

EXHIBIT A

Amendments to the San Leandro Zoning Code

FENCING TEXT AMENDMENTS

Amend various sections of the Zoning Code to change fence height and location requirements in industrial zones and to allow hazardous fencing in the IL and IG zones.

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. 2020-002 § 4; 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. 2020-002 § 4; 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

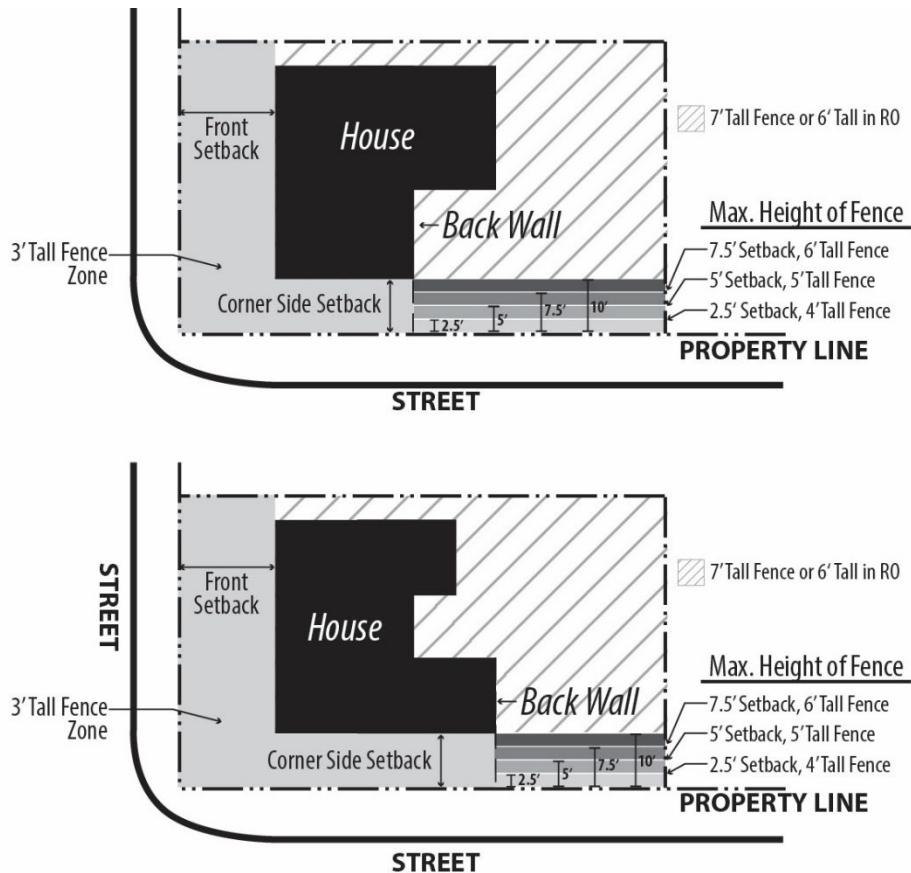
B. Minimum Yard Setbacks, Additional Regulations.

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.

4.04.364 Fences, Walls, and Hedges

Fences, walls, hedges, and similar structures shall comply with the standards of this section.

- A. Exceptions. The standards of this section do not apply to fencing used to secure vacant buildings and properties in compliance with the following:
 - 1. Fencing shall be vinyl-coated, mini-mesh chain link or similar fencing. Electrified security fencing and razor/barbed wire and similar materials capable of inflicting significant physical injury or discomfort are prohibited.
 - 2. The fencing shall meet the driveway visibility requirements of Section 4.08.148 Driveways—Visibility.
 - 3. The Director has issued a vacant property fencing permit.
- B. Residential, Open Space and Public/Semi-Public Districts. Except as provided for in Subsections B.1 through B.3 of this section, 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 groundcovers, 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.

4. Materials. Fencing and walls shall be constructed using stone, brick, wood, composite wood, tubular steel, finished concrete, or stucco. Comparable, durable, high quality materials may be used with approval of an Administrative Exception per Section 2.10.408. Chain link fencing and corrugated metal fencing are prohibited.

C. Commercial and Professional 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.

3. Materials. Fencing and walls shall be constructed using stone, brick, wood, composite wood, tubular steel, finished concrete, or stucco. Comparable, durable, high quality materials may be used with approval of an Administrative Exception per Section 2.10.408. Chain link fencing and corrugated metal fencing are prohibited.

D. Industrial Districts.

1. Maximum Height. The maximum height of a fence, wall, or hedge shall be eight feet.
2. Minimum Standards for Fences Along Street Frontages. Fences that are within the required minimum front, corner side and/or rear yard with frontage along a public street frontage are subject to the following standards.
 - a. Any portion of the fence over three feet shall be tubular steel, or of equally high quality “visually transparent” style.
 - b. The area between the property line and/or back of sidewalk and the fence shall be landscaped and maintained free of weeds.

In addition, all fences, walls, and hedges shall be subject to the driveway visibility requirements of Section 4.08.148 Driveways—Visibility.

3. Materials. Fencing and walls shall be constructed using wood, tubular steel, finished concrete, stucco or chain link, except as provided below.
 - a. Comparable Materials. Comparable, durable, high quality materials may be used with approval of an Administrative Exception per Section 2.10.408.
 - b. Razor/Barbed Wire. Razor/barbed wire materials, such as wire strips or coiled (“concertina”) wire and similar fencing materials capable of inflicting significant physical injury or discomfort are only allowed in the IL and IG Districts, subject to the following.
 1. Location. Razor/barbed wire shall not be located within 200 feet of a residential district.
 2. Angle of installation. Razor/barbed wire shall be installed and maintained at a forty-five (45) degree or a ninety (90) degree angle into the property it is securing, measured from the vertical axis representing the fence. The razor/barbed wire shall not extend over adjoining public or private property.
 3. Clearance. There shall be a minimum of six feet between the lowest portion of the razor/barbed wire and the ground below.
 4. Height. The height of the fence, with the razor/barbed wire, cannot exceed the fence height limits established in the fence regulations.
 5. Vacant lots. Razor/barbed wire and similar materials capable of inflicting significant physical injury or discomfort are prohibited on vacant lots.
 - c. Electrified Security Fencing. Electrified Security Fencing is prohibited on vacant lots and only allowed in the IL and IG Districts, subject to the following.
 1. Electrified Security Fencing shall be completely surrounded by a non-electrified perimeter fence or wall that is not less than six feet in height.
 2. The space between an electrified fence and the surrounding nonelectrified perimeter fence or wall shall be a minimum of 36 inches and shall be kept clean and free of trash, litter, debris, and vegetation.
 3. Electrified security fencing shall not exceed two feet higher than the surrounding nonelectrified perimeter fence or wall and shall not exceed the fence height limits established in the fence regulations.

4. No Security Fencing shall be attached to the Electrified Security Fence or surrounding nonelectrified perimeter fence or wall. Any existing razor/barbed wire attached to any fence or structure on the subject site shall be removed.
5. The energizer for Electrified Security Fences must be driven by a commercial storage battery not to exceed 12 volts DC. The electric charge produced by the fence upon contact shall not exceed the energizer characteristics set forth the International Electrotechnical Commission (IEC) standard.
6. Electrified Security Fences shall be clearly identified with prominently placed warning signs in compliance with applicable building and fire codes.
7. A "Knox Box," disconnect switches and/or other similar approved devices shall be installed for emergency access as may be required by the Police and Fire Departments. When required, disconnect switches and controls shall be installed in an easily accessible location on the property, shall not be obscured in any manner from the street/private driveway access and shall be clearly identified with signs. In the event of an emergency or urgent circumstance requiring that the Police and/or Fire Departments access a property with a permitted electrified fence, and the Knox Box or other similar approved device is absent or non-functional, and an owner, manager, employee, custodian, or any other person with control over the property is not present to disable the electrified fence, fire and/or police personnel shall be authorized to disable the electrified fence in order to gain access to the property. As a condition of permit issuance, when access is attained under emergency or urgent circumstances, all permit applicants and, by extension, the subject site's property owner(s), agree to waive any and all claims for damages to the electrified fence and associated equipment against the City of San Leandro, the Police Department, the Fire Department, their employees and/or others acting at their direction.
8. To the maximum extent permitted by law, all applicants and, by extension, the subject site's property owner(s) issued permits to install an electrified fence as provided in this section shall indemnify, defend and hold harmless the city, its elected officials, officers, agents, contractors, and employees with respect to: any and all claims, damages and losses whatsoever occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with or arising out of the exercise of rights granted by the permits and/or approvals associated with the installation of an electrified

fence; and any and all claims, liabilities, lawsuits or actions, including any and all claims, liabilities and losses for damage, injury, or death, occurring in connection with or arising out of the granting of or the exercise of the rights granted by the permits and/or approvals associated with the installation of an electrified fence. Applicant's obligation to indemnify, defend, and hold harmless the city as stated hereinabove shall include, but not be limited to, paying all fees and costs incurred by legal counsel of the city's choice in representing the city in connection with any such claims, losses, lawsuits, or actions, and payment of any award of damages, judgments, verdicts, court costs and attorneys' fees in any such lawsuit or action."

E. B-TOD District.

1. Limitation. Fences, walls, and hedges shall not be located between buildings with commercial uses and adjacent streets. However, fences, walls, and hedges may be located between buildings and adjacent streets for schools and daycare facilities or to delineate outdoor dining or display areas.
2. Maximum Height.
 - a. Between Buildings and Streets. Where allowed, fences, walls, and hedges located between buildings and adjacent streets shall not exceed 42 inches in height, except fences for schools or daycare facilities may be up to eight feet in height.
 - b. Other Locations. Fences, walls, and hedges located in areas other than between buildings and adjacent streets shall not exceed eight feet in height.
3. Materials. Fencing and walls shall be constructed using wood, tubular steel, finished concrete, or stucco. Comparable, durable, high quality materials may be used with approval of an Administrative Exception per Section 2.10.408. Chain link fencing and corrugated metal fencing are prohibited.
4. Fence and Wall Transparency. Fencing, walls, gates, and other screening and visual barriers along publicly accessible streets and non-motorized bicycle and pedestrian pathways shall not exceed 75 percent opacity, measured as the total surface area of fence elements divided by the area covered by the fence (i.e. the product of the length of the fence and the width of the fence).

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.

F. 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 ten days prior to the date of the hearing, on or adjacent to the property involved, and mailed at least ten 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 Planning Commission. The Planning Commission 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 Planning Commission, pursuant to the requirements of Chapter 5.20 Appeals.

EXTENSION OF ENTITLEMENTS TEXT AMENDMENTS

Add the following two sections to the Zoning Code:

5.12.132(E) Additional Automatic Extension. Any site plan review for a residential, commercial, or industrial project that is unexpired as of March 1, 2024, shall be automatically extended by two years. The extension provided by this subsection shall be in addition to any other extension granted pursuant to any section of the San Leandro Zoning Code or applicable California law (including but not limited to Section 5.12.132(D), and shall not limit the ability of an applicant to apply for and receive such additional extensions under the Zoning Code.

5.08.136(G) Additional Automatic Extension. Any use permit or variance for a residential, commercial, or industrial project that is unexpired as of March 1, 2024, shall be automatically extended by two years. The extension provided by this subsection shall be in addition to any other extension granted pursuant to any section of the San Leandro Zoning Code or applicable California law (including but not limited to Section 5.08.136(F)), and shall not limit the ability of an applicant to apply for and receive such additional extensions under the Zoning Code.

PLANNING COMMISSION TEXT AMENDMENTS

Replace references to “Board of Zoning Adjustments” with “Planning Commission” throughout the Zoning Code, as follows:

1.08.112 Rules for Interpretation: Record-keeping

- D. Appeals. An interpretation of the zoning regulations or zoning map by the Zoning Enforcement Official may be appealed to the Planning Commission as provided in Chapter 5.20 Appeals.

1.12.108 Definitions

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 Planning Commission either approves subject to conditions or denies such uses. Each application is considered on its individual merits.

1.12.112 Responsibilities

Title 1 of the Municipal Code defines responsibilities of the Planning Commission and the City Council for administration of the Zoning Code. Responsibilities of the Zoning Enforcement Official 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, 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 Planning Commission for action and may consult with the City Attorney on questions of interpretation.

2.04.220 Home Occupation in R Districts

- E. Appeals. In accord with Chapter 5.08 Use Permits and Variances, decisions of the Zoning Enforcement Official may be appealed to the Planning Commission by the applicant or by any interested party.

2.04.228 Cottage Food Operations

- F. Appeals. In accord with Chapter 5.08 Use Permits and Variances, decisions of the Zoning Enforcement Official may be appealed to the Planning Commission by the applicant or by any interested party.

2.04.232 Residential Congregate Care Facilities and Limited Group Housing

- C. Applicability of Regulations. Residential congregate care facilities and limited group housing 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.
 - 1. Limited Residential Congregate Care Facilities and Limited Group Housing. “Residential Congregate Care Facilities, Limited” and “Group Housing, Limited”

defined in Section 1.12.108 Definitions, are subject to the same development standards for the applicable residential type in the applicable zone.

2. Residential Congregate Care Facilities with More than Six Residents. All new residential congregate care facilities for which the contemplated number of residents is more than six (not including live-in staff), and existing residential congregate care facilities that wish to increase the number of residents to more than six are also subject to the following requirements:
 - a. Over-Concentration and Minimum Spacing. To prevent an over-concentration of residential congregate care facilities in the City, all facilities with more than six residents (not including live-in staff) must be a minimum distance of 750 feet from another such facility. Nothing in this subsection shall prevent more than one facility from locating in an individual apartment/condominium complex, providing the spacing requirements of this subsection are met. An adjustment to the required minimum spacing may be granted pursuant to Subsection C.2.c Adjustments to Required Minimum Spacing Requirement below.
 - b. Facilities with Total Occupancy of More Ten Adults. Residential congregate care facilities with more than ten 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.
 - c. Adjustments to Required Minimum Spacing Requirement. Approval to locate a residential congregate care facility with more than six residents (not including live-in staff) closer than 750 feet from another such facility is subject to approval of a Major Site Plan Review per Chapter 5.12 and the following:
 - i. Findings Requiring Denial of Request. All applications for adjustment to the minimum spacing requirement pursuant to this section shall be granted unless the Zoning Enforcement Official 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.

- ii. Adjustment Review Process Does Not Limit Number of Facilities. The Zoning Enforcement Official 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.
- iii. Ability to Impose Conditions. The Zoning Enforcement Official 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.
- iv. Appeals. A Decision by Zoning Enforcement Official may be appealed to the Planning Commission pursuant to the requirements of Chapter 5.20 Appeals.

2.04.348 Accessory Structures in RD, RM and RS Districts

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 Planning Commission 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 Planning Commission for a Conditional Use Permit.

2.04.396 Manufactured Home Parks

- L. Modification of Standards. Modification to the standards of this section may be granted by the Planning Commission 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.

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 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.

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 in making a decision to approve, conditionally approve, or deny a use permit or other discretionary approval.

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 Planning Commission 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 Planning Commission may refer applications for an exception under this section to the Library-Historical Commission for a report and recommendation to be submitted to the Planning Commission. In making a decision, the Planning Commission shall make a written finding that shall specify the facts relied upon in rendering their decision.

4.04.216 Game Centers

- 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 Planning Commission.

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 and Variances, subject to the minimum standards for approval established by this section and any additional conditions of approval determined by the Planning Commission 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 Planning Commission 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 Commission 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.

4.04.232 Recycling Facilities

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)	B-TOD, CC, CN, 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 Planning Commission for a Conditional Use Permit.

4.04.320 Exceptions to Height Limits

Exceptions for Roof Features and Amenities. Towers, spires, cupolas, chimneys, domes, elevator penthouses, elevator towers, covered stair access, water tanks, flagpoles, monuments, theater scenery lofts, radio and television antennas, transmission towers, fire towers, usable rooftop amenities, and similar structures may exceed the maximum permitted height in the district in which the site is located by no more than ten feet above the roof level, unless the Planning Commission approves a conditional use permit that authorizes additional height. Roof-mounted equipment, mechanical equipment screening, and parapet walls may extend up to six feet above the maximum permitted height in the district in which the site is located.

4.04.344 Earth Station and Microwave Equipment

- 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 Planning Commission 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.

4.04.348 Bed and Breakfast Inns

- B. Use Permit Required. A use permit issued by the Planning Commission 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 Planning Commission 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 Planning Commission 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.

4.04.352 Airport Safety Zones

- D. Use Permit Required. Any new development proposed for a parcel located within the airport safety zone must secure a use permit from the Planning Commission. The Commission 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.

4.04.364 Fences, Walls, and Hedges

- D. 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 ten days prior to the date of the hearing, on or adjacent to the property involved, and mailed at least ten 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 Planning Commission. The Planning Commission 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 Planning Commission, pursuant to the requirements of Chapter 5.20 Appeals.

4.04.372 Hazardous Waste Facilities

- K. Findings. In order for the Planning Commission to approve a hazardous waste facility application, the Commission must act on this application prior to approving a conditional use permit for a hazardous waste facility. The Planning Commission 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.

4.04.376 Wireless Telecommunications Facilities

- F. Specific Design Criteria. The following design standards shall govern the siting, design and location of all wireless telecommunications facilities; provided, however, that the Planning Commission may waive these requirements if it determines that the goals of this section are better served thereby.
- 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 Planning Commission. 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 Planning Commission.
3. A decision by the Planning Commission 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 B-TOD, CC, CN, CR, 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 Planning Commission. Conditional Uses shall comply with the general requirements of Subsection F, "Specific Design Criteria," Subsections J.11 through 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 Planning Commission, 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 Planning Commission to be necessary to assess compliance with this section.

4.08.152 Parking Area Screening: Walls and Fences

- C. Allowable Modification. The Planning Commission may modify these requirements in accord with the procedures and findings established by Section 4.04.364 Fences, Walls, and Hedges.

4.08.160 Additional Design Standards for Parking Lots and Structures

- B. In reviewing the design of parking structures in connection with a zoning approval, the Zoning Enforcement Official or Planning Commission shall consider the compatibility of the design with adjacent buildings or uses.

4.12.120 Master Sign Programs and Sign Exceptions

- D. Review and Approval Authority. The Zoning Enforcement Official shall be the decision-maker, unless the Zoning Enforcement Official defers action to the Planning Commission. The Zoning Enforcement Official or Planning 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 Planning Commission may be appealed pursuant to the requirements of Chapter 5.20 Appeals.

4.16.108 Landscaping Plans Required

- 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 require the approval of the project's decision-making body if the requested changes would have a major effect on the character of the pro-

ject, would effect a landscape requirement that was discussed in the public hearing, or were part of a condition of approval.

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 Planning Commission. The Planning Commission, 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 Planning Commission. The Planning Commission, 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.

4.20.116 Restoration of a Damaged Structure and Its Nonconforming Use

- 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 Planning Commission. To approve the reconstruction where there is not to be an increase in any nonconformity, the Planning Commission, 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 Planning Commission. The Planning Commission, 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 Planning Commission, provided there is no increase in any nonconformity. The Planning Commission, 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.

5.04.108 Authority of Zoning Enforcement Official

- C. Referral to Planning Commission. 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 Planning Commission.

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 appropri-

ately 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 Planning Commission, pursuant to Chapter 5.20 Appeals.

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 Planning Commission, pursuant to the requirements of Chapter 5.20 Appeals.

5.06.400 Procedures

- C. 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 Planning Commission. The action of the Zoning Enforcement Official shall be final unless an appeal is filed.
- D. Appeals. Any person aggrieved with the action of the Zoning Enforcement Official may appeal such action to the Planning Commission, pursuant to the requirements of Chapter 5.20 Appeals.
- E. Concurrent Processing. If a request for an Administrative Exception is being submitted in conjunction with an application for another approval, permit, or entitlement that requires review or action by the Planning Commission or another review body, it shall be heard and acted upon at the same time and in the same manner as that application and subject to the noticing and appeal procedures therein.

5.08.100 Purposes

- 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 Planning Commission to determine whether a specific use belongs with-

in 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.

5.08.104 Authority of Planning Commission

- A. The Planning Commission shall approve, conditionally approve, or disapprove applications for use permits or variances upon finding that the proposed use permit or variance 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 or variances to the City Council for approval, and no action by the Planning Commission 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.

5.08.116 Notice and Public Hearing

- A. Public Hearing Required. The Planning Commission shall hold a public hearing on an application for a use permit or variance.

5.08.120 Duties of Planning Commission

- A. Public Hearing. The Planning Commission 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 Commission 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.

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 Commission, shall be approved if, on the basis of the application, plans, materials, and testimony submitted, the Commission finds:

5.08.132 Effective Date; Appeals

A use permit or variance shall become effective 15 days after action by the Planning Commission, unless appealed to the City Council in accord with Chapter 5.20 Appeals.

5.12.112 Review and Approval Authority

- A. The Zoning Enforcement Official shall review and approve, conditionally approve, or disapprove applications for Site Plan Review based on consideration of the requirements of this chapter except as follows.
 - 1. The Planning Commission shall have Site Plan Review authority for all projects otherwise requiring Planning Commission approval.
 - 2. The Zoning Enforcement Official may refer items directly the Planning Commission when in the Zoning Enforcement Official's opinion, the public interest would be better served by having the Planning Commission conduct Site Plan Review.

5.14.108 Review and Approval Authority

The Planning Commission shall review and approve, conditionally approve, or disapprove applications for development plans based on consideration of the requirements of this chapter.

5.14.116 Notice and Public Hearing

- A. Public Hearing Required. The Planning Commission shall hold a public hearing on an application for a development plan.

5.14.120 Duties of Planning Commission

- A. Public Hearing. The Planning Commission shall conduct the public hearing, which may be continued from time to time, and hear testimony for and against the application.
- B. Decision and Notice. After the close of the public hearing, the Commission 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.

5.14.124 Required Findings

An application for a development plan as it was applied for or in modified form as required by the Commission, shall be approved if, on the basis of the application, plans, materials, and testimony submitted, the Commission finds:

5.14.132 Effective Date; Appeals

A development plan shall become effective 15 days after action by the Planning Commission, unless appealed to the City Council in accord with Chapter 5.20 Appeals.

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 Planning Commission and decisions of the Planning Commission may be appealed to the City Council.

5.20.116 Procedures for Appeals

- 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 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.

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 Planning Commission, or the City Council, whichever took final previous action on the permit, except for appeals.

5.32.124 Condominium Conversion Standards

- 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 Planning Commission shall be refurbished and restored as necessary to achieve a high standard of appearance, quality, and safety.

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 Planning Commission 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 Planning Commission 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 Planning Commission 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 Planning Commission necessary to ensure conformity to said criteria and such conditions shall be based on the evidence before the Commission. The decision of the Planning Commission 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 Planning Commission shall become final 10 calendar days after the date of decision unless appealed to the City Council in accordance with Chapter 5.20 Appeals.

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 Planning Commission 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 Planning Commission 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 Planning Commission shall become final 15 calendar days after the date of decision unless appealed to the City Council in accordance with Chapter 5.20 Appeals.