 4)

#### **4.04.320 Exceptions to Height Limits**

Towers, spires, cupolas, chimneys, elevator penthouses, water tanks, flagpoles, monuments, theater scenery lofts, radio and television antennas, transmission towers, fire towers, and similar structures and necessary mechanical appurtenances covering not more than 10 percent of the ground area covered by the structure to which they are accessory may exceed the maximum permitted height in the district in which the site is located by no more than 10 feet, unless the Board of Zoning Adjustments approves a Conditional Use Permit that authorizes additional height. (Ord. 2001-015 § 1)

#### **4.04.324 Outdoor Facilities and Storage/Loading Facilities**

- A. Outdoor Storage—Location.
  - 1. IG District—Permit Not Required. Outdoor storage of materials or equipment is allowed in the IG district, subject to the screening requirements prescribed in Sub-section C Outdoor Storage and Loading Facilities—Screening Required below. Outdoor storage of materials or equipment shall be strictly related to the operation of the principal use. In no case shall this section permit outdoor storage or display

of merchandise, goods, or materials for retail or wholesale sales, unless a Temporary Use Permit is obtained in accordance with Section 5.08.144 Temporary Use Permits. If the outdoor sales exceed 90 consecutive days in duration, an Outdoor Facilities Permit shall be required, per Subsection A.2.

2. Other Commercial and Industrial Districts—Outdoor Facilities Permit Required. Outdoor storage and display of merchandise, materials, or equipment, including display of merchandise, materials, and equipment for customer pick-up shall be subject to approval of an Outdoor Facilities Permit by the Zoning Enforcement Official in the CC, CN, CS, CR, C-RM, DA-1, DA-2, DA-3, DA-4, DA-6, IG, IL, IP, IT, NA-1, NA-2, SA-1, SA-2, and SA-3 Districts subject to screening requirements prescribed in Subsection C below. Sidewalk cafés and outdoor food service accessory to an Eating and Drinking Establishment or a retail use shall be permitted subject to approval of an Outdoor Facilities Permit by the Zoning Enforcement Official in the CC, CN, CR, C-RM, DA-1, DA-2, DA-3, DA-4, DA-6, IG, IL, IP, IT, NA-1, NA-2, OS, P, SA-1, SA-2, and SA-3 Districts and shall be subject to Subsection B. Temporary displays for Outdoor Retail Sales may be allowed with a Temporary Use Permit up to 90 days in accordance with Section 5.08.144 Temporary Use Permits, consistent with the applicable base district land use regulation, as modified by an overlay district.

B. Outdoor Facilities Permits—Conditions of Approval and Grounds for Denial. The Zoning Enforcement Official may impose conditions of approval on any permit for outdoor storage, display, or food service issued under this section, including requirements for yards, screening, or planting areas where it is determined by the Zoning Enforcement Official that such conditions are necessary to prevent adverse impacts on surrounding properties and uses. If the Zoning Enforcement Official determines that such impacts cannot be adequately mitigated, the permit shall be denied.

C. Outdoor Storage and Loading Facilities—Screening Required:

1. Outdoor storage areas and truck bays/loading dock areas, shall be screened by the placement of a solid wall, fence, landscaping, and/or building location in order to substantially obscure visibility from a public street. Limited visibility of truck staging areas, as necessary only for truck access to and from the site, may be permitted if no other alternative layout is practical.
2. The storage of merchandise, materials, and/or equipment at height above the screening wall is not permitted, unless administrative approval is given by the Zoning Enforcement Official, who in order to give approval shall find that: (a) the limitation in storage would not be practical for the subject business, and (b) such stored items would not be visually obtrusive from a public street or neighboring property.

- D. Exemptions. Notwithstanding the permit regulations of Subsections A and B above, and the screening requirements prescribed in Subsection C above, unscreened outdoor storage and display may be permitted, subject to any restrictions and/or limitations within project specific conditions attached to a use permit, site plan approved pursuant to Chapter 5.12 Site Plan Approval, or zoning approval, in conjunction with the following use classifications in districts where they are permitted or conditionally permitted, and provided outdoor storage and display shall be limited to vehicles or equipment:
1. Vehicle/Heavy Equipment Dealers, New
  2. Vehicle/Heavy Equipment Dealers, Used
  3. Vehicle/Heavy Equipment Rentals
- E. Vehicles/Equipment as Advertisement. No vehicle or equipment shall be stored with mast arms in an elevated position. (Ord. 2016-012 § 4; Ord. 2014-011 § 2; Ord. 2008-003 § 8; Ord. 2004-007 § 5; Ord. 2001-015 § 1)

#### **4.04.328 Screening of Mechanical Equipment**

- A. General Requirement. Except as provided in Subsection B below, all exterior mechanical equipment, except solar collectors in any district and operating mechanical equipment in an IG District located more than 500 feet from a C, NA, OS, PD, PS, R, or SA district boundary, shall be screened from view on all sides. Except to the extent restricted by public utility companies, equipment to be screened includes but is not limited to heating, air conditioning, refrigeration equipment, plumbing lines, ductwork, and transformers. The Zoning Enforcement Official may waive the screening requirement in C, I, NA or SA District for equipment not visible from a public street or R district.
- B. Utility Meters. Utility meters shall be screened from view from public rights-of-way, but need not be screened on top or when located on the interior side of a single-family dwelling. Meters in a required front yard or in a side yard adjoining a street shall be enclosed in subsurface vaults.
- C. Screening Specifications. Screening materials may have evenly distributed openings or perforations averaging 50 percent of the surface area and shall effectively screen mechanical equipment, so that it is not visible from a street or adjoining lot. (Ord. 2001-015 § 1)

#### **4.04.332 Refuse Storage Areas**

Except as exempted by the Zoning Enforcement Official, a refuse storage area screened on all sides by a six foot solid wood or masonry wall or located within a building, shall be provided prior to occupancy for all commercial, industrial, and public/semipublic uses. Locations, horizontal dimensions, and general design parameters of refuse storage areas shall

be in accord with standards established by the Zoning Enforcement Official, subject to appeal to the Planning Commission. The Zoning Enforcement Official may waive the screening requirement for dumpsters and equipment for refuse collection and storage in a CS, DA-1, DA-2, DA-3, DA-4, DA-6, or I District, which are not visible from a public street or from an R district. (Ord. 2016-012 § 4; Ord. 2008-003 § 9; Ord. 2001-015 § 1)

#### **4.04.336 Underground Utilities**

All new electrical, telephone, CATV, and similar distribution lines providing direct service to a development site, and any existing such service on the site, shall be installed underground within the site unless the Zoning Enforcement Official finds such installation is unfeasible. (Ord. 2001-015 § 1)

#### **4.04.340 Performance Standards**

The following performance standards shall apply to all use classifications in all zoning districts:

- A. Noise. All uses and activities shall comply with the provisions of the San Leandro Noise Regulations (Municipal Code Chapter 4-1-11 Noise).
- B. Vibration. No use, activity, or process shall produce vibrations that are perceptible without instruments by a reasonable person at the property lines of a site.
- C. Dust. No use, process, or activity shall produce objectionable dust that is perceptible without instruments by a reasonable person at the property lines of a site.
- D. Glare.
  - 1. From Glass. Mirror or highly reflective glass shall not cover more than 20 percent of a building surface visible from a street unless an applicant submits information demonstrating to the satisfaction of the Zoning Enforcement Official that use of such glass would not significantly increase glare visible from adjacent streets or pose a hazard for moving vehicles.
  - 2. From Outdoor Lighting. Parking lot lighting shall comply with Chapter 4.08 Off-Street Parking and Loading Regulations. Security lighting in any district may be indirect or diffused, or shall be shielded or directed away from an R district within 500 feet. Lighting for outdoor court or field games within 300 feet of an R district shall require approval of a use permit.
- E. Combustibles and Explosives. The use, handling, storage, and transportation of combustibles and explosives shall comply with the provisions of the San Leandro Uniform Fire Code and any other applicable laws.

- F. Radioactive Materials. The use, handling, storage, and transportation of radioactive materials shall comply with the provisions of the California Radiation Control Regulations and any other applicable laws.
- G. Hazardous and Extremely Hazardous Materials. The use, handling, storage, and transportation of hazardous and extremely hazardous materials, including biologically hazardous material, shall comply with the provisions of the California Hazardous Materials Regulations and the San Leandro Uniform Fire Code.
- H. Heat and Humidity. Uses, activities, and processes shall not produce any unreasonable, disturbing, or unnecessary emissions of heat or humidity, at the property line of the site on which they are situated that cause material distress, discomfort, or injury to a reasonable person.
- I. Electromagnetic Interference. Uses, activities, and processes shall not cause electromagnetic interference with normal radio or television reception or with the function of other electronic equipment beyond the property line of the site on which they are situated.
- J. Evidence of Compliance. The Zoning Enforcement Official may require such evidence of ability to comply with performance standards as he or she deems necessary prior to issuance of a zoning permit or any other required permit. (Ord. 2001-015 § 1)

#### **4.04.344 Earth Station and Microwave Equipment**

- A. Purpose. To ensure that amateur radio antennas and satellite and microwave dish earth stations and equipment do not have an adverse impact on aesthetic values and public safety in residential, commercial, and industrial areas, installation of these earth stations and equipment is governed by the following controls. The intent of these regulations is only to locate such earth stations and equipment where they are least visible from public rights-of-way in the vicinity, while not burdening adjacent property owners with adverse visual impacts. The intent is not to discriminate against dish earth stations in favor of other communications facilities.
- B. Permit Required. A zoning permit shall be required for the installation of amateur radio antennas, a satellite or microwave-receiving earth station, and a use permit shall be required for the installation of microwave transmitting and relay equipment. In considering a permit application, the Zoning Enforcement Official or Board of Zoning Adjustments shall balance the imposition of all applicable codes, regulations, and standards of the City of San Leandro with the applicant's right to receive satellite transmissions without unreasonable limitations on transmission reception or the imposition of costs which are excessive in light of the purchase cost of the equipment.
- C. Location Criteria: Amateur Radio. An amateur radio antenna may be installed on a lot in any district if it complies with the following criteria:



1. Setbacks. Five feet from interior side or rear property line.
  2. Maximum Height. Ten feet above the district height limit, provided that additional height may be authorized with a use permit.
  3. Surface Materials and Finishes. Highly reflective surfaces shall not be permitted.
- D. Location Criteria: Satellite. A satellite earth station may be installed on a lot in any zoning district if it complies with the following criteria:
1. Placement on Lot. The preferred placement of a satellite earth station shall be in the rear yard or interior side yard of a given parcel, no closer than five feet to the side or rear property line, or to the front street-side setback line. The placement of a satellite earth station on a roof, shall be allowed only upon proof, presented to the satisfaction of the Zoning Enforcement Official by the property owner at the time of application for a permit, that placement of the earth station at other preferred locations would unreasonably limit reception of satellite transmission.
  2. Maximum Height. Ten feet, measured from ground level, or the point of attachment on the roof, immediately under the earth station to the highest point of the earth station or any appurtenance attached to it.
  3. Screening.
    - a. If other than roof-mounted, the satellite earth station must be effectively screened by a solid screen fence, wall, or hedge six feet in height, so as not to be visible from public streets. The fence, wall, or hedge shall be located no closer than five feet to the satellite earth station.
    - b. If roof-mounted, the satellite earth station must be effectively screened so as not to be visible from public streets. Where possible, all roof-mounted satellite earth stations shall be painted to match the existing roof color. No satellite earth stations shall be more than ten feet in height above the point of attachment, or four feet in height above any peak of a pitched roof or parapet of a flat roof unless it is demonstrated that this height limit unreasonably restricts reception of a signal.

The above requirements for screening shall not apply in an "I" District unless the earth station is readily visible from an R District.
  4. Undergrounding. All wires and/or cables necessary for operation of the earth station or reception of the signal shall be placed underground, except for wires or cables attached flush with the surface of a building or the structure of the earth station.

5. Surface Materials and Finishes. Highly reflective surfaces shall not be permitted, nor shall any lettering or emblem be allowed, except the name of the manufacturer in letters not to exceed two inches in height.
- E. Locational Criteria. Microwave Receiving. Microwave receiving earth stations may be installed if they comply with the following criteria:
1. CC, CS, I, NA-1, NA-2, SA-1, SA-2, and SA-3 Districts. Installation is prohibited in any required front or street side setback area, and all wires or cables necessary for the operation of the earth station or reception of the signal shall be placed underground, except those wires or cables attached flush with the surface of a building or structure of the earth station. Landscaping or solid screening shall be placed around the base of any tower to screen the tower from view and to provide a physical separation between the tower and any pedestrian or vehicular circulation.
  2. CN, DA-1, DA-2, DA-3, DA-4, DA-6 and P Districts. Installation is permitted only if the earth station is attached to the rear half of a roof or is fully screened from view from any adjacent public street or R district.
- F. Location Criteria: Microwave Transmitting and Relay Equipment. Microwave transmitting and relay equipment may be installed in any zoning district subject to the requirements of a use permit and the criteria of Subsection E above. (Ord. 2016-012 § 4; Ord. 2014-011 § 2; Ord. 2008-003 § 10; Ord. 2004-007 § 5; Ord. 2001-015 § 1)

#### **4.04.348 Bed and Breakfast Inns**

The following regulations shall apply to bed and breakfast inns.

- A. Location. Bed and breakfast inns are conditionally permitted in the CC, CN, CR, DA-1, DA-2, DA-3, DA-4, DA-6, IT, NA-1, NA-2, P, RM, SA-1, and SA-2 Districts or in any L Overlay District in owner-occupied landmark buildings.
- B. Use Permit Required. A use permit issued by the Board of Zoning Adjustments shall be required for bed and breakfast inns. Applications shall be submitted to the Planning Division accompanied by: the required fee; plans and elevations showing any proposed modifications to the existing exterior of the structure, descriptions of landscaping, exterior finishes, signs, and parking to be provided; and any other information required by the Zoning Enforcement Official to determine whether the proposed bed and breakfast inn conforms to all the requirements of this ordinance.

The Board of Zoning Adjustments shall approve a bed and breakfast inn after a duly noticed public hearing upon finding that:

1. The bed and breakfast inn will be operated by a property owner or resident manager living on the premises;
2. The bed and breakfast inn conforms to the design and development standards of Subsection C of this section and is compatible with adjacent buildings in terms of building materials, colors and exterior finishes; and
3. Public and utility services including emergency access are adequate to serve the bed and breakfast inn.

C. Design and Development Standards.

1. Number of Guest Rooms. No more than six rooms shall be rented for lodging.
2. Parking. A minimum of one independently accessible, off-street parking space shall be provided for each guest room plus one for the resident owner. This requirement may be reduced to one space for each two rooms for a bed and breakfast inn provided that the Board of Zoning Adjustments finds that on-street parking in the vicinity is not subject to time restrictions that would interfere with the hours normally required for guest parking.
3. Signs. No identifying sign shall be displayed other than one sign no larger than six square feet per frontage identifying the name of the establishment. The face of the sign may be indirectly illuminated by an exterior light source entirely shielded from view, but no illumination from an internal light source shall be permitted. (Ord. 2016-012 § 4; Ord. 2008-003 § 11; Ord. 2004-007 § 5; Ord. 2001-015 § 1)

#### **4.04.352 Airport Safety Zones**

The following regulations shall apply to land uses occurring within airport safety zones established for Metropolitan Oakland International Airport by the Alameda County Airport Land Use Commission (ALUC) and set forth in the Airport Land Use Policy Plan. Maps of airport safety zone boundaries as established by the Airport Land Use Policy Plan are kept on file with the Zoning Enforcement Official. The airport safety zone boundaries shall also be delineated on the Zoning Map with reference to applicable regulations.

- A. Purposes. The specific purposes of the Airport Safety Zone regulations are to ensure land use compatibility with airport operations in proximity to San Leandro and to provide for the safe operation of aircraft. The airport safety zone consists of two areas, an inner portion and an outer portion, for which different land use regulations apply. The four air safety considerations addressed by these regulations are:
1. Height Limits. The prevention of obstacles to air navigation caused by tall objects, structures, or buildings.

2. Hazards. The prevention of hazards to air navigation caused by smoke, glare, electrical interference, bright or concentrated beams of light, and concentrations of birds.
  3. Ground Safety. The exposure of persons on the ground to accidents, especially where land uses are characterized by concentrations of persons.
  4. Noise. The exposure of persons on the ground to noise from aircraft operations, especially jet aircraft.
- B. Inner Portion. Within the inner portion of the airport safety zone, extending to 1,400 feet from the end of the runway, the following uses and structures are not permitted:
1. Permanent structures or objects projecting above the level (elevation) of the primary surface of the runway.
  2. Any land use that on a regular basis would result in a concentration of persons exceeding 25 persons per net acre.
  3. Compatible land uses in this portion of the safety zone include limited horticulture provided that no nursery equipment or materials shall be stored and no structures erected, open space for natural resources (wetlands), open space for the managed production of resources (water areas necessary to commercial fisheries), and open space for public health and safety (uses related to flood control such as retention ponds, drainage easements, or flood plains).
- C. Outer Portion. Within the outer portion of the airport safety zone, extending beyond 1,400 feet to 5,300 feet, new uses shall be nonresidential low-density.
1. Uses which will have a density of more than 25 persons per net acre over an eight hour period or a density of more than 50 persons per net acre for more than two hours per day are considered incompatible and shall not be allowed. In addition, retail sales, eating and drinking establishments, schools, hospitals, places of public or religious assembly, and detention facilities are prohibited land uses.
  2. Compatible land uses include all those allowed in the inner portion of the airport safety zone. Additional compatible land uses are open space for outdoor recreation, limited warehousing and storage, vehicle storage, and limited industry provided these land uses comply with density regulations specified in Subsection C.1 above and height restrictions on structures and facilities contained in FAR Part 77, including Subpart D. (FAR Part 77 is included in Appendix C to the Airport Land Use Policy Plan and kept on file with the Zoning Enforcement Official.)
  3. Within the overall density limits established in Subsection C.1 above, clustering of uses within a parcel may be compatible where such clustering provides emergency

landing areas, avoids concentration of development along the extended runway centerline, and does not pose a hazard to air navigation.

4. Flammable liquids, as defined in the Uniform Fire Code, shall be stored underground.
- D. Use Permit Required. Any new development proposed for a parcel located within the airport safety zone must secure a use permit from the Board of Zoning Adjustments. The Board shall approve a use permit if it makes the findings required by Section 5.08.124 Required Findings and determines that the proposed development is a compatible land use in that portion of the safety zone in which the project will be located and meets the requirements of this section.
- E. Noise and Aviation Easement. No land division shall be approved nor shall a permit of any type be issued for any development within the airport safety zone until the City is provided with a noise and aviation easement permitting the right of flight in the airspace above the site. Such easement shall be supplied in a form prescribed by the City Attorney and shall be recorded on the title of the property. The purpose of the easement is to ensure that prospective property owners and developers are informed and aware of the potential impacts of airport over-flights and operations.
- F. Recorded Notice of Aircraft Over-flight Required. No land division shall be approved nor shall a permit of any type be issued for any development activity within the airport safety zone until a notice has been recorded in the office of the County Recorder, stating that the property is subject to aircraft over-flight. Such a notice shall include a map showing the boundaries of the airport safety zone as adopted by the Alameda County Airport Land Use Commission. (Ord. 2001-015 § 1)

#### **4.04.356 Restrictions on Use of Razor/Barbed Wire**

- A. Razor/barbed wire materials, such as wire strips or coiled (“concertina”) wire attached to a fence or a building. The installation of razor wire shall be permitted only in the CS, IG, and IL Districts, prohibited in all other zoning districts, and is subject to the following restrictions where permitted and must meet the following criteria:
  1. Razor/barbed wire, on either a fence, wall or building, is prohibited within 300 feet of the public street frontage, unless such installations will not be visible from any public street as to be determined by and subject to the approval of the Zoning Enforcement Official prior to installation.
  2. Razor/barbed wire shall not extend over a property line or over the public right-of-way.
  3. Razor/barbed wire shall not be located within 200 feet of a residential district.

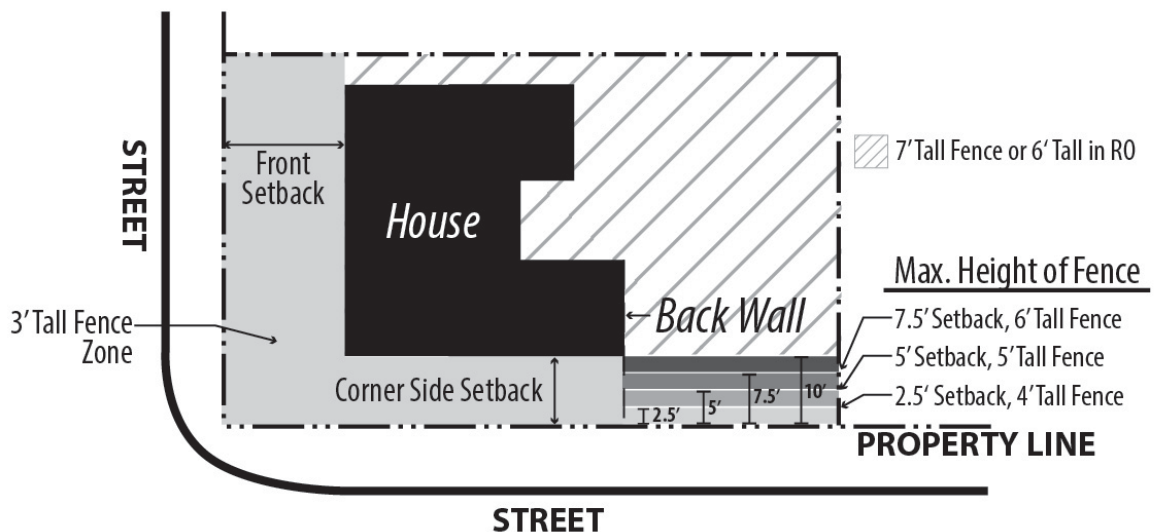
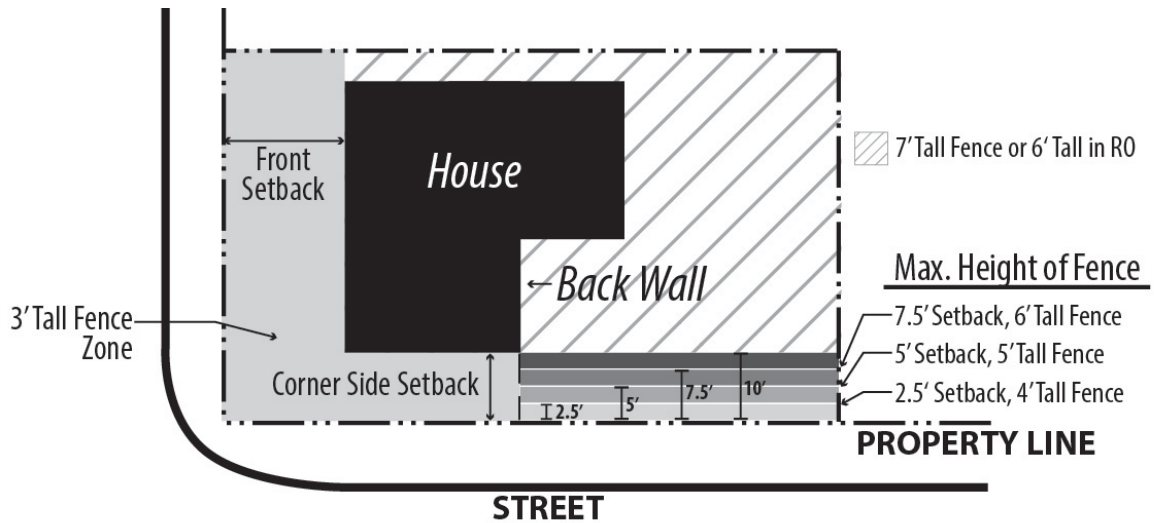
4. The height of the fence, with the razor/barbed wire, cannot exceed the fence height limits established in the fence regulations.
- B. Removal of Nonconforming Razor/Barbed Wire. In regards to use and/or development applications for properties with razor/barbed wire installations, which are not in compliance with the regulations prescribed in Subsection A above, the nonconforming razor/barbed wire shall be removed as a condition of approval for any zoning permit, conditional use permit, or site plan approval given after August 15, 2001. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **4.04.360 Site Remediation Screening Review**

Prior to the removal or on-site remediation of contaminated soil or water, details on screening of the site and noise mitigation measures for any mechanical equipment used in the process shall receive approval of the Community Development Director if the removal or remediation process will exceed 21 days in length. Screening of the site shall be by an obscure material and allowable noise shall not exceed the levels provided in the General Plan. This section shall apply in all zoning districts. (Ord. 2001-015 § 1)

#### **4.04.364 Fences, Walls, and Hedges**

- A. Residential, Open Space and Public/Semi-Public Districts. Except as provided for in Paragraphs 1, 2 and 3 below, the maximum height of a fence, wall, or hedge shall be seven feet except in required front or corner side yards abutting a street where the maximum height shall be three feet. All fences, walls, and hedges shall be subject to the driveway visibility requirements of Section 4.08.148 Driveways—Visibility.
1. RO District. The maximum height of a fence, wall, or hedge in the RO District shall be six feet except in required front or corner side yards abutting a street where the maximum height shall be three feet.
  2. Corner lots in the RO, RS, RS-40, RS-VP, and RD Districts. Starting from the back wall of the house, the maximum height of a fence, wall, or hedge on a corner lot in the RO, RS, RS-40, RS-VP or RD District shall follow the gradient formula diagram below, which allows for an increase in height of one foot for each two and one-half feet back from the street side property line, up to a maximum of six feet in the RO District, and seven feet in the RS, RS-40, RS-VP and RD Districts. The area in front of the fence shall be required to be planted with a combination of ground-covers, shrubs, and/or small trees and shall also have irrigation installed. Over-height fences along the side of the house shall continue to require review and approval of a fence modification.



**Corner Lot Fence in the RO, RS, RS-40, RS-VP, and RD Districts**  
 (The diagram is illustrative)

3. RS-VP District. In order to protect the existing view corridor, the maximum height of a solid fence, wall or hedge in the RS-VP District shall be no more than three feet above finished grade. The portion of a permitted fence between the heights of three feet to seven feet shall be constructed with glass to allow for continued enjoyment of the view. Transparent materials do not include chain link, mini-mesh, chicken wire, wood or lattice materials. Non-transparent structural materials necessary for the support of the fence are permitted every four feet.

The views currently enjoyed by neighbors shall be respected. The proposed construction shall not unreasonably block or diminish neighbors' views of distant and

scenic features, such as the San Francisco Bay and surrounding open spaces and skylines, while balancing the applicant's ability to improve the subject property in accordance with the applicable restrictions. Fences proposed in side and rear yards where no views as defined above are significantly affected are not subject to this section as determined by the Zoning Enforcement Official.

The Zoning Enforcement Official may modify the standards referenced herein subject to the approval of a Fence Modification Permit.

B. Commercial, Professional and Industrial Districts.

1. Maximum Height. The maximum height of a fence, wall, or hedge shall be eight feet except in required front or corner side yards where the maximum height shall be three feet.
2. Minimum standards for fences along street frontages. Fences that are adjacent to the required minimum front, corner side and/or rear yard with frontage along a public street frontage shall be constructed of either: (a) tubular steel, or of equally high quality "visually transparent" style; or (b) a solid architectural wall compatible with the building colors and materials.

In addition, all fences, walls, and hedges shall be subject to the driveway visibility requirements of Section 4.08.148 Driveways—Visibility. Walls adjoining residential uses shall be subject to the regulations of Section 4.04.224 Walls Adjoining Residential Use.

C. Fence Modifications. Approval to vary from the standards of this section may be granted with the approval of a fence modification application.

1. The Zoning Enforcement Official May Approve Modifications. The Zoning Enforcement Official in a hearing following informal notice as specified in paragraph 4 below may modify the requirements for the maximum height, minimum setback, and material of construction for fences as established in the Zoning Code.
2. Noticing Requirements. Notice of the time, place, and purpose of the hearing shall be posted at least 10 days prior to the date of the hearing, on or adjacent to the property involved, and mailed at least 10 days prior to the hearing to the owners of adjacent property.
3. Standards for Approval.
  - a. The fence is not detrimental to adjacent property;
  - b. The fence is compatible with the neighborhood in terms of aesthetics;



- c. The fence does not create a sight distance hazard; and
  - d. The fence is not detrimental to the public health, safety, or welfare.
4. Referrals and Appeals. The Zoning Enforcement Official may refer a fence modification request to the Board of Zoning Adjustments. The Board of Zoning Adjustments shall also review fence modification(s) requests that are made in conjunction with an application for either a conditional use permit or variance. Appeals of the decision of the Zoning Enforcement Official approving or denying a fence modification shall be heard by the Board of Zoning Adjustments, pursuant to the requirements of Chapter 5.20 Appeals. (Ord. 2012-001 § 3; Ord. 2008-001 § 1; Ord. 2001-015 § 1)

#### **4.04.368 Adult-Oriented Business Regulations**

- A. Purpose and Intent. It is the intent of this chapter to prevent community wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods which can be brought about by the concentration of adult-oriented businesses in close proximity to each other or proximity to other incompatible uses such as schools for minors, churches, and residentially zoned districts or uses. The City Council finds that it has been demonstrated in various communities that the concentration of adult-oriented businesses causes an increase in the number of transients in the area, and an increase in crime, and in addition to the effects described above can cause other businesses and residents to move elsewhere. It is, therefore, the purpose of this chapter to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses or their close proximity to incompatible uses, while permitting the location of adult-oriented businesses in certain areas.
- B. Location Standards.
- 1. Subject to the provisions of this chapter, adult-oriented businesses shall be permitted only in the Industrial General (IG), Industrial Limited (IL), Industrial Park (IP), and Industrial Transition (IT) Districts, provided:
    - a. Each adult-oriented business shall, prior to commencement or continuation of such business, first apply for and receive zoning approval from the Community Development Department.
    - b. Each such adult-oriented business must, prior to commencement or continuation of such business, first apply for and receive an adult-oriented business license.
    - c. Each such adult-oriented business must comply with all applicable development and design regulations of the applicable zone.

- d. No adult-oriented business shall be located in any zoning district with an overlay zone.
  - e. No adult-oriented business shall be located on any parcel that contains frontage on Merced Street, Alvarado Street, Williams Street, Doolittle Drive or Fairway Drive.
2. No adult-oriented business shall be established or located within 1,000 feet of the following:
- a. Any place of religious assembly;
  - b. Any residentially zoned land, whether in the City of San Leandro, in an adjoining city, or within the unincorporated area;
  - c. Any public park, or property zoned, planned, or otherwise designated for such use by City action, and a public or private educational facility including, but not limited to, child day care facilities, libraries, nursery schools, pre-schools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; schools includes the school grounds, but does not included facilities used primarily for another purpose and only incidentally as a school;
  - d. Any boys club, girls club, or similar youth organization; or
  - e. Any large family, general, or limited day care facility licensed by the State of California.
  - f. Any establishment that holds a state license for the sale or consumption of alcohol beverages, except this definition shall not include restaurants that have a bar on site so long as more than 50 percent of the customer seating is dedicated to restaurant patrons. This definition applies solely to the location criteria of this section.

The uses and zones set forth herein shall be collectively known as “impacted uses.”

3. No adult-oriented business may be established or located within 1,000 feet of any other adult-oriented business, whether in the City of San Leandro, in an adjoining city, or within the unincorporated area.
4. If any portion of a property fails to meet the distance criteria set forth above, the entire property shall be ineligible for an adult-oriented business use.

- C. Design Standards. Per Zoning Code Section 2.12.100 Specific Purposes, the purpose of the industrial district regulations include ensuring that “the appearance and effects of industrial uses are compatible with the character of the area in which they are located.” The Zoning Enforcement Official shall review and approve all plans and elevations of buildings housing adult-oriented businesses to determine whether they meet this standard. This review will consider building color, massing, architectural features and other exterior details. A decision on this design compliance for a new business shall be given within 30 days of the granting of an Adult-Oriented Business Regulatory Permit; any changes to the exterior of the building after the initial review shall also be subject to review and approval by the Zoning Enforcement Official.
- D. Appeal. Any decision of the Zoning Enforcement Official made pursuant to this chapter may be appealed to the Planning Commission pursuant to Chapter 5.20 Appeals. Any administrative action made pursuant to this chapter may be appealed to a court of competent jurisdiction. (Ord. 2016-012 § 4; Ord. 2001-015 § 1)

#### **4.04.372 Hazardous Waste Facilities**

- A. Intent. The purpose of this section is to establish uniform standards, land-use regulations and a permit process for controlling the location, design, maintenance and safety of off-site hazardous waste facilities. These standards, regulations and processes are intended to be consistent with Article 8.7 of the California Health and Safety Code, applicable portions of the Alameda County Hazardous Waste Management Plan and the City of San Leandro General Plan.
- B. Applicability.
  - 1. The specific requirements of this ordinance are applicable to the siting and development of off-site hazardous waste treatment, storage, or transfer facilities. Off-site hazardous waste facilities mean those facilities which treat, store, recycle, incinerate or transfer hazardous wastes from at least two producers of hazardous wastes which are not located on the same property of the hazardous waste facility. Consistent with the Alameda County Hazardous Waste Management Plan, off-site hazardous waste facilities only include those facility types as defined by the Plan for small-scale transfer and storage including hazardous waste collection facilities, industrial transfer, storage and treatment facilities, and residual repositories.
  - 2. The off-site facility definition does not apply to:
    - a. Transportable Treatment Units (TTUs), which are designed to be moved either intact or in modules and which are intended to be operated at a given location for a limited period of time; or

- b. Permanent on-site hazardous waste facilities at locations where hazardous waste is produced and which are owned by, leased to, or under the control of the producer of the waste.
  3. All such facilities (i.e., off-site, on-site, household hazardous waste collection, and TTUs) shall obtain all necessary state licensing and Certified Unified Program Agencies (CUPA) approvals to install and operate.
  4. A conditional use permit for a hazardous waste facility shall be granted for only those substances and quantities identified in the conditions of approval. No additional types of wastes or increases in the quantity of approved wastes shall be allowed beyond those specified in the approved permit, unless a separate application is made, which shall satisfy the same procedures and contents as those required in an initial application.
- C. Procedure. Applications for hazardous waste facilities as defined by this section shall follow the procedure specified by Article 8.7 of the State Health and Safety Code and Chapter 5.08 Use Permits, Variances, and Parking Exceptions of the Zoning Ordinance pertaining to use permits.
- D. Application Requirements.

The information listed below is required at the time a hazardous waste facility application for an off-site facility is submitted to the Community Development Department:

1. A complete development case application signed by the property owner or their authorized representative.
2. A non-refundable deposit or fee as set forth by ordinance or resolution of the City Council.
3. Any deposit for technical assistance pursuant to Section 25199.7(g) of the State Health and Safety Code.
4. A letter of justification describing the proposed project and explaining how it will satisfy the findings in Subsection J of this section.
5. Information required for public meetings and hearings, as determined by the Community Development Director.
6. A scaled, fully-dimensioned site plan and development plan drawn in sufficient detail to clearly describe the following:
  - a. Physical dimensions of property and structures;

- b. Location of existing and proposed structures;
  - c. Setbacks;
  - d. Methods of circulation and location of truck routes;
  - e. Ingress and egress;
  - f. Utilization of property under the requested permit;
  - g. The distance from the project property lines to the nearest residential structure;
  - h. Proximity of the project to 100 year floodplain areas;
  - i. Proximity of the project to any known earthquake fault zones;
  - j. The relationship of the proposed project to all aboveground water supplies, as well as known underground aquifers that could conceivably suffer contamination;
  - k. Topographic description of the property and surrounding area;
  - l. Existing and proposed utilities that service or will be needed to service the facility;
  - m. Identification of surrounding zoning and land uses;
  - n. Landscape plans showing theme and location of all landscape areas;
  - o. Building elevations showing building height, exterior materials, and architectural theme; and
  - p. Other information as required by the Community Development Director.
7. A preliminary geological study of the property and surrounding area, which includes a soils analysis down to the depth of the deepest known aquifers, regardless of the potability of those aquifers.
  8. Identification of all wastewater, treated and untreated, generated by the proposed facility and the method and place of final discharge.
  9. Identification of the amounts (tonnage) and types of hazardous wastes to be treated at the proposed facility; the sources of these wastes; the ultimate disposi-

tion of the wastes; and the anticipated life of the facility. Information shall be provided on the amount, sources, and types of hazardous wastes to be treated based on an actual survey of the industries to be served and, thereby, be representative of the wastes that will be processed at the facility.

10. A plan that clearly delineates all public involvement with the proposed project prior to any formally advertised and scheduled public hearings. Said plan will provide for adequate public testimony on the project in an effort to mitigate all public concerns prior to the approval body reviewing the case.
11. A plan that identifies an ongoing monitoring program to ensure no unintentional release of any hazardous substance from the site. This shall include any ongoing monitoring necessary by other permitting agencies such as State Department of Health Services, the Bay Area Air Quality Management District (BAAQMD), Environmental Protection Agency (EPA), San Francisco Bay Regional Water Quality Control Board, etc.
12. A preliminary contingency plan for emergency procedures designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. The plan shall provide for its immediate implementation whenever there is a fire, explosion, or release of hazardous waste constituents, which could threaten human health or the environment. The preliminary contingency plan shall address the requirements included in Subsection G.3.
13. Other information as required by the Community Development Director to demonstrate compliance with the facility siting criteria as outlined in Subsection F.

E. Environmental Review.

1. The project shall be subject to environmental analysis according to the City's environmental guidelines pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000-21177; 15000-15387).
2. The environmental analysis shall address, but not be limited to, the following:
  - a. Describe at least two reasonable alternative sites to the project; these alternatives shall be reviewed pursuant to the California Environmental Quality Act [Public Resources Code, Section 15060(d)].
  - b. An analysis of visual, noise, and any olfactory impacts associated with the project and recommended mitigation measures.
  - c. An analysis of all anticipated air quality impacts associated with the project and proposed mitigation to ensure no degradation of air quality in the area.

- d. A health and safety assessment that analyzes in detail all probabilities of accidents or spills at the site, as well as transportation-related accidents from the point of origin to the facility. Such analysis shall identify mitigation measures to reduce identified risks. The health and safety assessment shall identify the most probable routes for transporting hazardous wastes to the facility within Alameda and, if applicable, Contra Costa or Santa Clara counties.
- e. An analysis of traffic impacts associated with the project and recommended mitigation measures.
- f. An analysis of all anticipated water quality impacts associated with the project and proposed mitigation to ensure no degradation of water quality in the area.
- g. Other information as required by the California Environmental Quality Act (CEQA).

F. Facility Siting Criteria and Permitting Requirements.

The following siting criteria has been established for use by hazardous waste facility project proponents in locating and designing suitable facility sites and appropriate facilities and by the City in evaluating proposed sites and facility projects. The purpose of the criteria is to reduce public health and environmental risks and governmental costs associated with development of off-site hazardous waste facilities.

1. Protect the Residents of Alameda County (and the City of San Leandro).

a. Health and Safety Assessment.

- i. All Facilities. Facilities shall be sited so as not to create significant risks or cause adverse impacts to the health and safety of populations in surrounding public and private areas, as determined by a health and safety assessment. A health and safety assessment by a qualified preparer is required for a proposed facility prior to approval of a local permit, to provide technical and environmental evaluation of the proposed facility, site, and surrounding area. A health and safety assessment will provide the information and analysis needed to demonstrate compliance of the proposed facility with the siting criteria. The scope of the assessment will vary according to the size, type, and proposed location of the facility. It is not intended that the health and safety assessment duplicate information developed for environmental impact reports or risk assessments required under local, state or federal regulations. When environmental impact reports and health risk assessments are required, their scopes should provide the information and analysis required, and, thereby, suffice for the health and safety assessment.

- ii. The health and safety assessment shall evaluate the potential impact of the proposed facility on existing and planned residences and immobile populations, at minimum, the buffer area prescribed by the Alameda County Hazardous Waste Management Plan. Immobile populations include those in schools, hospitals, convalescent homes, jails, and other similar facilities within the area of potential impact. The health and safety assessment must consider the quantities and the physical and chemical characteristics of the specific types of waste that would be handled, the facility design features, and planned operations practices. The justification for any reduction in buffer areas of the facility from residential areas or immobile populations than that prescribed by the Alameda County Hazardous Waste Management Plan will be identified. The assessment must include a hydrologic evaluation and must assess risks due to physical hazards, such as flooding and earthquakes and potential water or air pollution. The assessment will detail credible potential accidents, including the distance over which effects would carry a variety of options for reducing risks, and procedures for dealing with the effects. The assessment will identify the capabilities (including equipment and trained personnel) and response times of existing emergency services with regard to accidents at the facility and will provide an emergency evacuation plan. If existing emergency services are deemed inadequate, the local agency may require the developer to supplement those services with on-site trained personnel and equipment.
- iii. Avoidance or mitigation of potential significant health or safety risks must be demonstrated to the satisfaction of the local permitting agency and the California Department of Health Services.

b. Distance from Populations.

All Facilities. Facilities shall comply with local minimum Zoning Code setbacks, unless a greater buffer distance from other uses is deemed necessary based on a required health and safety assessment.

2. Ensure the Structural Stability of the Facility.

a. Floodplains.

- i. All Facilities. Facilities must be designed, constructed, operated and maintained to preclude failure due to flooding, per flood control authorities and requirements. Provisions must be made to contain and test storm runoff prior to discharge in areas subject to contamination by waste or treated material. The required health and safety assessment will address flooding risks associated with the facility.



- ii. Treatment, Recycling and Collection Facilities. Facilities may be located in areas subject to 100 year flooding only if protected by offsetting engineered improvements, such as berms or raising the facility above flood levels. This includes areas subject to flooding by dam or levee failure and natural causes such as river flooding, flash floods, rainfall or snowmelt, tsunamis (tidal waves), seiches (earthquake-induced waves in lakes), and coastal flooding. A structural analysis or engineering design study must be provided which shows methods to prevent undulation or washout.
- iii. Residuals Repositories. Repositories are prohibited from locating in floodplain areas subject to 100 year flooding from natural causes or dam failure, even with protection, per Code of Federal Regulation (CFR), Title 40, Section 264.18(b) and California Administrative Code (CAC), Title 22, Section 66391(a)(11)(b).

b. Earthquakes.

All Facilities. Facilities must have a minimum 200 foot setback from active or recently active earthquake faults, per the California Administrative Code (CAC), Title 22, Section 6391(a)(f11)A(1) and (2). The required health and safety assessment will address earthquake safety of the facility.

c. Unstable Soils.

- i. Treatment, Recycling and Collection Facilities. Facilities are prohibited from locating in areas of potential rapid geologic change unless the facility and its containment structures have engineered design features to assure structural stability. This includes areas with unstable soils, steep slopes, and areas subject to liquefaction, subsidence, or other severe geologic constraints. The required health and safety assessment will include a geologic report defining any such constraints and engineered solutions.
- ii. Residual Repositories. Repositories are prohibited from locating in areas within 25 percent slope or greater or in areas subject to liquefaction or subsidence.

3. Protect Surface and Groundwater Quality.

a. Groundwater.

- i. All Facilities. Facilities shall be fully enclosed by containment structures of impermeable materials, which would contain any unauthorized release

of hazardous material. Facilities shall be equipped with leak detection and spill control and recovery capability.

- ii. Facilities are also encouraged to locate outside of areas where groundwater is within 20 feet of the natural land surface. Facilities may locate in these areas only with increased engineered design features such as horizontal and vertical containment and monitoring systems to ensure protection. Subsurface storage or treatment operation is prohibited.

b. Surface Water Quality.

All Facilities. Developers, Operators and Owners shall comply with the requirements of the Statewide General Stormwater Permits; the Municipal Regional Stormwater Permit and Alameda Countywide Clean Water Program requirements.

c. Wastewater.

All Facilities. Facilities operating wastewater should locate in areas with adequate industrial sewer capacity. The quality of wastewater must meet all federal, state, and local sewerage agency discharge requirements, and the facility must obtain a valid industrial wastewater discharge permit.

4. Protect Air Quality.

a. Air Quality Non-Attainment and PSD Areas.

All Facilities. Facilities may be sited in non-attainment and PSD (prevention of significant deterioration) areas only if they meet the requirements of the Bay Area Air Quality Management District. The required health and safety assessment will identify air emissions, impacts and mitigation associated with the facility.

5. Protect Environmentally Sensitive Areas.

a. Wetlands.

All Facilities. Facilities are prohibited from locating in wetlands, such as salt-water, fresh water and brackish marshes, swamps and bogs, as defined in local regional and state plans and policies (generally, areas inundated by surface water or groundwater with a frequency to support, under normal circumstances, a prevalence of vegetative or aquatic life, which requires saturated soil conditions for growth and reproduction).

b. Animal and Plant Habitats.

All Facilities. Facilities are prohibited from locating within critical habitats of endangered species, defined as areas known to be inhabited permanently or seasonally or known to be critical at any stage in the life cycle of any species of wildlife or vegetation identified or being considered for identification as “endangered” or “threatened” by the U.S. Department of Interior or the State of California.

c. Prime Agricultural Lands.

All Facilities. Facilities are prohibited from locating on prime agricultural lands, as defined in California law and local plans, unless an overriding public need is served and demonstrated.

d. Recreational, Cultural, and Aesthetic Resources.

i. Small-Scale Transfer and Storage Facilities. Low-volume transfer and storage facilities may locate in protected, recreational, cultural, or aesthetic resource areas, as defined by local, regional, state, or national plans or policies, only if necessary to handle hazardous wastes generated by workers, residents, or visitors in these areas.

ii. Industrial Facilities and Residuals Repositories. Facilities are prohibited from locating in protected recreational, cultural and aesthetic resource areas, as defined by local, regional, state, or national plans or policies.

e. Mineral Resource Areas.

All Facilities. Facilities are prohibited from locating on lands containing significant mineral deposits, as classified by local plans or California’s mineral land class maps and reports, if the extraction of the mineral deposit would be precluded.

6. Ensure Safe Transportation of Hazardous Waste.

a. Proximity to Waste Generation Areas.

i. Treatment, Recycling and Collection Facilities. Facilities shall locate in Light Industrial and General Industrial Districts at locations close to sources of hazardous waste generation to minimize the risks of transportation.

ii. Residuals Repositories. Repositories may be located more distant from waste generation sources than other facilities because of the need for large land areas.

b. Proximity and Access to Major Routes.

All Facilities. Facilities shall locate to minimize distance from major transportation routes. Facilities must have good access by roads designed to accommodate heavy vehicles. Travel routes from facilities to major transportation routes shall be on industrial streets, accessible to designated truck routes, not pass through residential neighborhoods, shall minimize residential frontages, and shall be demonstrated as safe with regard to road design and construction, accident rates, excessive traffic, etc. The required health and safety assessment will evaluate risks associated with transportation of hazardous wastes.

7. Protect the Social and Economic Goals of the Community.

a. Consistency with General Plan and Zoning.

All Facilities. Facilities must be consistent with local planning policies, including the City General Plan and zoning ordinance.

b. Fiscal Impact.

All Facilities. A facility's fiscal impact to the City, whether positive or negative, must be demonstrated.

c. Socioeconomic Impacts.

All Facilities. The City may require the facility developer to fund an independent study on socioeconomic impacts of the facility.

d. Proximity to Public Services.

All Facilities. Facilities shall be served by necessary public services, including but not necessarily limited to sewer, water, electricity, gas, and telephone. Potential adverse impacts which could occur because of proximity to public facilities shall be determined as a part of the risk assessment conducted in the permitting process. This should consider the physical and chemical characteristics of the wastes that will be handled and the design features of the facility. Proximity to other public facilities such as corporation yards, utilities, roads, and state school lands in remote areas may be acceptable. The response time from the nearest fire station shall also be considered.

e. Consistency with Alameda County Hazardous Waste Management Plan.

All Facilities. Facilities shall be consistent with the goals and policies of the Alameda County Hazardous Waste Management Plan, and must demonstrate compliance with the siting criteria established by this section. Facilities shall be consistent with the fair-share principal, and with any inter-jurisdictional agreements on hazardous waste management. Local needs are to be the primary basis for facility siting criteria decisions, along with regional commitments; facilities are to be designed and sized primarily to meet the hazardous waste management needs of Alameda County, or to meet the county's broader regional commitments under an inter-jurisdictional agreement.

G. Special Development Requirements.

1. General Conditions.

The City may impose conditions on the granting of a conditional use permit for a hazardous waste facility in order to achieve the purposes of this Chapter and the General Plan and to protect the health, safety and general welfare of the community.

2. Safety and Security.

- a. The owner or operator shall prevent the unknowing entry and minimize the possibility for the unauthorized entry of persons or livestock onto any portion of the facility.
- b. The operator shall provide a 24 hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel), which continuously monitors and controls entry onto the facility.
- c. An artificial or natural barrier (e.g., a wall or a wall combined with a landscaped berm) shall be constructed to completely surround the facility.
- d. All gates or other entrances into the facility shall be provided with adequate means to control entry at all times. Signs with the legend, "Danger - Hazardous Waste Area - Unauthorized Personnel Keep Out," shall be posted at each entrance to the facility and at other locations in sufficient numbers to be seen from any approach. The legend shall be written in English, Spanish, and any language predominant in the area surrounding the facility and shall be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and that entry onto the active portion can be dangerous.

3. Contingency Plan.

- a. The hazardous waste facility is required to have a contingency plan designed to minimize hazards to human health and the environment from fires, explosions, or unplanned release of hazardous waste to air, soil, or surface water. The plan shall be carried out immediately whenever a fire, explosion, or unplanned release occurs.
- b. The contingency plan shall include:
  - i. The actions employees must take in response to a fire, explosion, or unplanned release of hazardous waste.
  - ii. Arrangements agreed to by local emergency response officials.
  - iii. The names, addresses, and telephone numbers (office and home) of all persons qualified to act as emergency coordinator. [If more than one name is listed, the order in which they may assume authority shall be given, with one person designated as primary coordinator.] The emergency coordinator shall be available to respond to all emergency response measures. The emergency coordinator shall be familiar with all aspects of the contingency plan, all operations and activities of the facility, the location and characteristics of wastes handled, and general facility layout. The emergency coordinator shall have the authority to commit the resources needed to carry out the contingency plan.
  - iv. A listing of all emergency equipment at the facility, including its location and an outline of its capabilities.
  - v. An evacuation plan for employees where evacuation may be necessary, including signals used to begin evacuation, primary evacuation routes, and alternate routes.
- c. Facility emergency coordinator responsibilities shall be identified in the contingency plan to include, at minimum, the following:
  - i. In the event of a fire, explosion, or release of any hazardous material, the emergency coordinator shall immediately activate facility alarms to notify employees and shall contact appropriate state or local emergency response agencies.
  - ii. In the event of a fire, explosion, or release of any hazardous material, the emergency coordinator shall immediately identify the character, exact source, amount, and aerial extent of any released materials. Concurrently, the emergency coordinator shall assess possible hazards, both direct and indirect, to human health or the environment that may result from the emergency.

- iii. If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health and the environment outside the facility, the emergency coordinator shall report his or her findings as per the following Subsections 4 and 5.
- iv. If evacuation is necessary, local officials shall be so notified.
- v. The emergency coordinator shall in every situation notify the State Office of Emergency Services and the Alameda County Fire Department, providing the following information:
  - (a) Name and telephone of person reporting;
  - (b) Name and address of facility;
  - (c) Time and type of incident;
  - (d) Name and quantity of material(s) involved;
  - (e) Extent of injuries; and
  - (f) Possible hazard to human health and the environment outside facility.
- vi. During the emergency, the emergency coordinator shall take all reasonable measures to ensure that fires, explosions, and releases do not occur or spread, including such measures as:
  - (a) Stopping operations;
  - (b) Collecting and containing released waste; and
  - (c) Removing or isolating containers.
- vii. If the facility stops operations during an emergency, the emergency coordinator shall monitor for leaks, pressure build-up, gas generation, or ruptures in valves, pipes or other equipment as appropriate.
- viii. Immediately after an emergency, the emergency coordinator shall provide for treating, storing or disposing of recovered waste, contaminated soil or surface water, or any other material resulting from a release, fire, or explosion.

- ix. Other activities required of the emergency coordinator after an emergency are:
  - (a) No wastes incompatible with the released material is handled until cleanup is completed; and
  - (b) Emergency equipment is cleaned and ready for use before operations are resumed.
- d. Owner/operator responsibilities shall be identified in the contingency plan to include, at minimum, the following:
  - i. Notify the State Department of Health Services and appropriate state and local authorities that the above requirements have been met before operations are resumed in the affected area.
  - ii. Record the time, date and details of any incident, which requires implementing the contingency plan.
  - iii. Within 15 days, submit a written report on the incident to the State Department of Health Services. The report shall include:
    - (a) Name, address and telephone number of owner/operator;
    - (b) Name, address and telephone number of the facility;
    - (c) Date, time, and type of incident;
    - (d) Name and quantity of materials involved;
    - (e) Extent of injuries;
    - (f) Assessment of actual or potential hazards to human health or the environment, where applicable; and
    - (g) An estimate of the quantity of material recovered and its disposition.
  - iv. A copy of the contingency plan shall be maintained at the facility. A copy shall be sent to City of San Leandro Hazardous Materials Division, surrounding hospitals, Alameda County Health Care Agency, and other regulatory agencies as deemed appropriate.
  - v. The contingency plan shall be reviewed and amended when any of the following occur:



- (a) The facility permit is revised.
- (b) Applicable regulations are revised.
- (c) The plan fails in an emergency.
- (d) Operations at the facility change in a way that materially increases the potential of fire, explosion, or unplanned release of hazardous waste.
- (e) The list of emergency coordinators changes.
- (f) The list of emergency equipment changes.

4. Monitoring.

- a. Upon reasonable notice, the City, their designated representatives of other agencies, may enter a parcel on which a conditional use permit for a hazardous waste facility has been granted for the purpose of monitoring the operation of the facility.
- b. All structures shall remain accessible for inspection purposes.

5. Closure Plan.

The owner or operator of a hazardous waste management facility shall submit a written closure plan. A copy of the approved plan and all revisions to the plan shall be kept at the facility until closure is completed. The plan shall identify steps necessary to completely or partially close the facility at the end of its intended operating life. The closure plan shall include at least:

- a. A description of how and when the facility will be partially closed, if applicable, and finally closed. The description shall identify the maximum extent of the operation that will be open during the life of the facility.
- b. An estimate of the maximum inventory of wastes in storage and in treatment at any time during the life of the facility.
- c. A description of the steps needed to decontaminate facility equipment during closure.
- d. An estimate of the expected year of closure and a schedule for final closure. The schedule shall include, at a minimum, the initial time required to close the facility and the time required for intervening closure activities, which will allow tracking of the progress of closure.

The owner or operator may amend his or her closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically received.) The owner or operator shall amend the plan whenever changes in operating plans or facility design affect the closure plan or whenever there is a change in the expected year of closure. When the owner or operator requests a permit modification to authorize a change in operating plans or facility design, a modification of the closure plan shall be requested at the same time.

- e. The plan shall clearly indicate an effective and ongoing use for the facility after closure. The plan will identify how the subject property will be used after the anticipated life of the project, the nature and type of reclamation, provisions for maintenance of the project, and, finally, the requirements for long-term monitoring of the reclaimed area to ensure no hazardous materials are leaking from the site.
- f. The plan shall indicate financial arrangements (irrevocable trust or other form of security arrangement) for the purpose of providing funds for the closure of its site and its long-term, post-closure monitoring maintenance, per Subsection H.3 below.

#### H. Financial Responsibility.

The owner/operator shall show proof of liability insurance as follows:

1. The types, amounts, periods of coverage, and provisions for periodic review as to adequacy of coverage shall be specified in the conditions of approval. Required insurance shall include, but not be limited to: general liability insurance, automotive liability insurance, environmental impairment liability insurance, and architect's and engineer's professional liability insurance.

All such insurance shall name the City as an additional insured and shall be maintained for the life of the site and such additional periods as shall be specified in the conditions of approval.

2. Additionally, coverage will be provided for workers compensation insurance and such other insurance as may be required. Said insurance will name the City as either additional insured or as an additional loss payee. Certificates of insurance will be submitted to the City annually.
3. An irrevocable trust will be established to provide funds for closure of the site and its long-term post-closure and monitoring and maintenance. Funds for this trust would be provided by the owner/operator of the facility quarterly, based on quantity and types of percentage of gross income. The terms of the trust would be as

agreed upon by the project owner/operator and the City. The terms will be reviewed annually in regards to the amount of funds in the trust and anticipated closure monitoring and maintenance costs. Applicants shall provide a bond in an amount to be determined by the City for purposes of closure of the site.

4. The owner/operator shall defend, indemnify, and hold harmless the City, its officers, agents, servants, and employees, from all claims, actions, or liabilities arising out of the issuance of this permit, operations at the facility, and transportation of wastes to and from the facility.

I. Local Assessment Committee (LAC).

1. Pursuant to Section 25199.7 (d) of the State Health and Safety Code, the City Council shall appoint a seven member Local Assessment Committee (LAC). The membership, responsibilities, and duties shall be consistent with the provisions of Section 25199.7 of the State Health and Safety Code. The LAC shall cease to exist after the final administrative action has been taken by the state and local agencies on the permit applications for the project for which the LAC was formed.
2. The City Council shall provide staff resources to assist the LAC in performing its duties. (Requirement of Section 25199.7(d)(3) of the California Health and Safety Code.)
3. If the LAC and the applicant cannot resolve any differences through the meetings specified by state law, Office of Permit Assistance (OPA) may assist in this resolution pursuant to Section 25199.4 of the California Health and Safety Code. (Requirement of Section 25199.7(h) of the California Health and Safety Code.)

J. Hearings and Notice.

Hearings and public notices shall be consistent with the applicable requirements of Article 8.7 of the State Health and Safety Code and Chapter 5.08 Use Permits, Variances, and Parking Exceptions, of the City of San Leandro Zoning Ordinance.

K. Findings.

In order for the Board of Zoning Adjustments to approve a hazardous waste facility application, the Board must act on this application prior to approving a conditional use permit for a hazardous waste facility. The Board of Zoning Adjustments shall find that:

1. The project is consistent with the City's General Plan and zoning ordinance.
2. The project is not detrimental to the public health, safety or general welfare of the community.

3. The project site is or will be adequately served by roads and other public or private service facilities.
4. The project is consistent with the regional fair-share facility needs assessment and siting policies established in the Alameda County Hazardous Waste Management Plan.
5. The project complies with the facility siting criteria per Subsection F of this section.

L. Appeal.

An applicant or an interested person may file an appeal of a land-use decision made by the City to the Governor's Appeal Board within thirty (30) days after the date the City takes final action on the land-use decision pursuant to California Health and Safety Code Section 25199.9. Procedures for filing an appeal are outlined in Section 25199.14 of the California Health and Safety Code.

M. Time Limits.

1. A conditional use permit granted for an off-site hazardous waste facility shall be exercised within two years from the effective date thereof, or within such additional time as may be set in the conditions of approval, which shall not exceed a total of seven years; otherwise, the permit shall be null and void. The term "exercised" shall mean the beginning of substantial construction of the use that is authorized, which construction must thereafter be pursued diligently to completion.
2. Permit review and renewal shall be determined at the time of approval and shall not exceed five years.

N. Household Hazardous Waste Collection Facilities.

Household hazardous waste collection facilities which meets the requirements of Article 10.8 of the State Health and Safety Code shall meet the requirements of this section provided that the Community Development Director may exempt informational or analysis requirements of Subsections D, F, and G where the data are determined to be nonessential for the approval of the permit.

O. Conflicts with Industrial Zone Standards.

Where conflicts in standards and requirements may exist between this section and Chapter 2.12 I Industrial Districts, the provisions of this section shall take precedence.

P. Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this ordinance shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this ordinance which are hereby declared as several and shall be interpreted to carry out the intent hereunder. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **4.04.376 Wireless Telecommunications Facilities**

- A. Title, Purpose and Applicability. The provisions of this section shall be known as the Wireless Telecommunications Facilities regulations. The purpose and intent of these regulations are to provide a uniform and comprehensive set of standards for the development, location, siting, design and installation of wireless telecommunications facilities. These regulations are intended to balance the needs of the wireless communications providers, the regulatory functions of the City of San Leandro, the mandates of State and Federal law and the potential impacts on the community and neighboring property owners in the design and siting of wireless facilities. The regulations are designed to promote and protect the public health, safety, and welfare and visual quality of the City of San Leandro while encouraging the appropriate development of telecommunications activities and site sharing throughout the City. These regulations shall apply to telecommunications projects.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated, as they relate to wireless telecommunications facilities:
1. “Alternative tower structure” shall mean stealth facilities like freestanding support structures, man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers so that the purpose of the freestanding facility or structure is not readily apparent to the casual observer.
  2. “Antenna” shall mean any communications equipment that transmits and receives radio-frequency signals used in the provision of all types of wireless telecommunications services.
  3. “Architecturally-integrated” shall mean that the wireless telecommunications facility is designed to closely blend into the surrounding environment and to be minimally visible to the casual observer (i.e., stealth). Antennas and related equipment are either not readily visible beyond the property on which it is located, or if visible, appear to be part of the existing building or environment rather than a wireless facility. The wireless facility may be incorporated into a building’s architectural features, such as a steeple, parapet wall, clock tower, flagpole, cupola, chimney, vent pipe or light standard or be screened by an equipment screen or other equally suitable method. It may include alternative tower structures, such as freestanding flagpoles, treepoles, windmills, signs and similar support structures that conceal

the presence of a wireless facility within that structure. Related equipment shall be designed to match the architecture of adjacent buildings and/or be screened from public view by walls, fences, parapets, landscaping, and similar treatments.

4. "Base station" shall mean the equipment and non-tower supporting structure or enclosure at a fixed location that enables licensed or authorized wireless telecommunications between user equipment and a communications network, including, but not limited to, an antenna, transceiver, coaxial cable, power supply and other associated equipment.
5. "Co-location" shall mean the location of two or more wireless telecommunications facilities on a single existing, previously-approved tower, building, or other support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. Co-locations that do not substantially change the physical dimensions of the existing support structure as defined herein and by Section 6409(a) of the Middle Class Tax Relief and Jobs Creation Act of 2012 may be processed through an eligible facilities request to the Community Development Department.
6. "Eligible facilities request" shall mean any request for the modification of an existing wireless tower or base station that involves: (a) co-location of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. Such a request to the Community Development Department shall show the baseline height and width of the existing facility in relation to the proposed changes to demonstrate that the proposed changes do not result in a substantial modification to the physical dimensions of the existing support structure (i.e., a maximum increase of 10 percent surface area in antennas and related equipment).
7. "FAA" shall mean the Federal Aviation Administration.
8. "FCC" shall mean the Federal Communications Commission.
9. "Governing authority" shall mean the City Council of the City of San Leandro.
10. "Ground-mounted facility" shall mean a wireless telecommunications facility consisting of one or more poles or posts mounted on the ground that are used to support antennas. Any ground-mounted facility that is over 15 feet in height shall be considered a monopole.
11. "Height" shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

12. “Maintenance” shall mean the following: (a) scheduled preventive inspections and activities per manufacturer’s instructions or regulatory requirements; (b) corrective maintenance including modification to existing equipment to repair physical damage or correct internal faults; (c) minor repositioning or changes in internal components to improve performance or energy efficiency or increase power output; and (d) other changes to the existing equipment that does not substantially change its physical appearance.
13. “Minor modification” shall mean a change to an existing wireless telecommunications facility, whether emergency or routine, provided there is little or no change in the visual appearance (i.e., a maximum increase of 10 percent surface area in antennas and related equipment) and does not constitute a substantial modification, as defined herein (see Subsection B.16 Substantial modification). Minor modifications are those modifications to conforming wireless telecommunications facilities that meet the performance standards set forth in these regulations.
14. “Monopole” shall mean a single, freestanding pole, treepole, flagpole, post, tower or alternative tower structure over 15 feet in height that is used to support equipment associated with a wireless telecommunications facility.
15. “Pre-existing wireless telecommunications facility” shall mean any wireless telecommunications facility for which a permit has been properly issued prior to the effective date of this section and shall not be required to meet the requirements of this section, other than the requirements of Subsection C.4 Exclusions: Pre-Existing Wireless Telecommunications Facility. Any such facility shall be referred to in this section as “pre-existing wireless telecommunications facility.”
16. “Substantial modification” shall mean substantially changing the physical dimensions of a tower or base station on an existing wireless telecommunications facility, such that it meets one or more of the following criteria:
  - a. Height. Increases the existing vertical height by more than 10 percent for towers other than towers in the public right-of-way or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas.  
  
For other, eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater.
  - b. Width. Involves adding an appurtenance to the silhouette of a tower for towers other than towers in the public right-of-way that would protrude horizontally from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, as seen

from an elevation perspective, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable.

For other, eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet.

- c. Equipment Cabinets. Involves the installation of more than the standard number of new equipment cabinets necessary for the technology involved, not to exceed four cabinets; or for towers and base stations in the public right-of-way, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure.
  - d. Excavation/Deployment Beyond Site. Involves any excavation or deployment outside the current site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site; and for other, eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
17. “Tower” shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more wireless telecommunications facilities, including self-supporting lattice towers, guy towers, utility poles, treepoles, monopoles, alternative tower structures, or architecturally-integrated facilities. The term includes, but is not limited to, radio and television transmission towers, microwave towers, and certain co-locations not otherwise governed by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.
18. “Wireless telecommunications facility” shall mean a commercial facility that is licensed by the FCC to transmit and/or receive electromagnetic or radio-frequency waves, including, but not limited to, towers, existing tower structures, monopoles, utility poles, alternative tower structures, co-locations, architecturally-integrated facilities, antennas, and distributed antenna systems. It includes all related equipment which is ancillary to the transmission and reception of a wireless telecommunications facility, including, but not limited to, coaxial cable, electrical and telco conduit and connectors, electrical meters, equipment cabinets, and equipment compounds and shelters. Amateur radio operators are not included in this definition.

C. Exclusions. The following activities shall be exempt from these regulations:



1. District Height Limitations. The requirements set forth in this section shall govern the location of wireless telecommunications facilities that exceed and that are installed at a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to wireless telecommunications facilities.
  2. Public Property. Wireless telecommunications facilities located on property owned, leased or otherwise controlled by the City or by any other government-operated public safety network shall be exempt from the requirements of this section, provided a license or lease authorizing such facility has been approved by the City.
  3. Amateur Radio: Receive-Only Antennas. This section shall not govern any tower, or the installation of any antenna, that is less than 10 feet in height above the district height limit and is owned and operated by a federally-licensed amateur (“ham”) radio station operator or is used exclusively for receive-only antennas.
  4. Pre-Existing Wireless Telecommunications Facility. Any wireless telecommunications facility for which a permit has been properly issued prior to the effective date of this section shall not be required to meet the requirements of this section, other than the requirements of Subsection F. Any such facilities shall be referred to in this section as “pre-existing wireless telecommunications facilities.” Any nonconforming facilities may continue to be operated, repaired, and maintained but shall not be enlarged, expanded, relocated, or modified in any material manner, as determined within the reasonable discretion of the Community Development Department.
  5. Satellite Antenna. This section shall not apply to any satellite antenna placed in residential zones that is one meter or less in diameter nor to any other satellite antenna located in any other zone that is two meters or less in diameter.
  6. Exempted by State and/or Federal Regulations. The Community Development Department may grant an exception to any requirement of this section upon making findings that: (a) strict compliance precludes the reasonable accommodation of the communication needs of the operator as set forth in State and/or Federal rules and regulations; (b) there are no other feasible alternatives; and (c) either State or Federal rules and regulations requires the Department to issue the exception or that the exception will serve the public interest despite conflict with the mandatory standards herein.
- D. Restrictions. The following restrictions shall apply to wireless telecommunications facilities:

1. No new unscreened wireless telecommunications facility shall be permitted 300 feet or less away from any residential property line or residential zoning district boundary.
- E. General Guidelines and Requirements. All wireless telecommunications facilities must comply with the following except when impractical or technologically infeasible. The burden shall be on the applicant to provide evidence as part of the application showing why and how complying with these standards would be impractical or technologically infeasible.
1. Principal or Accessory Use. Wireless telecommunications facilities may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a wireless telecommunications facility on such lot. For purposes of determining whether the installation of a wireless telecommunications facility complies with zoning district development regulations, including, but not limited to, set-back requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the wireless telecommunications facility may be located on leased parcels within such lots.
  2. Co-Location. All new wireless telecommunications facilities shall co-locate with other existing or with planned new wireless telecommunications facilities whenever feasible and when doing so will minimize potential visual impacts. Co-locations shall be processed in accordance with the prevailing State and/or Federal rules and regulations.
- F. Specific Design Criteria. The following design standards shall govern the siting, design and location of all wireless telecommunications facilities; provided, however, that the Board of Zoning Adjustments may waive these requirements if it determines that the goals of this section are better served thereby.
1. Freestanding Towers and Ground-Mounted Facilities.
    - a. Freestanding towers and ground-mounted wireless telecommunications facilities shall either maintain a galvanized steel finish or be painted a neutral color, as determined by the City, so as to reduce visual impacts and blend into the landscape or visual backdrop against which they will be seen to the greatest extent possible, unless otherwise required by the FAA.
    - b. Freestanding and ground-mounted wireless telecommunications facilities shall incorporate camouflaging techniques, such as alternative tower structures, wherever feasible and shall be located in areas where existing topography, vegetation, buildings or other structures provide the greatest amount of screening to minimize visual impacts.

- c. Alternative tower structures, such as treepoles shall incorporate enough architectural branches (including density, needle count and vertical height), three (3) dimensional bark cladding, and other design materials or appropriate techniques to cause the structure to appear as a natural element of the environment. Treepoles shall be integrated into the surrounding environment through the planting of trees and/or shrubs distributed around the entire facility to appear as a naturally occurring or integrated landscape element.
- d. Alternative tower structures, such as flag poles shall be tapered to maintain the appearance of an actual flag pole. A flag shall be flown from the wireless facility and properly lighted and maintained at all times, in accordance with the U.S. Flag Code.
- e. Freestanding towers and ground-mounted facility sites shall incorporate ancillary buildings and equipment, such as equipment shelters that, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and built environment.
- f. Freestanding towers and ground-mounted facilities shall not be artificially lighted, unless required by the FAA or other applicable authority or unless they contain a U.S. Flag. If lighting is required, the Zoning Enforcement Official may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Any exterior lighting shall be manually operated or on an automatic timer and used only during night, during periods of maintenance or during an emergency situation, unless otherwise required by applicable Federal law. Lighting shall be shielded or directed to minimize glare as viewed from off-site locations.
- g. Freestanding towers and alternative tower structures shall incorporate coaxial cable and electrical and telco conduits inside the pole structure and underground, whenever feasible.

2. Building-Mounted Facilities.

- a. Building-mounted wireless telecommunications facilities shall be architecturally-integrated into the building design and otherwise made as unobtrusive as possible, whenever feasible. Antennas shall be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Where feasible, antennas can be placed directly above, below or incorporated with the vertical design elements of a building and painted to match the background color of the building to help in camouflaging the facility. (See Subsection B.3: Definitions: Architecturally-Integrated.)
- b. Building-mounted designs shall ensure that the antenna(s) and ancillary equipment, such as cable trays and coaxial cables and electrical and telco

conduits are located within existing building walls, whenever feasible, or inside cable trays painted a color that is identical to, or closely compatible with, the background color of the supporting building or structure so as to make them as visually unobtrusive as possible. All ancillary equipment shall be sited and designed to appear as an integral part of the building or structure. (See Sub-section B.3: Definitions: Architecturally-Integrated.)

- c. Building-mounted and roof-mounted wireless telecommunications facilities, including any screening devices, may not exceed a height of 15 feet above the roof or parapet, whichever is higher, of the building on which it is mounted unless approved through a Conditional Use Permit.
- d. Building-mounted and roof-mounted wireless telecommunications facilities located on the façade of the building parapet or rooftop penthouse shall be painted and/or textured to match the background color of the existing structure. Façade-mounted or flush-mounted wireless telecommunications facilities shall not extend more than 24 inches out from the building face. If a building-mounted wireless telecommunications facility is mounted flush against a building wall, the color and material of the antenna and other equipment shall match the exterior of the building. If there is a discernible gap between the antenna and the façade, the antenna shall be screened so as to hide the gap.
- e. Roof-mounted antennas and associated equipment shall maintain a 1:1 ratio (i.e., a 10 foot high antenna requires a 10 foot setback from façade; a six foot high cabinet requires a six foot setback from façade) and shall be located as far back from the edge of the roof as is technically feasible in order to minimize visibility from residences, public rights-of-way and significant view corridors. Where appropriate, construction of a rooftop parapet or wall to hide the antenna or equipment may be required to minimize visual impacts. Roof-mounted facilities shall also be screened from above, if visible from adjacent properties.
- f. Building-mounted facilities and support structures may not be illuminated unless specifically required by the FAA or other governmental agencies.

### 3. Equipment.

- a. The ancillary equipment, associated with the base station, such as equipment cabinets, shelters and compounds, for all wireless telecommunications facilities shall use materials, colors and textures, screening, and landscaping that will blend the equipment into the natural setting and built environment as much as possible.
- b. Related equipment for co-located wireless telecommunications facilities shall be located within an existing equipment enclosure or compound, whenever

feasible, or located as close to the existing equipment enclosure or compound as possible and shall match the materials, color, and texture of the existing enclosure as much as possible.

4. Noise. Wireless telecommunications facilities operating in excess of the maximum sound levels permitted by the City's Noise Ordinance shall be enclosed to achieve compliance with the Noise Ordinance. Back-up generators or similar equipment that operates only during power outages or other emergencies are exempt from this requirement. Testing of such back-up generators or similar equipment may only occur during standard daytime hours.
5. Dimensions. Wireless telecommunications facilities shall be no greater in diameter or any other cross-sectional dimension than is reasonably necessary for the proper functioning and physical support of the facility and future co-location of additional wireless telecommunications facilities.
6. Security Fencing. Freestanding wireless telecommunications facilities and alternative tower structures shall be enclosed by security fencing not less than six feet in height. Such facilities shall also be equipped with an appropriate anti-climbing device, provided however, that the Zoning Enforcement Official may waive such requirements, as appropriate. Chain-link fencing material is only permitted in association with a wireless telecommunications facility in an industrial zone where the fence is not visible from the public right-of-way or adjacent non-industrial zone. Preferred fencing materials shall consist of wood, tubular steel or other architecturally-appropriate fencing material.
7. Landscaping. Facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the facility from adjacent off-site properties. Wireless telecommunications facilities adjacent to residential uses shall incorporate landscaping that will maximize screening of the site from those residences. The standard buffer shall consist of a landscaped strip at least five feet wide outside the perimeter of the facility to provide a visual buffer of any ground-mounted ancillary equipment. These requirements may be waived by the Zoning Enforcement Official if the goals of this section would be better served thereby. Consideration shall also be given to the fact that vegetation can impede radio-frequency signals.
8. Signage. All wireless telecommunications facilities shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. No signs, flags, banners, or any form of advertising shall be attached to a wireless telecommunications facility except for government-required certifications, warnings, or other required seals or signs.
9. Federal and State Requirements. All wireless telecommunications facilities must meet or exceed current standards and regulations of the FAA, the FCC, the California Public Utilities Commission and any other agency of the Federal or State

government with the authority to regulate wireless telecommunications facilities. If such standards and regulations are changed, then the owners of the wireless telecommunications facilities governed by this section shall bring such wireless telecommunications facilities into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling Federal or State agency. Failure to bring wireless telecommunications facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the wireless telecommunications facilities at the owner's expense.

**Table 1. Table Summarizing the Review Process for a Wireless Telecommunications Facility based on the Zoning District**

Zoning Districts	New Monopoles and Towers	Architecturally-Integrated Antennas	Co-Locations & Modifications to Existing Tower Structures*
<b>R Residential Districts</b>			
RD Residential Duplex	NP	AR	AR
RM Residential Multi-Family	NP	AR	AR
RO Residential Outer	NP	AR	AR
RS Residential Single-Family	NP	AR	AR
<b>Commercial and Professional Districts</b>			
CC Community Commercial	CUP	P	P
CN Community Neighborhood	CUP	AR	AR
CR Community Recreation	CUP	P	P
C-RM Community Regional Mall	CUP	P	P
CS Community Services	CUP	P	P
DA-1 Downtown Area 1	CUP	AR	AR
DA-2 Downtown Area 2	CUP	AR	AR
DA-3 Downtown Area 3	NP	AR	AR
DA-4 Downtown Area 4	NP	AR	AR
DA-6 Downtown Area 6	NP	AR	AR
NA-1 North Area 1	CUP	AR	AR
NA-2 North Area 2	CUP	AR	AR
P Professional	CUP	AR	AR
SA-1 South Area 1	CUP	AR	AR
SA-2 South Area 2	NP	AR	AR
SA-3 South Area 3	CUP	AR	AR
<b>I Industrial Districts</b>			
IG Industrial General	AR	P	P
IG(AU) District	AR	P	P
IL Industrial Limited	AR	P	P
IL(AU) District	AR	P	P

Zoning Districts	New Monopoles and Towers	Architecturally-Integrated Antennas	Co-Locations & Modifications to Existing Tower Structures*
IP Industrial Park	AR	P	P
IP(AU) District	AR	P	P
IT Industrial Transition	AR	P	P
<b>OS Open Space District and PS Public and Semipublic District</b>			
OS Open Space	CUP	AR	AR
PS Public & Semipublic	CUP	AR	AR

Table abbreviations: P-Permitted, AR-Administrative Review, NP-Not Permitted, CUP-Conditional Use Permit.

\* Co-locations that meet the standards set forth by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act may submit an eligible facilities request to Community Development.

G. Permitted Uses. The wireless telecommunications facilities listed as “P” in Table 1 are deemed to be permitted uses in certain zoning districts, such as the CC, CS, CR, C-RM, IL, IL(AU), IG, IG(AU), IP, and IP(AU) Districts. These permitted wireless telecommunications facilities are to be architecturally-integrated or co-located on an existing tower or other support structure. Permitted uses shall not require discretionary review unless the applicant seeks a modification of the basic development standards set forth herein. Permitted uses shall comply with the general requirements of Subsection F, “Specific Design Criteria” as well as building permit requirements.

H. Administrative Review Applications. The wireless telecommunications facilities listed as “AR” in Table 1 are deemed to be allowable uses with an Administrative Review approval in certain zoning districts. New monopoles and towers are allowable uses in the IG, IG(AU), IL, IL(AU), IP, IP(AU), and IT Districts with an Administrative Review approval. Architecturally-integrated facilities are allowed in the RD, RO, RM, RS, CN, DA-1, DA-2, DA-3, DA-4, DA-6, P, NA-1, NA-2, SA-1, SA-2, SA-3, OS and PS Districts. Co-locations not otherwise governed by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 are allowed in the RD, RM, RO, RS, CN, DA-1, DA-2, DA-3, DA-4, DA-6, NA-1, NA-2, P, SA-1, SA-2, SA-3, OS and PS Districts. Administrative Review applications shall be reviewed and approved by the Zoning Enforcement Official, unless the Zoning Enforcement Official defers action to the Board of Zoning Adjustments. Administrative Review approvals shall comply with the general requirements of Subsection F: Specific Design Criteria, as well as building permit requirements.

1. The Planning Division shall respond to each Administrative Review application within 30 days after deeming the application complete by either approving or denying the application. If the Planning Division fails to notify the applicant in writing within 30 days of application submittal, then the application shall be deemed to be approved.

2. If an Administrative Review application is denied by the Zoning Enforcement Official, the applicant may appeal said denial to the Board of Zoning Adjustments.
  3. A decision by the Board of Zoning Adjustments may be appealed to the City Council pursuant to the requirements of Chapter 5.20 Appeals of the Zoning Code.
- I. Conditional Use Permit Applications. The wireless telecommunications facilities listed as “CUP” in Table 1 are deemed to be allowed by a Conditional Use Permit approval in certain zoning districts. New monopoles and towers are allowed with a Conditional Use Permit in the CC, CN, CR, C-RM, CS, DA-1, DA-2, NA-1, NA-2, P, SA-1, SA-3, OS and PS Districts. Conditional Use Permits shall be reviewed and approved by the Board of Zoning Adjustments. Conditional Uses shall comply with the general requirements of Subsection F: Specific Design Criteria, Subsections J.11 to J.13, as well as building permit requirements.
1. The Planning Division shall respond to each Conditional Use Permit application in writing within 30 days after deeming the application complete. If the Planning Division fails to respond to the applicant within 30 days, then the application shall be deemed to be approved.
  2. If a Conditional Use Permit application is denied by the Board of Zoning Adjustments, it may be appealed to the City Council.
- J. Application Requirements. Each applicant requesting an Administrative Review under this section shall submit the following:
1. A scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, tower dimensions of antennas, ancillary equipment and antenna support structures, setbacks, ingress and egress, parking, fencing, landscaping, adjacent uses, and other information deemed by the Planning Division or Board of Zoning Adjustments to be necessary to assess compliance with this section.
  2. A completed planning application.
  3. A signed letter of authorization from the underlying property owner.
  4. Photo-simulations of the proposed facility that identifies potential visual impacts. Consideration should be given to views from nearby residential areas, public rights-of-way, parks and open space, and other public viewshed areas.



5. Manufacturer's specification sheets for the proposed antennas and ancillary equipment.
6. Photographs of the existing site conditions, as well as the surrounding land uses.
7. A copy of the carrier's current FCC license.
8. A stamped and signed radio-frequency report prepared by a qualified engineer.
9. A written description of the proposed project, including a description of the type of proposed installation and the location and dimensions of the proposed antennas, antenna support structures, and all ancillary equipment.
10. For treepoles, provide bark cladding and branch with leaf/needle samples for review and selection.

In addition to the requirements listed above, each applicant submitting a Conditional Use Permit application under this section shall submit the following additional application materials:

11. A five year master plan, drawn to a reasonable scale, for all of the applicant's existing, planned or reasonably anticipated wireless telecommunications facility locations within the jurisdiction of the City or within one-quarter mile of the border thereof, indicating the service area covered by each such facility and including specific information about the location, height, and design of each facility.
12. An alternatives analysis that demonstrates what other sites were considered by the carrier within the coverage area.
13. Radio-Frequency Emissions. Within 30 calendar days of activation of the facility, the applicant shall submit a Radio-Frequency Compliance Report demonstrating that the facility meets the FCC standards for radio-frequency emissions. This report is required in order to verify compliance with prevailing standards for public exposure and will be prepared by a qualified engineer. Such documentation shall include the following:
  - a. The make and model (or other identifying information) of the equipment tested;
  - b. The date and time of the inspection and the methodology used to make the determination;
  - c. The name and title of the person(s) conducting the tests, and a certification that the unit is properly installed and working within applicable FCC standards;

- d. Documentation indicating that cumulative levels of radio-frequency emissions from the wireless telecommunications facility and all co-located wireless telecommunications facilities are in compliance with FCC standards, including, but not limited to, FCC Office of Engineering Technology Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radio-frequency Electromagnetic Fields, as amended;
  - e. If the documentation demonstrates that the cumulative levels of radio-frequency emissions exceed or may exceed FCC standards, the Zoning Enforcement Official may require the applicant to modify the location or design of the wireless telecommunications facility and/or implement other mitigation measures to ensure compliance with FCC standards. The Zoning Enforcement Official may require additional independent technical evaluation of the wireless telecommunications facility, at the applicant's sole expense, to ensure compliance with FCC standards.
- K. Factors Considered in Evaluating Applications. The City shall consider the following factors in determining whether to approve an application although the City may waive or reduce the burden on the applicant of one or more of these criteria if the City concludes that the goals of this Ordinance are better served thereby, or if the submittal is eligible under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.
- 1. Height of the proposed wireless telecommunications facility.
  - 2. Proximity of the facility to residential structures, residential property lines, residential district boundaries, and elementary schools.
  - 3. Visual and other potential impacts to surrounding land uses.
  - 4. Surrounding topography.
  - 5. Surrounding tree coverage and foliage.
  - 6. Design of the facility with particular reference to design characteristics that have the effect of reducing or eliminating visual impacts.
  - 7. Existing and proposed parking, as well as site ingress and egress.
  - 8. Availability of suitable existing towers, buildings and structures that would provide site sharing and co-location opportunities in the project vicinity.
- L. Availability of Suitable Co-Locations. No new monopole or tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no

existing or planned tower, alternative tower structure, building or structure can accommodate the applicant's proposed antenna(s). Evidence submitted to demonstrate that no existing tower, alternative tower structure, building, or structure can accommodate the applicant's proposed antenna shall include, but not be limited to, the following:

1. No existing towers, alternative tower support structures, building-mounted or roof-mounted, or architecturally-integrated wireless telecommunications facilities or structures are located within the geographic area required to meet applicant's coverage objectives.
  2. Existing wireless telecommunications facilities are not of sufficient height to meet applicant's coverage objectives.
  3. Existing wireless telecommunications facilities do not have sufficient structural strength to support applicant's proposed antenna(s) and related equipment. The City may, at its discretion, require the applicant to submit a structural report prepared by a qualified engineer as verification.
  4. The applicant's proposed wireless telecommunications facility would cause radio-frequency interference with an existing facility, or the existing facility would cause interference with the applicant's proposed wireless telecommunications facility.
  5. The applicant demonstrates that there are other limiting factors that render existing wireless telecommunications facilities unsuitable.
- M. Discontinued Facilities and Removal of Abandoned Antennas and Towers. Any wireless telecommunications facility that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such facility shall remove same, and restore the site to its pre-installation condition, within 90 days of receipt of notice from the Community Development Department Director notifying the owner of such abandonment. The notice shall specify that the owner has the opportunity to request a public hearing on the removal of the facility. If such facility is not removed within said 90 days, the Community Development Director may remove such facility at the owner's expense. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

Any wireless telecommunications facility shall be removed within 30 calendar days of the discontinuation of the use and shall be restored to its previous condition. The service provider shall provide the Community Development Department with a notice of intent to vacate the site a minimum of 30 calendar days prior to vacation and shall obtain building permits prior to removal of equipment. For facilities located on City property, this requirement shall be included in the terms of the lease. For facilities located on other sites, the property owner shall be responsible for removal of all antennas, structures and related equipment within 30 calendar days of the discontinuation of use. (Ord. 2016-012 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **4.04.380 Community Gardens**

- A. Intent. The purpose of this section is to establish uniform standards, land-use regulations and a permit process for controlling the location, design, and maintenance of Community Gardens.
- B. Site Criteria and Permitting Requirements. The following siting criteria has been established for use by community garden project proponents in locating and designing suitable garden sites. The purpose of the criteria is to reduce public health and reduction of potential nuisance issues. Community gardens are subject to the following regulations, and the following physical and operational standards shall apply:
1. Compost areas shall be set back at least 10 feet from property line or 15 feet from dwelling unit, whichever is greater. Compost storage is limited to 10 percent of total site area and must not be visible from adjacent properties. All organic materials must be managed to avoid rodents, pests, odors and leachates;
  2. If the community garden is enclosed by fencing, the fencing shall be wood fencing or ornamental fencing. If chain-link or woven wire fencing is proposed, over half of the fence area that borders a public right-of-way shall be covered by plant material or other vegetative screening within three years of the fence installation. All fencing shall comply with height and setback requirements in Section 4.04.364 Fences, Walls, and Hedges;
  3. Use of mechanized farm equipment is generally prohibited; provided, however, that during the initial site preparation of the land heavy equipment may be used. Landscaping equipment designed for household use shall be permitted;
  4. All farm equipment shall be enclosed or otherwise screened from sight. Chemicals and fuels shall be locked in a structure when site is unattended;
  5. Site drainage must be managed to comply with Alameda County Stormwater Permit regulations;
  6. Commercial deliveries and pickups are limited to one time per day;
  7. Row crops that reach 36 inches in height, except for trees, are not permitted in required front and corner side yards;
  8. Trash receptacles must be provided and screened on at least three sides from public view;
  9. Structures shall not exceed 500 square feet in floor area and are limited to 12 feet in height;

10. All lighting shall be shielded to avoid glare and off-site impacts; and
  11. A community garden manager must be identified for each site and contact information for said manager shall be provided on a posted sign. Said signage shall be limited to two square feet in area.
- C. Application Requirements. Administrative Review approval is required for all community gardens in accordance with Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits. The information listed below is required at the time an application for an Administrative Review is submitted:
1. A scaled, fully-dimensioned site plan showing physical dimension of property and structures, distance from the project property lines to the nearest residential structure, existing and proposed utilities that service the proposed community garden, and proposed areas of compost, planting and storage;
  2. Identification of community garden manager and description of management plans, responsible parties, and proposed contact information signage;
  3. Description of proposed farm equipment and time periods for their use;
  4. Statement of intent to spray or use chemicals;
  5. Sediment and erosion control plan; and
  6. Other information as required by the Zoning Enforcement Official. (Ord. 2014-011 § 2)

## Chapter 4.08 Off-Street Parking and Loading Regulations

### Sections:

- 4.08.100 Specific Purposes
- 4.08.104 Basic Requirements for Off-Street Parking and Loading
- 4.08.108 Off-Street Parking and Loading Spaces Required
- 4.08.112 Collective Provision of Parking
- 4.08.116 Reduced Parking for Other Uses
- 4.08.120 Parking In-Lieu Payments
- 4.08.124 Parking Spaces for the Handicapped
- 4.08.128 Bicycle Parking
- 4.08.132 Restrictions on Residential Parking Within Minimum Front or Side Yards
- 4.08.136 Minimum Requirements for Parking Spaces and Drive Aisle Dimensions
- 4.08.140 Specific Parking Area Design
- 4.08.144 Parking Access from Street
- 4.08.148 Driveways—Visibility
- 4.08.152 Parking Area Screening: Walls and Fences
- 4.08.156 Lighting
- 4.08.160 Additional Design Standards for Parking Lots and Structures
- 4.08.164 Location and Design of Off-Street Loading Spaces
- 4.08.168 Parking Area Plan Required

### 4.08.100 Specific Purposes

In addition to the general purposes listed in Chapter 1.04 Title, Components, and Purposes the specific purposes of the off-street parking and loading regulations are to:

- A. Ensure that off-street parking and loading facilities are provided for new land uses and for major alterations and enlargements of existing uses (except single-family and two-family uses) in proportion to the need for such facilities created by each use.
- B. Ensure that off-street parking and loading facilities are designed in a manner that will ensure efficiency, protect the public safety, and, where appropriate, insulate surrounding land uses from adverse impacts. (Ord. 2001-015 § 1)

### 4.08.104 Basic Requirements for Off-Street Parking and Loading

- A. When Required. At the time of initial occupancy of a site, construction of a structure, or a “major alteration or enlargement” of a site or structure as defined below, off-street parking facilities and off-street loading facilities shall be provided in accord with the regulations prescribed in this chapter.

1. Definition of “Major Alteration or Enlargement.” “Major alteration or enlargement,” as used in this section, shall have the following meaning: Any expansion or enlargement of the site, any facilities on the site, or any change or expansion of uses on the site that increases the number of parking spaces or loading berths required under this chapter by both 20 percent or more and by five spaces or berths or more.
  2. Change in Use. For the purpose of determining compliance with paragraph 1, above, a “change of use” shall be considered to occur only when a new occupancy and/or new activity falls under a different “use classification category” than the former use. The use classification categories are as set forth in Section 4.08.108 Off-Street Parking and Loading Spaces Required, and are as follows: “Residential, General”; “Residential, Single-Family”; “Residential, Two-Family”; “Residential, Mixed-Use and Multi-Family”; “Public and Semipublic”; “Commercial”; and “Industrial.” A change of occupancy and/or activity that is within the same use classification category as the former use is not subject to the requirements to provide additional parking unless the Zoning Enforcement Official determines that the new use has the potential to create a new and significant parking impact on adjacent properties, business, and/or uses.
  3. Exemption for Expansion of Single-Family and Two-Family Residences. This subsection does not apply to single-family and two-family residences undergoing major alterations or enlargements.
- B. Nonconforming Parking or Loading. Subject to Subsection A above, no existing use of land or structure shall be deemed to be nonconforming solely because of the lack of off-street parking or loading facilities required by this chapter provided that facilities being used for off-street parking and loading as of the date of adoption of this chapter shall not be reduced.
  - C. Spaces Required for Alteration or Enlargement Shall be in Addition to Existing. The number of parking spaces or loading berths required for an alteration or enlargement of an existing use or structure or for a change of occupancy shall be in addition to the number of spaces or berths existing prior to the alteration, enlargement, or change of occupancy unless the preexisting number is greater than the number prescribed in this chapter. In this case, the number of spaces or berths in excess of the prescribed minimum shall be counted in determining the required number of spaces or berths.
  - D. Spaces Required for Multiple Uses. Except as otherwise provided in this Code, if more than one use is located on a site, the number of off-street parking spaces and loading berths to be provided shall be equal to the sum of the requirements pre-scribed for each use. This requirement applies not only to multiple uses under separate ownership but also to multiple uses in the same ownership. If the gross floor area of individual uses on the same site is less than that for which a loading berth would be required, but the aggregate gross floor area of all uses is greater than the minimum for which loading

berths would be required, the aggregate gross floor area shall be used in determining the required number of loading berths.

- E. Joint Use. Off-street parking and loading facilities required by this Code for any use shall not be considered as providing parking spaces or loading berths for any other use except where the provisions of Section 4.08.112 Collective Provision of Parking apply or a joint facility apply. Such a facility shall contain not less than the total number of spaces or loading berths as determined individually, subject to the provisions of Sub-sections F: Location and Ownership and H: Common Loading Facilities, below, or fewer spaces may be permitted where adjoining uses on the same site have different hours of operation and the same parking spaces or loading berths can serve both without conflict. A determination of the extent, if any, to which joint use will achieve the purposes of this chapter shall be made by the Zoning Enforcement Official, who may require submission of survey or other data necessary to reach a decision.
- F. Location and Ownership. Parking required to serve a residential use shall be on the same site as the use served, except that subject to approval of the Zoning Enforcement Official, parking for Group Residential and Residential Care may be located on a different site under the same or different ownership within 150 feet of the use served, measured from the parking facility to the public entrance of the use served via the shortest pedestrian route. Parking required to serve a nonresidential use may be on the same or a different site under the same or different ownership as the use served, provided that parking shall be within the following distances of the use served, measured from the near corner of the parking facility to the public entrance of the use served via the shortest pedestrian route:

<u>Customer/Visitor Spaces</u>	<u>Employee Spaces</u>
200 feet	400 feet

No enclosed parking space in any district shall have the entrance door less than 20 feet from an existing public sidewalk, which distance shall be measured in a straight line from the center of the doorway of such parking structure to the center of the driveway at the sidewalk line. In the event there is no existing public sidewalk the entrance door to any enclosed parking structure shall be not less than 20 feet from the street lot line. In no event shall the door of any such enclosed parking structure be closer than 20 feet to an established right-of-way line.

- G. Life of Facility. Facilities for off-site parking shall be restricted to that use by a recorded deed, easement, lease, or agreement acceptable to the City Attorney and for a period of time consistent with the use permit requiring the parking, provided that the Zoning Enforcement Official may lift the restriction upon finding that substitute parking facilities meeting the requirements of this Code are provided. No use shall be continued if the required parking is removed unless substitute-parking facilities are provided to the satisfaction of the Zoning Enforcement Official.



- H. Common Loading Facilities. The off-street loading facilities requirements of this chapter may be satisfied by the permanent allocation of the prescribed number of berths for each use in a common truck loading facility provided that the total number of berths shall not be less than the sum of the individual requirements. As a requirement of approval, an attested copy of a contract between the parties concerned setting forth an agreement to joint use of a common loading facility shall be filed with the application for a zoning permit. The City may record the contract.
- I. Computation of Spaces Required. If after calculating the number of required off-street parking spaces, a quotient is obtained containing a fraction of one-half or more, an additional space shall be required; if such fraction is less than one-half, it may be disregarded.
- J. Other Parking Specifications. All parking specifications not listed in this chapter are found in specifications developed and maintained by the City Engineer. A copy of the parking specifications shall be available for public review during normal working hours at the Development Services Department counter.
- K. TOD Strategy Parking Requirements. New residential uses adjacent to the BART station shall be provided at a ratio of 1.0 space per dwelling unit. An allowance of unbundled flex parking of 0.25 to 0.50 parking space per unit may be provided above 1.0 space per unit, subject to approval of a Site Plan Review under Chapter 5.12 Site Plan Approval. (Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2011-003 § 1; Ord. 2008-014 § 1; Ord. 2007-020 § 2; Ord. 2001-015 § 1)

#### **4.08.108 Off-Street Parking and Loading Spaces Required**

- A. Off-street parking and loading spaces shall be provided in accord with the following list. For off-street loading, references are to Table A, which sets space requirements and standards for different groups of use classifications and sizes of buildings. References to spaces per square foot are to be computed on the basis of gross floor area, unless otherwise specified, and shall include allocations of shared restroom, halls, and lobby area, and mechanical equipment or maintenance areas, but shall exclude area for vertical circulation, stairs, or elevators.
- B. Where the use is undetermined, or not specified herein, the Zoning Enforcement Official shall determine the probable use and the number of parking and loading spaces required. In order to make this determination, the Zoning Enforcement Official may require the submission of survey or other data from the applicant or have data collected at the applicant's expense.

**OFF-STREET PARKING AND LOADING SPACES REQUIRED**

Use Classification	Off-Street Parking Spaces			Off-Street Loading Spaces Per Group Classification (See Table A)
<b>1. RESIDENTIAL</b>				
<b>A. Residential, Single-Family and Two-Family</b>				
Single-Family Dwelling	2 covered, per unit. New single-family dwellings or additions with more than 4 bedrooms or over 4,000 square feet of livable area shall require one additional space which may be uncovered and in tandem if it is located a minimum of 30 feet back from the front property line.			
Two-Family Dwelling	2, including 1 covered, per unit	(SA Only) 2, including 1 covered, per unit (tandem allowed)	(DA Only) 1 covered per unit for areas adjacent to BART  1.5, including 1 covered, per unit for all other areas	
<b>B. Residential, Mixed Use &amp; Multi-Family (3 or more units)</b>				
Studio or One-Bedroom Unit	1.0 covered space, plus 0.5 uncovered spaces per unit; 0.25 space per unit must be designated guest parking	(SA Only) 1.0 covered space, plus 0.5 guest space, per unit (tandem may be considered)	(DA Only) ≤ 0.25 mile to BART: 1.0 space per unit (plus allowance of unbundled flex parking of 0.25 to 0.50 spaces/unit at developer's option)	
Two-Bedroom Unit	2.0 covered spaces, plus 0.25 uncovered spaces per unit; 0.25 space per unit must be designated guest parking	(SA Only) 1.0 covered space, plus 0.75 guest space, per unit (tandem may be considered)	> 0.25 mile to BART: 1.5 spaces per unit (0.25 to 0.50 spaces/unit may be unbundled flex parking)	
Three-Bedroom or Larger Unit	2.0 covered spaces, plus 0.5 uncovered spaces per unit; 0.25 space per	(SA Only) 1.0 covered space, plus 1.0 guest space, per unit (tandem		

Use Classification	Off-Street Parking Spaces			Off-Street Loading Spaces Per Group Classification (See Table A)
	unit must be designated guest parking	may be considered)		
<b>C. Residential, General</b>				
Live-Work	N/A	(SA Only) 2.0 per unit, including 1 covered, plus 0.75 space for guest/employee not residing in unit (tandem may be considered)	N/A	
Senior Citizen	1.2 per unit, including 1 covered space and one space per employee	(SA Only) 0.6 per unit, plus 1.0 space per employee. All resident spaces to be covered	(DA Districts ≤ 0.25 mile to BART) 0.4 per unit, plus 1.0 space per employee. All resident spaces to be covered	
Cottage Food Operation	1 uncovered space per employee			
Group Housing	1 per 2 beds; plus 1 per 100 sq. ft. used for assembly purposes, or as required by use permit or Planned Development approval			A
Supportive Housing	Subject to parking standards for the applicable residential type in the applicable residential zone			
Transitional Housing	Subject to parking standards for the applicable residential type in the applicable residential zone			
Residential Congregate Care	This classification is <u>not</u> a mixed or multi-family use. Parking requirement to be based on the unit's regular residential parking requirement.			
Type of Parking Facilities	Shared parking arrangements, parking structures and parking lift systems, subject to review and approval of the City are encouraged.			
<b>2. COMMERCIAL</b>				
Adult Oriented Businesses	As specified by zoning permit			A
Ambulance Services	1 per 500 sq. ft., plus 1 space for each emergency vehicle based at the site			A
Animal Boarding	1 space per 400 sq. ft.			A

Use Classification	Off-Street Parking Spaces			Off-Street Loading Spaces Per Group Classification (See Table A)
Animal Grooming	1 space per 400 sq. ft.			A
Animal Hospitals	1 space per 400 sq. ft.			A
Animals, Retail Sales	1 space per 200 sq. ft.	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	A	
Artists' Studios	1 space per 1,000 sq. ft.			
Automobile Washing	1 space per 200 sq. ft. of sales, office, or waiting area, plus queue for 5 cars per washing station			
<b>Bars, Cafés, and Restaurants</b>				
Having less than 4,000 sq. ft. of floor area	1 space per 100 sq. ft. of gross floor area	(SA Only) 1 space per 200 sq. ft. of gross floor area	(DA Only) < 5,000 sq. ft.: Exempt	A
Having 4,000 sq. ft. or more	40 spaces, + one for each 50 sq. ft. of seating area over 4,000 sq. ft.	(SA Only) 1 space per 100 sq. ft. of gross floor area	≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	A
With Entertainment Activities	1 space per 35 sq. ft. seating area; plus 1 space per 35 sq. ft. dance floor			
Bed and Breakfast Inns	1 space per guest room, plus 1			
Building Materials and Services	1 space per 1,000 sq. ft. for lot area			A
Business Services	1 space per 400 sq. ft.	(DA Only) 1 space per 500 sq. ft.		
Catering Services	1 space per 400 sq. ft.			A
<b>Commercial Recreation</b>				
Bowling Alleys	4 spaces per alley, plus 1 per 250 sq. ft. of public assembly and retail areas	(DA Only) < 5,000 sq. ft.: Exempt	A	
Electronic Game Centers	1 space per 400 sq. ft.	≥ 5,000 sq. ft.: 1 space per 500 sq. ft.		
Skating Rinks	1 space per 5 fixed seats, or 1 per 35 sq. ft. seating area if there are no			A

Use Classification	Off-Street Parking Spaces		Off-Street Loading Spaces Per Group Classification (See Table A)
	fixed seats; plus 1 space per 250 sq. ft. floor area not used for seating		
Other Commercial Recreation	As specified by the Zoning Enforcement Official		
Communications Facilities	1 space per 500 sq. ft.		B
Convenience Stores	1 space per 200 sq. ft.		A
Drive-up Facility	Queue space for 5 cars per window		
Fast Food Establishments, Large Scale and Small Scale	1 space per 100 sq. ft.	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	A
Financial Institutions; Retail and Check Cashing/Personal Loan Services	1 space per 300 sq. ft., plus one space for each 200 sq. ft. of lobby and customer-waiting areas, and 3 spaces for each walk-up teller window and automatic teller machine	(SA Only) 1 space per 400 sq. ft., plus 1 space for each 200 sq. ft. of lobby and customer-waiting areas, and 3 spaces for each walk-up teller window and automatic teller machine	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.
Food Processing	1 space per 750 sq. ft.		
Furniture and Appliance Stores	1 space per 600 sq. ft.	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	
Hardware Stores	1 space per 600 sq. ft.	(DA Only) < 5,000 sq. ft.: Exempt	

Use Classification	Off-Street Parking Spaces			Off-Street Loading Spaces Per Group Classification (See Table A)
	≥ 5,000 sq. ft.: 1 space per 500 sq. ft.			
Health and Fitness Centers	1 space per 200 sq. ft.	(SA Only) 1 space per 333 sq. ft.	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	
Horticulture, Limited	1 space per 2 acres			
Hotels, Motels and Time Share Facilities	1.1 spaces per guest room; plus 1 space per 50 sq. ft. banquet seating area plus parking for other uses and facilities as required by this schedule.			A
Instruction and Improvement Services	1 space per 250 sq. ft.	(SA Only) 1 space per 333 sq. ft.	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	
Laboratories	1 space per 500 sq. ft.			A
Maintenance and Repair Services	1 space per 500 sq. ft.		(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	A
Marine Sales and Services	1 space per 350 sq. ft.			
Cannabis Dispensary	1 space per 200 sq. ft.			
Mortuaries	1 space per 50 sq. ft. seating area			A
Music Studio	1 space per 600 sq. ft.			
Neighborhood/Specialty Food Markets	1 space per 200 sq. ft.	(SA Only) 1 space per 333 sq. ft.	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	A

Use Classification	Off-Street Parking Spaces			Off-Street Loading Spaces Per Group Classification (See Table A)
Nurseries	1 space per 1,000 sq. ft. lot area for first 10,000 sq. ft.; 1 space per 5,000 sq. ft. thereafter, plus 1 space per 250 sq. ft. sales floor area	(SA Only) 1 space per 1,000 sq. ft. lot area for first 10,000 sq. ft.; 1 space per 5,000 sq. ft. thereafter, plus 1 space per 333 sq. ft. sales floor area	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	
Offices, Business and Professional	1 space per 300 sq. ft.	(SA Only) 1 space per 333 sq. ft. for ground floor; 1 space per 500 sq. ft. for upper stories	(DA Only) 1 space per 500 sq. ft.	B
Offices, Medical and Dental	1 space per 200 sq. ft.	(SA Only) 1 space per 333 sq. ft.	(DA Only) 1 space per 500 sq. ft.	B
Pawn Shops	1 space per 250 sq. ft.			A
Regional Malls	Parking requirements in the C-RM District are calculated on the basis of a regional mall being a single use and not on the individual uses or tenancies thereof, and shall be based on a ratio of 5 spaces for each thousand sq. ft. of gross leasable floor area (GLFA) for the first one million sq. ft. and 4 spaces for each thousand sq. ft. of GLFA over one million sq. ft. Parking requirements may be modified to accommodate construction or phased development if provision for such modification is incorporated in a development agreement for the regional mall that has been adopted and is in effect.			
Research and Development Services	1 space per 400 sq. ft.			
Residential Hotels	1.1 space per guest room			
Retail Sales, General	1 space per 200 sq. ft. for the first 5,000 sq. ft.; 1 space per 250 sq. ft. for the area over 5,000 sq. ft.	(SA Only) 1 space per 333 sq. ft. for the first 5,000 sq. ft.; 1 space per 250 sq. ft. for the	(DA Only) < 5,000 sq. ft.: Exempt	A

Use Classification	Off-Street Parking Spaces			Off-Street Loading Spaces Per Group Classification (See Table A)
		area over 5,000 sq. ft.	≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	
Retail Services	1 space per 300 sq. ft.	(SA Only) 1 space per 400 sq. ft.	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	A
Service Stations	1 space per 2,500 sq. ft. of lot area, plus 1 space per 500 sq. ft. of service bay and storage area			
Supermarkets	1 space per 200 sq. ft.	(SA Only) 1 space per 333 sq. ft.	(DA Only) < 5,000 sq. ft.: Exempt  ≥ 5,000 sq. ft.: 1 space per 500 sq. ft.	
Theaters, and Theatres, Small Scale	1 space per 4 fixed seats, or 1 per 35 sq. ft. seating area if there are no fixed seats			A
Travel Services	1 space per 400 sq. ft.		(DA Only) 1 space per 500 sq. ft.	
Vehicle/Equipment Repair	1 space per 400 sq. ft.			A
Vehicle/Heavy Equipment, Rentals	1 space per 400 sq. ft.			A
Vehicle/Heavy Equipment Dealers, New and Used	1 space per 1,000 sq. ft. lot area			A
Vehicle and Boat Storage	3 spaces or 1 space per 500 sq. ft. of building area, whichever is greater; plus a minimum of 2 spaces outside any perimeter fence or secure area			
<b>3. INDUSTRIAL</b>				
Industry, Custom and General	1 space per 1,000 sq. ft.			C
Industry, Limited	1 space per 750 sq. ft.			C
Industry, Research and Development	1 space per 400 sq. ft.			C
Parcel Processing and Shipping Centers	1 space per 1,500 sq. ft. or as required by administrative approval			A

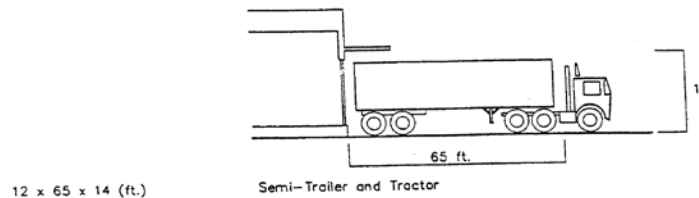
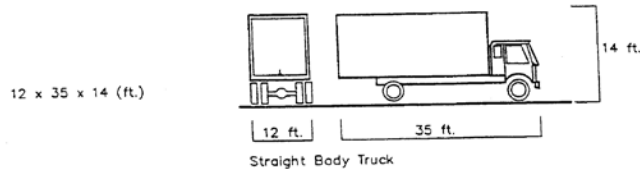
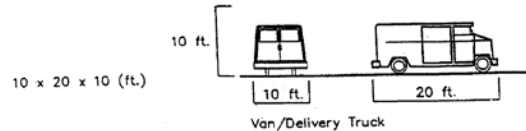


Use Classification	Off-Street Parking Spaces			Off-Street Loading Spaces Per Group Classification (See Table A)
Public Storage	1 space for the exclusive use of a resident manager plus 4 spaces for up to 150 storage units; 6 spaces for 151 to 500 storage units; 10 spaces for 501 to 1,000 storage units, and one additional space for each 500 storage units (or portion thereof) in excess of 1,000			
Trucking Terminals	As specified by use permit			
Warehousing, Distributions and Storage Facilities	1 space per 1,500 sq. ft.			A
<b>4. PUBLIC AND SEMIPUBLIC</b>				
Assembly Uses	1 space per 50 sq. ft. used for assembly purposes			C
Convalescent Facilities	As specified by use permit			C
Cultural Institution	1 space per 300 sq. ft.			C
Day Care, General	1 space per 6 children or fraction thereof; maximum enrollment based on maximum occupancy load			
Detention Facilities	As specified by use permit			
Emergency Health Care	As specified by use permit			
Government Offices	1 space per 300 sq. ft.	(SA Only) 1 space per 333 sq. ft. for ground floor space, and 1 space per 500 sq. ft. for upper story space	(DA Only) 1 space per 500 sq. ft.	B
Hospitals	1 space per 1.5 licensed beds			C
Maintenance and Service Facilities	1 space per 500 sq. ft.			A
Marinas	As specified by use permit			
Park and Recreation Facilities	As specified by use permit (for private facilities)			
Public Safety Facilities	As specified by use permit			C
Schools, Public or Private	As specified by use permit			A
Utilities, Major	As specified by use permit			A

**TABLE A: OFF-STREET LOADING SPACES REQUIRED**

Gross Floor Area (sq. ft.)	Number of Spaces Required		
	10' x 20' x 10' VC*	12' x 35' x 14' VC	12' x 65' x 14' VC
Use Classification Group A			
3,001 to 15,000		1	
15,001 to 50,000		1	1

50,001 and over		2	1
Use Classification Group B			
0 to 10,000	1		
10,001 to 20,000		1	
20,001 and over	1	1	
Use Classification Group C			
0 to 30,000		1	
30,001 to 100,000		1	1
100,000 and over		2	1
*VC = Vertical Clearance			



**OFF-STREET LOADING SPACE DIMENSIONS**

(Diagram is illustrative)

(Ord. 2017-003 § 4; Ord. 2015-11 § 4; Ord. 2014-011 § 2; Ord. 2014-003 § 3; Ord. 2013-006 § 3; Ord. 2007-020 § 2; Ord. 2007-005 § 4; Ord. 2007-001 § 2; Ord. 2004-007 § 6; Ord. 2004-004 § 6; Ord. 2001-015 § 1)

**4.08.112 Collective Provision of Parking**

Notwithstanding the provisions of Subsection E: Joint Use of Section 4.08.104 Basic Requirements for Off-Street Parking and Loading, a use permit may be approved for collective provision of parking on a site that serves more than one use or site and is located in a district in which parking for the uses served is a permitted or conditional use. A use permit for collective off-street parking may reduce the total number of spaces required by this chapter if the following findings are made:

- A. The spaces to be provided will be available as long as the uses requiring the spaces are in operation; and
- B. The adequacy of the quantity and efficiency of parking provided will equal or exceed the level that can be expected if collective parking is not provided.

An applicant for a use permit for collective parking may be required to submit survey data substantiating a request for reduced parking requirements. A use permit for collective parking shall describe the limits of any area subject to reduced parking requirements and the reduction applicable to each use. (Ord. 2001-015 § 1)

#### **4.08.116 Reduced Parking for Other Uses**

A Parking Exception may be approved reducing the number of spaces to less than the number specified in the schedules in Section 4.08.108 Off-Street Parking and Loading Spaces Required, provided that the following findings are made:

- A. The parking demand will be less than the requirement in Section 4.08.108 Off-Street Parking and Loading Spaces Required; and
- B. The probable long-term occupancy of the building or structure, based on its design, will not generate additional parking demand; or
- C. Existing buildings are converted to new uses, leading to finding A or B above.
- D. Shared parking that serves more than one use or site shall be encouraged in Mixed-Use zoning districts.

In reaching a decision, the Board of Zoning Adjustments shall consider survey data submitted by an applicant or collected at the applicant's or Zoning Enforcement Official's request and the applicant's expense. (Ord. 2015-11 § 4; Ord. 2001-015 § 1)

#### **4.08.120 Parking In-Lieu Payments**

- A. Within designated parking districts established by the City and subject to prior approval by the City in each case, a parking requirement serving nonresidential uses on a site may be met by a cash in-lieu payment to the City prior to issuance of a building permit or a certificate of occupancy if no permit is required. The fee shall be to provide public off-street parking in the vicinity of the use.
- B. In establishing such parking districts, the City may set limitations on the number of spaces or the maximum percentage of parking spaces required for which an in-lieu fee may be tendered. Determinations as to whether an in-lieu fee will be accepted and the factors used to calculate the amount of the fee, e.g., estimated values for land and improvement costs for parking spaces, shall be at the sole discretion of the City. (Ord. 2001-015 § 1)

#### **4.08.124 Parking Spaces for the Handicapped**

All parking facilities shall comply with the requirements of the California Code of Regulations and with the sign requirements of the California Vehicle Code, Sections 22511.7 and 22511.8. (Ord. 2001-015 § 1)

#### **4.08.128 Bicycle Parking**

- A. Where Required. Bicycle parking may be required as part of Site Development or Use Permit approval and may, if so specified by the Site Development Sub-Committee or Board of Zoning Adjustments, be used as a substitute to automobile parking spaces.
- B. Number Required.
1. Public and Semipublic Use Classifications. As specified by use permit.
  2. Commercial Use Classifications. Five percent of the requirement for automobile parking spaces, except for the following classifications, which are exempt:
    - a. Ambulance Services
    - b. Animal Boarding
    - c. Animal Grooming
    - d. Catering Services
    - e. Commercial Filming
    - f. Horticulture, Limited
    - g. Funeral and Interment Services
    - h. Vehicle/Equipment Sales and Services (all classifications)
- C. Design Requirements. All required bicycle parking spaces shall permit the locking of the bicycle frame and one wheel with a u-type lock and support the bicycle in a stable position without damage to wheels, frame or components. Bicycle parking facilities shall be securely anchored so that they cannot be easily removed and shall be of sufficient strength to resist vandalism and theft. (Ord. 2008-003 § 12; Ord. 2001-015 § 1)

#### **4.08.132 Restrictions on Residential Parking Within Required Minimum Front or Side Yards**

- A. Parking, Other Than on Driveway, Is Prohibited. Except as provided in Subsection B, no vehicles, whether motorized or non-motorized, shall be parked within the minimum required front yard or street-side side yard (i.e., within that portion of the front and street side yard required as a minimum building setback) in either a residential district or on a parcel in a nonresidential district with a single-family or two-family dwelling use unless on a paved driveway which provides access to a parking space, covered or uncovered, that is required by this chapter.
- B. Parking Adjacent to Driveway May Be Permitted. Additional paved area for parking is allowed provided such parking area is constructed and maintained with a paved surface in conformance with design and construction standards established by the City Engineer and located adjacent to such paved driveways, and provided further that such parking area when added to the paved driveway would not exceed 50 percent of the width of the subject property or 30 feet, whichever is less, as measured at the front setback line.
- C. Allowable Paving in the Required Front Yard. Paving or impervious surfaces for walkways, parking areas and vehicular access shall not collectively occupy more than 50 percent of the required front setback area. (Ord. 2012-001 § 3; Ord. 2001-015 § 1)

#### **4.08.136 Minimum Requirements for Parking Spaces and Drive Aisle Dimensions**

The minimum dimensions for drive aisles, all uncovered parking spaces, and required covered parking spaces shall conform to the standards established by the City Engineer. (Ord. 2001-015 § 1)

#### **4.08.140 Specific Parking Area Design**

When an applicant can demonstrate to the satisfaction of the City Engineer the necessity for variations on the dimensions otherwise required by this chapter, a specific parking area design may be approved under the following limitations:

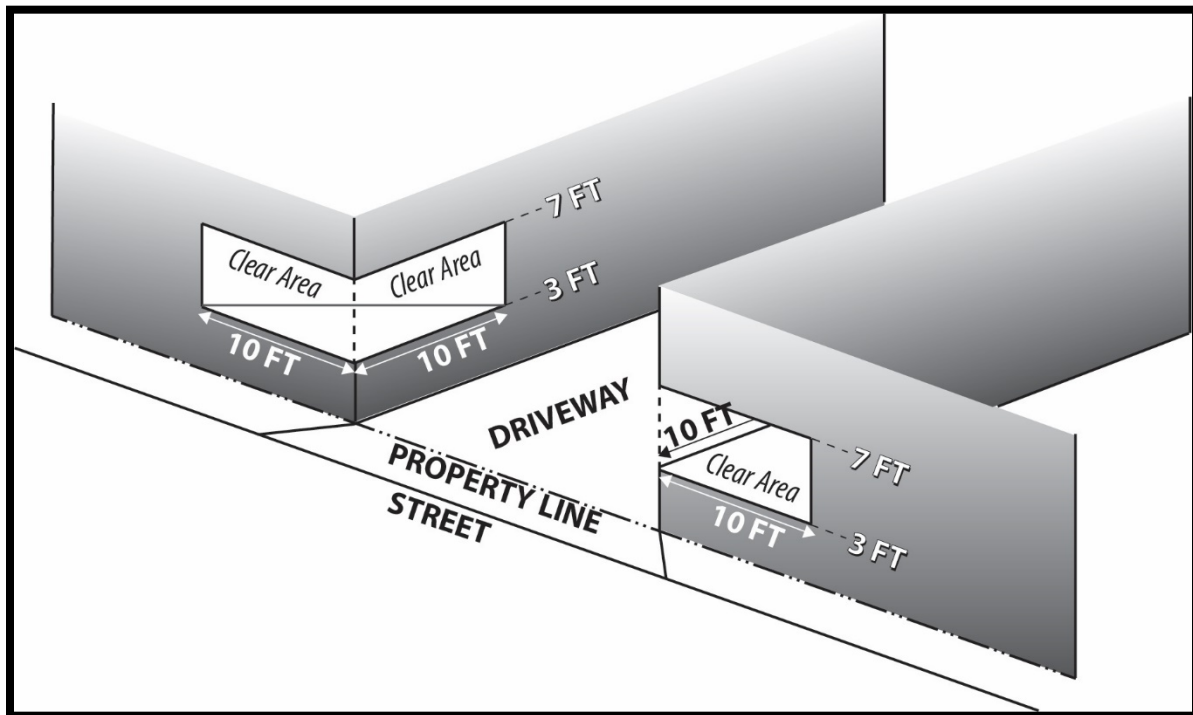
- A. The area affected by the specific design shall be for parking by persons employed on the site only. Visitor parking stalls shall meet the dimensions required.
- B. The surface area available for parking shall not be less than would be required to accommodate the minimum required number of stalls for large and small cars.
- C. That alternative parking technologies be considered, such as parking lift systems, subject to the approval of the City and related public safety agencies. (Ord. 2004-007 § 6; Ord. 2001-015 § 1)

#### **4.08.144 Parking Access from Street**

All spaces in a parking facility shall be accessible without re-entering a public right-of-way unless it is determined by the Traffic Engineer to be physically impossible to provide for such access. However, an alley may be used as maneuvering space for access to off-street parking. Off-street parking shall generally be located so as to be more convenient and accessible than on-street parking with respect to entrances of buildings and pedestrian circulation on the site served. (Ord. 2001-015 § 1)

#### 4.08.148 Driveways—Visibility

Visibility of a driveway crossing a street property line shall not be obstructed between a height of three feet and seven feet. The obstruction restriction area includes all the land in a triangular area on either side of the driveway measured 10 feet from the street property line along the driveway and 10 feet from the driveway along the street property line.



#### DRIVEWAY VISIBILITY

(The diagram is illustrative)

#### 4.08.152 Parking Area Screening: Walls and Fences

- A. A parking area for five or more cars serving a nonresidential use shall be screened from an adjoining R district or a ground-floor residential use by a solid concrete, solid wood, or masonry wall six feet in height, except that the height of a wall adjoining a required front yard in an R district shall be three feet. A carport or open parking area

for five or more cars serving a residential use shall be screened from an adjoining lot in an R district or a ground-floor residential use by a solid wall or fence six feet in height, except that the height of a wall or fence adjoining a required front yard in an R district shall be not less than two feet or more than three feet.

- B. Where the parking area abuts a street separating the area from property classified for residential use, an architectural screen wall not less than three feet in height above the parking surface shall be installed and maintained not less than three feet from the property line that separates the parking area from the street.
- C. Allowable Modification. The Board of Zoning Adjustments may modify these requirements in accord with the procedures and findings established by Section 4.04.364 Fences, Walls, and Hedges. (Ord. 2001-015 § 1)

#### **4.08.156 Lighting**

Outdoor lighting in a landscaped parking area shall not employ a light source higher than 12 feet. Outdoor parking area lighting shall create no cone of direct illumination greater than 60 degrees from a light source higher than six feet and shall not directly shine onto an adjacent street. Maximum illumination at ground level shall be three foot candles and shall not exceed one-half foot candles in an R district. (Ord. 2001-015 § 1)

#### **4.08.160 Additional Design Standards for Parking Lots and Structures**

- A. Parking lots shall be paved and have, drainage, wheel stops, lighting, space marking, and directional signs, which shall be subject to approval of the Zoning Enforcement Official.
- B. In reviewing the design of parking structures in connection with a zoning approval, the Zoning Enforcement Official, Site Development Sub-Commission, Board of Zoning Adjustments, or Planning Commission shall consider the compatibility of the design with adjacent buildings or uses. (Ord. 2001-015 § 1)

#### **4.08.164 Location and Design of Off-Street Loading Spaces**

- A. Required spaces shall not be within a building, but shall be on the site of the use served or on an adjoining site. On a site adjoining an alley, a required loading space shall be accessible from the alley unless alternative access is approved by the Zoning Enforcement Official. A required loading space shall be accessible without backing a truck across a street property line unless the Zoning Enforcement Official determines that provision of turn-around space is infeasible and approves alternative access. An occupied loading space shall not prevent access to a required off-street parking space. A loading area shall not be located in a required yard.

- B. Except in an I district, a loading area visible from a street shall be screened on three sides by a fence, wall, or hedge at least six feet in height. (Ord. 2001-015 § 1)

#### **4.08.168 Parking Area Plan Required**

Prior to the construction of an off-street parking area for a nonresidential use or multi-family dwelling with more than four (4) units, a plan shall be submitted to the Zoning Enforcement Official for the purpose of indicating compliance with the provisions of this section. This plan shall include:

- A. The location and placement of required landscaped areas, including a computation of the required area.
- B. A planting plan including a list of plants by name and size keyed to their location on the parking area.
- C. Location and description of fencing and architectural screen walls.
- D. Layout and method of irrigation of landscaped areas.
- E. Location and placement of parking stalls, including bumpers, striping and circulation, and directional signs, all dimensioned to permit comparison with approved parking standards.
- F. Location and placement of lights provided to illuminate the parking area.
- G. A drainage plan showing drainage to a public way in accordance with the requirements of the City Engineer. (Ord. 2001-015 § 1)



## Chapter 4.12 Signs

### Sections:

- 4.12.100 Specific Purposes
- 4.12.104 Administrative Review of Signs
- 4.12.108 Exempt Signs
- 4.12.112 Regulations for On-Premises Signs
- 4.12.116 Regulations for Off-Site Advertising Signs
- 4.12.120 Master Sign Programs and Sign Exceptions
- 4.12.124 Sign Permit or Temporary Sign Permit Required
- 4.12.128 Uniform Sign Code
- 4.12.132 Construction
- 4.12.136 Fire Safety
- 4.12.140 Maintenance

### 4.12.100 Specific Purposes

In addition to the general purposes listed in Section 1.04.108 Purposes the specific purposes of sign regulations are to:

- A. Provide each sign user an opportunity for effective identification by limiting the number and area of signs permitted on all sites.
- B. Limit off-premises signs in order to maintain the visibility of on-premises signs.
- C. Maintain and enhance the quality of the City's appearance by avoiding clutter and by subjecting certain signs to design review.
- D. Enable users of goods and services to identify establishments offering services to meet their needs.
- E. Regulate the number and size of signs according to standards consistent with the types of establishments in each zoning district or in different portions of a zoning district.
- F. Protect residential districts adjoining nonresidential districts from adverse impacts of excessive numbers or sizes of nearby signs. (Ord. 2001-015 § 1)

### 4.12.104 Administrative Review of Signs

All signs regulated by this chapter shall be subject to the review and approval of the Community Development Director or person so designated by the Director. The general purpose of this review is to ensure the objectives of the General Plan to maintain quality and attractive business areas. To approve signs, the Community Development Director must make all of the following findings:

- A. The sign's copy and graphics are limited to the information essential to provide adequate business identification, so that the sign does not appear cluttered and does not distract from the identification of other signs in the area. Supplemental copy, such as the advertising of products, services, phone numbers, and web site addresses not part of the business name is not allowed.
- B. The sign provides an attractive graphic composition and is of a high quality material, which is compatible with the surrounding business area and the objectives of the General Plan.
- C. The sign uses compatible colors and avoids the use of garish colors or combinations of colors.
- D. The sign's construction, size, colors, and method of illumination are aesthetically compatible with the site's architecture and architectural context. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **4.12.108 Exempt Signs**

- A. Exempt Signs. The following signs are exempt from the regulations of this Code. However, this exemption does not apply to the Building Division requirement of a sign permit for changes in the face or copy of a sign.
  - 1. Official notices of any court, public body, or officer.
  - 2. Notices posted by a utility or other quasi-public agent in the performance of a public duty or by any person giving due legal notice.
  - 3. Street address numbers.
  - 4. Public transit seating signs and public information, directional, and warning signs erected by a public agency.
  - 5. District identification signs approved by the Site Development Sub-Commission and names of buildings, dates of erection, monumental citations, commemorative tablets, and the like made an integral part of the structure.
  - 6. One construction sign per frontage with a maximum sign area of 32 square feet located on a construction site during the course of construction.
  - 7. On-premises parking and other directional signs, not exceeding one double-faced sign per entrance, not exceeding four square feet in area and five feet in height or 10 square feet if more than 100 feet from a public way.

8. Signs manufactured as a standard, integral part of a mass-produced product accessory to a commercial or public or semipublic use, including telephone booths, vending machines, automated teller machines, and gasoline pumps.
9. Credit card, trading stamp, or trade association signs not exceeding one-half square foot each.
10. One governmental flag of any governmental agency per occupancy.
11. Signs within a building not visible from a public street and window signs not to exceed 25 percent of the visible area of a window.
12. Holiday lights and displays not advertising a product or sale, erected no sooner than 45 days before the holiday and removed within 14 days following the holiday.
13. Nameplates not over two square feet in area, displaying the name and profession of the occupant of the building and/or the address.
14. Older signs that are viewed as having historical significance and that are valued by the community may be considered exempt from these regulations.
15. Except as otherwise specifically set forth herein, the regulations of this chapter do not apply to official traffic or government signs; signs that are not visible from a public right-of-way or area readily accessible to the public; product dispensers and point-of-purchase displays; scoreboards on athletic fields; gravestones; barber poles; religious symbols; commemorative plaques; the display of street numbers; or any display or construction not defined as a sign in Section 1.12.108 Definitions. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **4.12.112 Regulations for On-Premises Signs**

The following regulations apply to all non-exempt on-site signs visible from a public right-of-way for each zoning district. All signs in the DA districts shall be consistent with the Downtown San Leandro Design Guidelines.

- A. Maximum Total Sign Area. The maximum total sign area per tenant occupancy, excluding temporary signs and exempt signs, shall be as follows:

Zoning District	Maximum Total Sign Area
RD, RO, and RS Districts	24 square feet for permitted nonresidential uses, subject to prior approval of the Zoning Enforcement Official.
RM District	<ul style="list-style-type: none"> <li>• Residential use: 8 square feet per frontage.</li> <li>• Exception for Residential sites over 2 acres: A greater area not to exceed 32 square feet may be approved as a condition of a use permit, as reasonable and necessary for identification of a development or use.</li> <li>• Permitted Nonresidential Uses: 12 square feet subject to prior approval of the Zoning Enforcement Official.</li> </ul>
CC, CN, CS, DA-1, DA-2, DA-3, DA-4, DA-6, NA-1, NA-2, SA-1, SA-2, SA-3, IL, IG, IP, IT Districts	<ul style="list-style-type: none"> <li>• Up to 55 feet of frontage: 2 square feet per lineal foot of frontage.</li> <li>• Sites with more than 55 feet of frontage: 15 times square root of frontage.</li> </ul>
CR, OS, PD, and PS Districts	As prescribed by use permit.
P District	40 square feet per frontage.

1. Only the frontage that is developed or will be developed with an approved building permit shall be counted for purposes of determining the maximum allowable sign area; vacant land reserved for future development may not be used in determining the maximum allowable sign area.
2. The sign area may be allocated between wall signs, freestanding signs, and projecting signs, provided that each sign conforms to the applicable regulations of this section.
3. No sign or sign area permitted on one frontage shall be transferred to another frontage except in accord with a Master Sign Plan prepared pursuant to Section 4.12.120 Master Sign Programs and Sign Exceptions.

**B. Wall Signs.**

1. Wall signs shall not project above an eave or parapet of the wall on which the sign is mounted, including the eave of a mansard roof.
2. A wall sign opposite an interior property line shall be five feet or one-tenth the lot width from the property line, whichever is greater.
3. A wall sign shall not project more than two feet from the face of the building.

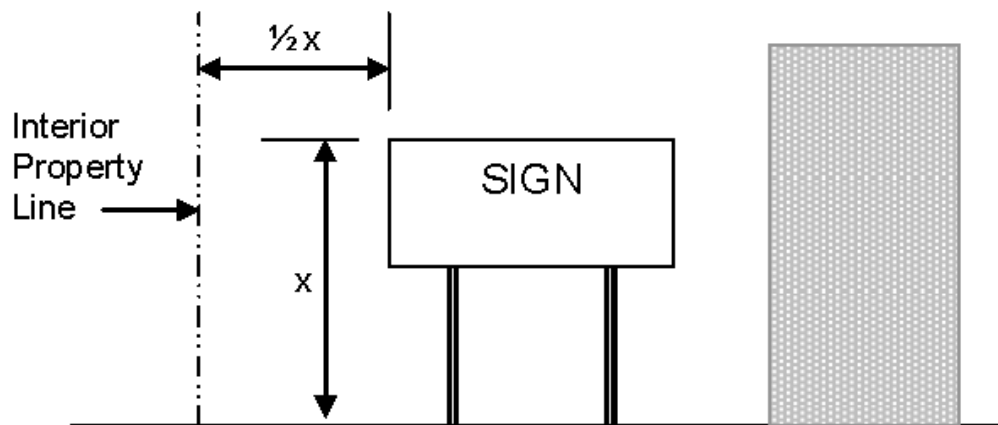
**C. Window Signs.**

1. For the purpose of this section, a window shall be defined as that portion of a first or second floor façade consisting of a glass-like material designed to provide viewing of the interior from an adjacent exterior walkway and which shall be no less than 75 percent transparent from the exterior during daylight hours. Window area is defined as contiguous window panels separated by dividers less than six inches in width.
2. A window sign is considered a permanent sign painted on a store front window or door, or temporary signs attached thereto indicating the name of the business, advertising images, accessory services or products, or both.
3. Window signs may not exceed a total of 25 percent of the window in which they are located.
4. Window signs include any interior signs or advertising images within eight feet of the window excluding merchandise display.
5. No more than two window signs are permitted per ground floor establishment with frontage on, visible from, and direct exterior pedestrian access to a public right-of-way, internal circulation route or common parking area. Second story establishments in a two-story building with frontage on and visible from a public right-of-way, internal circulation route or common parking area may be permitted one window sign per window.

D. Freestanding Signs.

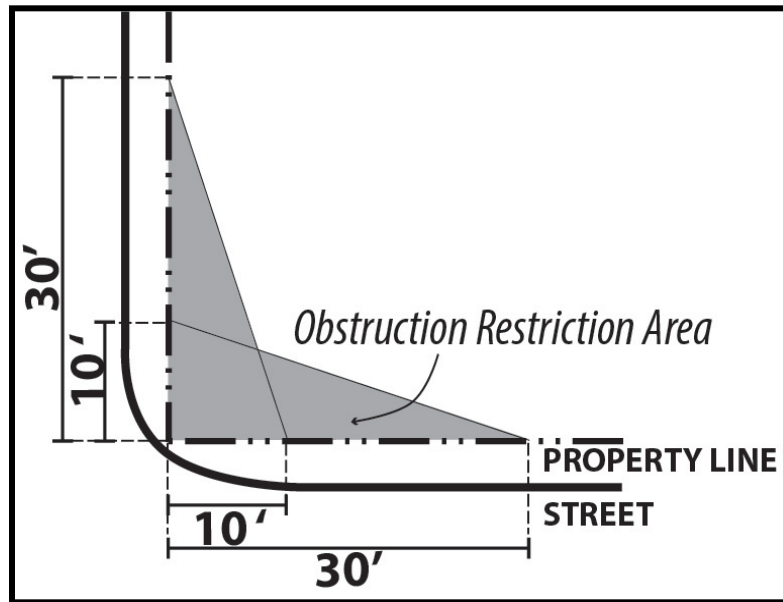
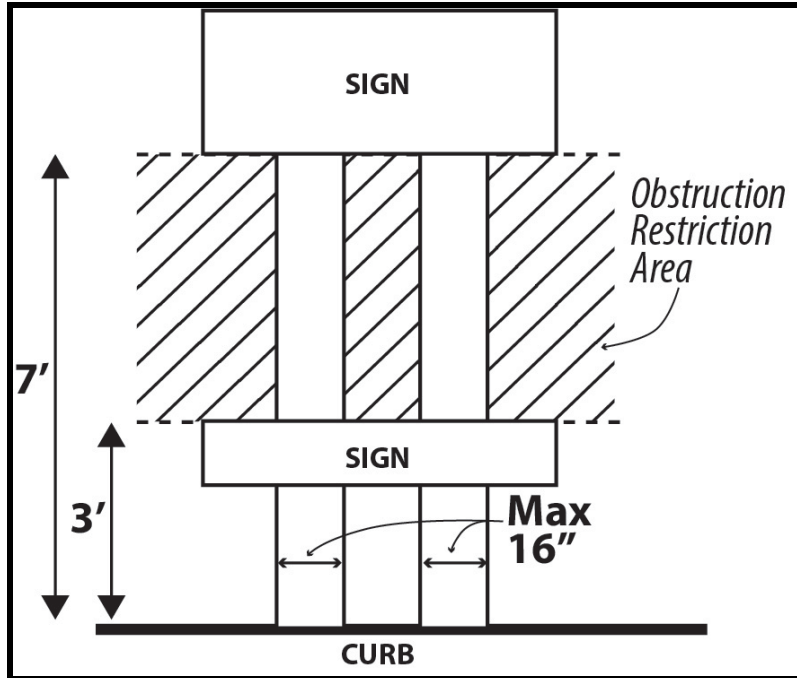
1. For multi-family and nonresidential uses permitted in R districts, one freestanding sign not exceeding five feet in height is permitted on a lot.
2. In the P district, one freestanding sign not exceeding 25 square feet in area or five feet in height.
3. In C, NA, SA, DA, and I districts, one freestanding sign not exceeding 64 square feet is permitted on each frontage. For large lots, a freestanding sign, not exceeding 64 square feet, shall be allowed for each 250 feet of frontage. The maximum height of freestanding signs shall not exceed eight feet in the CC, CN, DA-1, DA-2, DA-3, DA-4, DA-6, NA-1, NA-2, SA-1, SA-2, and SA-3 districts and 12 feet in other C and I districts, except when reviewed and approved as part of a Master Sign Plan.
4. In OS, PD, and PS districts, the number and size of freestanding signs shall be as prescribed by the use permit for the principal use.
5. A freestanding sign shall not be closer to any property line than one-half its height.

6. A freestanding sign shall not be closer than 15 feet to another freestanding sign or projecting sign on the same site. A freestanding sign shall not be closer than 30 feet to another freestanding sign on an adjacent site or closer than 30 feet to a projecting sign on an adjacent site.
7. A freestanding sign shall not extend over a public right-of-way and shall not be located on the same frontage as a projecting sign extending over a public right-of-way.
8. All freestanding signs shall be no closer than 10 feet to the curb and placed within a landscaped area of not less than 75 square feet in CC districts and 50 square feet in other districts.



**Freestanding Sign: Interior Property Line Minimum Setback**  
(The diagram is illustrative)

9. A freestanding sign in a required yard adjoining a street property line shall comply with the requirements of Section 4.08.148 Driveways—Visibility. At intersections, no freestanding sign shall create a visual obstruction within a vertical space between three feet and seven feet above the curb. Two vertical supports with no horizontal dimensions greater than 16 inches are permitted. The obstruction restriction area includes all the land in a triangular area measured 30 feet from the intersection along each street property line.

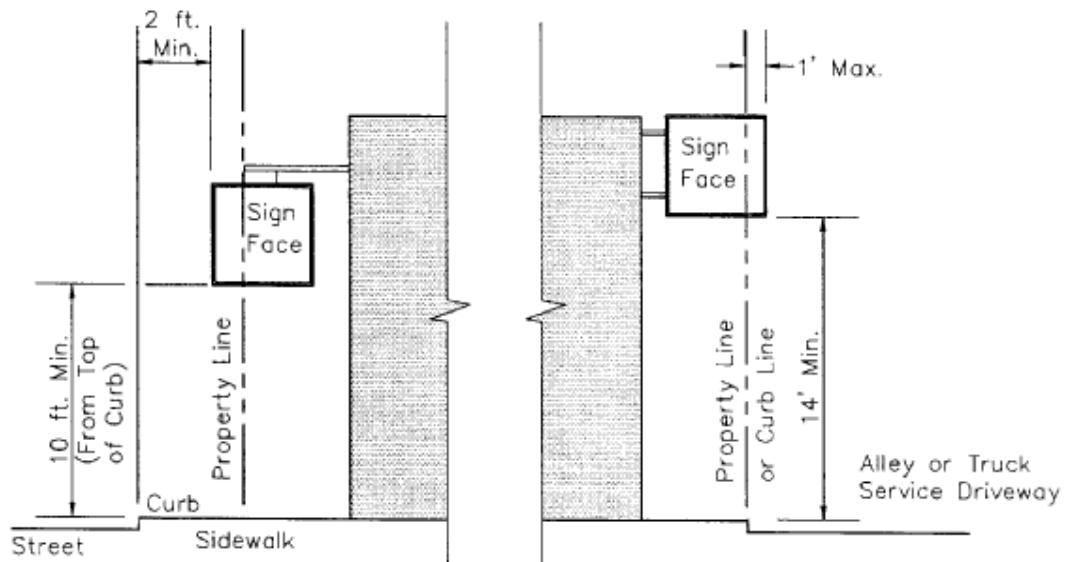


**Freestanding Sign: Obstruction Restriction Areas**  
 (The diagram is illustrative)

E. Projecting Signs.

1. The maximum size shall be eight square feet in P districts, 25 square feet in C districts, 32 square feet in I districts and three square feet in other districts.

2. No portion of a projecting sign shall be less than 10 feet above the surface over which it projects, or less than 15 feet above a vehicular passageway, or project more than five feet into a public right-of-way.
3. No sign shall project into an alley or truck service driveway more than one foot or be less than 14 feet above the roadway surface over which it projects. This will provide adequate clearance for trucks.



**Projecting Signs: At Public R.O.W. and at Alley Way**  
(The diagram is illustrative)

4. No sign shall project closer than two feet to a curb.
  5. A projecting sign shall be set back five feet from an interior property line.
  6. No portion of a projecting sign shall project above an apparent eave or parapet, including the eave of a simulated mansard roof.
  7. No portion of a projecting sign shall exceed 30 feet in height measured from finished grade.
  8. Signs on awnings, canopies or marquees shall not have letters exceeding eight inches in height or symbols exceeding four feet in any dimension, provided that theaters and cinemas shall be exempt from this requirement.
- F. Multistory Office Identification. Multistory office buildings may be identified under the following conditions:



1. Only a single company name or logo of an organization or enterprise occupying office space within the office building shall be permitted.
  2. Subject to approval of the Site Development Sub-Commission, multistory office building signs shall be located below the parapet at a height and scale architecturally in harmony with the building.
  3. Only one multistory office identification sign shall be permitted per building.
  4. Individual channel-letters, internally illuminated letters, and/or logos are allowed. "Can-type" signs are prohibited.
- G. Construction Signs. The maximum size of temporary construction signs shall be 32 square feet per frontage, except in the RD, RO, and RS districts where the maximum size shall be eight square feet. Construction signs shall be removed within 30 days following the issuance of a certificate of occupancy.
- H. Real Estate Signs.
1. The maximum size of temporary real estate signs shall be six square feet, exclusive of riders, in the RD, RM, RO, and RS districts and one sign per listing broker shall be allowed per frontage. Riders shall be limited to no more than three square feet.
  2. The maximum size of temporary real estate signs in all C and I Districts shall be based on frontage as listed below:

Frontage	Sign Size
0 - 49 feet	12 square feet
50 - 199 feet	24 square feet
200+ feet	32 square feet

Two-sided signs shall be considered one sign. There shall be a maximum of one two-foot by three-foot window sign allowed for each vacancy. All signs shall be non-illuminated. One sign shall be allowed for each frontage. Any sign structure shall be painted a neutral or matching color. Signs exceeding these limitations may be administratively approved by the Zoning Enforcement Official. All signs and sign structures shall be maintained in good condition and free of graffiti.

- I. Temporary Political Signs. The maximum size of temporary political signs shall be 16 square feet unless the sign meets structural and design requirements prescribed by the Uniform Sign Code for signs other than temporary signs. This requirement is intended to prevent installation of structurally unsafe signs. Prior to the installation of any temporary political sign anywhere in the City, the person intending to install the sign or the

person on whose behalf the signs are to be installed shall, at least two days prior to the installation, file a declaration of intent to install with the Zoning Enforcement Official or the Zoning Enforcement Official's designee. The declaration shall contain an agreement to remove any sign that is installed in violation of any provisions of the Zoning Code or the Municipal Code, and to pay the City's costs of removal. If a person installs temporary political signs without having filed a declaration of intent, that person or the person on whose behalf the signs are installed, shall be notified to remove the signs and shall immediately remove such signs or pay the cost of removal by the City.

J. Illumination; Movement.

1. Signs in an CR, OS, P, PD, PS, or R district shall, if lighted, have white or amber lighting and shall be indirectly illuminated.
2. Signs shall not have exposed fluorescent tubes or incandescent bulbs exceeding 15 watts, unless such signs are approved as part of a Master Sign Plan or a use permit for a cinema or theater. Neon signs are allowed if in conformance with Section 4.12.104 Administrative Review of Signs.
3. Signs both visible from and within 100 feet of an R district shall not be illuminated between 10:00 p.m. and 7:00 a.m. unless they identify an establishment open for business during those hours.
4. No movement or apparent movement of or in a sign or change in intensity of illumination of a sign shall be permitted, provided that a time or temperature sign or a theater canopy sign consistent with other regulations of this chapter and including no changeable text shall be permitted. Very rapidly flashing or stroboscopic lights or signs are prohibited. Flashing signs are not permitted in CR, OS, P, or R districts.
5. Reader board signage is allowed for trade schools with instructional programming and community organizations. Text is limited to scheduling of events or classes only.

K. Temporary and Miscellaneous Signs.

1. Temporary signs, banners, flags, outdoor display of merchandise, and other advertising devices may be placed by individual tenants on a site for a maximum of two 15-day periods each calendar year, subject to the approval of the Zoning Enforcement Official, provided the total temporary and permanent sign area shall not exceed 150 percent of permitted permanent sign area, and provided that temporary devices do not create safety hazards or block signs identifying adjoining establishments.

- a. Such signs are subject to prior approval by the Zoning Enforcement Official and number, type, duration, and other aspects may be restricted or conditioned by the Zoning Enforcement Official.
    - b. Up to two additional 30-day periods may be approved by the Zoning Enforcement Official provided such extensions are determined to be reasonably necessary to achieve business identity and are consistent with the purposes of this Code.
  2. A use permit for a theater or cinema may authorize signs deviating from the standards of this chapter, subject to development plan review under the provisions of Chapter 5.12 Site Plan Approval. The Site Development Sub-Commission may approve marquee signs, animated signs, changeable copy signs, brighter lights, and other features for cinema or theater signs not otherwise authorized by this chapter if such modifications are consistent with the style and character of existing signs on the site and adjacent property, and will not be readily visible from an R district.
  3. Open house signs advertising real estate open for inspection for prospective sale may be installed on private property in all zoning districts from 10:00 a.m. to 6:00 p.m. with the consent of the person in possession and control of the property. Such signs may state the name of the person or firm sponsoring the open house and may not exceed five square feet each in face area or five in number for any one sale.
- L. Prohibited Signs. The following signs are prohibited:
1. Canvas signs, banners, pennants, streamers, balloons or other temporary or wind signs except as provided in Subsection K.1 or E.8.
  2. Mobile, A-frame, and portable signs except as provided in Subsection K.3.
  3. Roof or canopy signs extending to a height more than four feet above the roofline.
  4. Signs which resemble any official marker erected by the City, State, or any governmental agency, or which, by reason of position, shape, color or illumination would conflict with the proper functioning of any traffic sign or signal or would be a hazard to vehicular or pedestrian traffic.
  5. Signs which produce odor, sound, smoke, fire, or other such emissions.
  6. Window or contiguous window panes covered by paper, painted or other signs which exceed 25 percent of the total area of that window at any time.

7. A vehicle or equipment stored with mast arms in an elevated position with intent to advertise.
8. Abandoned signs.

M. Prohibited Locations.

1. No sign shall be affixed to any vehicle or trailer on a public street or public or private property unless the vehicle or trailer is intended to be used in its normal business capacity and not for the sole purpose of attracting business.
2. No sign shall be erected within an airport approach zone, airport turning zone, or airport transition zone designated by the Oakland Airport Land Use Commission (ALUC), such that it would project above the approach surface, conical surface, or the transitional surface designated by the ALUC; make it difficult for flyers to distinguish between airport lights and others; result in glare; impair visibility; or otherwise interfere with or endanger the landing, take off, or maneuvering of aircraft. (Ord. 2016-012 § 4; Ord. 2014-011 § 2; Ord. 2008-003 § 13; Ord. 2001-015 § 1)

#### **4.12.116 Regulations for Off-Site Advertising Signs**

Off-site advertising signs are not permitted within the City. Any nonconforming off-site advertising sign may only be reconstructed or relocated pursuant to a relocation agreement between the City and the sign owner, consistent with Section 5412 of the California Business and Professions Code. Real estate and development signs otherwise allowed in this chapter are not considered off-site advertising signs. (Ord. 2001-015 § 1)

#### **4.12.120 Master Sign Programs and Sign Exceptions**

- A. Master Sign Programs Required. Any development that will have/has: (a) either three or more nonresidential occupants, or occupying two acres or more, and (b) requires Site Plan Approval as per the requirements of Chapter 5.12 Site Plan Approval, shall submit a Master Sign Program application. Such plan must be approved by the Zoning Enforcement Official prior to issuance of any permit for signs. Each new tenant would have to meet the requirements of the new Master Sign Program.
- B. Exceptions May be Proposed. Any sign application, including both individual sign applications and Master Sign Programs, may propose exceptions from the standards of this chapter (i.e., an individual sign or sign program that would exceed the size and height limitations of Section 4.12.112 Regulations for On-Premises Signs). Exceptions approved as part of a Master Sign Program will apply to the signage of subsequent tenants.

- C. Application Requirements. Applications for approval of either a Master Sign Program and/or Sign Exception shall be submitted to the Planning Division and shall include the following:
1. A site plan, drawn to scale, delineating the site proposed to be included within the sign program and the general locations of all signs;
  2. Drawings and/or sketches indicating the exterior surface details of all buildings on the site on which wall signs, directory signs, or projecting signs are proposed;
  3. A scale drawing of the proposed sign(s), indicating dimensions of all structures, cabinets and/or letter height, and proposed color schemes; and
  4. If a Sign Exception is requested, a statement of the reasons for any requested modifications to the regulations or standards of this chapter.
- D. Review and Approval Authority. The Zoning Enforcement Official shall be the decision-maker, unless the Zoning Enforcement Official defers action to the Site Development Sub-Commission. The Zoning Enforcement Official or Site Development Sub-Commission shall approve, conditionally approve or deny the requested Master Sign Program/Sign Exception. The decision-maker may require any reasonable conditions necessary to carry out the intent of this section.
- E. Appeals. A decision by either the Zoning Enforcement Official or by the Site Development Sub-Commission may be appealed to the Board of Zoning Adjustments pursuant to the requirements of Chapter 5.20 Appeals.
- F. Standards for Approval. In addition to finding that the proposed Master Sign Program and/or Sign Exception meets the requirements for all signs as specified in Section 4.12.104 Administrative Review of Signs, the decision-maker shall find:
1. That the proposed sign or sign program contributes to the design quality of the site and surrounding area, and that any proposed exception, will be superior to the quality that would result under the regulations and standards of Section 4.12.112 Regulations for On-Premises Signs;
  2. That the proposed signs are compatible with the style or character of existing improvements on the site and are well-related to each other; and
  3. That any deviations from the standards of this chapter are fully consistent with the purposes of this Chapter and this Code. (Ord. 2001-015 § 1)

#### **4.12.124 Sign Permit or Temporary Sign Permit Required**

No sign regulated by this chapter shall be erected or displayed unless a sign permit or temporary sign permit is obtained. All temporary signs shall be subject to the provisions of Subsection K.1 of Section 4.12.112 Regulations for On-Premises Signs. (Ord. 2001-015 § 1)

#### **4.12.128 Uniform Sign Code**

Signs shall be subject to the Uniform Sign Code requiring building permits for certain signs. (Ord. 2001-015 § 1)

#### **4.12.132 Construction**

Lateral and columnar sign supports shall be designed so as to be architecturally integrated with the building to which they are attached or so that required extra bracing, including, but not limited to, angle irons, guy wires and cables, shall not be exposed to view from streets or public passageways. (Ord. 2001-015 § 1)

#### **4.12.136 Fire Safety**

No sign shall be installed in such a manner that any portion of the sign or its support will unreasonably interfere with:

- A. The operations of the Fire Department in raising ladders to building roofs, windows, fire escapes, balconies or exits, or in taking hose lines or other fire-fighting or rescue equipment to any part of a building;
- B. The operations of the Fire Department in gaining access to any areas around buildings;
- C. The use of any standpipe or required door, ventilator or window. (Ord. 2001-015 § 1)

#### **4.12.140 Maintenance**

Signs and sign structures shall be maintained at all times in a state of good repair, with all braces, bolts and structural parts and supporting frames and fastenings reasonably free from deterioration, rot, rust, and loosening. No person shall maintain or permit to be maintained on any premises owned or controlled by him or her, any sign or sign structure which is in a sagging, leaning, fallen, decayed, broken, deteriorated or other dilapidated, unsafe condition. (Ord. 2001-015 § 1)

## Chapter 4.16 Landscape Requirements

### Sections:

- 4.16.100 Specific Purpose
- 4.16.104 General Requirements
- 4.16.108 Landscaping Plans Required
- 4.16.112 Existing Trees on Development Sites
- 4.16.116 Design Standards
- 4.16.120 Acceptable Materials and Performance Standards
- 4.16.124 Completion, Maintenance and Subsequent Changes
- 4.16.128 Existing Landscapes
- 4.16.132 Penalties

### 4.16.100 Specific Purpose

In recognition of the importance landscaping has in improving the quality of San Leandro's environment, and that landscape design, installation, maintenance and management must be water efficient and sustainable, this chapter establishes procedures to ensure that landscaping is installed and maintained in accordance with the requirements of this Code. This Chapter is intended to implement the new landscape design requirements of the Water Conservation in Landscaping Act of 2006 (AB 1881) and to establish standards for sustainable landscape practices in accord with the current version of the StopWaste.Org Bay Friendly Landscape protocols. (Ord. 2010-001 § 1; Ord. 2001-015 § 1)

### 4.16.104 General Requirements

Required site landscaping areas shall be installed and permanently maintained in accord with the standards and requirements of this chapter. This chapter shall apply to applicable large landscape projects and projects for which "Site Plan Approval" pursuant to Chapter 5.12 Site Plan Approval is required. Applicable large landscape projects include new or rehabilitated commercial, industrial and developer-installed residential landscapes over 2,500 square feet and all new or rehabilitated residential landscapes over 5,000 square feet. For projects subject to Site Plan Review, landscape plans are subject to the review and approval process provided in Chapter 5.12 Site Plan Approval, and additional planting requirement and/or exceptions to requirements for minimum landscape yards may be made by the Site Plan Review decision-maker. (Ord. 2010-001 § 1; Ord. 2001-015 § 1)

### 4.16.108 Landscaping Plans Required

- A. Requirements for Applications Subject to "Site Plan Approval." Development applications for "Site Plan Approval" that include new or rehabilitated commercial, industrial or developer-installed residential landscapes that do not exceed 2,500 square feet and residential landscapes that do not exceed 5,000 square feet shall comply with the following requirements:

1. Development applications for “Site Plan Approval” shall include a conceptual landscape plan that generally identifies a plant palette and lists the quantity, size, species, and locations of proposed plantings. The Zoning Enforcement Official may waive the requirement for a conceptual landscape plan and a final landscape plan when little or no change to existing landscaping is proposed or for a project where the amount of new or renovated landscaping is small in relation to existing landscaping.
  2. Applicants shall submit additional landscape plan information if requested by the Zoning Enforcement Official and/or decision-making body. Either the Zoning Enforcement Official and/or decision-making body may request additional landscape plan information, if needed to address a site-specific area of concern, as part of its review of the application. Such areas of concern may include, but are not limited to, information regarding existing trees on the site, in accordance with Section 4.16.112 Existing Trees on Development Sites.
  3. Final landscape plans, identifying the species, sizes, and quantities of the specific plant materials to be used, shall be submitted concurrently with all applicable structural plans that are required for building permit review. The Zoning Enforcement Official shall review such final landscape plans. No building permit shall be issued, unless and until it has been determined that the submitted final landscape plan is consistent with the requirements of this chapter.
  4. Conceptual and final landscape plans shall be prepared by a licensed landscape architect, architect, landscape designer, or other qualified person. Conceptual and final landscape plans shall be drawn “to scale” and have base information that is consistent with the architectural and civil site plans.
- B. Requirements for Large Landscape Projects. Development applications that include new or rehabilitated commercial, industrial or developer-installed residential landscapes that exceed 2,500 square feet or residential landscapes that exceed 5,000 square feet shall submit a “Landscape Documentation Package” that shall include (1) project information, (2) landscape design plan, (3) irrigation design plan, (4) water management plan, (5) soil management report, and (6) grading design plan. This requirement shall not apply to historic landscapes.
1. Project information submitted in an applicant’s Landscape Documentation Package shall include:
    - a. Name of applicant;
    - b. Street address of site or Assessor’s Parcel Number;
    - c. Total area to be landscaped (square feet);



- d. Project type (e.g. new, rehabilitated, public, private, home-owner installed);
  - e. Water supply type (e.g. potable, recycled, non-potable) and name of water provider;
  - f. Checklist of all documents in the Landscape Documentation Package;
  - g. Contact information for the project applicant and property owner;
  - h. Applicant signature and date.
2. Landscape Design Plan submitted in an applicant's Landscape Documentation Package shall:
- a. Identify a plant pallet and list quantity, size and locations of proposed plantings;
  - b. Delineate and label each hydrozone and identify each hydrozone as low, moderate, high water, or mixed water use. Temporarily irrigated areas of the landscape shall be included in the low water use hydrozone for the water budget calculation;
  - c. Identify recreational areas;
  - d. Identify areas permanently and solely dedicated to edible plants;
  - e. Identify areas irrigated with recycled water;
  - f. Identify type of mulch and application depth (application depth must comply with design standards in this chapter);
  - g. Identify soil amendments, type, and quantity;
  - h. Identify type and surface area of water features;
  - i. Identify storm water retention and infiltration areas;
  - j. Identify hardscapes (pervious and non-pervious);
  - k. Identify any applicable rain harvesting or catchment technologies (e.g., rain gardens, cisterns, etc.);
  - l. Demonstrate compliance with all design standards specified in this chapter;

- m. Contain the following statement: "I have complied with the criteria of Chapter 4.16 Landscape Requirements of the Zoning Code, including all design standards of Section 4.16.116 Design Standards, and applied them for the efficient use of water in the landscape design plan"; and
  - n. Bear the signature of a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape.
3. Irrigation Design Plan submitted in an applicant's Landscape Documentation Package shall include:
- a. Location and size of separate water meters for landscape;
  - b. Location, type and size of all components of the irrigation system, including controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices;
  - c. Static water pressure at the point of connection to the public water supply;
  - d. Flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station;
  - e. Recycled water irrigation systems (if applicable);
  - f. Demonstration of compliance with all design standards specified in the article;
  - g. The following statement: "I have complied with the criteria of Chapter 4.16 Landscape Requirements of the Zoning Code, including all design standards and applied them accordingly for the efficient use of water in the irrigation design plan"; and
  - h. The signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or any other person authorized to design an irrigation system.
4. Water Management Plan submitted in an applicant's Landscape Documentation Package shall include:
- a. An introduction and statement of existing site conditions, including annual precipitation rates;
  - b. The anticipated water requirements in inches per year for each hydrozone;

- c. Seasonal irrigation water schedules or procedures for programming proposed controllers; and
  - d. A maintenance plan for the ongoing operation and maintenance of the irrigation system.
  - e. The Water Efficient Landscape Worksheet which contains two (2) sections:
    - i. A hydrozone information table for the landscape project,
    - ii. A water budget calculation for the landscape project. For the calculation of the Maximum Applied Water Allowance and Estimated Total Water Use, a project applicant shall use the reference evapotranspiration (ET<sub>o</sub>) value 41.8.
5. A Soil Management Report that addresses the soil attributes of the project site and shall include Identification of areas of quality topsoil to be protected during construction and/or critical soil limitations (such as compaction; water logged soils or wetlands; thin, eroded or erosion prone soils) and a laboratory soil analysis of the soil(s) into which plantings are to be made. Soil sampling shall be conducted in accordance with laboratory protocol, including protocols regarding adequate sampling depth for the intended plants. The soil analysis shall include:
- a. Analysis of soil texture;
  - b. Analysis of infiltration rate determined by laboratory test or soil texture infiltration rate table;
  - c. pH;
  - d. Total soluble salts;
  - e. Sodium;
  - f. Essential nutrients;
  - g. Percent organic matter; and
  - h. Recommendations for soil amendments or nutrient applications to ameliorate the soil limitations identified by the analysis and the amount of compost as required in Subsection D: Design Standards for Projects Requiring a Landscape Documentation Package and/or Irrigation Design Plan of Section 4.16.116 Design Standards.

It is highly recommended that:

- i. The lab report recommendations be based on an 'organic' approach to soil and landscape management that specifies natural and non-synthetic fertilizers to rectify any soil deficiencies;
  - j. If the soils are to be irrigated with recycled water the lab report recommendations be tailored to recycled water;
  - k. The types of plantings intended such as turf, perennial bed, annual bed, swale etc. be provided to the soil laboratory; and
  - l. Management actions be identified to remediate limiting soil characteristics such as ripping the soil to alleviate soil compaction.
6. Grading Design Plan submitted in an applicant's Landscape Documentation Package shall include:
- a. Height of graded slopes;
  - b. Drainage patterns;
  - c. Pad elevations;
  - d. Finish grade; and,
  - e. Stormwater retention improvements, if applicable.

This requirement may be fulfilled by providing the aforementioned information on the Landscape Design Plan.

- C. Irrigation is Required. A permanent and automatic irrigation system that complies with all design standards specified in this chapter shall be provided for all new and renovated landscaped areas exceeding 500 square feet except residential landscapes that are less than 5,000 square feet. The Zoning Enforcement Official may waive this requirement due to significant physical constraints. A statement regarding the provision of an irrigation system shall be made on the final landscape plans.

An Irrigation Design Plan shall be submitted as part of the Landscape Documentation Package (when required) or when made a condition of approval or required by the Zoning Enforcement Official. When required, the Irrigation Design Plan shall include the following information:

- 1. Location and size of separate water meters for landscape;

2. Location, type and size of all components of the irrigation system, including controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices;
  3. Static water pressure at the point of connection to the public water supply;
  4. Flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station;
  5. Recycled water irrigation systems (if applicable);
  6. Demonstration of compliance with all design standards specified in the chapter;
  7. The following statement: "I have complied with the criteria of Chapter 4.16 of the Zoning Code, including all design standards and applied them accordingly for the efficient use of water in the irrigation design plan"; and
  8. The signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or any other person authorized to design an irrigation system.
- D. Certificate of Completion. Upon approval of the Landscape Documentation Package, the applicant shall receive a Certificate of Completion, which shall include the following:
1. Project Information Sheet;
  2. Certification that project has been installed in conformance with the approved Landscape Documentation Plan;
  3. Irrigation scheduling parameters used to set the controller(s);
  4. An audit report (if required); and
  5. A landscape and irrigation maintenance schedule.
- E. Changes to Approved Plans. No significant or substantive changes to approved landscaping or irrigation plans or any plans in the Landscape Documentation Package shall be made without prior written approval by the Zoning Enforcement Official. The Zoning Enforcement Official may refer substantial changes to the Site Development Sub-Commission and may require the approval of the project's decision-making body, such as Board of Zoning Adjustment or Planning Commission, if the requested changes would have a major effect on the character of the project, would effect a landscape requirement that was discussed in the public hearing, or were part of a condition of approval.

- F. Irrigation Audits. The City of San Leandro shall administer programs that may include, but are not be limited to, irrigation water use analysis, irrigation audits, and irrigation surveys for compliance with the Maximum Applied Water Allowance. All landscape irrigation audits shall be conducted by a certified landscape irrigation auditor. For new construction and rehabilitated landscape projects installed after January 1, 2010 the project applicant shall submit an irrigation audit report with the Certificate of Completion to the City of San Leandro that may include, but is not limited to: inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule. (Ord. 2012-005 § 3; Ord. 2010-001 § 1; Ord. 2001-015 § 1)

#### **4.16.112 Existing Trees on Development Sites**

A. Identification of Trees on Development Applications.

1. Plans submitted for “Site Plan Approval” shall identify all existing trees with a trunk diameter equal or greater than six inches in diameter as measured 4.5 feet above existing grade. The plans shall indicate the trees’ species and drip-lines. The plans shall indicate which trees are proposed for removal, and a “limit of grading” line, where applicable.
2. To supplement the above requirements, an applicant may be required to provide a tree report, to be prepared by a certified arborist, that provides additional information to aid the decision-maker in the evaluation of the site plan. The report should indicate such information as the tree’s health, appearance, suitability for preservation, and/or potential for failure.

B. Preservation or Replacement of Trees.

1. Ability to Require Preservation or Replacement. The “Site Plan Approval” decision-maker may require that significant trees be preserved, and/or that replacement trees be provided within the final landscape plan for the project. A tree may be found to be significant due to its size, age, prominence in the neighborhood’s landscape, and/or habitat value.
2. Applicant Must Identify Protection Measures. Final grading and landscape plans for the project (as submitted at the building/grading permit stage) shall specify tree protection measures for those trees that were either identified on the applicant’s plan to be preserved, or were required to be preserved as a condition of Site Plan, Use Permit or Planned Development approval. In addition, the Zoning Enforcement Official or project decision-maker may require the applicant to provide additional security, such as a bond or certificate of deposit, to cover possible replacement if the subject trees are damaged or destroyed.

3. Grading Prohibited Within Drip-lines. No grading shall occur within the drip-line of a tree designated and/or required to be preserved unless approval of such grading was given at the time the project was approved or unless the Zoning Enforcement Official has subsequently reviewed and approved plans for such additional grading.
4. Preserved and Replacement Trees to Be Permanently Maintained. Trees designated and/or required for preservation or required as replacement trees shall be permanently maintained as required by Subsection D: Landscaping Shall be Permanently Maintained of Section 4.16.124 Completion, Maintenance and Subsequent Changes. (Ord. 2010-001 § 1; Ord. 2001-015 § 1)

#### **4.16.116 Design Standards**

##### **A. General Design Standards.**

All landscapes shall adhere to the following design standards:

1. Landscape materials shall demonstrate a recognizable pattern or theme for the overall development by choice and location of materials and shall be located such that at maturity:
  - a. They do not interfere with site distance standards for vehicular, bicycle, or pedestrian traffic, as determined by the City Engineer;
  - b. They do not conflict with overhead utility lines, overhead lights, or walkway lights; and
  - c. They do not block pedestrian or bicycle ways or emergency access or exits.
2. Plant selection and irrigation design shall incorporate appropriate water conservation measures, as required by applicable State or local regulations and adhere to the most recent version of the "Bay Friendly Landscape Guidelines" developed by StopWaste.Org for use in the professional design, construction and maintenance of landscapes. City staff shall maintain the most recent version of the "Bay-Friendly Landscape Guidelines" at all times.
3. The minimum portion of a site that is to be a landscaped area shall be as prescribed under the applicable R, C or I Zoning District's development regulations.

##### **B. Street Trees.**

1. Street Trees Required. Street trees with spacing not to exceed 30 feet and of minimum 15 gallon size shall be provided along any public street frontage. Such trees shall be a deciduous species that will provide canopy shade cover at maturity or

alternate species type as approved with the conceptual or final landscape plan. Credit may be given for existing city street trees, where applicable. New trees may be placed in the City right-of-way in conjunction with new sidewalk improvements and subject to the approval of the Zoning Enforcement Official and City Engineer.

C. Design Standards for Parking Lots.

1. Requirements for Perimeter Planting.

- a. Perimeter Landscaping Required for All Parking Lots. In addition to the requirements for minimum landscaped front and corner side yards prescribed for in the applicable R, C, and I Zoning Districts, and notwithstanding the zero foot setback requirement for side or rear yards in the C and I Districts, a landscaped area of not less than five feet wide, measured from inside of curb, shall be provided adjacent to any interior property line.
- b. Required Screening of Parking Lot from Street. Along street frontages, screening to a height of 30 inches shall be provided by use of continuous shrub plantings, berms, and/or architectural walls.

2. Requirements for Interior Landscaped Areas.

- a. Minimum Width of Interior Landscaped Areas. Interior landscaped areas, or tree wells, shall be a minimum of four feet in width, measured from inside of curb to inside of curb, or as required by Subsection C.4, below.
- b. Separation of Parking Rows from Driveways. The end of each row of parking stalls shall be separated from driveways by a landscaped area, sidewalk, or other means approved by the Zoning Enforcement Official.

3. Requirements for Parking Lot Trees.

- a. Minimum Number of Trees. A minimum of one tree for every six parking spaces shall be distributed throughout the parking lot.
- b. Trees to Provide Shade at Maturity. Trees with a canopy or spreading branch structure shall be specified, and trees shall generally have consistent spacing to substantially shade the parking area at maturity.

4. Increased Landscaped Area In-lieu of Wheel Stops. Where parking stalls face into landscaped areas, the depth of the parking stall shall be decreased by two feet, and the landscaped area shall be increased two feet, with wheel stops or with the curb functioning as the wheel stop and allowing autos to overhang the increased landscaped area. Where autos will overhang into opposite sides of a landscaped



area, such landscaped areas shall have a minimum width of six feet, as measured from inside of curb to inside of curb.

5. Required Landscaped Areas for Parking Structure. A parking structure in a C, P, or I Zoning District having at-grade parking adjoining a street shall have a 10 foot landscaped area adjoining the street property line. Planter boxes shall be provided on the upper levels of parking structures where these structures are visible from public streets, pedestrian pathways, or adjacent buildings.
- D. Design Standards for Projects Requiring a Landscape Documentation Package and/or Irrigation Design Plan. All new or rehabilitated commercial, industrial or developer-installed residential landscapes that exceed 2,500 square feet or residential landscapes that exceed 5,000 square feet shall adhere to the following design standards. These standards shall not apply to city-recognized historic landscapes.
1. Plants shall be selected and planted appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the project site.
  2. Plants shall be grouped in hydrozones according to water need.
  3. At least 75 percent of the total number of plants in non-turf areas shall require occasional, little or no summer water once established. All species should be adapted to the climate in which they will be planted, as documented by a published plant reference. If plants are given a range of water needs from “occasional to moderate” for example, the landscape designer must determine if the plant will require either occasional or moderate watering based on site, soil, and climate conditions and categorize the plant appropriately. Sources used to determine climate adaptation and watering requirements may include:
    - a. Bornstein, Carol, David Fross and Bart O’Brien, California Native Plants for the Garden.  
Qualifying irrigation designation: “occasional,” “infrequent,” or “drought tolerant.”
    - b. East Bay Municipal Utility District’s publication Plants and Landscapes for Summer Dry Climates.  
Qualifying irrigation designation: “occasional”, “infrequent,” or “no summer water.”
    - c. Sunset Publishing Corporation Sunset Western Garden Book.  
Qualifying irrigation designation: “little or no water.”
    - d. University of California Cooperative Extension’s Guide to Estimating Irrigation Water Needs of Landscape Plantings in CA.  
Qualifying irrigation designation: “Low” or “Very Low.”

4. Total irrigated areas specified as turf shall be limited to a maximum of 25 percent; sports or multiple uses fields or recreational areas are exempted. Turf is not allowed on slopes greater than 25 percent where the toe of the slope is adjacent to an impermeable hardscape and where 25 percent means one foot of vertical elevation change for every four feet of horizontal length.
5. Those species identified by California Invasive Plan Council (CAL-IPC) as invasive in the San Francisco Bay Area shall not be specified.
6. The architectural guidelines of a common interest development, which include community apartment projects, condominiums, Planned Developments, and stock cooperatives, shall not prohibit or include conditions that have the effect of prohibiting the use of low-water use plants as a group.
7. Recirculating water shall be used for water features and, where available, recycled water shall be used as a source for decorative water features.
8. Recycled water shall be used for all irrigation (if available).
9. The irrigation system shall be designed to ensure that the dynamic pressure at each emission device is within the manufacturer's recommended pressure range for optimal performance.
10. Sensors (rain, freeze, wind, etc.), either integral or auxiliary, that suspend or alter irrigation operation during unfavorable weather conditions shall be required on all irrigation systems, as appropriate for local climatic conditions. Irrigation should be avoided during windy or freezing weather or during rain.
11. Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required, as close as possible to the point of connection of the water supply, to minimize water loss in case of an emergency (such as a main line break) or routine repair.
12. Backflow prevention devices shall be required to protect the water supply from contamination by the irrigation system.
13. The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures. Weather-based irrigation controllers, soil moisture-based controllers or other self-adjusting irrigation controllers shall be required for all irrigation systems.
14. In mulched planting areas, the use of low volume irrigation is required to maximize water infiltration into the root zone.

15. Sprinkler spacing shall be designed to achieve to achieve a uniform precipitation rate with no overspray onto hardscapes.
16. Swing joints or other riser-protection components are required on all risers subject to damage that are adjacent to high traffic areas.
17. Check valves or anti-drain valves are required for all irrigation systems.
18. Narrow or irregularly shaped areas, including turf, less than eight feet in width in any direction shall be irrigated with subsurface irrigation or low volume irrigation system. Overhead irrigation shall not be permitted within 24 inches of any non-permeable surface. Allowable irrigation within the setback from non-permeable surfaces may include drip, drip line, or other low flow non-spray technology.
19. For the efficient use of water, all irrigation schedules shall be developed, managed, and evaluated to utilize the minimum amount of water required to maintain plant health. Irrigation scheduling shall be regulated by automatic irrigation controllers. Overhead irrigation shall be scheduled between 8:00 p.m. and 10:00 a.m. unless weather conditions prevent it. If allowable hours of irrigation differ from the local water purveyor, the stricter of the two shall apply. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.
20. Stabilizing mulching products shall be used on slopes. It is highly recommended that bio based products are used and petroleum based products are avoided.
21. Compost shall be specified as the soil amendment according to the outcome of the soil analysis, to bring the soil organic matter content to a minimum of 3.5 percent by dry weight or one inch of compost. Adding compost is waived if the plant palette primarily includes plants that are adapted to soils with little or no organic matter as documented by a published plant reference. If imported or site soil meets the organic content of 3.5 percent, the compost requirement is waived.
22. All plans shall specify that 50 percent of landscape construction and demolition waste by weight must be diverted from the landfill.

E. Recommended Design Standards. It is recommended that all landscape projects:

1. Protect and preserve existing native vegetation and use local natural plant communities as models;
2. Select water-conserving plant and turf species that are suitable for the climate and soil conditions in San Leandro;

3. Select plants based on disease and pest resistance;
4. Use the Sunset Western Climate Zone System to select plants, which takes into account temperature, humidity, elevation, terrain, latitude, and varying degrees of continental and marine influence on local climate;
5. Avoid turf on slopes greater than 10 percent where the toe of the slope is adjacent to an impermeable hardscape and avoid turf in street medians, traffic islands or bulbouts of any size unless irrigated with subsurface or low volume irrigation;
6. Grade so that all irrigation and normal rainfall remains within property lines and does not drain on to non-permeable hardscapes;
7. Avoid disruption of natural drainage patterns and undisturbed soil;
8. Avoid soil compaction in landscape areas;
9. Place trees on separate valves from shrubs, groundcovers, and turf;
10. Use automatic irrigation controllers that allow for multiple start times;
11. Set irrigation controls to water before 10:00 a.m. or after 8:00 p.m.;
12. Space sprinkler heads to achieve a uniform precipitation rate with no overspray onto hardscapes;
13. Use dedicated landscape water meters on landscape areas smaller than 5,000 square feet to facilitate water management;
14. Install high-flow sensors (flow meters) that detect and report high flow conditions created by system damage or malfunction;
15. Install manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) as close as possible to the point of connection of the water supply, to minimize water loss in case of an emergency (such as a main line break) or routine repair;
16. Use low volume irrigation to maximize water infiltration into the root zone in mulched planting areas;
17. Incorporate rain harvesting or catchment technologies such as cisterns for storage and use of rainwater to satisfy a percentage of the landscape irrigation requirements; and
18. Incorporate stormwater best management practices to minimize runoff and to increase on-site retention and infiltration. Examples include:

- a. Rain gardens, infiltration beds, swales and basins that allow water to collect and soak into the ground,
  - b. Constructed wetlands and retention ponds that retain water, handle excess flow and filter pollutants, and
  - c. Pervious or porous surfaces (e.g., permeable pavers or blocks, pervious or porous concrete, etc.) that minimize runoff.
- F. Exceptions to Design Standards. As part of the "Site Plan Approval" pursuant to Chapter 5.12 Site Plan Approval, exceptions to the requirements of this section may be permitted if such requirements are found not to be practical due to pre-existing site constraints. (Ord. 2012-005 § 3; Ord. 2010-001 § 1; Ord. 2001-015 § 1)

#### **4.16.120 Acceptable Materials and Performance Standards**

- A. Minimum Required Landscape Areas Shall be Planted. The sole use of crushed rock or gravel for large landscaped areas is prohibited (except for walks and drainage swales).
- B. Minimum Plant Sizes and Species Type. Plant materials shall be sized and spaced to achieve immediate effect. Select species and space plants to allow them to grow to their natural size and shape. Plants located in a row or adjacent to buildings, sidewalks, or roads will be spaced between their minimum and maximum mature plant spread, according to a published reference plant book. Plant materials shall not be normally less than a 15 gallon container for trees, five gallon container for shrubs, and a one gallon container for accent plantings. The Zoning Enforcement Official may approve smaller or require larger initial planting size to achieve specific effects.
- C. Mulching is Required. All soil on-site shall be top dressed with medium decorative bark chip mulch to a depth of three inches, or an approved alternative. Ongoing maintenance includes regular reapplication of mulch to a minimum of three inches. It is highly recommended that compost and mulch is recycled from local organic materials such as plant or wood waste and compost is purchased from processors who participate in the US Composting Council's Standard Testing Assurance Program.
- D. Performance Standards for Plant Material.
  - 1. Groundcover plantings shall substantially fill the intended landscape area within two years of planting.
  - 2. Shrub plantings, where used to screen parking lots, shall reach a minimum height of 30 inches within two years of planting.

- E. Staking Requirements. All trees shall be double staked.
- F. Hydro-Seeding. Plans indicating location and type of hydro-seeding shall be submitted with the final landscape plan when such planting is to be utilized for permanent landscape treatment or for natural area restoration. Hydro-seeding plans shall contain installation specifications including, but not limited to:
  - 1. Seed Mix and Application Rate. A native seed mix containing a minimum of 10 percent shrub and perennial seeds shall be utilized in areas where permanent landscape restoration is required. Species selected shall include plant materials native to the area.
  - 2. Fertilizer, mulch materials, soil preparation, and watering specifications. (Ord. 2012-005 § 3; Ord. 2010-001 § 1; Ord. 2001-015 § 1)

#### **4.16.124 Completion, Maintenance and Subsequent Changes**

- A. Completion of Landscape Installation. Prior to the issuance of either a Certificate of Occupancy or Approval of the Final Inspection, all required landscaping and irrigation shall be installed per the approved plans, with respect to size, number, and species of plants, and provision of adequate irrigation coverage. In cases of substantial documented hardship and subject to the approval of the Zoning Enforcement Official, a Certificate of Occupancy may be issued prior to the complete installation of the landscaping subject to the applicant/owner's posting of a certificate of deposit, performance bond, or other acceptable security.
- B. Ability to Assure Establishment of Landscaping. For projects with significant new landscaping, or where the installation of such landscaping was a project specific condition intended to mitigate a project's impact, the Zoning Enforcement Official may require either or both of the following to assure plant establishment:
  - 1. Posting of a performance bond or certificate of deposit, to cover a two year period. Such bonds shall typically cover the cost of replacing all applicable plant material, but may exclude material and labor costs relating to irrigation; or
  - 2. Providing evidence of a minimum two year maintenance contract with a licensed landscape contractor.
- C. Irrigation Scheduling. For the efficient use of water, all irrigation schedules shall be developed, managed, and evaluated to utilize the minimum amount of water required to maintain plant health. Irrigation schedules shall meet the following criteria:
  - 1. Irrigation scheduling shall be regulated by automatic irrigation controllers.

2. Overhead irrigation shall be scheduled between 8:00 p.m. and 10:00 a.m. unless weather conditions prevent it. If allowable hours of irrigation differ from the local water purveyor, the stricter of the two shall apply. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.
3. For implementation of the irrigation schedule, particular attention must be paid to irrigation run times, emission device, flow rate, and current reference evapotranspiration, so that applied water meets the Estimated Total Water Use. Total annual applied water shall be less than or equal to Maximum Applied Water Allowance (MAWA). Actual irrigation schedules shall be regulated by automatic irrigation controllers using current reference evapotranspiration data (e.g., CIMIS) or soil moisture sensor data.
4. Parameters used to set the automatic controller shall be developed and submitted for each of the following:
  - a. The plant establishment period;
  - b. The established landscape; and
  - c. Temporarily irrigated areas.
5. Each irrigation schedule shall consider for each station all of the following that apply:
  - a. Irrigation interval (days between irrigation);
  - b. Irrigation run times (hours or minutes per irrigation event to avoid runoff);
  - c. Number of cycle starts required for each irrigation event to avoid runoff;
  - d. Amount of applied water scheduled to be applied on a monthly basis;
  - e. Application rate setting;
  - f. Root depth setting;
  - g. Plant type setting;
  - h. Soil type and mulch depth;
  - i. Slope factor setting;
  - j. Shade factor setting; and

- k. Irrigation uniformity or efficiency setting.
- D. Landscaping Shall be Permanently Maintained. Required landscaped areas shall be permanently maintained to preserve plant health, water use efficiency and consistency with the design at time of completion and City’s final inspection. As used in this section, “maintained” includes: watering, weeding, pruning, insect and disease control, and replacement of plant materials and irrigation equipment as needed to preserve the health and appearance of plant materials.
- 1. Landscape and Irrigation Maintenance Schedule. Landscapes shall be maintained to ensure water use efficiency. A regular maintenance schedule shall be submitted with the Certificate of Completion.
    - a. A regular maintenance schedule shall include, but not be limited to, routine inspection; adjustment and repair of the irrigation system and its components; aerating and dethatching turf areas; replenishing mulch; fertilizing; pruning; weeding in all landscape areas, and removing any obstruction to emission devices. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.
    - b. Repair of all irrigation equipment shall be done with the originally installed components or their equivalents.
    - c. Use of the “Bay-Friendly Landscape Model Maintenance Specifications” and the “Bay-Friendly Landscape Guidelines” as official reference documents in the landscape maintenance contract and/or with on-site landscape staff is highly recommended. It is highly recommended that at least one landscaping staff member or contractor to be trained in the use of Integrated Pest Management (IPM) or is a “Bay-Friendly Qualified Landscape Professional.”
  - 2. Failure to Maintain Landscaping is a Violation of this Code. The failure to maintain a landscape installation that is governed by this chapter may be cited as a violation of this Code, pursuant to Section 5.24.112 Violations as Misdemeanors or Infractions. Examples of failed maintenance include, but are not limited to:
    - a. Allowing a significant amount of trees, shrubs, ground covers, and/or turf areas to die, or become so diseased, and/or stressed as to make the property appear unsightly.
    - b. Improperly pruning trees, so that their natural form is negated. Examples include the severe topping or pollarding of trees that were planted or retained to provide a shade canopy, or “pruning up,” or excessively “thinning” trees that were required for screening.



- c. Allowing weeds to grow and infiltrate to such an extent that the intended ground cover plantings are obscured, and/or the landscaped area appears unsightly.
3. Changes to Previously Approved Plans Require City Approval. The removal and/or replacement of trees that were a part of an earlier approval by a Site Plan Review, Use Permit, and/or Planned Development may require an amendment to that earlier approval as determined by the Zoning Enforcement Official. Removal of such trees without prior City approval of an amendment is prohibited and may be subject to enforcement pursuant to Section 5.24.112 Violations as Misdemeanors or Infractions. Minor changes do not require approval of an amendment and are subject to the approval of the Zoning Enforcement Official. (Ord. 2010-001 § 1; Ord. 2001-015 § 1)

#### **4.16.128 Existing Landscapes**

- A. Water Waste Prevention. To prevent water waste resulting from inefficient landscape irrigation, applied water shall not leave the target landscape (runoff) due to overspray, or any other similar conditions that causes water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures.
- B. Irrigation Audit Required for Existing Landscapes that Exceed One Acre. All existing landscapes that were installed before January 1, 2010 and are over one acre in size shall conduct irrigation water use analyses, irrigation surveys, or irrigation audits to evaluate water use. All landscape irrigation audits shall be conducted by a certified landscape irrigation auditor. (Ord. 2010-001 § 1)

#### **4.16.132 Penalties**

Water waste resulting from inefficient landscape irrigation is prohibited. Water waste resulting from runoff leaving new or existing landscapes due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures shall be subject to penalties as established in the City of San Leandro Municipal Code. Overspray and runoff may be allowed if: (1) the landscape area is adjacent to permeable surfacing and no runoff occurs; or (2) the adjacent non-permeable surfaces are designed and constructed to drain entirely to landscaping. (Ord. 2010-001 § 1)

## Chapter 4.20 Nonconforming Uses and Structures

### Sections:

- 4.20.100 Specific Purposes**
- 4.20.104 Continuation and Maintenance**
- 4.20.108 Alterations and Expansions**
- 4.20.112 Abandonment or Substitution of a Nonconforming Use**
- 4.20.116 Restoration of a Damaged Structure and Its Nonconforming Use**
- 4.20.120 Requirements for Building Permits on a Site Having Certain Nonconforming Site Features**
- 4.20.124 Elimination of Nonconforming Uses (Abatement)**

### **4.20.100 Specific Purposes**

This chapter is intended to limit the number and extent of nonconforming uses by prohibiting their enlargement, their re-establishment after abandonment, and the alteration or restoration after destruction of the structures they occupy. While permitting the use and maintenance of nonconforming structures, this chapter is intended to limit the number and extent of nonconforming structures and nonconforming signs by prohibiting their being moved, altered, or enlarged in a manner that would increase the discrepancy between existing conditions and the standards prescribed in this chapter and by prohibiting their restoration after destruction. (Ord. 2001-015 § 1)

### **4.20.104 Continuation and Maintenance**

- A. A use, lawfully occupying a structure or a site on the effective date of the ordinance codified in this Code or of amendments thereto, that does not conform with the use regulations or the site area per dwelling unit regulations for the district in which the use is located shall be deemed to be a nonconforming use and may be continued, except as otherwise provided in this chapter.
- B. A structure, lawfully occupying a site on the effective date of the ordinance codified in this Code or of amendments thereto, that does not conform with the standards for front yards, side yards, rear yards, height, or floor area of structures, driveways, courts, or open space for the district in which the structure is located shall be deemed to be a nonconforming structure and may be used and maintained, except as otherwise provided in this chapter.
- C. A use that does not conform with the parking, loading, planting area, landscaping, screening, or sign regulations of the zoning district in which it is located shall not be deemed a nonconforming use solely because of one or more of these nonconformities.

- D. Routine maintenance and repairs may be performed on a structure, the use of which is nonconforming, and on a nonconforming structure or nonconforming sign. (Ord. 2001-015 § 1)

#### **4.20.108 Alterations and Expansions**

- A. Nonconforming Uses May Not Be Expanded. A nonconforming use may not be expanded, except as an exception pursuant to this subsection.
1. Any enlargement, alteration, or relocation of a structure or site that would increase the area to be occupied by the nonconforming use is not allowed.
  2. The Zoning Enforcement Official may approve a minor alteration, such as tenant improvements, to a structure containing a nonconforming use, providing that the alterations do not increase the existing area or degree of nonconformity.
  3. A nonconforming use shall not be enlarged, extended or expanded, including an expansion to the hours of operation beyond those established at the time the use became nonconforming.
  4. Exception for Nonconforming Single-Family and Two-Family Uses. A nonconforming single-family or two-family residential use may be enlarged, subject to a use permit issued by the Board of Zoning Adjustments. The Board of Zoning Adjustments, in addition to the findings required for a use permit, shall make the following findings:
    - a. That the expansion of the nonconforming single-family or two-family dwelling and, thus, the perpetuation of the nonconforming residential use will not be detrimental to the economic vitality of the area and surrounding conforming uses; and
    - b. That the enlarged single-family or two-family dwelling is visually compatible with the nearby conforming and nonconforming uses and upgrades the overall condition of the structure and the neighborhood.
  5. Exception for Nonconforming Clubs, Lodges and Religious Assembly Uses in Commercial Zoning Districts. A nonconforming club, lodge, or religious assembly use that lawfully existed in a commercial zoning district prior to May 7, 2003, may be enlarged, subject to a use permit issued by the Board of Zoning Adjustments. The Board of Zoning Adjustments, in addition to the findings required for a use permit, shall make the following findings:
    - a. That the expansion of the existing nonconforming club, lodge or religious assembly use and, thus, the perpetuation of the nonconforming club, lodge, or

religious assembly use will not be detrimental to the economic vitality of the area and surrounding conforming uses; and

- b. That the enlarged club, lodge, or religious assembly use is visually compatible with the nearby conforming and nonconforming uses and upgrades the overall condition of the structure and the neighborhood.

B. Nonconforming Structures and Buildings.

1. Alterations and Reconstruction Shall Not Increase Nonconformity. No nonconforming structure shall be altered or reconstructed so as to increase the discrepancy between existing conditions and the standards for front yards, side yards, rear yards, height of structures, distances between structures, parking, driveways, or open space prescribed in the regulations for the zoning district in which the structure is located.
2. Enlargements and Relocations Shall Conform. No nonconforming structure shall be moved or enlarged unless the new location or enlargement shall conform to the standards for front yards, side yards, rear yards, height of structures, maximum allowable floor area, distances between structures, parking, driveways, or open space prescribed in the regulations for the zoning district in which the structure is located.
3. Additions Exceeding 50 Percent of the Nonconforming Structure's Value Not Permitted. No nonconforming building shall be enlarged or altered if the total estimated construction cost of the proposed enlargement or alteration, plus the total estimated construction costs of all other enlargements or alterations for which building permits were issued within the preceding 36 month period, exceeds 50 percent of the total estimated cost of reconstructing the entire nonconforming building, unless the proposed enlargement or alteration would render the building conforming. For the purposes of this section, estimated construction and reconstruction costs shall be determined by the Building Official in the same manner as the valuation for building permit fees is determined.
4. Additions that Increase Nonconformity Requires Variance Approval. Any enlargements or alterations shall conform to requirements in effect at the time of issuance of the building permit. Nonconforming structures that would be enlarged or altered in any manner that serves to increase the degree of nonconformity, or exceed the 50 percent limitation prescribed above, shall not be permitted unless a variance is obtained, as appropriate.

Exceptions.

- a. Where a building is nonconforming only by reason of one substandard front or interior yard, provided that all nonconforming interior side yards are not less

than three feet in width, the building may be enlarged or altered without regard to the estimated construction cost.

- b. Where a building is nonconforming only by reason of a substandard side yard and/or rear yard adjacent to a public street, the building may be enlarged or altered without regard to the estimated construction cost.
- C. Nonconformance with Performance Standards. No use which fails to meet the performance standards of Section 4.04.340 Performance Standards shall be enlarged or extended or shall replace equipment that results in the use's failure to meet the performance standards, unless the enlargement, extension, or replacement equipment will result in elimination of nonconformity with required performance standards.
- D. Nonconforming Signs. No nonconforming sign shall be altered or reconstructed so as to increase the nonconformity, nor shall such a sign be moved except in accord with Section 4.12.116 Regulations for Off-Site Advertising Signs unless the new location and/or reconstruction makes the sign conform to the regulations of Chapter 4.12 Signs. (Ord. 2003-006 § 7; Ord. 2001-015 § 1)

#### **4.20.112 Abandonment or Substitution of a Nonconforming Use**

- A. Abandoned Uses Shall Not Be Re-Established. A nonconforming use that is substantially discontinued or changed to a conforming use for a continuous period of 180 calendar days or more shall not be re-established, and the use of the structure or site thereafter shall be in conformity with the regulations for the district in which it is located, provided that this section shall not apply to nonconforming dwelling units. Abandonment or discontinuance shall constitute cessation of a use regardless of intent to resume the use. The burden of proof in establishing whether a nonconforming use has been discontinued for less than 180 consecutive days shall be upon the operator of the use or person requesting re-establishment.
- B. Substitution of Nonconforming Uses. A nonconforming use may be substituted for another nonconforming use, provided that: (1) the previous use has not been discontinued for a continuous period of 180 calendar days, or more; and (2) the new substituting use is of lesser nonconformity than the previous use, based on the consistency of the new use with the stated purpose of the applicable zoning district and its relative compatibility with surrounding permitted uses, as determined by the Zoning Enforcement Official. (Ord. 2001-015 § 1)

#### **4.20.116 Restoration of a Damaged Structure and Its Nonconforming Use**

- A. Structures Damaged by 50 Percent or Less May Be Restored. Whenever a structure that does not comply with the standards for yards, height of structures, distances between structures or usable open space prescribed in the regulations for the district in which the structure is located, or the use of which does not conform with the regulations

for the district in which it is located, is destroyed by fire or other calamity or by an act beyond the control of the property owner to the extent of 50 percent or less, the structure may be restored, and the nonconforming use may be resumed, provided that a building permit for restoration or other work satisfactory to the Zoning Enforcement Official is obtained within six months and construction diligently pursued to completion. An extension of the six month period may be reviewed and approved by the Community Development Director if the applicant can prove extenuating circumstances beyond the applicant's control exist.

B. Structures Damaged by Greater than 50 Percent May Not Be Restored. Whenever a structure that does not comply with the standards for yards, height of structures, distances between structures or usable open space prescribed in the regulations for the district in which it is located or the use of which does not conform with the regulations for the district in which it is located, is destroyed by fire or other calamity, or by an act beyond the control of the property owner to an extent greater than 50 percent or is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the regulations for the district in which it is obtained, and the nonconforming use shall not be resumed.

1. Exceptions for the Restoration of Residential Structures.

- a. Residential structures in R districts that do not conform to standards for yards, height of structures, open space, or lot area per unit may be reconstructed with the same floor area, whatever the extent of the damage, subject to Administrative Review and approved by the Zoning Enforcement Official, and provided there is no increase in any nonconformity.
- b. Residential structures in Commercial or Industrial districts that do not conform to standards for yards, height of structures, open space, lot area per unit, or use, may be reconstructed with the same floor area, whatever the extent of the damage, subject to a use permit issued by the Board of Zoning Adjustments. To approve the reconstruction where there is not to be an increase in any nonconformity, the Board of Zoning Adjustments, in addition to the findings required for a use permit, shall make the following findings:
  - i. That the reconstruction of the nonconforming structure and/or use will not be detrimental to the economic vitality of the neighborhood and surrounding conforming uses; and
  - ii. That the reconstruction of the nonconforming structure and/or use will not pose a new risk to the occupants of the structure.
- c. Single-Family Residential uses in Commercial or Industrial Districts may be reconstructed to a size larger than the damaged structure, subject to a use

permit issued by the Board of Zoning Adjustment. The Board of Zoning Adjustments, in addition to the finding required for a use permit and to those required in paragraph 1.b, shall also make the findings required in Subsection A.4 of Section 4.20.108 Alterations and Expansions.

- d. Nonconforming residential uses other than Single-Family may not be expanded when reconstructed.

2. Exceptions for the Restoration of Commercial Structures.

- a. Commercial structures in Commercial districts that do not conform to standards for yards, height of structures, open space, or parking may be reconstructed with the same floor area, whatever the extent of the damage, subject to Administrative Review and approved by the Zoning Enforcement Official, provided there is no increase in any nonconformity.

- b. Commercial structures in Residential districts that do not conform to standards for yards, height of structures, open space, parking, or use may be reconstructed with the same floor area, whatever the extent of the damage, subject to a use permit issued by the Board of Zoning Adjustments, provided there is no increase in any nonconformity. The Board of Zoning Adjustments, in addition to the findings required for a use permit, shall make the following findings:

- i. That the reconstruction of the nonconforming structure and/or use will not be detrimental to the surrounding residential neighborhood; and
- ii. That the past operation of the commercial establishment in this residential district has not resulted in a significant negative effect on the surrounding neighborhood.

- C. Determining the Extent of Damage. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of a comparable building. For the purposes of this section, estimated construction and reconstruction costs shall be determined by the Building Official in the same manner as the valuation for building permit fees is determined. (Ord. 2001-015 § 1)

**4.20.120 Requirements for Building Permits on a Site Having Certain Nonconforming Site Features**

An applicant for a building permit pertaining to a site or structure, located in a C, P, or I District that is nonconforming due to lack of screening of mechanical equipment, required walls or fences to screen parking, or outdoor storage or activity, required paving for driveways, or required planting areas, shall submit for approval by the Zoning Enforcement Offi-

cial a schedule for elimination or substantial reduction of these nonconformities over a period not exceeding five years. The Zoning Enforcement Official may require that priority be given to elimination of nonconformities that have significant adverse impacts on surrounding properties and shall not require a commitment to remove nonconformities that have minor impact and would be costly to eliminate due to the configuration of the site and the location of existing structures. (Ord. 2001-015 § 1)

#### **4.20.124 Elimination of Nonconforming Uses (Abatement)**

Nothing in this section shall preclude the maintenance of legal nonconforming residential and accessory structures, residential and accessory uses, and fences in R districts. These legal nonconforming residential and accessory structures, residential and accessory uses, and fences in R districts must be maintained in conformance with all applicable local ordinances, including, but not limited to, the Uniform Housing and Building Codes.

- A. Nonconforming Use When No Structure Involved. In any district the nonconforming use of land shall be discontinued within one year from the effective date of the ordinance codified in this chapter or one year from the date such use becomes nonconforming, whichever date is later.
  - 1. Exceptions. Preexisting parking lots in R districts that serve adjacent commercial uses shall not be considered nonconforming.
  
- B. Nonconforming Use in a Structure. All nonconforming uses shall be discontinued within the time periods specified below, unless an exception is granted pursuant to Subsection C.
  - 1. C, P, NA, SA, and I Districts. Seven years from the date of notification of nonconformity.
  
- C. Notification and Exception Procedures. The Zoning Enforcement Official shall determine those properties for which there was a lawfully existing use, permitted, or conditionally permitted, in the district in which they were located prior to the date of adoption of this Code and which uses and buildings were rendered nonconforming by reason of adoption of the ordinance codified in this chapter and the zoning map. Written notice of such nonconformance, the termination procedures, and requirements of this section shall be mailed to the owner of record and to the occupant of each such property. Within two years of the date of mailing of such notice, any property owner, lessee with the consent of the owner, or purchaser of such property acting with the consent of the owner may apply to have such property excepted from the provisions of this section.
  - 1. Application Requirements. An application for an exception from the requirements of this section shall be initiated by submitting the following material and any other information deemed necessary for the determination of the Zoning Enforcement Official:



- a. A completed application form, signed by the property owner or authorized agent, stating the location and size of the property, the use on the date of adoption of this Code, and the reasons indicating that the use or structure is compatible with and will not be detrimental to uses designated in the General Plan for the surrounding area.
2. Commission Review. The Planning Commission shall hold a duly noticed public hearing within a reasonable time, following the procedures established in Chapter 5.08 Use Permits, Variances, and Parking Exceptions, on each application for an exception from the termination requirements of this section. Upon the conclusion of the hearing, the Commission shall determine whether the use of the property on the date of adoption of this Code is compatible with and not detrimental to the land uses designated in the General Plan for the surrounding area and properties. If it so finds, it shall recommend to the City Council that the use shall be excepted from the termination provisions of this section. The Commission may recommend such conditions as it may find necessary to ensure compatibility, including, but not limited to: required improvement of or modifications to existing improvements on the property, limitations on hours of operations, limitations on the nature of operations, and a specified term of years for which the exception shall be granted.
3. Council Action. Upon receipt of the recommendation of the Planning Commission, the City Council shall consider the application within a reasonable time. The Council may, at its option, conduct a public hearing on the application. If the City Council finds that the use of the property is compatible with and not detrimental to those land uses designated in the General Plan for the surrounding area and properties, it shall, by motion, except said use from the termination provisions of this section. In granting such exception, the City Council may impose such conditions as are deemed necessary to ensure such compatibility, including, but not limited to, the conditions set out in Subsection C.2. The action of the City Council shall be mailed to the owner of the nonconforming property within 10 working days and filed for record in the office of the County Recorder. (Ord. 2004-007 § 7; Ord. 2001-015 § 1)

# **Title 5—Administration**

## **Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits**

### **Sections:**

- 5.04.100 Purpose and Applicability**
- 5.04.104 General Application for Zoning Permit**
- 5.04.108 Authority of Zoning Enforcement Official**
- 5.04.112 Uses Not Listed**
- 5.04.116 Effective Date; Lapse of Permit; Appeals**
- 5.04.120 Development Plans**
- 5.04.124 Environmental Review**
- 5.04.128 Fees and Deposits**

### **5.04.100 Purpose and Applicability**

To ensure that each new or expanded use of a site and each new or expanded structure complies with this ordinance, a zoning permit shall be required prior to issuance of a building permit, grading permit, sign permit, certificate of occupancy, business license, or utility service connection or commencement of a use or activity regulated by this Code. (Ord. 2001-015 § 1)

### **5.04.104 General Application for Zoning Permit**

Application for a zoning permit shall be filed with the Zoning Enforcement Official on a form provided and shall include a statement that the applicant is the property owner or authorized agent. The Zoning Enforcement Official may require such information as is reasonably necessary to describe the proposed use, building, or activity, including grading, or other alteration of property. The Zoning Enforcement Official shall adopt administrative procedures for the reasonable processing of zoning permits and other zoning actions. (Ord. 2001-015 § 1)

### **5.04.108 Authority of Zoning Enforcement Official**

The Zoning Enforcement Official shall approve or conditionally approve a zoning permit upon determining that the use, structure, or activity complies with this Code and that environmental review and documentation, if any, required by the California Environmental Quality Act (CEQA) is complete.

- A. Supplemental Notice. For zoning permits under uses listed as requiring Administrative Review that the Zoning Enforcement Official determines may have a significant impact on adjacent uses or may generate significant public concerns, notices may be mailed to all owners of real property adjacent to the subject site a minimum of 10 days prior to the administrative decision.

- B. Conditions of Approval. In approving an Administrative Review, the Zoning Enforcement Official may impose reasonable conditions necessary to:
1. Achieve the general purposes of this Chapter and the specific purposes of the zoning district in which the use will be located, or to be consistent with the General Plan;
  2. Protect the public health, safety, and general welfare; or
  3. Ensure operation and maintenance of the use in a manner compatible with existing uses on adjoining properties and in the surrounding area.
- C. Referral to Board of Zoning Adjustments. For any use requiring Administrative Review under the base R, C, or I District's use regulations, the Zoning Enforcement Official may defer action on the issuance of a zoning permit to the Board of Zoning Adjustments. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **5.04.112 Uses Not Listed**

- A. Uses Defined in Section 1.12.108 Definitions. Definitions describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The Zoning Enforcement Official shall determine whether a specific use shall be deemed to be within one or more use classifications or not within any classification in this Code. The Zoning Enforcement Official may determine that a specific use shall not be deemed to be within a classification if its characteristics are substantially incompatible with those typical of uses named within the classification. The Zoning Enforcement Official's decision may be appealed to the Board of Zoning Adjustments, pursuant to Chapter 5.20 Appeals.
- B. Any new use, or any use that cannot be clearly determined to be in an existing use classification, may be incorporated into the zoning regulations by a Zoning Code text amendment, as provided in Chapter 5.16 Amendments. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **5.04.116 Effective Date; Lapse of Permit; Appeals**

A zoning permit shall become effective on issuance and shall continue in effect unless and until the activity for which the permit is granted is conducted or maintained in violation of this Code or of conditions placed on the permit or this Code is amended so as to render the zoning permit ineffective. An applicant or interested party may appeal the Zoning Enforcement Official's denial of a Zoning Permit to the Board of Zoning Adjustments, pursuant to the requirements of Chapter 5.20 Appeals. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **5.04.120 Development Plans**

Any changes to development plans following issuance of a zoning permit, but prior to issuance of a building permit, shall require a new zoning permit if the changes substantially affect compliance with this ordinance. The Zoning Enforcement Official may waive the requirement for a new zoning permit if the changes to approved plans are minor, do not involve substantial alterations or additions to the plans, and are consistent with the intent of the original approval and the purposes of the Zoning Code. (Ord. 2001-015 § 1)

#### **5.04.124 Environmental Review**

- A. A project regulated by this Code that is not ministerial or categorically exempt from the California Environmental Quality Act (CEQA) and is the subject of an application for a discretionary approval, including, but not limited to, a Zoning Map Amendment, use permit, variance, Planned Development, Neighborhood Conservation Plan, or Landmark Conservation District Plan, shall be subject to environmental review.
- B. Duties of Responsible Agencies. Individuals and bodies other than the lead agency shall have the powers and responsibilities assigned to responsible agencies by CEQA and CEQA Guidelines. (Ord. 2001-015 § 1)

#### **5.04.128 Fees and Deposits**

All persons submitting applications for zoning permits of any type or zoning map amendments, as required by this Code, or filing appeals shall pay all fees and/or deposits as provided by City Council resolution or resolutions establishing applicable fees and charges. Said resolution or resolutions are hereby incorporated by reference as though fully set forth herein. (Ord. 2001-015 § 1)

# Chapter 5.08 Use Permits, Variances, and Parking Exceptions

## Sections:

- 5.08.100 Purposes
- 5.08.104 Authority of Board of Zoning Adjustments
- 5.08.108 Applicability to Existing and New Uses
- 5.08.112 Initiation
- 5.08.116 Notice and Public Hearing
- 5.08.120 Duties of Board of Zoning Adjustments
- 5.08.124 Required Findings
- 5.08.128 Conditions of Approval
- 5.08.132 Effective Date; Appeals
- 5.08.136 Lapse of Approval; Transferability; Discontinuance; Revocation
- 5.08.140 Changed Plans; New Applications
- 5.08.144 Temporary Use Permits

## 5.08.100 Purposes

- A. This chapter provides the flexibility in application of land use and development regulations necessary to achieve the purposes of this Code by establishing procedures for approval, conditional approval, or disapproval of applications for use permits and variances.
- B. Use permits are required for use classifications typically resulting in unusual site development features or operating characteristics requiring special consideration, so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area, provided the use will not be detrimental to the public health, safety, and welfare and will not impair the integrity and character of the zoned district.
- C. Variances are intended to resolve practical difficulties or unnecessary physical hardships that may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity of the site.
- D. Variances may be granted only with respect to landscaping, screening, lot area, lot dimensions, yards, height of structures, distances between structures, open space, off-street parking and off-street loading, and performance standards.
- E. Authorization to grant variances does not extend to use regulations, because sufficient flexibility is provided by the use permit process for specified uses and by the authority of the Board of Zoning Adjustments to determine whether a specific use belongs within one or more of the use classifications listed in Section 1.12.108 Definitions. Further,

Chapter 5.16 Amendments provides procedures for amendments to the zoning map or zoning regulations. These will ensure that any changes are consistent with the General Plan and the land use objectives of this Code.

- F. Parking exceptions are intended for the review of parking requirements in which particular difficulties or undue hardship would occur without the granting of such exception. It is the purpose of this chapter to set forth findings that relate to specific parking circumstances. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **5.08.104 Authority of Board of Zoning Adjustments**

- A. The Board of Zoning Adjustments shall approve, conditionally approve, or disapprove applications for use permits, variances, or parking exceptions upon finding that the proposed use permit, variance, or parking exception is consistent with the General Plan, the general purposes of this chapter, the specific purposes of the base or overlay zoning district in which a development site is located, and all applicable requirements of the Municipal Code.
- B. Projects on City-Owned Land in the CR and OS Districts. The Zoning Enforcement Official shall submit all applications for use permits, variances, or parking exceptions to the City Council for approval, and no action by the Board of Zoning Adjustments shall be required. After a duly noticed public hearing, the City Council may approve or conditionally approve such application if it meets the findings required by Section 5.08.124 Required Findings. (Ord. 2001-015 § 1)

#### **5.08.108 Applicability to Existing and New Uses**

Use permits shall be required for any new or expanded use located in a district where the land use regulations require such a permit for that use classification. In addition, preexisting uses shall be presumed to be subject to a use permit, even though a use permit was not required at the time the use was originally established, if a requirement for a use permit for the use is subsequently enacted in the Zoning Code. Therefore, any subsequent modifications or expansions to the “presumed conditional use,” shall be subject to all of the requirements of this chapter. (Ord. 2001-015 § 1)

#### **5.08.112 Initiation**

Applications for use permits, variances, and parking exceptions shall be initiated by submitting the following materials to the Zoning Enforcement Official:

- A. A completed application form, signed by the property owner or authorized agent, accompanied by the required fee, copies of deeds, any required powers of attorney, plans and mapping documentation, or other information required on the application or deemed necessary by the Zoning Enforcement Official to assume the completion of the application, in the form prescribed by the Zoning Enforcement Official;

- B. A vicinity map showing the location and street address of the development site. (Ord. 2001-015 § 1)

### **5.08.116 Notice and Public Hearing**

- A. Public Hearing Required. The Board of Zoning Adjustments shall hold a public hearing on an application for a use permit, variance, or parking exception.
- B. Notice. Notice of the hearing shall be given in the following manner:
  - 1. Mailed or Delivered Notice. At least 10 days prior to the hearing, notice shall be: (1) mailed to the owner of the subject real property or the owner's duly authorized agent, and the project applicant; (2) all owners of property within 500 feet of the boundaries of the site, as shown on the last equalized property tax assessment roll or the records of the County Assessor or Tax Collector; and (3) any agency as required by Government Code Section 65091.
  - 2. Notice to Adjacent Property Owners. Notice shall be mailed to all owners of real property as shown on the latest equalized assessment roll within 500 feet of the boundaries of the site that is the subject of the hearing. In lieu of utilizing the assessment roll, applicants may submit and the City may use records of the County Assessor or Tax Collector, which contain more recent information than the assessment roll.
  - 3. Posted Notice. For hearings directly relating to an identifiable property, notice shall also be given by posting at least three public notices, thereof, at least 10 days prior to such hearing, including at least one such notice on or within 500 feet of the subject property.
  - 4. Published Notice. Notice shall be published once in a newspaper of general circulation in San Leandro at least 10 days prior to the hearing.
  - 5. No proceeding in connection with the hearing shall be invalidated by failure to send notice where the address of the owner is not a matter of public record or by failure to post public notices or by failure to receive any notice.
  - 6. Supplemental On-Site Notice. For projects that the Community Development Director determines may have a significant impact on adjacent uses or may generate significant public concerns, the Director may require that the applicant and/or property owner erect an on-site public notice sign, minimum three feet by five feet in size and six feet in height that provides a description of the proposed project, the date, time, and place of scheduled public hearing(s), the name of the project proponent, and other information as required to clarify the project proposal. Such sign shall be subject to review and approval of the Community Development Director

and shall be installed at a prominent location on the site a minimum of 10 days prior to the scheduled public hearing.

C. Contents of Notice. The notice of public hearing shall contain:

1. A description of the location of the development site and the purpose of the application;
2. A statement of the time, place, and purpose of the public hearing;
3. A reference to application materials on file for detailed information; and
4. A statement that any interested person or an authorized agent may appear and be heard.

D. Multiple Applications. When applications for multiple use permits, variances, or parking exceptions on a single site are filed at the same time, the Zoning Enforcement Official may schedule a combined public hearing. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **5.08.120 Duties of Board of Zoning Adjustments**

- A. Public Hearing. The Board of Zoning Adjustments shall conduct the public hearing and hear testimony for and against the application. A public hearing may be continued to a definite date and time without additional public notice.
- B. Decision and Notice. After the close of the public hearing, the Board shall approve, conditionally approve, or deny the application. Notice of the decision shall be mailed to the applicant and any other party requesting such notice within seven days of the date of the action ratifying the decision.
- C. Limits on Conditions of Approval. No conditions of approval of a use permit shall include use, height, bulk, open space, loading, or sign requirements that are less restrictive than those prescribed by applicable district regulations. (Ord. 2001-015 § 1)

#### **5.08.124 Required Findings**

An application for a use permit or variance as it was applied for or in modified form as required by the Board, shall be approved if, on the basis of the application, plans, materials, and testimony submitted, the Board finds:

A. For All Use Permits.

1. That the proposed location of the use is in accord with the objectives of this Code and the purposes of the district in which the site is located;



2. That the proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City;
3. That the proposed use will comply with the provisions of this Code, including any specific condition required for the proposed use in the district in which it would be located; and
4. That the proposed use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.

B. For Variances.

1. That because of special circumstances or conditions applicable to the subject property, including narrowness and shallowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions, strict application of the requirements of this chapter would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property;
2. That the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources, and without significant detriment or injury to property or improvements in the vicinity of the development site or to the public health, safety or general welfare; and
3. That granting the application is consistent with the purposes of this Code and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district.
4. OS District Only. That granting the application is consistent with the requirements of Section 65911 of the Government Code and will not conflict with General Plan policy governing orderly growth and development and the preservation and conservation of open-space land.

C. For Parking Exceptions.

1. The strict application of the provisions of this Code would cause particular difficulty or undue hardship in connection with the use and enjoyment of said property.
2. That the establishment, maintenance and/or conducting of the off-street parking facilities as proposed are as nearly in compliance with the requirements set forth in this Code as are reasonably possible.

3. That the provision of additional parking measures for projects shall be allowed to include car share features, transit passes for tenants in residential, commercial, or mixed-use developments, and within one-quarter mile proximity to a transit corridor or other transit facility including a bus stop or BART station.
  4. Parking exceptions may be granted to affordable housing and senior housing facilities, or mixed-use developments with shared parking.
- D. Mandatory Denial. Failure to make all the required findings under Subsections A, B, or C shall require denial of the application for a use permit, variance, or parking exception. (Ord. 2004-007 § 8; Ord. 2001-015 § 1)

#### **5.08.128 Conditions of Approval**

In approving a use permit, variance, or parking exception, reasonable conditions may be imposed as necessary to:

- A. Achieve the general purposes of this Code or the specific purposes of the zoning district in which the site is located or to make it consistent with the General Plan;
- B. Protect the public health, safety, and general welfare;
- C. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area; or
- D. Prevent or mitigate potential adverse effects on the environment. (Ord. 2001-015 § 1)

#### **5.08.132 Effective Date; Appeals**

A use permit, variance, or parking exception shall become effective 15 days after action by the Board of Zoning Adjustments, unless appealed to the City Council in accord with Chapter 5.20 Appeals. (Ord. 2001-015 § 1)

#### **5.08.136 Lapse of Approval; Transferability; Discontinuance; Revocation**

- A. Lapse of Approval. A use permit, variance, or parking exception shall lapse after one year, or at an alternative time specified as a condition of approval, after its date of approval unless:
  1. A building permit has been issued, coupled with diligent progress evidencing a good faith intent to commence the intended use; or
  2. A certificate of occupancy has been issued; or
  3. The use is established; or

4. The use permit or variance is renewed.

A use permit also shall lapse upon discontinuance of work on a project or expiration of a building permit.

- B. Transferability. The validity of a use permit, variance, or a parking exception shall not be affected by changes in ownership or proprietorship provided that the new owner or proprietor applies to the City for a business license and zoning approval.
- C. Discontinuance. A use permit, variance, or parking exception shall lapse if the exercise of rights granted by it is discontinued for 180 consecutive days.
- D. Revocation. A use permit, variance, or parking exception that is exercised in violation of a condition of approval or a provision of this Code may be revoked, as provided in Section 5.24.108 Revocation of Discretionary Permits.
- E. Renewal. Upon written request, a use permit, variance, height exception, or parking exception may be renewed by the Zoning Enforcement Official for one year, with one additional one-year renewal allowed for a total period not to exceed two years without notice or public hearing if the findings required by Section 5.08.124 Required Findings remain valid. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **5.08.140 Changed Plans; New Applications**

- A. Changed Plans. A request for changes in conditions of approval of a use permit, variance, or parking exception, or a change to development plans that would have a substantial effect on conditions of approval shall be treated as a new application. The Zoning Enforcement Official may approve changes that are minor in nature.
- B. New Application. If an application for a use permit, variance, or parking exception is disapproved, no new application for the same or substantially the same, use permit or variance shall be filed within one year of the date of denial of the initial application, unless the denial is made without prejudice. (Ord. 2001-015 § 1)

#### **5.08.144 Temporary Use Permits**

A temporary use permit authorizing certain temporary use classifications as listed in various residential, commercial, and industrial districts under the heading "Temporary Uses Subject to Administrative Review..." shall be subject to the provisions of this section. Temporary uses shall include: Christmas Tree and Pumpkin Sales; Commercial Filming; Assembly Uses, Temporary; Street or Neighborhood Fairs; Temporary Real Estate Offices; Outdoor Retail Sales; Temporary Storage Containers; Circuses and Carnivals; Trade Fairs; Non-Recurring Swap Meets; and Animal Shows. The definitions for these temporary uses are found in Section 1.12.108 Definitions. In the event that a temporary use other than those

listed above is proposed, the Zoning Enforcement Official shall review the proposed use and shall determine if it should be treated as a temporary use.

- A. Application and Fee. A completed application form and the required fee shall be submitted to the Zoning Enforcement Official. The Zoning Enforcement Official may request any other plans and materials necessary to assess the potential impacts of the proposed temporary use.
- B. Duties of the Zoning Enforcement Official. The Zoning Enforcement Official shall approve, approve with conditions, or deny a complete application within a reasonable time. No notice or public hearing shall be required.
- C. Required Findings. The application shall be approved as submitted, or in modified form, if the Zoning Enforcement Official finds:
  - 1. That the proposed temporary use will be located, operated, and maintained in a manner consistent with the policies of the General Plan and the provisions of this Chapter; and
  - 2. That approval of the application will not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.
- D. Conditions of Approval. In approving a temporary use permit, the Zoning Enforcement Official may impose reasonable conditions necessary to:
  - 1. Achieve the general purposes of this chapter and the specific purposes of the zoning district in which the temporary use will be located, or to be consistent with the General Plan;
  - 2. Protect the public health, safety, and general welfare; or
  - 3. Ensure operation and maintenance of the temporary use in a manner compatible with existing uses on adjoining properties and in the surrounding area.
- E. Effective Date; Duration; Appeals. An approved temporary use permit shall be effective on the date of its approval; a disapproved permit may be appealed by the applicant, as provided in Chapter 5.20 Appeals. The permit shall be valid for a specified time period not to exceed 90 days as specified by the Zoning Enforcement Official's approval action. The temporary use permit shall specify the time within which the temporary use shall be commenced, which shall be not more than 90 days from approval by the Zoning Enforcement Official, and the use shall be continued only for the duration set forth in the zoning approval. A temporary use permit shall lapse if not used within the dates approved and may be revoked by the Zoning Enforcement Official effective immediately upon verbal or written notice for violation of the terms of the permit. Verbal notice shall be confirmed by written notice mailed to the permit holder within a reasonable time.

The Zoning Enforcement Official may approve changes in a temporary use permit.  
(Ord. 2014-011 § 2; Ord. 2001-015 § 1)

## Chapter 5.12 Site Plan Approval

### Sections:

- 5.12.100 Intent
- 5.12.104 Applicability
- 5.12.108 Exemptions
- 5.12.112 Review and Approval Authority
- 5.12.116 Hearing and Noticing Requirements
- 5.12.120 Appeals
- 5.12.124 Site Plan Review Standards
- 5.12.128 Conditions of Approval
- 5.12.132 Effective Date; Lapse and Renewal; Alterations

### 5.12.100 Intent

The purpose of this chapter is to provide a process for Site Plan Review, assuring that new development complies with the applicable site development standards of this Code and that older nonconforming sites are upgraded at the time the uses or structures on such sites are expanded or intensified. The Site Plan Review process is integral to the City's other discretionary and non-discretionary development review procedures in order to facilitate the permitting process.

### 5.12.104 Applicability

Site Plan Review is required for certain nonresidential development, two- and multi-family development, and single-family development in C, I, NA, RD, RM, SA, and Districts. Review of single-family construction projects in RO, RS, RS-40, and RS-VP Districts is regulated by the requirements of Chapter 2.04 R Residential Districts.

Site Plan Approval is required prior to issuance of a building permit for any of the following improvements:

- A. Development Requiring Discretionary Zoning Permit. Any commercial, industrial, institutional, or two- and multi-family residential development that requires a conditional use permit or Planned Development approval.
- B. Other New or Expanded Development, as listed below:
  - 1. Single-, Two-, and Multi-Family Residential: C, DA, I, NA, P, RD, RM, and SA Districts. All proposals for new development, and proposed additions to existing development (where permitted or conditionally permitted per base district regulations), which would either:

- a. Result in an additional dwelling unit, excluding an accessory dwelling unit meeting all requirements of Section 2.04.388 Accessory Dwelling Units (ADUs), or
  - b. Result in an addition or partial demolition with reconstruction, resulting in a net enlargement to the existing structure that will be greater in size than both: 2,500 square feet and 50 percent of the gross floor area of the existing development, or
  - c. Result in a new freestanding structure, such as a carport or garage, greater in size than 2,500 square feet, or
  - d. Create or enlarge a second- or third story.
2. Two-Family Residential: DA, RS, RS-40, RO, and SA-2 Districts—Special Review Requirements for Additions. Additions to existing two-family dwellings that would require Site Plan Review per Subsection 1 above, are instead subject to the noticing, hearing, and findings requirements of Section 2.04.408 RO, RS and RS-40 Districts—Residential Site Plan Review.
3. Non-Residential Projects: C, DA, OS, PS, NA, P, R, and SA Districts. The following development proposals require Site Plan Review:
- a. Development of new structures greater in size than 2,500 square feet.
  - b. Additions, or partial demolitions with reconstruction, resulting in a net enlargement to the existing structure that will be greater in size than both: 2,500 square feet and 10 percent of the gross floor area of the existing development.
  - c. Major structural upgrades that can extend the economic viability of existing structures and sites that are nonconforming to the development standards of this Code, as determined by the Zoning Enforcement Official. Such structural upgrades include, but are not limited to, the extensive demolition and reconstruction of exterior walls or the relocation of a significant portion of the building's structural interior walls.

Upgrades That Are Excluded. Mandatory safety upgrades, such as compliance with disabled access; building and fire code requirements; minor cosmetic façade upgrades, such as awnings and window replacement; maintenance upgrades, such as roof repair and replacement; relocation of demising walls; and general repair of damaged structures as allowed by Subsection A of Section 4.20.116 Restoration of a Damaged Structure and Its Nonconforming Use are not subject to Site Plan Review.

4. Industrial and Commercial Projects: I Districts. The following development proposals require Site Plan Review:
  - a. Development of new structures greater in size than 5,000 square feet.
  - b. Additions, or partial demolitions with reconstruction, resulting in a net enlargement to the existing structure that will be greater in size than both: 5,000 square feet and 10 percent of the gross floor area of the existing development.
  - c. Major structural upgrades that can extend the economic viability of existing structures and sites that are nonconforming to the development standards of this Code, as determined by the Zoning Enforcement Official. Such structural upgrades include, but are not limited to, the extensive demolition and reconstruction of exterior walls or the relocation of a significant portion of the building's structural interior walls.
  - d. The creation of, or addition to, any substantial outdoor storage area or truck loading bays that would be visible from off-site.
  - e. Any site modification involving the addition of a newly paved area, in excess of 5,000 square feet. This requirement for Site Plan Review does not apply to the repair and replacement of pre-existing paved areas.

Upgrades That Are Excluded. Mandatory safety upgrades, such as compliance with disabled access; building and fire code requirements; minor cosmetic façade upgrades, such as awnings and window replacement; maintenance upgrades, such as roof repair and replacement; relocation of demising walls; and general repair of damaged structures as allowed by Subsection A of Section 4.20.116 Restoration of a Damaged Structure and Its Nonconforming Use are not subject to Site Plan Review. (Ord. 2017-003 § 4; Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2004-007 § 9; Ord. 2001-015 § 1)

#### **5.12.108 Exemptions**

Non-structural alterations that do not require building permits are exempt from this chapter. (Ord. 2001-015 § 1)

#### **5.12.112 Review and Approval Authority**

- A. Site Plan Review for Projects that Require Discretionary Zoning Permits.
  1. Projects Requiring Conditional Use Permit or Variance Approval. The Board of Zoning Adjustments shall review and either approve, conditionally approve, or deny a Site Plan in conjunction with its review of the Use Permit or Variance.



2. Projects Requiring Planned Development Approval. The Planning Commission shall review and either recommend approval or conditional approval to the City Council, conditionally approve, or shall deny a Site Plan in conjunction with its review of the Planned Development.
- B. Site Plan Review for Projects that Do Not Require Discretionary Zoning Permits. The Zoning Enforcement Official shall be the decision maker, unless the Zoning Enforcement Official defers action to the Site Development Sub-Commission. The Zoning Enforcement Official or Site Development Sub-Commission shall approve, conditionally approve, or deny the Site Plan. Action on the Site Plan may occur prior to or concurrently with a request for building permit approval. The Zoning Enforcement Official may, at his or her sole discretion, refer any development proposal to the Board of Zoning Adjustments for action.
  - C. Site Plan Review for Projects that Require Planning Commission Review. When Planning Commission review is required for a development application, the Planning Commission shall review and either recommend approval or conditional approval to the City Council, conditionally approve, or deny the discretionary approvals. (Ord. 2008-015 § 1; Ord. 2007-020 § 2; Ord. 2001-015 § 1)

#### **5.12.116 Hearing and Noticing Requirements**

- A. Notice of Public Hearing for Site Plan Review of Projects that Require Discretionary Zoning Permits. Notice of hearing shall be concurrent with that required for the zoning permit, as specified by Section 5.08.116 Notice and Public Hearing.
- B. Notice of Public Hearing for Site Review of Projects that Do Not Require Discretionary Zoning Permits.
  1. When Required.
    - a. For non-discretionary projects, notice of hearing is generally not required, but such notice may be required for projects that the Zoning Enforcement Official determines may have a significant impact on adjacent uses or may generate significant public concerns.
    - b. For projects referred to the Site Development Sub-Commission by the Zoning Enforcement Official pursuant to Subsection B of Section 5.12.112 Review and Approval Authority, notice of hearing is required.
  2. Content and Procedure for Notice of Hearing for Site Plan Review. Written notification of the time, place, and purpose of the hearing by either the Zoning Enforcement Official or Site Development Sub-Commission shall be mailed to the applicant, property owner, and property owners adjoining and across the street from the subject site, not less than 10 days prior to the hearing.

- C. Administrative Review for Projects Where Hearing is Not Required. For project where noticing is not required, the Zoning Enforcement Official may take action on the application without holding a public hearing. (Ord. 2001-015 § 1)

#### **5.12.120 Appeals**

- A. A Decision by Zoning Enforcement Official may be appealed to the Board of Zoning Adjustments pursuant to the requirements of Chapter 5.20 Appeals.
- B. A Decision by Site Development Sub-Commission may be appealed to the Board of Zoning Adjustments pursuant to the requirements of Chapter 5.20 Appeals.
- C. A Decision by Board of Zoning Adjustments may be appealed to the City Council pursuant to the requirements of Chapter 5.20 Appeals. (Ord. 2001-015 § 1)

#### **5.12.124 Site Plan Review Standards**

To approve or conditionally approve a Site Plan, the decision maker or the decision making body shall find that the proposal is in substantial compliance with the following standards:

- A. Site plan elements (such as, but not limited to, building placement, yard setbacks, size and location of landscape areas, parking facilities, and placement of service areas) are in compliance with the minimum requirements of this Code and are arranged as to achieve the intent of such requirements by providing a harmonious and orderly development that is compatible with its surroundings. Parking, loading, storage, and service areas are appropriately screened by building placement, orientation walls, and/or landscaping.
- B. The building(s) has(have) adequate articulation, with appropriate window placement, use of detailing, and/or changes in building planes to provide visual interest. The exterior materials, finishes, detailing, and colors are compatible with those of surrounding structures. Visually incompatible elements, such as roof-mounted utilities, are fully screened from public view. If the proposal is for an addition to an existing building, such additions shall appear as an integral element of the building. Additions shall not have a “tacked on” appearance, and either the addition should be consistent with the existing building’s design element, or the existing building should be remodeled concurrently with construction of the addition.
- C. The landscaping complements the architectural design, with an appropriate balance of trees, shrubs, and living ground covers, and provides adequate screening and shading of parking lots and/or driveways.

- D. Detail features, such as signs, fences, and lighting for buildings, parking lots, and/or driveways are visually consistent with the architectural and landscape design and minimize off-site glare.
- E. Exceptions to Above Regarding Expansions and/or Alterations to Existing Nonconforming Structures and Sites. The decision maker or the decision making body may vary from the standards outlined in Subsections A through D above and approve a Site Plan that cannot achieve compliance with these standards due to the limitations created by pre-existing nonconforming structures and site features. In such cases, the priority of Site Plan Review is to reduce, to the degree feasible given the scale and scope of the proposal, the nonconforming features. The nonconforming features to be addressed shall include, but are not limited to, the following:
  - 1. Deficiencies in landscaping shall be corrected, with selective additional plantings, primarily where such landscaping can have the greatest visual benefit to the overall area. The scale and scope of such landscaping requirements will be relative to both the degree of non-compliance with current Code requirements and the changes/improvements being proposed by the applicant.
  - 2. Obsolete and unused equipment, such as roof-mounted utilities, exterior manufacturing equipment, and unused pole sign and wall sign cabinets shall be removed, as required.
  - 3. The effects of past “deferred maintenance,” where such has been identified, shall be corrected by such effort as repainting, replanting of existing landscape areas, and removal of unused equipment, vehicles, and debris.
- F. All site plan elements in the SA-1, SA-2, and SA-3 Districts shall be reviewed for general consistency with the Design Guidelines contained in the East 14th Street South Area Development Strategy.
- G. All site plan elements in the DA-1, DA-2, DA-3, DA-4, and DA-6 Districts shall be reviewed for general consistency with the Design Guidelines contained in the Downtown San Leandro Transit-Oriented Development Strategy. (Ord. 2016-012 § 4; Ord. 2007-020 § 2; Ord. 2004-007 § 9; Ord. 2001-015 § 1)

### **5.12.128 Conditions of Approval**

In approving a Site Plan, reasonable conditions may be imposed as necessary to achieve consistency with the intent of the applicable District’s development standards and the standards of this chapter. When approving a Site Plan for projects that expand and/or alter existing nonconforming sites, complete consistency may not be obtainable, and conditions may be imposed to reduce, if not eliminate, the nonconforming site features. (Ord. 2001-015 § 1)

### **5.12.132 Effective Date; Lapse and Renewal; Alterations**

- A. Effective Date. Site Plan approval shall become effective on the 15th day after the date the decision maker or the decision making body approves the site plan, unless appealed, as provided in Chapter 5.20 Appeals.
  
- B. Lapse of Approvals and Renewals. Site Plan approval shall lapse after one year after its date of approval, or at an alternate time specified as a condition of approval, unless:
  - 1. A grading permit or building permit has been issued, coupled with diligent progress evidencing good faith intention to commence the intended use; or
  - 2. An occupancy permit has been issued; or
  - 3. The approval is renewed, as provided for in Subsection E of Section 5.08.136 Lapse of Approval; Transferability; Discontinuance; Revocation.
  
- C. Changed Plans. The Zoning Enforcement Official may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications, to be reviewed as a new project by the decision making body as required by Section 5.12.112 Review and Approval Authority of this chapter. (Ord. 2001-015 § 1)

## Chapter 5.16 Amendments

### Sections:

- 5.16.100 Applicability**
- 5.16.104 Initiation of Amendments**
- 5.16.108 Required Application Materials for Amendments Initiated by Property Owners**
- 5.16.112 Public Hearing Scope and Notice**
- 5.16.116 Duties of Planning Commission**
- 5.16.120 Result of Planning Commission Denial**
- 5.16.124 Duties of City Council**
- 5.16.128 Revisions of Proposed Amendments**
- 5.16.132 Resubmittal of Application**

### **5.16.100 Applicability**

This Code may be amended by changing the zoning map or the zoning regulations. (Ord. 2001-015 § 1)

### **5.16.104 Initiation of Amendments**

- A. Zoning Regulations. Amendments to the zoning regulations shall be initiated by resolution of intent of the City Council or the Planning Commission, or by the Community Development Director, or may be initiated upon request by the owner or authorized agent of property within the City.
- B. Zoning Map. Amendments to the zoning map shall be initiated by resolution of intent of the City Council or Planning Commission, or by the Community Development Director, or by application of the owner or authorized agent of property for which the change is sought. If property that is the subject of an application is in more than one ownership, all the owners or their authorized agents shall join in filing the application. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

### **5.16.108 Required Application Materials for Amendments Initiated by Property Owners**

A property owner shall initiate a request for a zoning map amendment or code amendment by filing the following with the Zoning Enforcement Official:

- A. A completed application form;
- B. A completed Initial Study form (San Leandro Administrative Code Chapter 5-1, Community Development: Implementation of California Quality Act CEQA Guidelines);

C. The Zoning Enforcement Official may require:

1. A map showing the location and street address of the property that is the subject of the amendment and of all lots of record within 300 feet of the boundaries of the property;
2. A list, drawn from the last equalized property tax assessment roll or the records of the County Assessor or Tax Collector, showing the names and addresses of the owner(s) of record of each lot within 300 feet of the boundaries of the property. This list shall be keyed to the map required by Subsection C.1 above and shall be accompanied by mailing labels.

D. The required fee. (Ord. 2001-015 § 1)

### **5.16.112 Public Hearing Scope and Notice**

A. Scope. The Zoning Enforcement Official shall set a date, time, and place for the public hearing and prepare a report to the Planning Commission on an application of a property owner for a zoning map or code amendment or a resolution for a zoning regulation amendment, describing the area to be considered for change and, if warranted, proposing alternative amendments.

B. Notice of Hearing.

1. Procedure. Notice shall be given in accord with Subsection C.1 of Section 5.08.116 Notice and Public Hearing.
2. Zoning Map Amendments: One Thousand or More Lots. If a proposed zoning map amendment includes 1,000 or more lots, notice may be given in accord with Government Code Section 65091(a)(4).

C. Contents of Notice. Notices required by this section shall contain:

1. A description of the amendment;
2. A statement of the date, time, and place of the hearing;
3. Reference to the City Council or Planning Commission resolution or the application and other materials on file with the Zoning Enforcement Officials for detailed information; and
4. A statement that any interested party or agent may appear and be heard. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

### **5.16.116 Duties of Planning Commission**

- A. Public Hearing. At the time and place set for the public hearing, the Planning Commission shall consider a report of the Zoning Enforcement Official and shall hear evidence for and against the proposed amendment. The Planning Commission may continue a public hearing to a definite date and time without additional notice.
- B. Recommendation to City Council. Following the public hearing, the Planning Commission will make specific findings as to whether the proposed zoning regulation or zoning map amendment is consistent with the policies of the General Plan and the purposes of this Code, and shall recommend approval, conditional approval, or denial of the proposal as submitted or in modified form to the City Council. (Ord. 2001-015 § 1)

### **5.16.120 Result of Planning Commission Recommendation of Denial**

A Planning Commission recommendation of denial of an application for a zoning map amendment or zoning regulation amendment submitted by property owner request shall terminate proceedings, unless appealed. Notice of such action shall be mailed to the applicant within seven days of the Planning Commission's decision. (Ord. 2001-015 § 1)

### **5.16.124 Duties of City Council**

- A. Hearing Date and Notice. Upon receipt of a Planning Commission recommendation for approval or conditional approval of an amendment to the zoning regulations or map, or receipt of an appeal of a Planning Commission recommendation of denial, the City Clerk shall set a date and time for a public hearing on the proposed amendment. The hearing shall be held within 60 days of the date of filing of the Planning Commission recommendation. The City Clerk shall give notice of such hearing in the manner prescribed as required by Section 5.16.112 Public Hearing Scope and Notice.
- B. Public Hearing. At the time and place set for the public hearing, the City Council shall hear evidence for and against the proposed amendment. The City Council may continue a public hearing to a definite date and time without additional notice.
- C. City Council Decision. Within 21 days after the public hearing, the City Council shall approve, modify, or reject the Planning Commission recommendation, provided that a substantial modification not previously considered by the Planning Commission shall be referred to the Planning Commission for a report prior to adoption of an ordinance amending the zoning regulations or map. Failure of the Planning Commission to report within 40 days after referral or such longer period as may be designated by the City Council shall be deemed approval of the proposed modification. Prior to adoption of an ordinance, the City Council shall make findings that the proposed change to the zoning regulation or zoning map is consistent with the policies of the General Plan and the notice and hearing provisions of this chapter. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

### **5.16.128 Revisions of Proposed Amendments**

- A. Revisions. At or after a public hearing, the Planning Commission or the City Council may determine that the public interest would be served by:
1. Revising the boundaries of an area proposed for a zoning map amendment;
  2. Considering zoning map designations not originally presented in a motion, application, or Planning Commission recommendation; or
  3. Considering zoning regulation amendments not originally presented in a motion, petition, or Planning Commission recommendation.
- B. Supplemental Notice. Notice shall be given prior to a hearing on a revised amendment, unless the Planning Commission or City Council finds that the revised amendment will not have impacts greater than those that would result from the amendment in its original form. (Ord. 2001-015 § 1)

### **5.16.132 Resubmittal of Application**

Following denial of an application or property owner request for an amendment to the zoning regulations or the zoning map by the City Council, no new application or petition for the same, or substantially the same, amendment shall be accepted within one year of the date of denial, unless denial is made without prejudice. (Ord. 2001-015 § 1)



## Chapter 5.20 Appeals

### Sections:

- 5.20.100 Purpose and Authorization for Appeals
- 5.20.104 Rights of Appeal
- 5.20.108 Time Limits for Appeals
- 5.20.112 Initiation of Appeals
- 5.20.116 Procedures for Appeals
- 5.20.120 Effective Date
- 5.20.124 New Appeal

### 5.20.100 Purpose and Authorization for Appeals

To avoid results inconsistent with the purposes of this Code, decisions of the Zoning Enforcement Official may be appealed to the Board of Zoning Adjustments or the Planning Commission, whichever is most appropriate, and decisions of the Site Development Sub-Commission, the Planning Commission, and Board of Zoning Adjustments may be appealed to the City Council. (Ord. 2001-015 § 1)

### 5.20.104 Rights of Appeal

Rights of appeal are prescribed in the individual chapters of this Code authorizing each decision that is subject to appeal. (Ord. 2001-015 § 1)

### 5.20.108 Time Limits for Appeals

- A. Appeals by Applicants and Interested Parties. Appeals shall be initiated within 15 days of the date of the decision.
- B. Time Limits. When the appeal period ends on a weekend or holiday, the time limits shall be extended to the next working day. (Ord. 2001-015 § 1)

### 5.20.112 Initiation of Appeals

- A. Filing of Appeals. An appeal shall be filed with the City Clerk on a form provided and shall state specifically the reason for the appeal.
- B. Effect on Decisions. Decisions that are appealed shall not become effective until the appeal is resolved. (Ord. 2001-015 § 1)

### 5.20.116 Procedures for Appeals

- A. Appeal Hearing Date. An appeal shall be scheduled for a hearing before the appellate body within 60 days of the City's receipt of an appeal, unless both applicant and appellant consent to a later date.
- B. Notice and Public Hearing. An appeal hearing shall be a public hearing. Notice of public hearings shall be given in the manner required for the decision being appealed.
- C. Plans and Materials. At an appeal or review hearing, the appellate body shall consider only the same application, plans, and related project materials that were the subject of the original decision and only the issue(s) raised by the appeal or the call for review. However, applicants may modify plans to respond to issues raised, and such modification shall be considered at the hearing. Compliance with this provision shall be verified prior to, or during, the hearing by the Zoning Enforcement Official.
- D. Hearing. During the public hearing, the appellate body shall review the record of the decision and hear testimony of the appellant, the applicant, and any other interested party.
- E. Decision and Notice. After the close of the public hearing, the appellate body shall affirm, modify, or reverse the original decision. When a decision is modified or reversed, the appellate body shall state the specific reasons for modification or reversal. The Zoning Enforcement Official shall mail notice of a Board of Zoning Adjustments or Planning Commission decision and the City Clerk shall mail notice of a City Council decision. Such notice shall be mailed within five working days after the date of the decision to the applicant, the appellant, and any other party upon requesting such notice.
- F. Failure to Act. Failure of the body receiving the appeal to act within the time limits prescribed in Subsection A above shall be deemed affirmation of the original decision. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **5.20.120 Effective Date**

A decision by the City Council regarding an appeal shall become final on the date of the decision. A decision by the Planning Commission regarding an appeal shall become final on the date of the decision, unless appealed to the City Council. (Ord. 2001-015 § 1)

#### **5.20.124 New Appeal**

Following denial of an appeal, any matter that is the same, or substantially the same, shall not be considered by the same body within two years, unless the denial is made without prejudice. (Ord. 2001-015 § 1)

# Chapter 5.24 Enforcement

**Sections:**

- 5.24.100 Permits, Licenses, Certificates, and Approvals**
- 5.24.104 Enforcement Responsibilities**
- 5.24.108 Revocation of Discretionary Permits**
- 5.24.112 Violations as Misdemeanors or Infractions**
- 5.24.116 Abatement Procedure**
- 5.24.120 Lien Procedure**

## **5.24.100 Permits, Licenses, Certificates, and Approvals**

All persons empowered by the Municipal Code to grant permits, licenses, certificates, or other approvals shall comply with the provisions of this chapter and grant no permit, license, certificate, nor approval in conflict with this Code. Any permit, license, certificate, or approval granted in conflict with any provision of this Code shall be void. The cost of issuing permits and of enforcing compliance with the requirements and conditions of zoning permits, use permits, and other discretionary approvals may be recovered through charges or fees in connection with issuance of such permits, as established by resolution of the City Council. (Ord. 2001-015 § 1)

## **5.24.104 Enforcement Responsibilities**

The Zoning Enforcement Official shall enforce all provisions of this chapter related to discretionary permits and zoning permits and shall have responsibility for revocation of discretionary permits, as provided in Section 5.24.108 Revocation of Discretionary Permits. All other officers of the City shall enforce provisions related to their areas of responsibility. (Ord. 2001-015 § 1)

## **5.24.108 Revocation of Discretionary Permits**

- A. Duties of Zoning Enforcement Official. Upon determination by the Zoning Enforcement Official that there are reasonable grounds for revocation of a use permit, variance, development plan approval, or other discretionary approval authorized by this Code, a revocation hearing shall be set by the Zoning Enforcement Official before the Board of Zoning Adjustment, the Site Development Sub-Commission, the Planning Commission, or the City Council, whichever took final previous action on the permit, except for appeals.
- B. Notice and Public Hearing. Notice shall be given in the same manner required for a public hearing to consider approval. If no notice is required for the permit, none shall be required for the revocation hearing, provided that notice shall be mailed to the owner of the use or structure for which the permit was granted at least 10 days prior to the

hearing. Contents of any notice shall be as prescribed by Subsection C of Section 5.08.116 Notice and Public Hearing.

- C. Hearing. The person or body conducting the hearing shall hear testimony of City staff and the owner of the use or structure for which the permit was granted, if present. At a public hearing, the testimony of any other interested person shall also be heard. A public hearing may be continued to a specific date, time, and place without additional public notice.
- D. Required Findings. The person or body conducting the hearing may revoke the permit upon making one or more of the following findings:
  - 1. That the permit was issued on the basis of erroneous or misleading information or misrepresentation;
  - 2. That the terms or conditions of approval of the permit have been violated or that other laws or regulations have been violated;
  - 3. That there has been a discontinuance of the exercise of the entitlement granted by the permit for 180 days.
  - 4. That the approval has been so exercised to constitute a public nuisance or be detrimental to public health and safety.
- E. Decision and Notice. The person or body that conducted the hearing shall render a decision within a reasonable time period and shall mail notice of the decision to the owner of the use or structure for which the permit was issued and to any other person who has filed a written request for such notice.
- F. Effective Date: Appeals. A decision to revoke a discretionary permit shall become final 15 days after the date of the decision, unless appealed.
- G. Right Cumulative. The City's right to revoke a discretionary permit, as provided in this section, shall be cumulative to any other remedy allowed by law. (Ord. 2001-015 § 1)

#### **5.24.112 Violations as Misdemeanors or Infractions**

- A. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code.
  - 1. Failure to Comply With Land Use and Development Regulations.
    - a. A violation of any of the provisions or failing to comply with any of the mandatory requirements of this Code pertaining to land use and development regu-

lations, including requirements made as conditions of approval for any discretionary permit, including but not limited to, conditional use permits, variances, Planned Developments, site plan approvals, sign approvals, fence modifications and exceptions, shall constitute a misdemeanor.

- b. Notwithstanding any other provisions of this Code, which may require prosecution of any such violation as a misdemeanor, any such violation constituting a misdemeanor under this Code may, in the discretion of the Zoning Enforcement Official, be charged and prosecuted as an infraction.

2. Failure to Comply With Other Provisions. A violation of any other provision or failure to comply with any other mandatory requirements of this Code shall constitute an infraction, except that the fourth and any additional violations within one year shall constitute a misdemeanor.

- B. Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine of not more than \$1,000.00 or by imprisonment in the County Jail for a period of not more than one year or by both fine and imprisonment.
- C. Any person convicted of an infraction under the provision of this Code, unless provision is otherwise herein made, shall be punishable as provided by the Government Code of the State of California.
- D. Each such person shall be charged with a separate violation for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall, upon conviction be punishable accordingly.
- E. Payment of any fine, or penalty, shall not relieve a person, firm, or corporation from the responsibility of correcting the condition consisting of the violation.
- F. In addition, the City Attorney shall, upon order of the City Council, commence action or proceedings for the abatement, removal and enjoinder of any violation in the manner provided by law. (Ord. 2001-015 § 1)

#### **5.24.116 Abatement Procedure**

- A. Notification of Violations. Whenever the Zoning Enforcement Official determines that any property within the City is being maintained contrary to the provisions of this Code, he or she shall give written notice ("Notice to Abate") to the owner, sent by certified mail to his or her last known address, stating the section(s) or standards being violated. Such notice shall set forth a reasonable time limit, in no event less than seven days, for correcting the violation(s).

- B. Administrative Hearing to Correct Violations. In the event said owner shall fail, neglect, or refuse to comply with the "Notice to Abate," the Zoning Enforcement Official shall conduct an administrative hearing to ascertain whether abatement should be required.
- C. Notice of Hearing. Notice of said hearing shall be mailed to the owner not less than seven days before the time fixed for hearing. Failure of any person to receive notice shall not affect the validity of the abatement proceedings hereunder. Notice shall be substantially in the following format:

**NOTICE OF ADMINISTRATIVE HEARING ON ABATEMENT  
OF ZONING VIOLATION**

This is a notice of hearing before the Zoning Enforcement Official to ascertain whether certain land area(s) or structures on property situated in the City of San Leandro, State of California, known and designated as (street address), \_\_\_\_\_ in said City, and more particularly described as (assessor's parcel number) \_\_\_\_\_ constitutes a zoning violation subject to abatement by a change in occupancy or restriction of use or rehabilitation or demolition of buildings situated thereon. If the zoning violation is not promptly abated by the owner, such violation may be abated by municipal authorities, in which case the cost of any eviction or relocation of an illegal use, rehabilitation, repair, or demolition of an illegal structure will be assessed upon such property and such costs, together with interest thereon, will constitute a lien upon such property until paid. In addition, you may be cited for violation of the provisions of the Zoning Code and subject to a fine.

Said alleged violation of the Zoning Code consists of the following:

\_\_\_\_\_

The method(s) of abatement are:

\_\_\_\_\_

All persons having an interest in said matters may attend the hearing and their testimony and evidence will be heard and given due consideration.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Time and Date of Hearing: \_\_\_\_\_.

Location of Hearing: \_\_\_\_\_.

- D. Administrative Hearing. At the time stated in the notice, the Zoning Enforcement Official shall hear and consider all relevant evidence, objections, or protests and shall receive testimony, under oath, relative to such alleged zoning violation and to the proposed eviction or relocation of an illegal use or the rehabilitation, repair, removal, or demolition of an illegal structure. Said hearing may be continued from time to time. If the Zoning

Enforcement Official finds that a zoning violation does exist and there is sufficient cause to evict or relocate an illegal use or rehabilitate, demolish, remove, or repair an illegal structure, the Zoning Enforcement Official shall prepare findings and an order specifying the nature of the violation, the method(s) of abatement and the time within which the work shall be commenced and completed. The order shall include reference to the right of appeal set forth in Subsection F, below. A copy of the findings and order shall be mailed to the property owner by certified mail. In addition, a copy of the findings and order shall be forthwith conspicuously posted on the property.

- E. Procedure, No Appeal. In the absence of any appeal, the illegal use shall be discontinued or property shall be rehabilitated, repaired, removed, or demolished in the manner and means specifically set forth in the order of abatement. In the event the owner fails to abate the violation as ordered, the Zoning Enforcement Official shall cause the same to be abated by City employees or private contract. The costs shall be billed to the owner. (See Section 5.24.120 Lien Procedure.) The Zoning Enforcement Official is expressly authorized to enter upon said property for such procedure.
- F. Appeal Procedure, Hearing by City Council. The owner may appeal the Zoning Enforcement Official's findings and order to the City Council by filing an appeal with the City Clerk within seven days of the date of the Zoning Enforcement Official's decision. The appeal shall contain:
1. A specific identification of the subject property;
  2. The names and addresses of the appellants;
  3. A statement of appellant's legal interest in the subject property;
  4. A statement in ordinary and concise language of the specific order or action protested and the grounds for appeal, together with all material facts in support thereof;
  5. The date and signature of all appellants; and
  6. The verification of at least one appellant as to the truth of the matters stated in the appeal.

As soon as practicable after receiving the appeal, the City Clerk shall set a date for the City Council to hear the appeal, which date shall be not less than seven days nor more than 30 days from the date the appeal was filed. The City Clerk shall mail each appellant written notice of the time and the place of the hearing at least five days prior to the date of the hearing. Continuances of the hearing may be granted by the City Council on request of the owner for good cause shown, or on the City Council's own motion.

- G. Decision by City Council. Upon the conclusion of the hearing, the City Council shall determine whether any use or structure on the property or any part thereof, as maintained, constitutes a zoning violation. If the City Council so finds, the City Council shall adopt a resolution declaring such a violation, setting forth its findings and ordering the abatement of the same by having the illegal use evicted or relocated or the illegal structure rehabilitated, repaired, removed, or demolished in the manner and means specifically set forth in the resolution. The resolution shall set forth the time within which such work shall be completed by the owner, in no event less than 30 days. The decision and order of the Council shall be final.
- H. Notice of Order to Abate. A copy of the resolution of the City Council ordering the abatement of such violation shall be sent by certified mail to the property owner(s). Upon abatement in full by the owner, the proceedings hereunder shall terminate.
- I. Abatement by City. If such nuisance is not abated as ordered within the prescribed abatement period, the Zoning Enforcement Official shall cause the same to be abated by City employees or private contract. The Zoning Enforcement Official is expressly authorized to enter upon said property for such purposes. The cost, including incidental expenses, of abating the violation shall be billed to the owner and shall become due and payable 30 days thereafter (see Section 5.24.120 Lien Procedure). The term “incidental expenses” shall include, but not be limited to, personnel costs, both direct and indirect; costs incurred in documenting the violation; the actual expenses and costs of the City in the preparation of notices, specifications and contracts, and in inspecting the work; and the costs of printing and mailing required hereunder.
- J. Limitation of Filing Judicial Action. Any action appealing the City Council’s decision and order shall be commenced within 30 days of the date of mailing the decision.
- K. Demolition. No illegal structure shall be found to be a zoning violation and ordered demolished, unless the order is based on competent sworn testimony and it is found that in fairness and in justice there is no way other than demolition to reasonably correct such violation.
- L. Recorded Notice of Intent to Demolish Required. A copy of any order or resolution requiring abatement by demolition shall be recorded with the Alameda County Recorder. (Ord. 2001-015 § 1)

#### **5.24.120 Lien Procedure**

- A. Record of Cost of Abatement. The Zoning Enforcement Official shall keep an account of the cost, including incidental expenses, of abating zoning violation(s) on each separate lot or parcel of land where the work is done by the City and shall render an itemized report in writing to the City Council showing the cost of abatement, including the cost of eviction or relocation of illegal uses or rehabilitation, demolition, or repair of illegal structures, including any salvage value relating thereto; provided that before said report



is submitted to the City Council, a copy of the same shall be posted for at least five days upon the lot or parcel where the violation occurs, together with a notice of the time when said report shall be heard by the City Council for confirmation. A copy of said report and notice shall be served upon the property owner(s) at least five days prior to submitting it to the City Council. Proof of posting and service shall be made by affidavit filed with the City Clerk.

- B. Assessment Lien. The total cost for abating a zoning violation, as so confirmed by the City Council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the Office of the County Recorder of a Notice of Lien, as so made and confirmed, shall constitute a lien on said property for the amount of such assessment.

After such confirmation and recordation, a certified copy of the City Council's decision shall be filed with the Alameda County Auditor Controller on or before August 1 of each year, whereupon it shall be the duty of said Auditor-Controller to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcels of land for municipal purposes, and, thereafter said amount shall be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to such special assessment. In the alternative, after recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

Such Notice of Lien for recordation shall be in form substantially as follows:

**NOTICE OF LIEN  
(Claim of City of San Leandro)**

Pursuant to the authority vested by the provisions of Section \_\_\_\_\_ of the San Leandro Zoning Code, the Zoning Enforcement Official of the City of San Leandro did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, cause an illegal use on the property hereinafter described to be evicted or an illegal structure on the property hereinafter described, to be rehabilitated, repaired, or demolished in order to abate a zoning violation; and the City Council of the City of San Leandro did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, assess the cost of such eviction, rehabilitation, repair, or demolition upon the owner of this property; and the same has not been paid nor any part thereof; and that said City of San Leandro does hereby claim a lien on such eviction, rehabilitation, repair, or demolition costs in the amount of said assessment, to wit: the sum of \$\_\_\_\_\_: and the same, shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property herein above mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of San Leandro, County of Alameda, State of California, and particularly described as follows:

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Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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Zoning Enforcement Official,  
City of San Leandro

- C. Accrual of Interest on City Liens and Assessment Findings. The City Council finds and declares that the establishment of an interest accrual requirement as to unpaid City liens and assessments upon real property, which are of record with the County Recorder for Alameda County is a necessary and appropriate exercise of the City Council's police power.
  
- D. Accrual of Interest on Liens and Assessments. Unless otherwise prohibited by law or regulation, all liens and assessments which are imposed by the City against any real property located in the City of San Leandro which are recorded on and after the effective date of this regulation shall accrue interest at the rate of eight percent annually until the lien or assessment, including interest thereon, is paid in full. (Ord. 2001-015 § 1)

## Chapter 5.28 Mobile Home Park Conversions

### Sections:

- 5.28.100 Specific Purpose**
- 5.28.104 Definitions**
- 5.28.108 Permit Required**
- 5.28.112 Relocation Plan**
- 5.28.116 Findings for Conversion**
- 5.28.120 Conditions of Approval**
- 5.28.124 Waiver**

### **5.28.100 Specific Purpose**

The specific purpose of the Mobile Home Park Conversion procedure is to ensure that any conversion of these parks to other uses is preceded by adequate notice and that relocation and other assistance is provided park residents, consistent with the provisions of the California Government Code, Section 65863.7. (Ord. 2001-015 § 1)

### **5.28.104 Definitions**

See Section 1.12.108 Definitions for definitions of: Mobile Home; Mobile Home Park; Mobile Home Park Conversion. (Ord. 2001-015 § 1)

### **5.28.108 Permit Required**

The conversion of an existing mobile home park to another use shall require a use permit reviewed by the Planning Commission and approved by the City Council pursuant to Chapter 5.08 Use Permits, Variances, and Parking Exceptions. An application for such permit shall include the following and such other information as may be required by the Zoning Enforcement Official:

- A. A general description of the proposed use to which the mobile home park is to be converted.
- B. The proposed timetable for implementation of the conversion.
- C. A description of the mobile home spaces within the mobile home park.
  - 1. Number of mobile home spaces occupied.
  - 2. Length of time each space has been occupied by the present resident(s) thereof.
  - 3. Age, size, and type of mobile home occupying each space.

4. Monthly rent currently charged for each space.
  5. Name and mailing address of the residents of each mobile home within the mobile home park.
- D. A report of impact and a disposition/relocation plan addressing the availability of replacement housing for existing tenants of the mobile home park consistent with Government Code Section 65863.7. Upon filing an application for conversion, the Zoning Enforcement Official shall inform the applicant of the requirements of Civil Code Section 798.56 and Government Code 65863.8 regarding notification of the mobile home park residents concerning the conversion proposal. (Ord. 2001-015 § 1)

#### **5.28.112 Relocation Plan**

- A. The relocation plan for tenants of a mobile home park shall be submitted to the City Council for approval as part of the application for conversion of a mobile home park to another use. The plan shall provide specifically for relocation assistance to full-time, low- and moderate-income residents of the park for a minimum period of 12 months following approval of a use permit for the conversion. Information on sites available in mobile home parks in the City and adjacent communities shall be provided to all tenants.
- B. A relocation plan shall include, but not be limited to, consideration of the availability of medical and dental services and shopping facilities, the age of the mobile home park and the mobile homes, and the economic impact on the relocated tenants.
1. Special Cases. The relocation plan shall specifically provide guarantees that all tenants 62 years old or older and all tenants who are medically proven to be permanently disabled shall not have to pay an increase in rent over the amount currently paid for a period of two years following relocation.
  2. Moving Expenses. The relocation plan shall provide for moving expenses equal to the actual cost of moving, but not exceeding the cost of moving to a location no more than 10 miles from the park to any tenant who relocates from the park after City approval of the use permit authorizing conversion of the park. When the tenant has given notice of his intent to move prior to City approval of the use permit, eligibility to receive moving expenses shall be forfeited.
  3. No Increase in Rent. A tenant's rent shall not be increased within two months prior to filing an application for conversion of a mobile home park, nor shall the rent be increased for two years from the date of filing of the conversion application or until relocation takes place. (Ord. 2001-015 § 1)

#### **5.28.116 Findings for Conversion**

The City Council may approve a permit for a mobile home park conversion if it finds that the proposed conversion meets the following requirements in addition to the requirements of Section 5.08.124 Required Findings:

- A. That the proposed use of the property is consistent with the General Plan or any specific plan, and all applicable provisions of this ordinance are met;
- B. That the residents of the mobile home park have been adequately notified of the proposed conversion;
- C. That there exists land zoned for replacement housing or adequate space in other mobile home parks for the residents who will be displaced;
- D. That the conversion will not result in the displacement of low-income mobile home residents who cannot afford rents charged in other mobile home parks within the City of San Leandro or its general vicinity;
- E. That the age, type, size, and style of mobile homes to be displaced as a result of the conversion will be able to be relocated into other mobile home parks within the City of San Leandro or its general vicinity;
- F. That if the mobile home park is to be converted to another residential use, the mobile home residents to be displaced shall be provided the right of first refusal to purchase, lease, rent, or otherwise obtain residency in the replacement dwelling units, and the construction schedule for such replacement dwelling units shall not result in a displacement of unreasonable length for those mobile home residents electing to relocate in these replacement units;
- G. That any mobile home residents displaced as a result of the conversion shall be compensated by the applicant for all reasonable costs incurred as a result of their relocation; and
- H. That the relocation plan mitigates the impacts of the displacement of individuals or households for a reasonable transition period and mitigates the impacts of any long-term displacement. (Ord. 2001-015 § 1)

#### **5.28.120 Conditions of Approval**

Consistent with Section 5.08.128 Conditions of Approval, the City Council shall impose the following conditions of approval of a permit for a mobile home park conversion. In addition to any other conditions:

- A. The applicant shall submit a relocation plan that shall make adequate provisions for the relocation of all mobile homes and mobile home residents to be displaced as a result of the conversion. Such plan shall include provisions to relocate such mobile homes

and mobile home residents in comparable mobile home parks within the City of San Leandro or its general vicinity. A replacement mobile home park shall be deemed comparable if it provides substantially equivalent park facilities and amenities, space rental and fees, and location, i.e., proximity to public transportation, medical and dental centers, shopping facilities, recreation facilities, religious and social facilities, etc.

- B. The applicant shall bear all reasonable costs of relocating mobile homes and mobile home residents displaced by the conversion. Such costs shall include, but not be limited to: the cost of moving the mobile home to its new location; the cost of necessary permits, installations, landscaping, site preparation at the mobile home's new location; the cost of moving personal property; and the cost of temporary housing, if any. Such costs may also include the cost of purchasing replacement mobile homes for those residents owning mobile homes that are not acceptable in other mobile home parks as a result of its size, age or style, or establishing a new mobile home park for the relocation of displaced mobile homes.
- C. The City Council may establish the date on which the permit for conversion will become effective. Such date shall not be less than two years from the decision of the City Council, provided that conversion at an earlier date may be approved if the City Council receives a written petition requesting an earlier date signed by a majority of those persons residing in the subject mobile home park at the time of the City Council public hearing to consider the conversion application. The effective date of the approval in such a case shall be the date set forth in the petition. Conversion at the earlier date may be approved only if the applicant has complied with all the provisions of an approved relocation plan and submitted evidence of such compliance to the Zoning Enforcement Official. (Ord. 2001-015 § 1)

#### **5.28.124 Waiver**

- A. The City Council may find that there is substantial evidence to support a finding by the Council that the imposition of conditions as provided in Section 5.28.120 Conditions of Approval would result in an extreme economic hardship for the applicant. An extreme economic hardship does not exist where the cost of implementing the relocation conditions would merely deny the applicant the maximum profits that could be realized from the conversion of the mobile home park.
- B. If the City Council determines that the conditions would result in extreme economic hardship for the applicant, the City Council may waive or modify any conditions that would otherwise be necessary to enable the Council to make the findings required by Section 5.28.116 Findings for Conversion. Such conditions may be waived or modified only to the extent minimally necessary to alleviate such extreme economic hardship. (Ord. 2001-015 § 1)

## **Chapter 5.32 Residential Condominium Conversions**

### **Sections:**

- 5.32.100 Specific Purposes**
- 5.32.104 Objectives**
- 5.32.108 Definitions**
- 5.32.112 Requirements**
- 5.32.116 Application Procedures**
- 5.32.120 Required Reports and Information**
- 5.32.124 Condominium Conversion Standards**
- 5.32.128 Tenant Rights, Benefits, and Notification**
- 5.32.132 Effect of Proposed Conversions on the City's Low- and Moderate-Income Housing Supply**
- 5.32.136 Density Bonus for Including Low- and Moderate-Income Housing Supply**
- 5.32.140 Required Findings**
- 5.32.144 Referral to City Council**
- 5.32.148 Exceptions**
- 5.32.152 Appeals**
- 5.32.156 Retaliation and Unlawful Detainer Defense**

### **5.32.100 Specific Purposes**

The conversion of residential structures from individual ownership to condominiums or any other form of multiple ownership interests creates special community problems, both social and economic. Conversions may significantly affect the balance between rental and ownership housing within the City, and, thereby, reduce the variety of individual choices of tenure, type, price, and location of housing; increase overall rents; decrease the supply of rental housing for all income groups; displace individuals and families; and disregard the needs of the prevailing consumer market. The purpose of this chapter is to provide guidelines to evaluate those problems, including the impact any conversion application may have on the community and to establish requirements, which shall be included in any conversion approval. (Ord. 2001-015 § 1)

### **5.32.104 Objectives**

This chapter is enacted for the following reasons:

- A. To establish procedures and standards for the conversion of existing multiple-family rental housing to condominiums;
- B. To protect the rights and reduce the impact of such conversions on tenants, who may be required to relocate due to the conversion of apartments to condominiums, by providing for procedures for notification and adequate time and assistance for relocation to comparable rental housing and rates;

- C. To assure that purchasers of converted housing have been properly informed as to the physical condition of the structure that is offered for purchase;
- D. To ensure that converted housing achieves a high standard of appearance, quality, and safety, and is in good condition without hidden needs for maintenance and repair;
- E. To provide the opportunity for low- and moderate-income persons to participate in the ownership process, as well as to maintain a supply of rental housing for low- and moderate-income persons; and
- F. To assure that adequate rental housing is available in the community. (Ord. 2001-015 § 1)

### 5.32.108 Definitions

As used in this chapter, terms and phrases shall have the meaning respectively ascribed:

- A. **Apartment Building.** A multi-family rental housing complex in which individual residential units are rented or leased rather than owned separately.
- B. **Condominium.** A dwelling unit as defined in Section 1350 of the Civil Code of the State of California or successor section.
- C. **Community Apartment.** A dwelling unit as defined in Civil Code Section 1351 or successor section.
- D. **Stock Cooperative.** A dwelling unit as defined in Section 11003.2 of the Business and Professions Code of the State of California or successor section.
- E. **Townhouse.** A dwelling unit characterized by a separate interest in a building and the land directly beneath it, which may be combined with either an undivided interest in the remainder or easements across common areas.
- F. **Tenant or Existing Tenant.** A person or persons renting or leasing a dwelling unit in a project as of the date of the mailing by certified mail to the tenant the notice of intention to convert. (Ord. 2001-015 § 1)

### 5.32.112 Requirements

In addition to the applicable requirements and procedures set forth in Chapter 7-1 Subdivision Ordinance of the San Leandro Municipal Code, conversions of existing rental housing to condominiums, townhouses, community apartments, stock cooperatives, and any other subdivision which is a conversion of existing rental housing shall be subject to the additional requirements of this Code. Such conversions also must obtain a use permit pursuant to Chapter 5.08 Use Permits, Variances, and Parking Exceptions. No person shall cause a



conversion of the type herein referred to except in accordance with this chapter. (Ord. 2001-015 § 1)

### **5.32.116 Application Procedures**

The following procedures and regulations shall apply to condominium conversion applications:

- A. Preliminary Applications. Applicants may submit to the Community Development Department preliminary applications for condominium conversions of residential structures to condominiums. Such applications shall identify the owner or authorized agent, the location and number of units in the building to be converted, and contain information on the vacancy rate of multi-family dwellings of three or more units within the City and the number of tenants who support such a conversion.

Data for determining the City's annual multi-family vacancy rate shall be compiled from a variety of sources including, but not limited to, United States Postal Service Surveys, idle utility meter reports, reports from financial institutions, and real estate organizations.

- B. Department Review. The Community Development Department shall review preliminary applications for condominium conversions. Preliminary applications may be accepted for further discretionary review if any one of the following factors exists:
1. The vacancy rate of multiple-family developments of three or more rental units within the City, as determined by the Zoning Enforcement Official, is equal to or more than five percent, unless the conversion will result in a decrease of the vacancy rate to less than five percent.
  2. Tenants lawfully in possession of 75 percent of the units indicate in writing to the City their desire (one vote per unit) to convert such units to condominium ownership. To qualify under this provision, the applicant shall submit evidence that tenants have been provided with information on all estimated costs, including, but not limited to, the unit cost, down-payment requirements, financing, estimated property management costs, and homeowner association fees. If the conversion is approved, the developer shall provide information to the City on the number of tenants who actually purchased their unit. If at any time during the conversion approval process, a sufficient number of tenants decide not to purchase, or if misrepresentation is discovered, the Planning Commission shall have sufficient grounds for recommending denial of the use permit application.
  3. The applicant agrees to sell or rent at affordable prices 25 percent of the units to low- and moderate-income households, with a minimum of 20 percent of the units affordable to low-income households. If the units are to be made available for purchase, the maximum sales price of units intended for low- or moderate-income

households shall not exceed two and one-half times the annual median income for such households as defined by the California Health and Safety Code, Section 50093. Resale controls shall be included as a deed restriction. If the units are to be for rent, the maximum rent allowed shall preserve the units within the low- or moderate-income housing stock.

- C. Application for Conversion Required. No person shall convert or cause the conversion of an apartment building to a condominium without approval of a condominium conversion application by the Planning Commission, or, upon referral, the City Council. (Ord. 2001-015 § 1)

### **5.32.120 Required Reports and Information**

After preliminary applications are accepted for further discretionary review, the applicant shall submit all the information required for a use permit application, and a tentative map pursuant to this Code. In addition, the applicant shall submit information documenting that the project as a whole will be in good repair on the interior and the exterior when offered for sale. As part of the material necessary for the City to determine this to be the case, the reports and/or information required by this section shall be submitted. The cost of all reports shall be paid by the applicant, and the persons preparing the reports shall be approved by the City. The reports shall include information on what improvements, if any, shall be accomplished by the developer and at what point in the conversion proceedings such improvements shall be completed. All improvements cited in the reports, whether required or voluntary, shall be considered conditions of approval to the extent specified in the condominium conversion approval.

The applicant shall be responsible for the remedy of physical conditions within individual units or common areas noted by a prospective purchaser and/or tenant, which have been missed by inspections or which occur subsequent to the inspections but prior to the close of escrow. In case of disagreement between the applicant and the prospective purchaser as to the actual condition, remedy, or cause of deterioration, the burden of proof shall be that of the applicant.

- A. Physical Elements Report. A report on the physical elements of all structures and facilities shall be submitted, containing the following:
1. A report by a California-licensed structural or civil engineer detailing the structural condition, useful life, and any apparent deferred maintenance of all elements of the property, including, but not limited to, foundations, electricity, plumbing, utilities, walls, ceilings, windows, frames, recreational facilities, sound transmissions of each building, mechanical equipment, parking facilities, fire protection, drainage facilities, and parking conditions and potential problems. Such report also shall describe the condition of refuse disposal facilities; swimming pools, saunas, and fountains; stone and brickwork; fireplaces; and exterior lighting.

2. A report by a California-licensed appliance repair contractor detailing the age, condition, expected size, and the cost of replacement for each appliance and mechanical equipment for heating and cooling. The report shall identify any defective or unsafe appliances and set forth the proposed corrective measures to be employed.
3. A report by a California-licensed structural termite and pest control specialist certifying whether or not all attached or detached structures are free of infestation and structural damage caused by pests and dry rot. The report shall describe what procedures would be necessary to eliminate infestation or damage, if present. Such report shall be updated within six months after the close of escrow, and any infestation shall be remedied prior to sale.
4. Existing soils reports shall be submitted for review with a statement regarding any known evidence of soils problems relating to the structures.
5. A report by a California-licensed painting contractor verifying the condition of the painting throughout the project, including building interior and exterior surfaces, and an estimate of the remaining physical life of the paint. A statement that new paint will be applied on all building interior and exterior surfaces may take the place of such report. Such statement shall include the brand name of the paint and the exterior colors to be used.
6. A report by a California-licensed roofing contractor verifying the condition of the roofs of all structures and an estimate of the remaining physical life of the roofs and the cost of replacement. A statement that new roof material will be applied may take the place of such report. Such statement shall include the type, grade, and color of the proposed roofing material.
7. A declaration of the covenants, conditions, restrictions, and rules and regulations, which would be applied on behalf of any and all owners of condominium units within the project. The declaration shall include, but not be limited to: the conveyance of units; the assignment of parking and storage areas; a description of all land or building area to be owned in common; and an agreement for common area maintenance, together with an estimate of any initial assessment fees anticipated for such maintenance, and an indication of appropriate responsibilities for the maintenance of all utility lines and services for each unit.
8. Specific information concerning the demographic and financial characteristics of the project, including, but not limited to, the following:
  - a. Property boundaries, building floor plans, and proposed uses of space;
  - b. The square footage and number of rooms in each unit;

- c. The rental history for each unit for the three-year period preceding the date of the application;
- d. The monthly vacancy rate for each month during the preceding three years;
- e. A complete list of the number and names of tenants and tenant households in the project, including the following information:
  - i. Households with persons 62 years or older;
  - ii. The family size of households, including a breakdown of households with children five years and younger and six through 18 years;
  - iii. Households with handicapped persons;
  - iv. The length of residence;
  - v. The age of tenants; and
  - vi. The designation of low- and moderate-income households and whether any are receiving federal or state rent subsidies.

When the subdivider can demonstrate that demographic information is not available, the Zoning Enforcement Official may modify this requirement.

- vii. The proposed price of each of the units;
  - viii. The proposed homeowners' association budget, detailed to included fixed costs, operating costs, reserves, administration, and contingencies; and
  - ix. A statement of intent as to the types of financing programs to be made available, including any incentive programs for existing residents;
  - x. A list of tenants who express interest in purchasing on these terms;
  - xi. A copy of the notice of intention to sell or lease as filed with the California Department of Real Estate under the provisions of Business and Professions Code Section 11010, et seq., or successor section.
9. a. Signed copies from each tenant of the notice of intent to convert, as specified in this chapter. The applicant shall submit evidence that a certified letter of notification was sent to each tenant for whom a signed copy of such notice is not submitted.

- b. A statement that all tenants have been notified of the following:
  - i. Name, address, and telephone number of the applicant and of any person designated by the applicant as the person to be contacted for further information;
  - ii. The address and telephone number of the City of San Leandro Community Development Department;
  - iii. A statement that an application is proposed to be filed for a condominium permit authorizing the conversion of such building, and a brief description of the conversion process, including City and state approval required;
  - iv. Notification to tenants that, upon filing an application, the building and selected units will be inspected by City representatives;
  - v. A description of all rights, benefits, and privileges accruing to tenants pursuant to this Code, Chapter 7-1 of the San Leandro Municipal Code, the State Subdivision Map Act, and any other state law.
- c. The application shall be supplemented with the following information:
  - i. Any correspondence between tenants and the applicant regarding the proposed conversion;
  - ii. Any additional information deemed necessary by the City to clarify any issues arising during the review of the application regarding the economic feasibility of the project.
- B. Acceptance of Reports. The final form of the physical elements report and other documents shall be approved by the Planning Commission. The reports in their acceptable form shall remain on file with the Community Development Department for review by any interested person.
- C. City Inspection. The City retains the right to inspect the structures and facilities for verification of any physical elements reports. In addition, the City may, if it deems necessary, prepare a report recommending appropriate actions, including, but not limited to:
  - 1. Correction of City code violations;
  - 2. Achievement of conformance with current provisions of City codes;
  - 3. Rehabilitation of the structures, common areas, and other related facilities to substantially new condition;

4. An increase in the energy and noise insulating qualities of the structures to that substantially required by current provision of the City codes.
- D. Referral to School District. All applications for conversions of more than thirty (30) units may be referred to the appropriate school district for comment at least 10 days prior to the public hearing. (Ord. 2001-015 § 1)

### **5.32.124 Condominium Conversion Standards**

- A. Compliance with Zoning, Building, Housing, Mechanical, and Fire Codes. All units, as well as the common ownership facilities, shall be brought into compliance with applicable state and local zoning, building, housing, mechanical, and fire codes upon approval by the Zoning Enforcement Official and prior to recordation of the final map or parcel map, and funds shall be adequately escrowed to assure completion of such corrective work prior to the closing of escrow of any unit in the project.
- B. Parking Requirements. The project shall conform to all applicable parking requirements of Chapter 4.08 Off-Street Parking and Loading Regulations.
- C. Sound Transmission Characteristics and Energy Conservation. The following methods shall be used to regulate noise transmission:
1. Shock Mounting of Mechanical Equipment. All permanent mechanical equipment, such as motors, compressors, pumps, and compactors, which are determined by the Zoning Enforcement Official to be a source of structural vibration or structure-borne noise shall be shock-mounted in inertia blocks or bases and/or vibration isolators in a manner approved by the Zoning Enforcement Official.
  2. Noise Mitigation and Energy Conservation. Energy conservation insulation shall be installed in all heated or cooled buildings, including common ownership structures used for assembly purposes, in accordance with Title 24 of the California Administrative Code, as amended, and in effect on the date building permits are issued for condominium conversion rework. Common walls and common floor ceiling between units shall be constructed to meet a sound transmission coefficient (STC) rating of 55 or higher.
- D. Fire Protection.
1. Smoke Detectors. Every dwelling unit shall be provided with an AC-powered smoke detector approved by the State Fire Marshal. Installations shall comply with Uniform Building Code Section 1210(a).
  2. Sprinkler and Other Systems. A sprinkler system, fire alarm, and other fire protection devices shall be installed as required by the Municipal Code.

E. Utilities: Location, Metering, and Alternative Energy.

1. Location. Each dwelling unit shall be served by gas and electric services completely within the lot lines or ownership space of each separate unit. No common gas or electrical connection or service shall be allowed. Easements for gas and electric lines shall be provided in the common ownership area where lateral service connections shall take place.
2. Undergrounding. All new utilities, both on-site and off-site, across property frontage shall be underground.
3. Metering. Each dwelling unit shall be separately metered for gas and electricity. Individual panel boards for electrical current shall be provided for each unit. A plan for the equitable sharing of communal water metering and other shared utilities shall be included in the covenants, conditions, and restrictions.
4. Alternative Energy. The applicant shall consider the use and implementation of alternative energy sources including, but not limited to, the conversion of a common water system to solar hot water heating and the installation of passive solar design features.

F. Laundry Facilities. A laundry area shall be provided in each unit, or, if common laundry areas are provided, such facilities shall consist of not less than one automatic washer and dryer for each five units or fraction thereof.

G. Condition of Equipment and Appliances. At such time as the homeowners' association takes over the management of the condominium project, the applicant shall provide a one-year warranty to the association that any pool and/or spa and pool and/or spa equipment (filter, pumps, and chlorinator), and any appliances and mechanical equipment to be owned in common by the association is in operable working condition. The plumbing and electrical systems in both the dwellings and the common ownership areas shall also be covered by a one-year warranty for proper and safe operation and installation in a safe and workmanlike manner. Such warranty shall be offered by an independent homeowner's warranty service licensed by the California Insurance Commission.

H. Refurbishing and Restoration. All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the Board of Zoning Adjustments shall be refurbished and restored as necessary to achieve a high standard of appearance, quality, and safety.

I. Contingency Fees. The intent of the City in requiring the creation of a contingency or reserve fund for condominium conversions is to provide a surety for unexpected or emergency repairs to common areas in the interest of the economic, aesthetic, and

environmental maintenance of the community, as well as to protect the general welfare, public health, and safety of the community. Upon the close of escrow for each unit, the applicant shall convey to the homeowners' association's contingency fund a minimum fee of \$200.00 per dwelling unit. When 50 percent or more of the total units in the project have been sold, the applicant shall convey, within 30 days, such fee for each of the unsold units. Such funds shall be used solely and exclusively as a contingency fund for emergencies, which may arise relating to open space areas, exterior portions of dwelling units, and such other restoration or repairs as may be assumed by the homeowners' association. (Ord. 2001-015 § 1)

### **5.32.128 Tenant Rights, Benefits, and Notification**

Applications for condominium conversions shall include the following procedures as they relate to tenant notification:

- A. Notices of Intent. A notice of intent to convert shall be delivered to each tenant at least 60 days prior to filing the application for a use permit and a tentative map. Evidence of the receipt of such notice shall be submitted with the application for conversion. The form of the notice shall be in the form outlined by Section 66452.9 of the California Government Code, and shall contain not less than the following:
1. The name and address of the current owner;
  2. The name and address of the proposed subdivider;
  3. The approximate date on which the application and tentative map are proposed to be filed;
  4. The approximate date on which the final map or parcel map is to be filed;
  5. The approximate date on which the unit is to be vacated by non-purchasing tenants;
  6. The tenant's rights of:
    - a. Purchase;
    - b. Notification to vacate; and
    - c. Termination of the lease.
  7. A statement of no rent increase;
  8. Provisions for special cases;



9. The provision of moving expenses and the tenant's right to claim any penalty imposed if timely payment is not made;
10. The anticipated price range and terms of sale for each type of unit;
11. The proposed homeowners' association fees;
12. A statement of the types of financing programs to be made available, including any proposed specific incentive programs for existing residents; and
13. A copy of the applicable condominium conversion regulations.

B. Notification to Tenants.

1. Mailing. Two separate stamped, pre-addressed envelopes for each resident of each unit shall be furnished to the Community Development Department by the applicant at the time the subdivider submits an application for a use permit for a conversion. The Community Development Department shall use one envelope to notify the residents by mailing a copy of the public hearing notice to tenants not less than 10 days prior to the proposed hearing date on the application. The notice shall include notification of the tenant's right to appear and be heard. The second envelope shall be used by the Community Development Department to notify the residents of the results of the public hearing by mailing notification of the decision of the Planning Commission not more than seven days following the Planning Commission's action. Failure of the Community Development Department to mail such notice shall not invalidate any proceeding or action taken by the City in considering a conversion. The list of names and addresses of the residents of each unit in the conversion project shall be current as of the day of submittal and shall be certified as such by the applicant.
2. Notices to Prospective Tenants. Commencing with the date of the notice provided for in Subsection A, any prospective tenants shall be notified in writing by the subdivider or his or her agent of the intent to convert prior to leasing or renting any unit pursuant to Section 66452.8 of the California Government Code.
3. Posting Notices. The notice of intent shall be posted on-site in at least one location readily visible to tenants.

- C. Tenant's Purchase Rights. The irrevocable right and option to purchase the unit, which such tenant is renting or leasing prior to offering said unit to any other person or the public in general upon the same or more favorable terms and conditions, as said unit shall be offered to any other person or to the public in general. Said rights and option shall be effective, irrevocable, and exclusive for not less than 90 days after commencement of sales of units in the project to the public in general or issuance of the final report of the California Department of Real Estate relating to such project, whichever occurs

later, unless the tenant gives prior written notice of his or her intention not to exercise the right.

The above described right and option afforded to tenants shall also be afforded to the City, to purchase any or all of the units not rented or leased to existing tenants.

- D. Tenants' Discounts. Any present tenant of any unit at the time of an application for conversion shall be given a nontransferable right of first refusal to purchase the unit occupied at a discount of the price offered to the general public. The amount of the discount shall be based on the longevity of each tenant and shall be ratified by the applicant at the time of conversion.
- E. Vacation of Units. Each non-purchasing tenant, not in default under the obligations of the rental agreement or lease under which the subject unit is occupied, shall have not less than 180 days after the date of the tentative map approval by the City or until the expiration of the tenant's lease to find substitute housing and to relocate. Tenants shall be permitted to terminate leases or tenancy with one month's written notice at any time after a conversion application.
- F. No Increase in Rent. A tenant's rent shall not be increased within two months prior to a project application, nor shall the rent be increased for two years from the time of the filing of the project application or until relocation takes place.
- G. Remodeling. Tenants retain the right not to allow the unit such tenant is occupying to undergo remodeling or refurbishing, without the consent of such tenant, after notice of intention to apply for a condominium permit has been given.
- H. Special Cases.
  - 1. All non-purchasing tenants 62 years old or older and all non-purchasing, medically proven, permanently disabled tenants shall receive a lifetime lease. Rents for such tenants shall not be increased for two years after the filing of the project application.
  - 2. The following non-purchasing tenants shall receive a minimum of 12 months' relocation time, measured from the tentative map approval, to find replacement housing:
    - a. Tenants with low or moderate incomes; and
    - b. Tenants with minor children in school.
- I. Moving Expenses. The subdivider shall provide moving expenses equal to three times the monthly rent to any tenant, in compliance with all the terms of the subject lease and/or financing, who relocates from the building to be converted after City approval of

the use permit authorizing conversion of the units. When the tenant has given notice of his intent to move prior to City approval of the use permit, eligibility to receive moving expenses shall be forfeited.

- J. Relocation Assistance. Relocation assistance shall be provided by the subdivider to non-purchasing tenants for a minimum period of four (4) months following the tentative map approval. Information on available rental units in the same general area with costs comparable to the pre-converted apartments shall be provided by the subdivider on a calendar quarterly basis. Copies of the list shall be posted on-site, dated, and provided to the Community Development Department.
- K. Discrimination. No discrimination in the sale of any unit shall be based on race, color, creed, national origin, sex, or age, and a statement to this effect shall be included in the covenants, conditions, and restrictions. (Ord. 2001-015 § 1)

### **5.32.132 Effect of Proposed Conversions on the City's Low- and Moderate-Income Housing Supply**

In reviewing requests for the conversion of existing apartments to condominiums, the Planning Commission shall consider the following:

- A. Whether or not the amount and impact of the displacement of tenants, if the conversion were approved, would be detrimental to the health, safety, or general welfare of the community;
- B. The role the apartment structure plays in the existing housing rental market. Particular emphasis will be placed on the evaluation of rental structures to determine if the existing apartment complex is serving low- and moderate-income households;
- C. The need and demand for lower-cost home ownership opportunities, which are increased by the conversion of apartments to condominiums.

### **5.32.136 Density Bonus for Including Low- and Moderate-Income Housing**

Consistent with the requirements of Section 65915.5 of the California Government Code, the City shall offer a density bonus to condominium conversions including low- or moderate-income housing units or lower-income household units. When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons of low- or moderate-income as defined in Section 50093 of the California Health and Safety Code or 15 percent of the total units to lower-income households as defined in Section 50079.5 of the California Health and Safety Code, the City shall either: (1) grant a 25 percent density bonus; or (2) provide other incentives of equivalent financial value. Any density bonus provided under this section shall be governed by the requirements of Chapter 6.08 Residential Density Bonus.

- A. For purposes of this section, “density bonus” means an increase in units of 25 percent over the number of apartments to be provided within the existing structure or structures proposed for conversion. “Other incentives of equivalent financial value” shall not be construed to require the City to make any cash transfer payments or other monetary compensation to the subdivider, but may include the reduction or waiver of any required fees or the condominium conversion standards prescribed in Section 5.32.124 Condominium Conversion Standards.
- B. An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or equivalent financial incentive was provided under the provisions of Chapter 6.08 Residential Density Bonus. (Ord. 2004-017 § 1; Ord. 2001-015 § 1)

### **5.32.140 Required Findings**

The Planning Commission shall conduct a public hearing on the application for a use permit for a condominium conversion. Notice of the hearing shall be given in the manner specified in Section 5.08.116 Notice and Public Hearing. Additionally, such notice shall be mailed to each tenant of the proposed project including a statement therein of the tenants right to appear and be heard. The Planning Commission shall approve, or conditionally approve, the use permit if it determines that in addition to the findings required by Section 5.08.124 Required Findings the following requirements are met:

- A. That all the provisions of the Subdivision Map Act, this Code, and other applicable provisions of the Municipal Code are met;
- B. That the proposed conversion is consistent with the General Plan goal of maintaining a reasonable balance of rental and ownership housing, and meets the requirements of the adopted Housing Element and any applicable specific plan;
- C. That the proposed conversion will conform to the provisions of this Code in effect at the time of approval, except as otherwise provided in this section;
- D. That the overall design and physical condition of the condominium conversion achieves a high standard of appearance, quality, useful life, and safety;
- E. That the proposed conversion will not displace a significant percentage of low- or moderate-income, permanently or totally disabled, or senior citizen tenants, or delete a significant number of low- and moderate-income rental units from the City’s housing stock at the time when no equivalent housing is readily available in the San Leandro area;
- F. That the relocation program will reduce the adverse effect of the project on tenants by providing actual or reasonable costs of relocation or by alternative assistance to assure that undue hardship is not imposed on such tenants;

- G. That the project will provide offsetting benefits that constitute reasonable compensation for the replacement of rental housing lost as a result of the project; and
- H. That the dwelling units to be converted have been constructed and used as rental units for at least three years prior to the application for conversion. (Ord. 2001-015 § 1)

#### **5.32.144 Referral to City Council**

- A. If, upon conclusion of a public hearing, the Planning Commission determines that a particular application raises significant City policy issues, it may refer the application to the City Council along with its recommendations and report and an identification of the impacts or issues, which it believes would be considered by the City Council.
- B. Upon referral from the Planning Commission, the City Council may either accept the recommendation of the Planning Commission or hear and decide the matter in accordance with the provisions of this chapter. (Ord. 2001-015 § 1)

#### **5.32.148 Exceptions**

Condominium conversions involving four residential units or less shall be subject to a use permit and shall be subject to the findings required for use permits in Section 5.08.124 Required Findings. No portion of this chapter shall pertain to the conversion to condominiums of four residential units or less. (Ord. 2001-015 § 1)

#### **5.32.152 Appeals**

Decisions of the Planning Commission may be appealed to the City Council in accord with Chapter 5.20 Appeals. (Ord. 2001-015 § 1)

#### **5.32.156 Retaliation and Unlawful Detainer Defense**

- A. It shall be unlawful for any person to evict or cause to be evicted any tenant where the dominant purpose of such eviction is retaliation against the tenant for the exercise or attempted exercise of any right granted under this chapter or for the peaceful and lawful opposition by such tenant to the proposed conversion of the multiple-unit rental project within which such tenant resides.
- B. Each of the following acts or omissions shall constitute a separate defense to any unlawful detainer action:
  - 1. Failure of the applicant to comply with the provisions of Section 5.32.120 Required Reports and Information and/or Section 5.32.128 Tenant Rights, Benefits, and Notification.

2. Failure of the applicant to provide the notice required by Government Code Section 66427.1(a). (Ord. 2001-015 § 1)

## Chapter 5.36 Nonresidential Condominium Conversions

### Sections:

- 5.36.100 Specific Purposes**
- 5.36.104 Objectives**
- 5.36.108 Definitions**
- 5.36.112 Application Requirements and Procedures**
- 5.36.116 Required Reports and Information**
- 5.36.120 Condominium Conversion Standards**
- 5.36.124 Application Notification**
- 5.36.128 Required Findings**
- 5.36.132 Referral to Planning Commission**
- 5.36.136 Appeals**
- 5.36.140 Retaliation Defense**

### **5.36.100 Specific Purposes**

The City of San Leandro finds that the conversion of larger multi-tenanted industrial or commercial properties into smaller ownership units is beneficial to encourage property improvements and to allow ownership opportunities for smaller businesses. In adopting this chapter, the City seeks to protect the welfare of existing tenants of such property and ensure that the overall property is maintained in optimum conditions in both appearance and in structural integrity. In this chapter, the City addresses the special attributes of nonresidential condominium conversions and adopts condominium conversion standards that will protect the community, existing tenants, and the purchasers of condominium units. Specifically, the purpose of this chapter is to ensure that any conversion of a nonresidential building or complex is preceded by adequate notice to existing tenants and surrounding property owners and businesses, and to provide a review process to address such items as parking, building appearance, property maintenance, lighting, security and signage. (Ord. 2005-025 § 2)

### **5.36.104 Objectives**

This chapter is enacted for the following reasons:

- A. To establish procedures and standards for the conversion of existing nonresidential establishments to condominium ownership;
- B. To reduce the impact of such conversions on tenants by providing for procedures for notification;
- C. To assure that purchasers of converted nonresidential units have been properly informed as to the physical condition of the structure that is offered for purchase; and

- D. To ensure that converted nonresidential units have a high standard of appearance, building quality, and safety. (Ord. 2005-025 § 2)

### **5.36.108 Definitions**

As used in this chapter, terms and phrases shall have the meaning respectively ascribed:

- A. Nonresidential Building(s). A nonresidential (commercial, industrial or other) building(s) or complex in which individual units are rented or leased rather than owned separately.
- B. Condominium. An individual interest in common in a portion of real property, coupled with a separate interest in space called a unit.
- C. Tenant or Existing Tenant. A person or persons renting or leasing a nonresidential unit as of the date of the mailing by certified mail to the tenant the notice of intention to convert. (Ord. 2005-025 § 2)

### **5.36.112 Application Requirements and Procedures**

In addition to the applicable subdivision requirements and procedures set forth in Chapter 7-1 of the San Leandro Municipal Code, a nonresidential condominium conversion shall be subject to the additional requirements of this Code. Such conversions must obtain a Zoning Permit pursuant to Chapter 5.04 Zoning Permits Required; Environmental Review; Fees and Deposits. Any tentative map or parcel map that proposes to convert a Nonresidential Building or Buildings to Condominiums shall be accompanied by an application for a Zoning Permit pursuant to this chapter.

The following procedures and regulations shall apply to Zoning Permit applications for non-residential condominium conversion:

- A. Department Review. The Zoning Enforcement Official (ZEO) shall review applications for nonresidential condominium conversions as an administrative approval for a Zoning Permit. A publicly noticed administrative hearing may be conducted, at the discretion of the ZEO, should the ZEO determine that a particular application raises significant City policy issues.
- B. Application for Conversion Required. No person shall convert or cause the conversion of a nonresidential building to a condominium without submittal of an application and approval of a Zoning Permit for the condominium conversion application by the Zoning Enforcement Official, or, upon referral, by the Planning Commission. (Ord. 2005-025 § 2)

### **5.36.116 Required Reports and Information**



The applicant shall submit all the information required for a Zoning Permit application, and a parcel map pursuant to this Code and San Leandro Municipal Code Chapter 7-1 Subdivision Ordinance. An application for approval of a parcel map for the nonresidential condominium subdivision shall be accompanied by the following items:

- A. Plans. A full plot plan, floor plans, and elevations of the project showing proposed building alterations and site improvements, including the location and sizes of existing and proposed structures, parking layout and access areas. Plans shall also include information on sewer, water and storm drains, areas and improvements to be commonly owned and maintained, and any other related information required by the City. Digital photographs may be substituted for elevations at staff's discretion.
  
- B. Allocation of Parking and Signage. A proposal to include:
  - 1. Square footage of each unit, and the type of business for each existing tenant;
  - 2. A proposal for allocation of parking, based on the parking requirements of the Zoning Code; and
  - 3. A proposal for allocation of signage, based on the sign requirements of the Zoning Code and any existing master sign program.
  
- C. Property Evaluation Reports. Property evaluation reports detailing the structural conditions, useful life and any apparent deferred maintenance on the property which may include, but is not limited to, foundations, electricity, plumbing, utilities, walls, ceilings, windows, frames, fire protection, and drainage facilities. Such report shall also describe the condition of refuse disposal facilities, fountains, stone and brickwork, and exterior lighting.

The reports may recommend appropriate actions, including, but not limited to:

- 1. Correction of City code violations;
- 2. Achievement of conformance with current provisions of City codes;
- 3. Rehabilitation of the structures, common areas, and other related facilities to substantially new condition;
- 4. An increase in the energy and noise insulating qualities of the structures to that substantially required by current provision of the City codes.

The City may, as a condition of approval to be completed prior to approval of a Final Map or Building Permit, require additional reports to determine the existing conditions on the property related to termite infestation, exterior paint, HVAC equipment, soils, roofing, landscaping and irrigation.

The cost of all reports shall be paid by the applicant, and the persons preparing the reports shall be approved by the City. The reports shall include information on what improvements, if any, shall be accomplished by the developer and at what point in the conversion proceedings such improvements shall be completed. All improvements cited in the reports, whether required or voluntary, *may* be considered conditions of approval to the extent specified in the condominium conversion approval.

Acceptance of Reports. The final form of the property evaluation reports and other documents required under this chapter shall be approved by the Zoning Enforcement Official.

Copy to Buyers. The reports and other documents required under this chapter in their accepted form shall remain on file with the department for review by the public. The subdivider shall provide each purchaser with a copy of the reports in their final, accepted form.

City Inspection and Fees. The City retains the right to inspect the structures and facilities for verification of the property evaluation reports. Costs of such inspections shall be borne by the developer through a deposit with the City.

- D. Tenant Notification. The applicant shall submit evidence that a certified letter of notification was sent to each tenant 60 days prior to the filing of an application for a Zoning Permit and tentative or parcel map pursuant to this chapter, with a statement that all tenants have been notified of the following:
1. Name, address, and telephone number of the current owner and/or applicant and of any person designated by the applicant as the person to be contacted for further information;
  2. The approximate dates on which the application for a Zoning Permit and tentative or parcel map are proposed to be filed;
  3. The approximate date on which the unit is to be vacated by non-purchasing tenants;
  4. The anticipated price range and terms of sale for each type of unit;
  5. The proposed property owners' association fees;
  6. A copy of the applicable condominium conversion regulations;
  7. The address and telephone number of the City of San Leandro Community Development Department;

8. That an application is proposed to be filed for a Zoning Permit authorizing the conversion of such building, and a brief description of the conversion process, including City and state approval required; and
9. Notification to tenants that, upon filing an application, the building and selected units may be inspected by City representatives. (Ord. 2005-025 § 2)

### **5.36.120 Condominium Conversion Standards**

The following standards apply to commercial/industrial condominium conversions. These standards must be satisfied before the final map or parcel map is approved.

- A. Compliance with Zoning, Building, Mechanical, and Fire Codes. The existing buildings and other improvements shall conform to the applicable standards of the City Zoning, Building, and Fire Code in effect at the time the original building permit was issued. All proposed improvements related to the condominium conversion shall comply with current code requirements.
- B. Parking Requirements. The project shall conform to all applicable parking requirements of Chapter 4.08 Off-Street Parking and Loading Regulations, unless a parking exception is approved pursuant to Chapter 4.08 Off-Street Parking and Loading Regulations of the Zoning Code.
- C. Energy Conservation. The structures in public and common areas shall conform to all energy conservation standards of the City of San Leandro Building Code. Where present standards cannot reasonably be met, the City may require the applicant to notify potential buyers of the energy conservation deficiencies currently within the public and common areas.
- D. Fire Protection. Each unit shall be provided with a fire-warning system conforming to the City of San Leandro City Building Code standards in type and locations.
- E. Utilities: Location, Metering, and Alternative Energy.
  1. Location. No common gas or electrical connection or service shall be allowed. Easements for gas and electric lines shall be provided in the common ownership area where lateral service connections shall take place. Gas, electric, and water services to each unit shall be located completely within the lot lines or ownership space of each unit or within common tenant areas.
  2. Undergrounding. All new or existing utilities across property frontage shall be installed or connected underground, if the project is located on a street which is on the City's Utility Underground Master Plan.

3. Metering. Each unit shall be separately metered for gas, electricity, and water, unless the applicant proposes that the Property Owners' Association will be responsible for these.
- F. Refurbishing and Restoration. All main buildings, structures, fences, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the Zoning Enforcement Official shall be refurbished and restored as necessary to achieve a high standard of appearance, quality, and safety. The refurbishing and restoration is subject to the review and approval by the Zoning Enforcement Official.
  - G. Landscape Maintenance. All landscaping and irrigation shall be restored or new landscaping shall be installed to achieve a high degree of appearance and quality. Provisions shall be made in the Covenants, Conditions and Restrictions for continuing maintenance of all landscaped areas. Existing landscaping and irrigation systems are subject to review and approval by the Community Development Department. If new landscaping is proposed, the design of all landscaping and irrigation is subject to review and approval of the Zoning Enforcement Official.
  - H. Trash Enclosures and Solid Waste Disposal. All trash enclosures, trash bins, recycling bins and disposal schedules for solid waste shall be subject to the review and approval of the Environmental Services Division.
  - I. Covenants, Conditions, and Restrictions (CC&Rs). Prior to issuance of a Final Map, applicant shall prepare and submit for review and approval of the City all rules and regulations which would be applied on behalf of the owners of condominium units within the project. The CC&Rs shall include, but not be limited to: a description of the authority of the Property Owners' Association; the resale of units; the assignment of parking and storage areas; a description of all land or building area to be owned in common; and an agreement for common area maintenance, together with an estimate of any initial assessment fees anticipated for such maintenance, and an indication of appropriate responsibilities for the maintenance of all utility lines and services for each unit.
  - J. Contingency or Reserve Fund. The intent of the City in requiring the creation of a contingency or reserve fund for condominium conversions is to provide a surety for unexpected or emergency repairs to common areas in the interest of the economic, aesthetic, and environmental maintenance of the community, as well as to protect the general welfare, public health, and safety of the community. The applicant shall ensure that each unit is obligated to pay an assessment to allow for the proper maintenance of the common areas, along with a contingency to address extraordinary repairs, replacements, and maintenance. Formation of a Property Owners' Association and levying of regular and special assessments shall conform to Civil Code Section 1366. (Ord. 2005-025 § 2)

### **5.36.124 Application Notification**

Applications for condominium conversions shall include the following procedures as they relate to notification of current tenants and adjacent property owners.

Notice of an application for a Zoning Permit shall be mailed by the City to property owners and business establishments within a 300-foot radius of the subject site, not less than 10 days prior to action on the application by the Zoning Enforcement Official. Additionally, such notice shall be mailed by the City to each tenant of the proposed project.

If an administrative hearing, or a public hearing if the case is referred to the Planning Commission, is proposed, the time, date and location shall be included in the notice.

Upon review of the application and any correspondence received from those sent notice of the application, the Zoning Enforcement Official may take action on the application without holding an administrative hearing. The Zoning Enforcement Official has the discretion to hold an administrative hearing or refer the case to the Planning Commission, should a determination be made that a particular application raises significant City policy issues. (Ord. 2005-025 § 2)

#### **5.36.128 Required Findings**

The Zoning Enforcement Official may approve, or conditionally approve, the Zoning Permit if it determines that the following requirements are met:

- A. That all the provisions of the Subdivision Map Act, this Code, and other applicable provisions of the Municipal Code are met;
- B. That the proposed conversion is consistent with the General Plan Land Use Map and any applicable policies;
- C. That the proposed conversion will conform to the provisions of this Code in effect at the time of approval, except as otherwise provided in this section; and
- D. That the overall design and physical condition of the condominium conversion will achieve a high standard of appearance, quality, useful life, and safety. (Ord. 2005-025 § 2)

#### **5.36.132 Referral to Planning Commission**

- A. If, upon conclusion of an administrative review or hearing on the Zoning Permit, the Zoning Enforcement Official (ZEO) determines that a particular application raises significant City policy issues, the ZEO may refer the application to the Planning Commission along with his/her recommendations, including an identification of the impacts or issues which the ZEO believes should be considered by the Planning Commission.

- B. Upon referral from the Zoning Enforcement Official, the Planning Commission may either accept the recommendation of the Zoning Enforcement Official or hear and decide the matter in accordance with the provisions of this chapter. (Ord. 2005-025 § 2)

### **5.36.136 Appeals**

Decisions of the Zoning Enforcement Official may be appealed to the Planning Commission in accord with Chapter 5.20 Appeals. Decisions of the Planning Commission may be further appealed to the City Council, in accord with Chapter 5.20 Appeals. (Ord. 2005-025 § 2)

### **5.36.140 Retaliation Defense**

It shall be unlawful for any person to evict or cause to be evicted any tenant where the dominant purpose of such eviction is retaliation against the tenant for the exercise or attempted exercise of any right granted under this chapter or for the peaceful and lawful opposition by such tenant to the proposed conversion of the multiple-unit rental project within which such tenant occupies a tenant space. (Ord. 2005-025 § 2)

## **Chapter 5.40 Alcoholic Beverage Sale Regulations**

### **Sections:**

- 5.40.100 Title and Purpose**
- 5.40.104 Purpose of Alcoholic Beverage Sale Regulations**
- 5.40.108 Applicability of Deemed Approved Alcoholic Beverage Sale Regulations**
- 5.40.112 Definitions**
- 5.40.116 Automatic Deemed Approved Status**
- 5.40.120 Performance Standards and Deemed Approved Activities**
- 5.40.124 Notification to Owners of Deemed Approved Status**
- 5.40.128 Procedure for Consideration of Violations to Performance Standards**
- 5.40.132 Violations to Conditions of Approval**
- 5.40.136 Fee Schedule**
- 5.40.140 Violations and Penalties**
- 5.40.144 Inspection and Right of Entry**

### **5.40.100 Title and Purpose**

The provisions of this chapter shall be known as the Deemed Approved Alcoholic Beverage Sale regulations. (Ord. 2001-015 § 1)

### **5.40.104 Purpose of Alcoholic Beverage Sale Regulations**

The general purposes of the Alcoholic Beverage Sale regulation are to protect and promote the public health, safety, comfort, convenience prosperity, and general welfare by requiring that Alcoholic Beverage Sale Commercial Activities that are not subject to a conditional use permit comply with the Deemed Approved performance standards of Section 5.40.120 Performance Standards and Deemed Approved Status of this chapter and to achieve the following objectives:

- A. To protect residential, commercial, industrial, and civic areas and minimize the adverse impacts of nonconforming and incompatible uses;
- B. To provide opportunities for Alcoholic Beverage Sale Commercial Activities to operate in a mutually beneficial relationship to each other and to other commercial and civic services;
- C. To provide mechanisms to address problems often associated with the public consumption of alcoholic beverages, such as litter, loitering, graffiti, unruly behavior, and escalated noise levels;
- D. To provide that Alcoholic Beverage Sale Commercial Activities are not the source of undue public nuisances in the community;

- E. To provide for properly maintained Alcoholic Beverage Sale establishments, so that negative impacts generated by these activities are not harmful to the surrounding environment in any way;
- F. To monitor that Deemed Approved Activities do not substantially change in mode or character of operation. (Ord. 2001-015 § 1)

#### **5.40.108 Applicability of Deemed Approved Alcoholic Beverage Sale Regulations**

- A. The Deemed Approved Alcoholic Beverage Sale regulations shall apply to the extent permissible under other laws to all Cafés; Full-Service Restaurants; Fast Food Establishments; Convenience Stores; Dance Halls; Liquor Stores; Beer and Wine Stores; Neighborhood/Specialty Food Markets; Retail Sales establishments; and Service Stations within the City that sell Alcoholic Beverages for on or off sale consumption.
- B. Whenever any provision of the Deemed Approved Alcoholic Beverage Sale regulations and any other provision of law, whether set forth in this Code, or in any other law, ordinance, or regulation of any kind, imposes overlapping or contradictory regulations, or contain restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the Deemed Approved Alcoholic Beverage Sale regulations. (Ord. 2001-015 § 1)

#### **5.40.112 Definitions**

**Alcoholic Beverage.** Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances, and sales of which require a State Department of Alcoholic Beverage Control license.

**Alcoholic Beverage Sales Commercial Activity.** The retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages.

**Condition of Approval.** A requirement which must be carried out by the activity in order to retain its Deemed Approved Status.

**Deemed Approved Activity.** The sale of alcoholic beverages at any Café; Full-Service Restaurant; Fast Food Establishment; Convenience Store; Dance Hall; Liquor Store; Beer and Wine Store; Neighborhood/Specialty Food Market; Retail Sales establishments, or Service Station that is not subject to a conditional use permit shall be considered a Deemed Approved Activity, as long as it complies with the Deemed Approved performance standards as set forth in Section 5.40.120 Performance Standards and Deemed Approved Status. Any such activity that is a legal nonconforming activity as defined by Chapter 4.20 Nonconforming Uses and Structures shall continue to hold legal nonconforming status.



**Illegal Activity.** An activity, which has been finally determined to be in noncompliance with the Deemed Approved performance standards in 5.40.120 Performance Standards and Deemed Approved Status of this chapter. Such an activity shall lose its Deemed Approved Status and shall no longer be considered a Deemed Approved Activity.

**Performance Standards.** Regulations prescribed in the Deemed Approved Performance Standards in Section 5.40.120 Performance Standards and Deemed Approved Status of this chapter.

**Premises.** The actual space within a building devoted to alcoholic beverage sales. (Ord. 2001-015 § 1)

#### **5.40.116 Automatic Deemed Approved Status**

All Cafés; Full-Service Restaurants; Fast Food Establishments; Convenience Stores; Dance Halls; Liquor Stores; Beer and Wine Stores; Neighborhood/Specialty Food Markets; Retail Sales Establishments, and Service Stations selling alcoholic beverages and that were not subject to conditional use permits immediately prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations shall automatically become Deemed Approved Activities as of the effective date of the Deemed Approved Alcoholic Beverage Sale regulations. Each such Deemed Approved Activity shall retain its Deemed Approved Status, as long as it complies with the Deemed Approved performance standards set forth in Section 5.40.120 Performance Standards and Deemed Approved Status. (Ord. 2001-015 § 1)

#### **5.40.120 Performance Standards and Deemed Approved Status**

- A. The purpose of the Performance Standards is to control dangerous or objectionable environmental effects of Alcoholic Beverage Sales Commercial Activities. These standards shall apply to all Deemed Approved Alcoholic Beverage Sales Commercial Activities that hold Deemed Approved Status pursuant to Section 5.40.116 Automatic Deemed Approved Status.
- B. An activity shall retain its Deemed Approved Status only if it conforms with all of the following Deemed Approved performance standards:
  - 1. That it does not result in adverse effects to the health, peace, or safety of persons residing or working in the surrounding area;
  - 2. That it does not result in jeopardizing or endangering the public health or safety of persons residing or working in the surrounding area;
  - 3. That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of

passers by, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests;

4. That it does not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute;
5. That its upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. (Ord. 2001-015 § 1)

#### **5.40.124 Notification to Owners of Deemed Approved Activities**

- A. The Zoning Enforcement Official shall notify the owner of each Deemed Approved Activity, and, also, the property owner if not the same, of the activity's Deemed Approved Status.
- B. Such notice shall be sent via certified return receipt mail; shall include a copy of the performance standards of Section 5.40.120 Performance Standards and Deemed Approved Status of this chapter; notification that the activity is required to comply with all these same performance standards; that the activity is required to comply with all other aspects of the Deemed Approved Alcoholic Beverage Sale regulations; and that penalties and costs of enforcement may be assessed in the event of a violation. (Ord. 2001-015 § 1)

#### **5.40.128 Procedure for Consideration of Violations to Performance Standards**

- A. Upon receiving a complaint from the public, Police Department, or any other interested party that a Deemed Approved Activity is in violation of the performance standards in Section 5.40.120 Performance Standards and Deemed Approved Status, the Zoning Enforcement Official shall review the violation. Owners or operators of Deemed Approved Activities are encouraged to contact police to handle violations of the law. In order to avoid discouraging such calls, a violation of the performance standards may not be based solely upon the number of police calls for service that a Deemed Approved Activity generates. The Zoning Enforcement Official has the authority to work with the owner or operator of the Deemed Approved Activity (also referred to herein as "Respondent") to resolve minor violations. If the Zoning Enforcement Official determines that the operating methods of the Deemed Approved Activity may be causing undue negative impacts on the surrounding area, then the Deemed Approved Status of the Deemed Approved Activity in question shall be reviewed by the Board of Zoning Adjustments in accordance with Section 5.40.132 Violations to Conditions of Approval. This section is not intended to restrict the powers and duties otherwise pertaining to other city officer or bodies, in the field of monitoring and ensuring the harmony of Alcoholic Beverage Sale Commercial Activities in the City.

- B. The Zoning Enforcement Official's referral shall be scheduled for a hearing before the Board of Zoning Adjustments within 45 days of the referral, unless both the ZEO and the Respondent consent to a later date. The purpose of the public hearing is to receive testimony on whether the operating methods of the Deemed Approved Activity are causing undue negative impacts in the surrounding area. The public hearing shall be conducted pursuant to the procedures set forth in Chapter 5.24 Enforcement. Notification of hearings conducted pursuant to this chapter shall be provided to both the property owner and the operator of the Deemed Approved Activity. At the public hearing, the Board of Zoning Adjustments shall determine whether the Deemed Approved Activity conforms to the Deemed Approved Performance Standards set forth in Section 5.40.120 Performance Standards and Deemed Approved Status and to any other applicable criteria, and may continue the Deemed Approved Status for the activity in question or require such changes or impose such reasonable Conditions of Approval as are in the judgment of the Board of Zoning Adjustments necessary to ensure conformity to said criteria and such conditions shall be based on the evidence before the Board. The decision of the Board of Zoning Adjustments shall be based upon information compiled by staff and testimony from the business owner and all other interested parties.
- C. Any new conditions of approval shall be made a part of the Deemed Approved Status and the Deemed Approved Activity shall be required to comply with these conditions. The determination of the Board of Zoning Adjustments shall become final 10 calendar days after the date of decision unless appealed to the City Council in accordance with Chapter 5.20 Appeals. (Ord. 2001-015 § 1)

#### **5.40.132 Violations to Conditions of Approval**

- A. In the event of a violation of any of the provisions set forth in these regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, the Board of Zoning Adjustments may hold a public hearing. Notification of the public hearing shall be in accordance with Section 5.24.108 Revocation of Discretionary Permits.
- B. The purpose of this public hearing is to receive testimony and determine whether violations to any conditions of approval attached to the site have occurred. The Board of Zoning Adjustments may add to or amend the existing conditions of approval based upon the evidence presented; or, alternatively, may revoke the Deemed Approved Activity's Deemed Approved Status and discontinue the Alcoholic Beverage Sales. The determination of the Board of Zoning Adjustments shall become final 15 calendar days after the date of decision unless appealed to the City Council in accordance with Chapter 5.20 Appeals. (Ord. 2001-015 § 1)

#### **5.40.136 Fee Schedule**

If the City Council determines to charge any fees for review, notification, appeal, and re-inspection of Deemed Approved Activities, such fees shall be in accordance with the City master fee schedule. (Ord. 2001-015 § 1)

#### **5.40.140 Violations and Penalties**

- A. Violations. Violations of this chapter shall be enforced pursuant to the procedures in Chapter 5.24 Enforcement.
- B. Liability for Expenses. In addition to the punishment provided by law, a violator is liable for such costs, expenses, and disbursements paid or incurred by the city or any of its contractors in correction, abatement, and prosecution of the violation. Such costs shall be recovered pursuant to Section 5.24.120 Lien Procedure. Re-inspection fees to ascertain compliance with previously noticed or cited violations shall be charged against the owner of the Deemed Approved Activity. Fees shall be in the amount described in Section 5.40.136 Fee Schedule for charged re-inspections. (Ord. 2001-015 § 1)

#### **5.40.144 Inspection and Right of Entry**

The Zoning Enforcement Official, or his or her duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner, whenever they have cause to suspect a violation of any provision of these regulations or whenever necessary to the investigation of violations to the Deemed Approved performance standards or conditions of approval prescribed in these regulations. An owner or occupant or agent thereof who refuses to permit such entry and investigation shall be guilty of infringing upon the violations and penalties as outlined in Section 5.40.140 Violations and Penalties and subject to related penalties thereof. (Ord. 2001-015 § 1)

# **Title 6—Affordable Housing**

## **Chapter 6.04 Inclusionary Housing**

### **Sections:**

- 6.04.100 Purpose**
- 6.04.104 Findings**
- 6.04.108 Definitions**
- 6.04.112 Residential Development**
- 6.04.116 Exemptions**
- 6.04.120 Inclusionary Housing Standards**
- 6.04.124 In-Lieu Fees**
- 6.04.128 Compliance Procedures**
- 6.04.132 Off-Site Alternatives**
- 6.04.136 Incentives for Rental and For-Sale On-Site Housing**
- 6.04.140 Eligibility for Inclusionary Units**
- 6.04.144 Owner-Occupied Units**
- 6.04.148 Rental Units**
- 6.04.152 Adjustments, Waivers**
- 6.04.156 Affordable Housing Trust Fund**
- 6.04.160 Enforcement**
- 6.04.164 Minimum Requirements**
- 6.04.168 Appeals**

### **6.04.100 Purpose**

The purpose of this chapter is to:

- A. Encourage the development and availability of housing affordable to a broad range of Households with varying income levels within the City as mandated by State Law, California Government Code Sections 65580 et seq.;
- B. Promote the City's goal to add affordable housing units to the City's housing stock in proportion to the overall increase in new jobs and housing units;
- C. Offset the demand on housing that is created by new development and mitigate environmental and other impacts that accompany new residential and commercial development by protecting the economic diversity of the City's housing stock, reducing traffic, transit and related air quality impacts, promoting jobs/housing balance and reducing the demands placed on transportation infrastructure in the region; and
- D. Increase the supply of affordable ownership and rental housing in San Leandro as identified in the established Housing Element Goal 53, Affordable Housing Development.

Policy 53.04 of Goal 53 requires the inclusion of affordable housing in new housing developments. (Ord. 2004-023 § 3)

#### **6.04.104 Findings**

The City Council finds and determines:

- A. Both California and the City face a serious housing problem that threatens their economic security. Lack of access to affordable housing has a direct impact upon the health, safety and welfare of the residents of the City. The City will not be able to contribute to the attainment of State housing goals or to retain a healthy environment without additional affordable housing. The housing problem has an impact upon a broad range of income groups including many who are not impoverished by standards other than those applicable to California's and the City's housing markets, and no single housing program will be sufficient to meet the housing need.
- B. Rising land prices along with limited available land have been key factors in preventing development of new affordable housing. New housing construction in the City which does not include affordable units aggravates the existing shortage of affordable housing by absorbing the supply of available residential land. This reduces the supply of land for affordable housing and increases the price of remaining residential land. At the same time new housing contributes to the demand for goods and services in the City, increasing local service employment at wage levels which do not permit employees to afford housing in the City. Providing the affordable units required by this ordinance will help to insure that part of the City's remaining developable land is used to provide affordable housing.
- C. The City's adopted Housing Element has determined that 35 percent to 40 percent of the Households in the city have very low or low incomes. There is an affordability gap for low and very low income Households in San Leandro for both rental and for sale units. Among City groups identified in the Housing Element with especially significant housing needs are large and extended families. Also, currently there are limited housing choices for young adults or singles within San Leandro.
- D. Development of new commercial projects and Market-Rate housing encourages new residents to move to the City. These new residents will place demands on services provided by both public and private sectors. Some of these employees earn incomes only adequate to pay for affordable housing, not market rate housing. Because affordable housing is in short supply within the City, these employees may be forced to live in less than adequate housing within the City, pay a disproportionate share of their incomes to live in adequate housing within the City, or commute ever-increasing distances to their jobs from housing located outside the City. These circumstances harm the City's ability to attain goals articulated in the City's General Plan.

- E. A lack of new inclusionary units will have a substantial negative impact on the environment and economic climate because: (1) housing will have to be built elsewhere, far from employment centers and, therefore, commutes will increase, causing increased traffic and transit demand and consequent noise and air pollution; and (2) City businesses will find it more difficult to attract and retain the workers they need. Inclusionary housing policies contribute to a healthy job and housing balance by providing more affordable housing close to employment centers.
- F. The California Legislature has required each local government agency to develop a comprehensive, long-term general plan establishing policies for future development. As specified in the Government Code (at Sections 65300, 65302(c), and 65583(c)), the plan must: (1) “encourage the development of a variety of types of housing for all income levels, including multifamily rental housing”; (2) “assist in the development of adequate housing to meet the needs of low- and moderate-income Households”; and (3) “conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.”
- G. The citizens of the City seek a well-planned, aesthetically pleasing and balanced community, with housing affordable to very low-, low- and moderate-income Households. Affordable housing should be available throughout the City, and not restricted to a few neighborhoods and areas. Therefore, our primary goal with this policy is to have diverse housing. However, there may also be trade-offs where constructing affordable units at a different site than the site of the principal project may produce a greater number of affordable units without additional costs to the project applicant. Thus, the City finds that in certain limited circumstances, the purposes of this chapter may be better served by allowing the developer to comply with the inclusionary requirement through alternative means, such as development of off-site housing or dedication of land. For example, if a project applicant can produce a significantly greater number of affordable units off-site, it may (but not always) be in the best interest of the City to permit the development of affordable units at a different location than that of the principal project.
- H. Federal and state funds for the construction of new affordable housing are insufficient to fully address the problem of affordable housing within the City. Nor has the private housing market provided adequate housing opportunities affordable to moderate-, low- and very low-income Households. (Ord. 2006-001 § 2; Ord. 2004-023 § 3)

#### **6.04.108 Definitions**

As used in this chapter, the following terms shall have the following meanings:

- A. **Affordable Rent** means monthly rent that does not exceed the following calculation for a household of the applicable income level (moderate-, low- or very low-income):
  - 1. For low-income households: 1/12 of 30% of 60% area median income (AMI).

2. For very low-income rental households: 1/12 of 30% of 50% AMI.
- B. **Affordable Ownership Cost** means a sales price that results in a monthly housing cost (including mortgage payment, interest, property taxes, insurance, utilities, maintenance and home association costs, if any) that does not exceed the following calculation for a Household of the applicable income (moderate or low income).
1. For moderate-income households, 1/12 of 35% of 110% AMI.
  2. For low-income owner households, 1/12 of 35% of 70% of AMI.
- C. **Approval Authority** means a person or body that is authorized to approve the Housing Development as specified in the San Leandro Zoning Code.
- D. **Area Median Income** means the median household income of a geographic area of the state, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937.
- E. **City** means the City of San Leandro.
- F. **Community Development Director** means the Community Development Director of the City or his or her designee.
- G. **Construction Cost Index** means the Engineering News-Record San Francisco Building Cost Index. If that index ceases to exist, the Community Development Director will substitute another Construction Cost Index, which, in his or her judgment, is as nearly equivalent to the original index as possible.
- H. **Developer** means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a residential or commercial development.
- I. **Eligible Household** means a Household whose gross Household income does not exceed the maximum specified in Section 6.04.108 Definitions and Section 6.04.112 Residential Development for a given affordable unit.
- J. **Eligible Household List** means the list of eligible households compiled by the City ranked by preference. All San Leandro residents, City or school district employees, and persons employed in San Leandro shall be given a preference and ranked higher on the list than other persons.
- K. **For Sale Project** means a new residential project, or existing rental project or portion thereof, which is intended to be sold to owner-occupants upon completion or conversion.



- L. **Household** means one person living alone or two or more persons sharing residency.
- M. **Household Income** means the combined adjusted gross income for all adult persons living in a living unit as calculated for the purpose of this chapter.
- N. **Inclusionary Housing Plan** means a plan for a residential development submitted by a developer as provided by Subsection B of Section 6.04.128 Compliance Procedures.
- O. **Inclusionary Housing Agreement** means a written agreement between Developer and the City as provided by Subsection C of Section 6.04.128 Compliance Procedures.
- P. **Inclusionary Unit** means a dwelling unit that must be offered at Affordable Rent or available at an Affordable Housing Cost to moderate-, low- and very low-income Households.
- Q. **Income: Low-Income Rental Household** means a Household whose gross annual income does not exceed 60 percent of the area median income, adjusted for household size and revised annually.
- R. **Income: Low-Income Household** means a Household whose gross annual income does not exceed 80 percent of the area median income, adjusted for household size and revised annually.
- S. **Income: Moderate-Income Household** means a Household whose gross annual income does not exceed 120 percent of the area median income, adjusted for household size and revised annually.
- T. **Income: Very Low-Income Household** means a Household whose gross annual income does not exceed 50 percent of the area median income, adjusted for household size and revised annually.
- U. **Living Unit** means one or more rooms designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and bathroom facilities.
- V. **Market-Rate Unit** means a dwelling unit in a Residential Development that is not an Inclusionary Unit.
- W. **Median Sales Price** means sales price in San Leandro as reported by Data Quick, California Resources, or similar service on February and August of each year.
- X. **Off-Site Unit** means an Inclusionary Unit that will be built separately or at a different location than the main development.

- Y. **On-Site Unit** means an Inclusionary Unit that will be built as part of the main development.
- Z. **Residential Development** means the construction of a new residential project or the conversion of an existing rental project to a for sale project that consists of two new dwelling units or more as defined in the Zoning Code.
- AA. **Rental Project** means a residential project, or portion thereof, which is intended to be rented to tenants upon completion. (Ord. 2006-001 § 2; Ord. 2004-023 § 3)

**6.04.112 Residential Development**

For all Residential Developments, at least 15 percent of the total units must be Inclusionary Units restricted for occupancy by moderate-, low- or very low-income Households at either the Affordable Rent or Affordable Ownership cost appropriate for the income of the Household. The number of Inclusionary Units required for a particular project will be determined only once, at the time of tentative or parcel map approval, or, for developments not processing a map, prior to issuance of a building permit. If a change in the subdivision design results in a change in the total number of units, the number of Inclusionary Units required will be recalculated to coincide with the final approved project.

- A. **Calculation.** For purposes of calculating the number of inclusionary units required by this chapter, any additional units authorized as a density bonus under California Government Code Section 65915(b)(1) or (b)(2) will not be counted in determining the required number of Inclusionary Units. In determining the number of whole Inclusionary Units required, any decimal fraction of 0.5 or more shall be rounded up to the nearest whole number.
- B. **Rental Project.**

The Inclusionary Units must be restricted to occupancy as follows:

Total Units in Project	Required Inclusionary Units		
	Total (A + B)	Low Income Renter Household (A)	Very Low Income Household (B)
4 to 9	1	1	0
10 to 16	2	1	1
17 to 23	3	1	2
24 to 29	4	2	2
30 to 36	5	2	3
37 to 43	6	2	4
44 to 49	7	3	4
50+	15% of Total Units	40% of Total Inclusionary Units	60% of Total Inclusionary Units

**C. For Sale Project.**

The Inclusionary Units shall be restricted to occupancy as follows:

Total Units in Project	Required Inclusionary Units		
	Total (A + B)	Moderate Income Household (A)	Low Income Owner Household (B)
2 to 6	1 or in-lieu fee	1 or in-lieu fee	0
7 to 9	1	1	0
10 to 13	2	2	0
14 to 16	2	1	1
17 to 23	3	2	1
24 to 29	4	3	1
30 to 36	5	3	2
37 to 43	6	4	2
44 to 49	7	4	3
50+	15% of Total Units	60% of Total Inclusionary Units	40% of Total Inclusionary Units

D. **Sequencing Inclusionary Units.** To assure that the inclusionary units are occupied at the beginning of the project, a provision outlining the sequencing of the units will be included in the Inclusionary Housing Plan. An example of sequencing might be requiring the very low income inclusionary units to be occupied before moderate- or low-income or affordable units constructed in proportion to construction of Market Rate Units. (Ord. 2006-001 § 2; Ord. 2004-023 § 3)

**6.04.116 Exemptions**

The requirements of this chapter do not apply to:

- A. The reconstruction of any structures that have been destroyed by fire, flood, earthquake or other act of nature.
- B. Developments that already have more units that qualify as affordable to moderate-, low- and very low-income Households than this chapter requires.
- C. Housing constructed by other government agencies.
- D. Accessory dwelling units. (Ord. 2017-003 § 4; Ord. 2004-023 § 3)

**6.04.120 Inclusionary Housing Standards**

A. Design. Inclusionary Units built under this chapter shall generally be indistinguishable from the Market Rate Units and shall conform to the following standards:

1. Location within Project. Inclusionary Units shall not be clustered together in any building, complex or area in the Residential Development, whenever feasible,
2. Infrastructure. The Inclusionary Units shall be comparable in infrastructure (including sewer, water, and other utilities) to the Market Rate Units.
3. Exterior of Inclusionary Units. The construction quality and exterior design of the Inclusionary Units shall be architecturally consistent with the Market Rate Units in terms of design, articulation, quality of materials and finishes.
4. Interior of Inclusionary Units. Inclusionary Units may have different interior finishes and features than the Market Rate Units provided the interior features are durable, of good quality, and consistent with contemporary standards for new housing.
5. Size of Inclusionary Units.
  - a. Projects with Several Housing Products. Where a project consists of several housing products with different lot sizes and lot configurations (e.g., mixture of single-family detached, single-family attached, courtyard housing, townhouses, and/or condominiums), the Inclusionary Units may be comparable to the smallest or lowest priced Market Rate product. The size of the Inclusionary Units may be up to 15 percent smaller in livable floor area than the average size of the smallest or lowest priced Market Rate product. The average number of bedrooms and bathrooms in the Inclusionary Units shall equal the average number of bedrooms and bathrooms in the smallest or lowest priced Market Rate product.
  - b. Projects with One Housing Product. Where a project consists of one housing product with similar lot sizes and lot configurations, the size of the Inclusionary Units may be up to 25 percent smaller in livable floor area than the average size of the Market Rate Units. The average number of bedrooms and bathrooms in the Inclusionary Units shall equal the average number of bedrooms and bathrooms in the Market Rate Units; however, the Inclusionary Units do not have to exceed three bedrooms with two and one-half bathrooms.
  - c. Exception to the Minimum Size and Housing Type. For single-family detached projects, the size of the Inclusionary Units may be less than the minimum size stipulated in Subsection A.5.a and b above, if such units are combined to appear as a single-family home and the building is very similar in size and architectural design to a larger single-family detached unit within the project. This is not an exception to the bedroom and bathroom requirements as stipulated in Subsection 5.a and b above.

- B. Timing. All Inclusionary Units must be constructed and occupied concurrently with or prior to the construction and occupancy of Market-Rate Units or development or in accordance with the approved Inclusionary Housing Plan sequencing requirements. In phased developments, Inclusionary Units must be constructed and occupied in proportion to the number of units in each phase of the Residential Development.
- C. Duration of Affordability Requirement. Inclusionary Units produced under this ordinance must be legally restricted to occupancy by Households of the income levels for which the units were designated for a minimum of 55 years for rental units and 45 years for owner occupied units. (Ord. 2004-023 § 3)

**6.04.124 In-Lieu Fees**

For Residential Developments of a for-sale project of six or fewer units, including Inclusionary Units, the requirements of this chapter may be satisfied by paying an in-lieu fee to the Affordable Housing Trust Fund as provided in Section 6.04.156 Affordable Housing Trust Fund. For Residential Developments with more than six units, including Inclusionary Units, the Approval Authority may allow the requirements on this chapter to be satisfied by paying an in-lieu fee in combination with one or more of the production alternatives described in Section 6.04.132 Off-Site Alternatives.

The fee shall be the Median Sales Price of a dwelling unit in San Leandro, (single family detached, single family attached or condominium, whichever is applicable), minus the Affordable Ownership Cost, multiplied by the fractional inclusionary unit required. The fractional inclusionary unit shall be as follows:

<u>Total Units in Project</u>	<u>Fractional Inclusionary Unit Required</u>
2	0.30
3	0.45
4	0.60
5	0.75
6	0.90

- A. Timing of Payment. The fee shall be calculated based on the price and cost figures established by the City at the time of building permit issuance. The fee must be paid prior to the issuance of the first building permit for the Development with the option to establish an alternative payment schedule if approved by the Community Development Director or designee. For phased developments, payments may be made for each portion prior to the issuance of a Building Permit for that phase. When payment is delayed, in the event of default, or for any other reason, the amount of the in-lieu fee payable under this chapter will be based upon the fee schedule in effect at the time the fee is paid.

- B. Effect of No Payment. No final inspection for occupancy will be completed for any corresponding Market-Rate Unit in a Residential Development unless fees required under this chapter have been paid in full to the City. (Ord. 2004-023 § 3)

#### **6.04.128 Compliance Procedures**

- A. General. The Approval Authority shall approve, conditionally approve, or reject the Inclusionary Housing Plan concurrent with action on any tentative map, parcel map, or planning approval for any Residential Development for which this chapter applies. The subsequent Inclusionary Housing Agreement shall be approved by the Community Development Director prior to approval of a final map or building permit for the applicable Residential Development. This section does not apply to projects where the requirements of this chapter are satisfied by payment of an in lieu fee under Section 6.04.124 In-Lieu Fees.
- B. Inclusionary Housing Plan. The Community Development Director must determine completeness within 30 days of submittal of a complete application. If the Inclusionary Housing Plan is incomplete, the Inclusionary Housing Plan will be returned to the Developer along with a list of the deficiencies or the information required. No application for a tentative map, parcel map or planning approval to which this chapter applies may be deemed complete until an Inclusionary Housing Plan is submitted to the Community Development Director. At any time during the review process, the Community Development Director may require from the Developer additional information reasonably necessary to clarify and supplement the application or determine the consistency of the proposed Inclusionary Housing Plan with the requirements of this chapter. The Inclusionary Housing Plan must include:
  - 1. The location, type of structure (attached, semi-attached, or detached), proposed tenure (for sale or rental), and size of the proposed Market-Rate Units, any commercial space and/or Inclusionary Units and the basis for calculating the number of Inclusionary Units;
  - 2. A site plan (and floor plan for multi-story developments) depicting the location of the Inclusionary Units;
  - 3. The income levels to which each Inclusionary Unit will be made affordable;
  - 4. The mechanisms that will be used to assure that the Inclusionary Units remain affordable for the desired term, such as resale and rental restrictions, deeds of trust, and rights of first refusal and other documents;
  - 5. For phased development, a phasing plan that provides for the timely development of the number of Inclusionary Units proportionate to each proposed phase of development as required by Section 6.04.120 Inclusionary Housing Standards;

6. A description of any incentives as indicated in Section 6.04.136 Incentives for Rental and For-Sale On-Site Housing that are requested of the City;
  7. Any alternative means designated in Section 6.04.132 Off-Site Alternatives proposed for the Development along with information necessary to support the findings required by the same Section for approval of such alternatives; and
  8. Any other information reasonably requested by the Community Development Director to assist with evaluation of the Plan under the standards of this chapter.
- C. Inclusionary Housing Agreement. The Inclusionary Housing Agreement shall consist of deeds of trust and other documents that address resale and rental restrictions, rights of first refusal, and other items required by this subsection. Any changes to such documents which materially alter any policy in the document, must be approved by the Community Development Director prior to being executed with respect to any Residential Development or affordable housing proposals. The form of the Inclusionary Housing Agreement will vary depending on the manner in which the provisions of this chapter are satisfied for a particular development. All Inclusionary Housing Agreements must include, at a minimum, the following:
1. Description of the development, including whether the Inclusionary Units will be rented or owner-occupied;
  2. The number, size and location of very low-, low- or moderate-income units;
  3. Inclusionary incentives by the City (if any), including the nature and amount of any local public funding;
  4. Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal, and/or rental restrictions;
  5. Provisions for monitoring the ongoing affordability of the units, and the process for qualifying prospective resident Households for income eligibility.
- D. Recording of Agreement. Inclusionary Housing Agreements that are acceptable to the Community Development Director must be recorded against owner-occupied Inclusionary Units and residential projects containing rental Inclusionary Units. Additional rental or resale restrictions, deeds of trust, rights of first refusal and/or other documents acceptable to the Community Development Director must also be recorded against owner-occupied Inclusionary Units. In cases where the requirements of this chapter are satisfied through the development of Off-Site Units, the Inclusionary Housing Agreement must simultaneously be recorded against the property where the Off-Site Units are to be developed. (Ord. 2006-001 § 2; Ord. 2004-023 § 3)

### 6.04.132 Off-Site Alternatives

- A. Developer Proposal. A Developer may propose and the Approval Authority may approve an alternative means of compliance with an Inclusionary Housing Plan as provided in Subsection B of Section 6.04.128 Compliance Procedures which may include, but is not limited to the following provisions:
1. Off-Site Construction. Inclusionary Units may be constructed off-site if the Inclusionary Units will be located in an area where the Approval Authority finds that, based on the availability of affordable housing, the need for such units is equal or greater than the need in the area of the proposed development.
  2. Land Dedication. In lieu of building Inclusionary Units, a Developer may choose to dedicate to the City land suitable for the construction of Inclusionary Units as determined by the Approval Authority. The site must be sufficient to allow construction of the required inclusionary units plus 10 percent. Infrastructure, such as sewer, water, and utilities, must be adjacent to the property.
  3. Credit Transfers. In lieu of building Inclusionary Units, the Developer may contribute funds to another project for the purpose of increasing the production of affordable units within said project. The Approval Authority will determine the credit that the developer may receive for the total number of affordable units produced over and above the number of Inclusionary Units that would otherwise be required for said project.
  4. In-lieu Fee. The Approval Authority may accept an in-lieu fee to partially satisfy the inclusionary requirement when such fee payment is combined with one or a combination of the above alternatives. (Projects with six or fewer for-sale units may fully satisfy the inclusionary requirement with an in-lieu fee per Section 6.04.124 In-Lieu Fees.)
  5. Combination. The Approval Authority may accept any combination of on-site construction, off-site construction, land dedication, credit transfer, or in-lieu fees that produces at least the number of Inclusionary Units that would otherwise be required by this chapter.
- B. Discretion. The Approval Authority may approve, conditionally approve or reject any alternative proposed by a Developer as part of an Inclusionary Housing Plan. Any approval or conditional approval must be based on a finding that the purposes of this chapter would be better served by implementation of the proposed alternative(s). In determining whether the purposes of this chapter would be better served under the proposed alternative, the Approval Authority shall consider: (1) whether implementation of an alternative would overly concentrate Inclusionary Units within any specific area and, if so, must reject the alternative unless the undesirable concentration of Inclusion-



ary Units is offset by other identified benefits that flow from implementation of the alternative in issue; and (2) the extent to which other factors affect the feasibility of prompt construction of the Inclusionary Units on the property, such as costs and delays, the need for an appraisal, site design, zoning infrastructure, clear title, grading and environmental review. (Ord. 2004-023 § 3)

#### **6.04.136 Incentives for Rental and For-Sale On-Site Housing**

- A. Additional incentives may be provided in accord with the Density Bonus Ordinance, Chapter 6.08 Residential Density Bonus. However, the density bonus affordable housing production requirements would be in addition to the requirements to provide inclusionary units.
- B. The Approval Authority may consider flexibility in zoning standards for a Residential Development such as, but not limited to, maximum density, lot size, lot width, yards, and parking in order to better accommodate the required Inclusionary Units if it is determined that such flexibility would result in a higher quality project and would improve the financial feasibility of the project. (Ord. 2004-023 § 3)

#### **6.04.140 Eligibility for Inclusionary Units**

- A. General Eligibility. No Household may occupy an Inclusionary Unit unless the City or its designee has approved the Household's eligibility. If the City or its designee maintains a list or identifies eligible Households, initial and subsequent occupants will be selected first from the list of identified Households, to the maximum extent possible, in accordance with any rules approved by the Community Development Director.
- B. Occupancy. Any Household that occupies a rental Inclusionary Unit or purchases an Inclusionary Unit must occupy that unit as a principal residence. (Ord. 2004-023 § 3)

#### **6.04.144 Owner-Occupied Units**

- A. Initial Sales Price. The initial sales price of the Inclusionary Unit must be set so that the eligible Household will pay an Affordable Ownership Cost.
- B. Resale Agreement. The initial purchaser of each Inclusionary Unit shall execute an instrument or agreement approved by the City restricting the sale of the Inclusionary Unit in accordance with this chapter during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the Inclusionary Unit and shall contain such provisions as the City may require to ensure continued compliance with this chapter.
- C. Resale. The maximum sales price permitted on resale of the Inclusionary Unit designated for owner-occupancy shall be the lower of: (1) fair market value; or (2) the seller's

lawful purchase price, increased by the lesser of: (a) the rate of increase of Area Median Income during the seller's ownership, or (b) the rate at which the consumer price index increased during the seller's ownership. To the extent authorized in any resale restrictions or operative Inclusionary Housing Agreement, sellers may recover, at time of sale, the market value of capital improvements made by the seller and the seller's necessary and usual costs of sale, and may authorize an increase in the maximum allowable sales price to achieve such recovery feasible.

- D. Changes in Title. Title in the Inclusionary Unit may change due to changes in circumstance, including death, marriage and divorce. Except as otherwise provided, if a change in title is occasioned by events that change the financial situation of the Household so that it is no longer income-eligible, then the property must be sold to an income-eligible Household within 180 days from the date of the event. Upon the death of one of the owners, title in the property may transfer to the surviving joint tenant without respect to the income-eligibility of the Household. Upon the death of a sole owner or all owners and inheritance of the Inclusionary Unit by a non-income-eligible child or step child of one or more owners, there will be a one-year compassion period between the time when the estate is settled and the time when the property must be sold to an income-eligible Household. Inheritance of an Inclusionary Unit by any other person whose Household is not income-eligible shall require resale of the unit to an income-eligible Household as soon as is feasible but not more than 180 days. (Ord. 2004-023 § 3)

#### **6.04.148 Rental Units**

Rental units will be offered to eligible Households at an Affordable Rent. The owner of rental Inclusionary Units shall certify each tenant Household's income to the City or City's designee at the time of initial rental and annually thereafter. The owner must obtain and review documents that demonstrate the prospective renter's total income, such as income tax returns or W-2s for the previous calendar year, and submit such information on a form approved by the City.

- A. Selection of Tenants. The owners of rental Inclusionary Units may fill vacant units by selecting income-eligible Households from the Section 8 Housing Choice Voucher Waiting List maintained by the Alameda County Housing Authority or any other list maintained by the City or City's designee. Alternatively, owners may fill vacant units through their own selection process, provided that they publish notices of the availability of Inclusionary Units according to guidelines established by the Community Development Director.
- B. Annual Report. The owner shall submit an annual report summarizing the occupancy of each Inclusionary Unit for the year, demonstrating the continuing income-eligibility of the tenant. The Community Development Director may require additional information if he or she deems it necessary.

- C. Subsequent Rental to Income-Eligible Tenant. The owner shall apply the same rental terms and conditions to tenants of Inclusionary Units as are applied to all other tenants, except as required to comply with this chapter (for example, rent levels, occupancy restrictions and income requirements) or with other applicable government subsidy programs. Discrimination against persons receiving housing assistance is prohibited.
- D. Changes in Tenant Income. If, after moving into an Inclusionary Unit, a tenant's Household income exceeds the limit for that unit, the tenant Household may remain in the unit as long as his or her Household income does not exceed 140 percent of the income limit. Once the tenant's income exceeds 140 percent of the income limit, the following shall apply:
1. If the tenant's income does not exceed the income limits of other Inclusionary Units in the Residential Development, the owner may, at the owner's option, allow the tenant to remain in the original unit and redesignate the unit as affordable to Households of a higher income level, as long as the next vacant unit is re-designated for the income category previously applicable to the tenant's Household. Otherwise, the tenant shall be given one year's notice to vacate the unit. If during the year, an Inclusionary Unit becomes available and the tenant meets the income eligibility for that unit, the owner shall allow the tenant to apply for that unit.
  2. If there are no units designated for a higher income category within the Development that may be substituted for the original unit, the tenant shall be given one year's notice to vacate the unit. If within that year, another unit in the Residential Development is vacated, the owner, at the owner's option, may allow the tenant to remain in the original unit and raise the tenant's rent to Market-Rate and designate the newly vacated unit as an Inclusionary Unit affordable at the income level previously applicable to the unit converted to market rate. The newly vacated unit must be comparable in size (for example, number of bedrooms, bathrooms, square footage, etc.) as the original unit. (Ord. 2004-023 § 3)

#### **6.04.152 Adjustments, Waivers**

The requirements of this chapter may be adjusted or waived if the Developer demonstrates to the Approval Authority that there is not a reasonable relationship between the impact of a proposed Residential Development and the requirements of this chapter, or that applying the requirement of this chapter would take property in violation of the United States or California Constitutions.

- A. Timing. To receive an adjustment or waiver, the Developer must make a showing when applying for a first approval for the Residential Development, and/or as part of any appeal that the City provides as part of the process for the first approval.
- B. Considerations. In making a determination on an application to adjust or waive the requirements of this chapter, the Approval Authority may assume each of the following

when applicable: (1) that the Developer is subject to the inclusionary housing requirement or in-lieu fee; (2) the extent to which the Developer will benefit from inclusionary incentives under Section 6.04.136 Incentives for Rental and For-Sale On-Site Housing; (3) that the Developer will be obligated to provide the most economical Inclusionary Units feasible in terms of construction, design, location and tenure; and (4) that the Developer is likely to obtain other housing subsidies where such funds are reasonably available.

- C. Modification of Plan. If the Approval Authority determines that the application of the provisions of this chapter lacks a reasonable relationship between the impact of a proposed residential project and the requirements of this chapter, or that applying the requirement of this chapter would take property in violation of the United States or California Constitutions, the Inclusionary Housing Plan shall be modified, adjusted or waived to reduce the obligations under this chapter to the extent necessary to avoid an unconstitutional result. If the Approval Authority determines no violation of the United States or California Constitutions would occur through application of this chapter, the requirements of this chapter remain applicable. (Ord. 2004-023 § 3)

#### **6.04.156 Affordable Housing Trust Fund**

- A. The Trust Fund. There is hereby established a separate Affordable Housing Trust Fund ("Fund"). This Fund shall receive all fees contributed under Section 6.04.124 In-Lieu Fees, as required in Section 66606(a) of the California Government Code. The Fund may also receive monies from other sources.
- B. Purpose and Limitations. Monies deposited in the Fund must be used to increase and improve the supply of housing affordable to moderate-, low-, and very low-income Households in the City. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this chapter.
- C. Administration. The fund shall be administered by the Community Development Director, who may develop procedures to implement the purposes of the Fund consistent with the requirements of this chapter and any adopted budget of the City.
- D. Expenditures. Fund monies shall be used in accordance with City's Housing Element, Consolidated Plan or subsequent plan adopted by the City Council to construct or convert to affordable housing or assist other governmental entities, private organizations or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases or other public-private partnership arrangements. The Fund may be used for the benefit of both rental and owner-occupied housing. The Fund may also be used to administer the City's housing monitoring program to assure long term compliance with all affordable housing agreements.

- E. Annual Report. The Community Development Director shall provide a report to the City Council on the status of activities undertaken with the Fund as provided by Section 66006(b) of the California Government Code. The City Council shall review the information made available to the public at the next regularly scheduled public meeting, not less than 15 days after this information is made available to the City Council and the public. Notice of the time and place of the meeting, including the address where this information may be reviewed, shall be mailed, at least 15 days prior to the meeting, to any interested party who files a written request with the City for mailed notice of the meeting.

The report shall include a statement of income, expenses, disbursements and other uses of the Fund. The report should also state the number and type of inclusionary units constructed or assisted during that year and the amount of such assistance. The report will evaluate the efficiency of this chapter in mitigating the City's shortage of affordable housing and recommend any changes to this chapter necessary to carry out its purposes, including any adjustments to the number of units to be required. (Ord. 2004-023 § 3)

#### **6.04.160 Enforcement**

- A. Penalty for Violation. It shall be a misdemeanor to violate any provision of this chapter. Without limiting the generality of the foregoing, it shall also be a misdemeanor for any person to sell or rent to another person an affordable unit under this chapter at a price or rent exceeding the maximum allowed under this chapter or to sell or rent an inclusionary unit to a Household not qualified under this chapter. It shall further be a misdemeanor for any person to provide false or materially incomplete information to the City or to a seller or lessor of an Inclusionary Unit to obtain occupancy of housing for which he or she is not eligible.
- B. Legal Action. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this chapter, including: (1) actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; (2) actions to recover from any violator of this chapter civil fines, restitution to prevent unjust enrichment from a violation of this chapter, and/or enforcement costs, including attorneys fees; (3) eviction or foreclosure; and (4) any other appropriate action for injunctive relief or damages. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any person, owner, Household or other party from the requirements of this chapter. (Ord. 2004-023 § 3)

#### **6.04.164 Minimum Requirements**

The requirements of this chapter are minimum and maximum requirements, although nothing in this chapter limits the ability of a private person to waive his or her rights or voluntarily undertake greater obligations than those imposed by this chapter. (Ord. 2004-023 § 3)

### **6.04.168 Appeals**

Any decision of the Approval Authority pursuant to this chapter may be appealed in accordance with the provisions in Chapter 5.20 Appeals of the Zoning Code. (Ord. 2004-023 § 3)

## Chapter 6.08 Residential Density Bonus

### Sections:

- 6.08.100 Purpose and Intent
- 6.08.104 Definitions
- 6.08.108 Density Bonus Implementation
- 6.08.112 Development Standards
- 6.08.116 Development Concessions and Incentives
- 6.08.120 Application Requirements and Review
- 6.08.124 Density Bonus Housing Agreement
- 6.08.128 Child Care Facilities
- 6.08.132 Donation of Land

### 6.08.100 Purpose and Intent

- A. This Density Bonus Ordinance is intended to provide incentives for the production of housing for very low, low, and moderate income households, and certain senior households in accordance with Sections 65915 and 65917 of the California Government Code. In enacting this chapter, it is the intent of the City of San Leandro to facilitate the development of affordable housing and to implement the goals, objectives, and policies of the City's Housing Element.
- B. The regulations and procedures set forth in this chapter shall be publicized by the City and shall apply throughout the City. Sections of the California Government Code referenced in this chapter and application forms for complying with this chapter, shall be available to the public. (Ord. 2006-010 § 1; Ord. 2004-017 § 2)

### 6.08.104 Definitions

Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

- A. **Affordable Rent** means the rent levels specified in California Health and Safety Code Section 50053 for rental Target Units reserved for Very Low or Low Income Households adjusted for household size as set forth in Section 6.08.112 Development Standards.
- B. **Affordable Sales Price** means a sales price resulting in a Housing Cost at which Low, Very Low, and Moderate Income Households can qualify for the purchase of a Target Unit, calculated on the basis of underwriting standards of mortgage financing available for the development as adjusted for household size under Section 6.08.112 Development Standards, and not to exceed the parameters set forth in California Health and Safety Code Section 50052.5.

- C. **Approval Authority** means a person or body that is authorized to approve the Housing Development as specified in the San Leandro Zoning Code.
- D. **Concession or Incentive** means such regulatory concessions as specified in California Government Code Section 65915(d) and (l) to include, but not be limited to, a reduction of site development standards or modification of zoning code requirements, direct financial incentives, approval of mixed-use zoning in conjunction with the housing development, or any other regulatory incentive which would result in identifiable cost avoidance or reductions. (See Section 6.08.116 Development Concessions and Incentives.)
- E. **Density Bonus** means:
1. A minimum density increase of at least 20 percent over the otherwise Maximum Residential Density for development projects meeting the criteria of A through C in Section 6.08.108 Density Bonus Implementation, up to a maximum of 35 percent as set forth in Section 6.08.108 Density Bonus Implementation;
  2. A minimum density increase of at least five percent over the otherwise Maximum Residential Density for development projects meeting the criteria of Subsection D of Section 6.08.108 Density Bonus Implementation; and
  3. The specific minimum density increase set forth in Section 6.08.128 Child Care Facilities for a project that qualifies for a Density Bonus due to establishment of a qualifying child care facility, and the specific minimum density increase set forth in Section 6.08.132 Donation of Land for a project that qualifies for a Density Bonus due to a qualifying land donation.
- F. **Density Bonus Condo Conversion** means a density bonus provision under Section 65915.5 of the California Government Code. (See Section 5.32.136 Density Bonus for Including Low- and Moderate-Income Housing of the San Leandro Zoning Code.)
- G. **Density Bonus Housing Agreement** means a legally binding agreement between a developer and the City to ensure that the requirements of this chapter are satisfied. The agreement shall establish at least the following: the number of Target Units; their size; location; terms and conditions of affordability; and production schedule. (See Section 6.08.124 Density Bonus Housing Agreement.)
- H. **Density Bonus Units** means those residential units granted pursuant to the provisions of this chapter which exceed the units allowed under the otherwise Maximum Residential Density for the development site.
- I. **Equivalent Financial Incentive** means a monetary contribution, based upon a land cost per dwelling unit value, equal to one of the following:



1. A Density Bonus and a Concession(s) or Incentive(s); or
  2. A Density Bonus, where a Concession(s) or Incentive(s) is not requested or is determined to be unnecessary. (See Section 6.08.112 Development Standards.)
- J. **Housing Cost** means the sum of actual or projected monthly payments for all of the following associated with for-sale Target Units: principal and interest on a mortgage loan, including any loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, homeowner association fees, and a reasonable allowance for utilities.
- K. **Housing Development** means one or more groups of projects consisting of five or more residential units, including single-family, multi-family, common interest developments and mobile homes for-sale or rent, pursuant to this chapter. The term Housing Development also includes a project that substantially rehabilitates and converts an existing commercial building or the substantial rehabilitation of an existing multi-family dwelling where the result would be a net increase in available residential units.
- L. **Low Income Household** means households whose income does not exceed the low income limits (currently 80% of the AMI) applicable to the Oakland, California PMSA, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.
- M. **Maximum Residential Density** means the maximum number of residential units permitted by the City's Zoning Code and land use element of the General Plan at the time of application, excluding the provisions of this chapter. If the housing development is within a Planned Development overlay zone, the maximum residential density shall be determined on the basis of the general plan and the maximum density of the base zoning.
- N. **Moderate Income Household** means a household whose income does not exceed the moderate income limits (currently 120% of the AMI) applicable to the Oakland, California PMSA, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50093 of the California Health and Safety Code.
- O. **Non-Restricted Unit** means all units within a Housing Development excluding the Target Units.
- P. **Qualifying Senior Citizen Resident** means a senior citizen or other person eligible to reside in Senior Citizen Housing.
- Q. **Senior Citizen Housing** means a housing development consistent with the California Fair Employment and Housing Act (Government Code Section 12900 et seq., including

12955.9 in particular), which has been designed to meet the physical and social needs of senior citizens, and which otherwise qualifies as housing for older persons as that phrase is used in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations (24 CFR, part 100, subpart E), and as defined in California Civil Code Sections 51.2 and 51.3. The term Senior Citizen Housing also includes a mobile home park that limits residency based on age requirements pursuant to Section 798.76 or 799.5 of the Civil Code.

- R. **Target Unit** means a dwelling unit within a Housing Development which will be reserved for sale or rent to, and affordable to, Very Low, Low, or Moderate Income Households, or Qualifying Senior Citizen Residents.
- S. **Very Low Income Household** means a household whose income does not exceed the very low income (currently 50 percent of the AMI) limits applicable to the Oakland, California, PMSA, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code. (Ord. 2006-010 § 1; Ord. 2004-017 § 2)

#### **6.08.108 Density Bonus Implementation**

The City shall grant a Density Bonus, a Density Bonus and a Concession(s) or Incentive(s), or Equivalent Financial Incentives, as set forth in Section 6.08.116 Development Concessions and Incentives of this chapter, to an applicant or developer of a Housing Development, who seeks and agrees to construct a Housing Development that will provide at least one of the following:

- A. At least 10 percent of the total units of the Housing Development as Target Units affordable to Low Income Households. For each one percent increment over 10 percent in the number of Target Units in the Housing Development affordable to Low Income Households, the amount of the Density Bonus as defined in Section 6.08.104 Definitions shall be increased by one and one-half percent, up to a maximum of 35 percent;
- B. At least five percent of the total units of the Housing Development as Target Units affordable to Very Low Income Households. For each one percent increment over five percent in the number of Target Units in the Housing Development affordable to Very Low Income Households, the amount of the Density Bonus as defined in Section 6.08.020 shall be increased by two and one-half percent, up to a maximum of 35 percent;
- C. Senior Citizen Housing as defined in Section 6.08.104 Definitions; or
- D. At least 10 percent of the total units in a common interest development as defined in California Civil Code Section 1351 for Moderate Income Households, provided that all units in the development are offered to the public for purchase. For each one percent over 10 percent in the number of Target Units in the common interest development

affordable to Moderate Income Households, the amount of the Density Bonus as defined in Section 6.08.104 Definitions shall be increased by one percent, up to a maximum of 35 percent.

When calculating the number of permitted Density Bonus Units, any fractions of units shall be rounded to the next highest number. An applicant may elect to receive a Density Bonus that is less than the amount required by this section. An applicant must state in its application which of the density bonuses set forth above is being sought.

In determining the number of Target Units required to comply with this section, the Maximum Residential Density shall be multiplied by 0.05, where Very Low Income Households are targeted, by 0.10 where Low Income Households are targeted, or by 0.10 where moderate income households in common interest developments are targeted. The Density Bonus Units shall not be included when determining the total number of Target Units in the Housing Development. When calculating the required number of Target Units, any resulting decimal fraction shall be rounded to the next larger integer.

In cases where a smaller density increase is requested, no reduction will be allowed in the number of Target Units required. In cases where a density increase of more than the amount required by this section is requested, the requested density increase, if granted, may be considered a Concession or Incentive, as outlined in Section 6.08.116 Development Concessions and Incentives. (Ord. 2006-010 § 1; Ord. 2004-017 § 2)

**6.08.112 Development Standards**

Target Units shall be constructed concurrently with Non-Restricted Units unless both the City and the developer/applicant agree within the Density Bonus Housing Agreement to an alternative schedule for development.

Target Units shall remain restricted and affordable to the designated group for a period of 55 years for rental units or 45 years for for-sale units.

In determining the maximum Affordable Rent or Affordable Sales Price of Target Units the following household and unit size assumptions shall be used, unless the Housing Development is subject to different assumptions imposed by other governmental regulations:

Type of Unit	Household Size
SRO (residential hotel) unit	75% of 1 person
0 bedroom (studio)	1 person
1 bedroom	2 person
2 bedroom	3 person
3 bedroom	4 person
4 bedroom	5 person

Target Units should be built on-site wherever possible, should be dispersed randomly throughout a Residential Development, and should be constructed and occupied concurrently with or prior to the construction and occupancy of Non-Restricted Units. The number of bedrooms of the Target Units should be equivalent to the bedroom mix of the non-Target units of the Housing Development; except that the Developer may include a higher proportion of the Target Units with more bedrooms. The design and appearance of the Target Units shall be compatible with the design of the total Housing Development. Housing Developments shall comply with all applicable development standards, except those which may be modified as provided by this chapter.

Circumstances may arise in which the public interest would be served by allowing some or all of the Target Units associated with one Housing Development to be produced and operated at an alternative development site. Where the developer and the City form such an agreement, the resulting linked developments shall be considered a single Housing Development for purposes of this chapter. Under these circumstances, the developer shall be subject to the same requirements of this chapter for all Target Units.

A Density Bonus Housing Agreement shall be made a condition of any tentative map, parcel map, Planned Development or conditional use permits, or building permit for all Housing Developments pursuant to this chapter. The Agreement shall be recorded as a restriction on the parcel or parcels on which the Target Units will be constructed. The Agreement shall be consistent with Section 6.08.124 Density Bonus Housing Agreement. (Ord. 2006-010 § 1; Ord. 2004-017 § 2)

#### **6.08.116 Development Concessions and Incentives**

In addition to the Density Bonus set forth in Section 6.08.108 Density Bonus Implementation, the City shall provide a Concession or Incentive for qualified Housing Developments upon the written request of a developer, unless the City makes a written finding that the Concession or Incentive is not necessary to provide for affordable housing costs, or that the Concession or Incentive would have a specific adverse impact, as defined in California Government Code Section 65589.5(d)(2), that cannot be satisfactorily mitigated without rendering the development unaffordable to low- and moderate-income households.

The development incentive(s) granted shall contribute significantly to the economic feasibility of providing the Target Units. Applicants seeking a waiver or modification of development or zoning standards shall show that such waivers or modifications are necessary to make the Housing Development economically feasible in accordance with Government Code Section 65915(f). This requirement may be satisfied by reference to applicable sections of the City's General Plan Housing Element.

The need for Concessions or Incentives will vary for different Housing Developments. Therefore, the allocation of Concessions and Incentives shall be determined on a case-by-case basis. The Concession or Incentive may include, but is not limited to, any of the following:

- A. A reduction of site development standards or a modification of zoning code or architectural design requirements that exceed the minimum building standards provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health and Safety Code and that results in identifiable, financially sufficient and actual cost reductions. These may include, but are not limited to, one or more of the following:
1. Reduced minimum lot sizes and/or dimensions.
  2. Reduced minimum lot setbacks.
  3. Reduced minimum outdoor and/or private outdoor living area.
  4. Increased maximum lot coverage.
  5. Increased maximum building height and/or stories.
  6. Reduced on-site parking standards, including the number or size of spaces and garage requirements.
  7. Reduced minimum building separation requirements.
  8. Reduced street standards, e.g., reduced minimum street widths.
- B. Approval of mixed-use zoning in conjunction with the Housing Development;
- C. Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable cost reductions or avoidance;
- D. A Density Bonus of greater than the amount required by this chapter;
- E. Deferred planning, plan check, construction permit, and/or development impact fees (e.g., capital facilities, park, or traffic fees); or
- F. Direct financial aid (e.g., Community Development Block Grant funding) in the form of a loan or a grant to subsidize or provide low interest financing for on or off site improvements, land or construction costs.

The City may offer an Equivalent Financial Incentive in lieu of granting a Density Bonus, a Concession or Incentive, or both. The value of the Equivalent Financial Incentive shall equal at least the land cost per dwelling unit savings that would result from a Density Bonus and must contribute significantly to the economic feasibility of providing the Target Units pursuant to this chapter.

For projects that qualify under California Government Code Section 65915(d), upon the specific request of the development the City may grant more than one Concession or Incentive. (Ord. 2006-010 § 1; Ord. 2004-017 § 2)

### **6.08.120 Application Requirements and Review**

An application for a Density Bonus and/or a Concession or Incentive shall be processed concurrently with any other application(s) required for the Housing Development. Final approval or disapproval of an application shall be made by the Approval Authority unless direct financial assistance is requested. If direct financial assistance is requested, the City Council shall have the sole authority to make the final decision on the application.

An applicant/developer seeking a Density Bonus for a Housing Development pursuant to this chapter shall submit an application with the following information:

- A. A brief description of the proposed Housing Development, including the total number of units, Target Units, and Density Bonus Units proposed;
- B. The zoning and general plan designations and Assessors Parcel Number(s) of the project site;
- C. A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway and parking layout; and
- D. If a Concession or Incentive is requested, the application shall describe why the Concession or Incentive is necessary to provide the Target Units, in accordance with Section 6.08.116 Development Concessions and Incentives.

Within 90 days of receipt of the preliminary application, the City shall provide to an applicant/developer, a letter which identifies project issues of concern, the maximum financial assistance that the Community Development Director can support when making a recommendation to the Approval Authority, and the procedures for compliance with this chapter.

The Community Development Director shall inform the applicant/developer that the requested Concession or Incentive shall be recommended for consideration with the proposed Housing Development, or that an alternative or modified Concession or Incentive pursuant to Section 6.08.116 Development Concessions and Incentives shall be recommended for consideration in lieu of the requested Concession or Incentive. If an alternative or modified Concession or Incentive is recommended by the Community Development Director, the recommendation shall establish how the alternative or modified Concession or Incentive will have an equivalent affordability effect as the requested Concession or Incentive. (Ord. 2006-010 § 1; Ord. 2004-017 § 2)

### **6.08.124 Density Bonus Housing Agreement**

Applicants/Developers requesting a Density Bonus shall enter into a Density Bonus Housing Agreement with the City. The terms of the draft agreement shall be reviewed and revised as appropriate by the Community Planning Director, who shall formulate a recommendation to the Approval Authority for final approval.

Following execution of the agreement by all parties, the completed Density Bonus Housing Agreement, or memorandum thereof, shall be recorded and the conditions filed and recorded on the parcel or parcels designated for the construction of Target Units. The approval and recordation shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The Density Bonus Housing Agreement shall be binding to all future owners and successors in interest.

A. The Density Bonus Housing Agreement shall include at a minimum the following:

1. The total number of units approved for the Housing Development, including the number of Target Units;
2. A description of the household income group to be accommodated by the Target Units, as outlined in Section 6.08.108 Density Bonus Implementation, and the standards for determining the corresponding Affordable Rent or Affordable Sales Price and Housing Cost;
3. The location, unit sizes (square feet), and number of bedrooms of Target Units;
4. Tenure of use restrictions for Target Units of at least 55 years for rental units and 45 years for for-sale units, in accordance with Section 6.08.112 Development Standards;
5. A schedule for completion and occupancy of Target Units;
6. A description of any Concession or Incentive, if any, being provided by the City;
7. A description of remedies for breach of the agreement by either party (the City may identify tenants or qualified purchasers as third party beneficiaries under the agreement); and
8. Other provisions to ensure implementation and compliance with this chapter.

B. In the Case of For-Sale Housing Developments, the Density Bonus Housing Agreement shall provide for the following conditions governing the initial sale and use of Target Units during the applicable use restriction period:

1. Target Units shall, upon initial sale, be sold to eligible Very Low, Low Income, or Moderate Income Households at an Affordable Sales Price and Housing Cost, or to Qualified Senior Citizen Residents as defined by this chapter;

2. The initial purchaser of each Target Unit shall execute an instrument or agreement approved by the City restricting the sale of the Target Unit in accordance with this chapter during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the Target Unit and shall contain such provisions as the City may require in order to ensure continued compliance with this chapter and the state Density Bonus Law;
  3. Renewed restrictions will be entered into on each change of ownership, with a 45 year renewal term, upon transfer of an owner-occupied Target Unit prior to the expiration of the 45 year affordability period not be subject to any requirement of this chapter thereafter;
  4. Target Units may be refinanced if the loan-to-resale value does not exceed 100 percent and the homeowners receive no cash out except cash that would be used for major rehabilitation;
  5. The maximum sales price permitted on resale of the Target Unit designated for owner-occupancy shall be the lower of: (a) fair market value, or (b) the seller's lawful purchase price, increased by the lesser of: (i) the rate of increase of Area Median Income during the seller's ownership, or (ii) the rate at which the consumer price index increased during the seller's ownership. The City shall enter into an equity sharing agreement in accordance with Government Code Section 65915(c) to address disposition of proceeds upon resale;
  6. Title in the Target Unit may change due to changes in circumstance, including death, marriage and divorce. Except as otherwise provided, if a change in title is occasioned by events that change the financial situation of the Household so that it is no longer income-eligible, then the property must be sold to an income-eligible Household within 180 days. Upon the death of one of the owners, title in the property may transfer to the surviving joint tenant without respect to the income-eligibility of the Household. Upon the death of a sole owner or all owners and inheritance of the Target Unit by a non-income-eligible child or stepchild of one or more owners, there will be a one year compassion period between the time when the estate is settled and the time when the property must be sold to an income-eligible Household. Inheritance of a Target Unit by any other person whose Household is not income-eligible shall require resale of the unit to an income-eligible Household as soon as is feasible but not more than 180 days; and
  7. Target Units shall remain owner-occupied. No renting or leasing shall be allowed.
- C. In the Case of Rental Housing Developments, the Density Bonus Housing Agreement shall provide for the following conditions governing the use of Target Units during the use restriction period:



1. Rental Units Will be Offered to Eligible Households at an Affordable Rent. The owner of rental Target Units shall certify each tenant Household's income to the City or City's designee at the time of initial rental and annually thereafter. The owner must obtain and review documents that demonstrate the prospective renter's total income, such as income tax returns or W-2s for the previous calendar year, and submit such information on a form approved by the City.
2. Selection of Tenants. The owners of rental Target Units may fill vacant units by selecting income-eligible Households from the Section 8 Housing Choice Voucher Waiting List maintained by the Alameda County Housing Authority or any other comparable list maintained by the City or City's designee. Alternatively, owners may fill vacant units through their own selection process, provided that they publish notices of the availability of Target Units according to guidelines established by the Approval Authority;
3. Annual Report. The owner shall submit an annual report summarizing the occupancy of each Target Unit for the year, demonstrating the continuing income-eligibility of the tenant. The City Manager may require additional information if he or she deems it necessary;
4. Subsequent Rental to Income-Eligible Tenant. The owner shall apply the same rental terms and conditions to tenants of Target Units as are applied to all other tenants, except as required to comply with this chapter (for example, rent levels, occupancy restrictions and income requirements) or with other applicable government subsidy programs. Discrimination against persons receiving housing assistance is prohibited;
5. Changes in Tenant Income. If, after moving into a Target Unit, a tenant's Household income exceeds the limit for that unit, the tenant Household may remain in the unit as long as his or her Household income does not exceed 140 percent of the income limit. Once the tenant's income exceeds 140 percent of the income limit, the following shall apply:
  - a. If the tenant's income does not exceed the income limits of other Target Units in the Housing Development, the owner may, at the owner's option, allow the tenant to remain in the original unit and redesignate the unit as affordable to Households of a higher income level, as long as the next vacant unit is redesignated for the income category previously applicable to the tenant's Household. Otherwise, the tenant shall be given one year's notice to vacate the unit. If during the year, a Target Unit becomes available and the tenant meets the income eligibility for that unit, the owner shall allow the tenant to apply for that unit;
  - b. If there are no units designated for a higher income category within the Housing Development that may be substituted for the original unit, the tenant shall

be given one year's notice to vacate the unit. If within that year, another unit in the Residential Development is vacated, the owner, at the owner's option, may allow the tenant to remain in the original unit and raise the tenant's rent to market-rate and designate the newly vacated unit as a Target Unit affordable at the income-level previously applicable to the unit converted to market rate. The newly vacated unit must be comparable in size (for example, number of bedrooms, bathrooms, square footage, etc.) as the original unit. (Ord. 2006-010 § 1; Ord. 2004-017 § 2)

### **6.08.128 Child Care Facilities**

- A. When an applicant proposes to construct a Housing Development that is eligible for a Density Bonus under Section 6.08.108 Density Bonus Implementation, and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the Housing Development, the City shall grant either:
  - 1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the square footage of the child care facility; or
  - 2. An additional Concession or Incentive that contributes significantly to the economic feasibility of the construction of the child care facility.
- B. The City shall require, as a condition of approving the housing development that the following occur:
  - 1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the Target Units are required to remain affordable pursuant to Section 6.08.112 Development Standards.
  - 2. Of the children who attend the child care facility, the children of very low, low and moderate income households shall equal a percentage that is equal to or greater than the percentage of Target Units in the Housing Development that are required for very low, low or moderate income households pursuant to Section 6.08.112 Development Standards.
- C. Notwithstanding Subsections A and B above, the City shall not be required to provide a Density Bonus or a Concession or Incentive for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities. (Ord. 2006-010 § 1)

### **6.08.132 Donation of Land**

When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City that meets all of the requirements of California Government Code Section 65915(h)(2), the applicant shall be entitled to a Density Bonus

of at least 15 percent, up to a maximum of 35 percent depending on the amount of land donated. This section shall not apply when the City requires a developer to donate land as a condition of development. The Density Bonus authorized by this section shall be in addition to any other Density Bonus awarded pursuant to this chapter, provided that the maximum combined Density Bonus for any Housing Development shall be no more than 35 percent. (Ord. 2006-010 § 1)