

## **Chapter 15.36 EXCAVATION, GRADING, AND EARTHWORK CONSTRUCTION\***

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\* Prior ordinance history: Ord. 410.

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### **15.36.010 SHORT TITLE.**

This chapter shall be known as the “Grading Ordinance of the city of Pinole” and may be so cited. (Ord. 486 (part), 1986).

### 15.36.020 PURPOSE.

The purpose of this chapter is as follows:

- A. To regulate grading on private property in order to:
  - 1. Control erosion;
  - 2. Control sedimentation;
  - 3. Protect water quality of watercourses, waterbodies, and wetlands;
  - 4. Safeguard health, safety, and the public welfare.
- B. To establish administrative procedures and enforcement procedures to carry out these regulations. (Ord. 486 (part), 1986).

### 15.36.030 DEFINITIONS.

The following definitions are adopted for the purpose of this chapter:

- A. **APPLICANT.** Any person, partnership, corporation, or agency requesting permission to engage in any grading activity.
- B. **BENCH.** A step constructed in the face of a cut or fill slope for maintenance, access, and drainage purposes.
- C. **BORROW.** Earth material acquired from an offsite location for use in grading on a site.
- D. **DIVERSION.** A temporary or permanent facility consisting of a channel, ditch, or ridge constructed across a sloping land surface to intercept and divert surface runoff in order to control its erosion potential.
- E. **ENGINEERING GEOLOGIST.** A geologist certified in the state of California to practice engineering geology.
- F. **EROSION.** Detachment and movement of soil or rock fragments by water, wind, ice and gravity.
- G. **EROSION AND SEDIMENT CONTROL MANUAL.** A book entitled, "Manual of Standards for Erosion and Sediment Control Measures," published by ABAG, 1981.
- H. **EXCAVATION (CUT).** Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated.
- I. **FILL.** A deposit of earth or other material placed by artificial means.
- J. **FINAL EROSION AND SEDIMENT CONTROL PLAN.** A plan that depicts the erosion control measures designed for a completed project.
- K. **GRADE.** The vertical location of the ground surface. "Existing grade" is the grade prior to grading. "Rough grade" is the grade approximately conforming to the approved plan. "Finished grade" is the final grade of the site which conforms to the approved plan.
- L. **GRADING.** Any excavation, stripping, cutting, filling, stockpiling, clearing, or any combination thereof which alters land or vegetation.
- M. **HILLSIDE SITE.** A site having an average slope of fifteen percent or greater.
- N. **INTERIM EROSION AND SEDIMENT CONTROL PLAN.** A plan that depicts the erosion control measure designed for a project under construction.

- O. **KEY.** A trench or step cut into natural ground to hold fill on an existing slope.
- P. **MULCHING.** The application of plant residue or other suitable materials to the land surface to conserve moisture, hold soil in place, and aid in establishing plant cover.
- Q. **QUARRY.** Any premises or site from which any rock, sand, gravel, stone, earth, soil, or mineral is removed or excavated for the purpose of disposition away from the immediate premises, whether such disposition is immediate or in the future; excepting excavation necessary for the construction of a building or structure on the site of the excavation for which valid permits have been issued, and excepting excavation which is all or part of a grading operation to change the contours of the land in conformance with a plan approved by the city for which a grading permit has been issued.
- R. **RAINY SEASON.** The period of time between October 1st and the following April 15th.
- S. **RUNOFF.** The surface flow of water, especially the flow following precipitation.
- T. **SEDIMENTATION.** The process by which mineral or organic matter is removed from its site or origin, transported, and then deposited by water, wind, or gravity.
- U. **SEDIMENT BASIN.** A reservoir which retards flows sufficiently to cause or allow deposition of transported sediment.
- V. **SITE.** Any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed.
- W. **SITE MAP AND GRADING PLAN (GRADING PLAN).** A plan as required by Section 15.36.170 of this chapter.
- X. **SOILS ENGINEER.** A civil engineer registered in the state of California specializing and recognized in soils mechanics and foundation engineering.
- Y. **SOILS AND GEOLOGICAL RECONNAISSANCE REPORT (SOILS REPORT).** a report as described in Section 15.36.180 of this chapter.
- Z. **STOCKPILE.** A supply of earth, rock, gravel, sand, or other similar material temporarily accumulated and stored prior to final disposition.
- AA. **WATERCOURSE.** A drainage channel carrying water year round. (Ord. 486 (part), 1986).

#### **15.36.040 ACTIONS PROHIBITED.**

- It shall be unlawful for any person to:
- A. Perform any work within the scope of this chapter without first having obtained a permit from the public services department pursuant to this chapter.
- B. Grade in such a manner so as to:
1. Cause erosion or sedimentation on other property or on public streets;
  2. Obstruct or otherwise interfere with drainage, or deposit sediment in natural or artificial drainage facilities; or
  3. Construct or alter drainage facilities or alter drainage courses

without first obtaining a permit pursuant to Chapter 15.36.080 of this article. (Ord. 486 (part), 1986).

#### **15.36.050 ADMINISTRATION.**

The public services department is designated as the city department responsible for the administration of this chapter. (Ord. 486 (part), 1986).

#### **15.36.060 PERMIT REQUIRED.**

- A. No person shall do any grading work without first obtaining a permit as provided herein, including:
1. The excavation or removal of earth or rock from the surface layers of the ground.
  2. The movement or transportation of earth around, along, over, or on the surface of the ground.
  3. The deposition, placement, or compaction of earth materials for the construction of embankments.
  4. The clearing of vegetation.
- B. A permit is required for each site where grading work is to be done. (Ord. 486 (part), 1986).

#### **15.36.070 EXEMPTIONS.**

All grading work must be done in accordance with the provisions of this chapter, except that a permit, pursuant to the provisions of the chapter, shall not be required for the following work:

- A. Excavation below finished grade for basements and footings of a building, retaining wall, swimming pool, or other structures authorized by a valid building permit. This shall not exempt any excavation having an unsupported height greater than five feet after the completion of such structure.
- B. Excavation for cemetery graves.
- C. Excavation when all of the following conditions are met:
1. The quantity is fifty cubic yards or less.
  2. The depth is four feet or less.
  3. The slope of the cut face is two feet horizontal to one foot vertical or less.
- D. Fill when all of the following conditions are met:
1. The quantity is fifty cubic yards or less placed on ground sloping ten percent or less.
  2. The height is four feet or less.
  3. The slope of the fill embankment face is two feet horizontal to one foot vertical or less.

4. The existing drainage patterns are not altered.
- E. Minor agricultural land leveling when the change in elevation is three feet or less.
- F. Clearing vegetation when all of the following conditions are met:
  1. The slope of the ground is ten percent or less;
  2. The area to be cleared is one acre or less;
  3. No land disturbance within one hundred feet of a watercourse or water body.
- G. Grading in refuse disposal areas and sanitary landfills, and mining, quarrying, excavating, processing, and stockpiling of rock, sand, gravel, aggregate, or clay, as authorized by a use permit granted by the city, where the operation and conduct thereof is consistent with the grading standards set forth herein, and where the work does not block or divert any natural drainage way or increase runoff or sedimentation onto any adjacent or contiguous property. (Ord. 486 (part), 1986).

### **15.36.080 PERMIT CONDITIONS.**

Permits shall be subject to the following conditions, unless compliance with a specific condition is waived by the director of public services.

A. A “hold harmless” clause must be executed by the permittee. The clause shall be read as follows:

The Permittee, for himself, his or her contractors, and employees, agrees to save, indemnify and hold harmless the City of Pinole and its representatives from all liabilities, claims and judgments for damages by reason of injury or death to any person or persons, or damage to property from any cause whatsoever while in, upon or in any way connected with the work covered by this Grading Permit, and does further agree to defend the City in any claim arising out of or as a result of the work done under this Permit.

B. The work must be completed within the time period specified on the permit.

C. The work must be in conformance with the approved interim and final erosion and sediment control plan.

D. The area in which the work may be done shall be as specified in the approved plans and on the permit.

E. The details of the work to be done shall be as delineated on the approved plans and as noted on the permit.

F. Work shall be performed only within those hours specified in this chapter, unless other work hours are noted in the permit.

G. Haul routes shall be as delineated on the approved plans or as noted on the permit. Any special safety precautions which must be taken to guide pedestrian and vehicular traffic movements in, around, and by the work shall be delineated on the approved plans or as noted on the permit.

H. Posting of security must be in conformance with Section 15.36.170 of this chapter.

I. A survey by a licensed land surveyor or registered civil engineer

delineating the boundary lines of the site must be submitted.

J. An inspector working under the supervision of a registered civil engineer must be on the site during grading operations.

K. The disposal site for any material removed from the grading site must be approved by the director of public services.

L. The extent of unprotected slopes allowed at any one time and the time said slopes are allowed to remain unprotected shall be as required by this chapter unless noted otherwise on the permit.

M. The director of public services may impose any other conditions he or she may deem necessary to carry out the intent of this chapter. (Ord. 486 (part), 1986).

### **15.36.090 SUSPENSION OR REVOCATION OF PERMIT.**

A. A grading permit shall be suspended or revoked by the director of public services, unless exempted by said director, if:

1. Conditions at the site vary appreciably from those shown on the approved plans.

2. Construction does not conform to the approved grading plan, interim and final erosion and sediment control plan, time schedules, or conditions of the grading permit.

3. The site is left in a condition hazardous to the public or to the adjacent properties, and the permittee does not comply with reasonable requirements to correct said conditions.

4. The permittee does not comply with reasonable requirements to safeguard the workmen, the public, or other persons acting in a lawful manner.

5. The permittee, in connection with the operations for which the permit was issued, fails to operate his or her equipment properly on public roads; or allows material to encroach, obstruct, or be deposited within a public right-of-way or within a drainage channel in a manner not authorized by said permit; or causes unauthorized obstruction or diversion of drainage channels.

6. The permittee fails to have a qualified inspector, working under the supervision of a registered civil engineer, on the site during operations when so required by the permit; or fails to have the work under proper supervision at all times.

7. Emergency conditions exist on the site which constitute a threat to health, safety, or public welfare.

B. Upon notification from the director of public services of the suspension of the permit, the permittee shall cease all work in connection with the permit with the exception of the work necessary to correct the objectionable or emergency conditions which caused the suspension of the permit. The permittee shall then proceed at once to correct said objectionable or emergency conditions.

C. If the permittee fails to correct said objectionable or emergency conditions, the city may cause the work necessary to correct said conditions to be done, and the city may take action against the permittee's security to cover the cost of performing the work.

D. Any permit which has been suspended may be either reinstated or revoked

by the director of public services.

E. Whenever a permit has been revoked, work shall not commence until a new application has been filed and approved incorporating the necessary revisions required to fulfill the intent of this chapter, and a new permit has been issued. (Ord. 486 (part), 1986).

#### **15.36.100 AMENDMENT OF PERMIT.**

A. All changes in the plans, timing, or extent of work shall be submitted to the director of public services for written approval and incorporation into the permit before any change in the work is commenced. The director of public services may amend the permit to approve such changes if appropriate, or may deny approval of such changes.

B. Failure to obtain prior approval for any change in the work shall be cause for the suspension of the permit until approval is obtained, and may result in the revocation of the permit if such changes are deemed to be hazardous to adjoining properties or to the public at large. (Ord. 486 (part), 1986).

#### **15.36.110 EXTENSION OF TIME.**

A. The permittee may, before the expiration of the permit, apply for an extension of time in which to complete the work in a reasonable and expeditious manner.

B. Extensions of time may be granted by the director of public services for a period of periods not exceeding a total of one year.

C. Denial of an extension of time shall not preclude the right of the permittee to apply for a new permit for the remaining balance of the work.

D. Written consent of the surety to any extension of time must be furnished before the approval of the extension becomes effective, unless the security consists of a cash deposit. (Ord. 486 (part), 1986).

#### **15.36.120 TRANSFER OF PERMIT.**

A. The transfer of a permit from the permittee to another person shall be subject to the written approval of the director of public services.

B. The person to whom the permit is being transferred shall agree in writing to comply with all of the requirements of the original permit and to such modifications as may be required, and shall furnish the required security before transfer of the permit will be approved. (Ord. 486 (part), 1986).

#### **15.36.130 APPLICATION FOR PERMIT.**

The application for a permit must include all of the following items unless exempted by other provisions of this chapter:

- A. A completed permit application form;
- B. A site map and grading plan;
- C. A soils and geological reconnaissance report;
- D. A final erosion and sediment control plan or an interim erosion and sediment control plan, if approved by the public services director;
- E. A time schedule for accomplishing the work;
- F. Any supplementary data as may be required by the director of public services;
- G. Security to guarantee that the work will be done and completed in accordance with the application and conditions of the permit, and that the city will be reimbursed for any work it may be required to perform to alleviate hazardous emergency conditions;
- H. Fees in sums set by resolution of the City Council. (Ord. 486 (part), 1986).

#### **15.36.140 REVIEW OF APPLICATION.**

The review of the application for a permit shall take into consideration, but shall not be limited to, the following criteria:

- A. The grading is not excessive beyond that necessary for the permitted use of the site;
- B. The slopes can be effectively protected against erosion and slippage;
- C. The finished contours are relatively natural and do not distort the natural contours;
- D. Hillside sites are suitable for development in the manner proposed;
- E. The removal of natural vegetation is not excessive and that it is done in a manner which will minimize erosion. (Ord. 486 (part), 1986).

#### **15.36.150 ACTION ON APPLICATION.**

- A. If the application is complete and is in compliance with the requirements of this chapter, as determined by the director of public services, a permit will be issued.
- B. Any application which is rejected because of insufficient data or inadequate design shall be without prejudice.
- C. Each permit shall be valid for a period of one year from the date of issuance unless noted otherwise on the permit. The date the permit expires shall be noted on the permit.
- D. The application shall be rejected if the director of public services determines that the proposed work would cause excessive disturbance of the land through grading or the removal of vegetation.
- E. The application shall be rejected if the director of public services determines that the proposed work will be significantly detrimental to adjacent property, water quality, or the public in general. (Ord. 486 (part), 1986).

#### **15.36.160 APPLICATION FORM.**

The following information is required on the application form:

- A. The name, address, and telephone number of the applicant;
- B. The names, addresses, and the telephone numbers of all property owners other than the applicant;
- C. The names, addresses, and telephone numbers of any and all contractors or persons actually doing the work, and the work that each will be doing;
- D. The name, address, telephone number and registration number of the party responsible for preparing the grading plan;
- E. The name, address, and telephone number of the party responsible for preparing the Erosion and Sediment Control Plan;
- F. The name, address, and telephone number, and registration number of the registered civil engineer responsible for the preparation of the soils and geological reconnaissance report, if required;
- G. A description of the location of the excavating work;
- H. A description of the location of the filling or disposal sites of the excavated material if other than on the site of the excavation;
- I. A brief description of the work to be accomplished;
- J. The proposed use of the graded site;
- K. The land use zoning;
- L. The quantity of excavation in cubic yards;
- M. The quantity of fill in cubic yards to be placed on the site;
- N. The total quantity of grading on the site in cubic yards;
- O. The date of the application;
- P. The signature of the owners of the site or their authorized representative.

(Ord. 486 (part), 1986).

#### **15.36.170 SITE MAP AND GRADING PLAN (GRADING PLAN).**

- A. The grading plan shall contain the following information:
  - 1. A vicinity map showing the location of the work;
  - 2. The property line boundary of the site;
  - 3. All existing improvements on and adjacent to the property;
  - 4. The existing and proposed contours of the site. The minimum contour interval shall be one foot or less for slopes five percent or flatter, and five feet or less for slopes steeper than five percent. The contour interval shall be small enough to clearly show the drainage pattern of the site;
  - 5. The existing and proposed drainage;
  - 6. The extent and manner of the cutting of trees and the clearing of vegetation, the disposal of same, and the measures to be taken for the protection of undisturbed trees and vegetation, unless this information is shown on an erosion and sediment control plan;
  - 7. Any other information required by the director of public services.
- B. Runoff calculations must be submitted with the grading plan.
  - 1. Maximum runoff shall be computed using the rational method. The rainfall intensity-duration curve contained in the Pinole 5-year Facility Plan, Dated 1975,

or a similar curve approved by the director of public services shall be used in the computation.

2. Runoff design shall accommodate the full and anticipated future development within the drainage area.

3. Drainage channels having a drainage area of four square miles or more shall be designed to contain a fifty year frequency of occurrence runoff. Drainage channels having a drainage area of less than four square miles and more than one square mile shall be designed to contain a twenty-five year frequency of occurrence runoff. Drainage channels having a drainage area of one square mile or less shall be designed to contain a ten year frequency of occurrence runoff.

C. The maximum size of each sheet of the grading plan shall be twenty-four inches by forty inches.

D. The scale of the grading plan shall be an engineering scale large enough to show clearly all details, but not less than one inch equals one hundred feet.

E. The details of any drainage structures or retaining walls must be shown on the grading plan.

F. Specifications describing proposed construction methods and materials to be used must be submitted with the grading plan.

G. The grading plan must be signed by a registered civil engineer and must be prepared under his or her direction.

H. An estimate of the cost of accomplishing the work described and delineated on the grading plan and the permit must be submitted in a form which is acceptable to the director of public services. (Ord. 486 (part), 1986).

### **15.36.180 SOILS AND GEOLOGICAL RECONNAISSANCE REPORT (SOILS REPORT).**

A. A soils report, prepared by a soils engineer and based upon adequate test borings, shall be submitted unless all of the following conditions are met:

1. The site is less than one-fourth acre in area and there is less than one hundred fifty cubic yards of excavation or fill.

2. The average slope of the site before grading is less than ten percent.

3. The proposed excavation is less than five feet deep on land sloping less than ten percent.

4. The proposed fill is less than three feet high on land sloping less than ten percent.

5. The stability of the soil on the site is clearly established as determined by the director of public services.

B. The soils report shall include an adequate description of the geology of the site, and conclusions and recommendations regarding the effect of geologic conditions on the proposed development.

C. The soils report shall include data regarding the nature, distribution and strength of existing soils, and conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary.

D. The soils report shall certify that the construction will be stable and will not present a hazard to the adjacent property or to the public in general.

E. No land disturbance within one hundred feet of watercourse. (Ord. 486 (part), 1986).

### **15.36.190 EROSION AND SEDIMENT CONTROL PLAN.**

A. A final erosion and sediment control plan, prepared by a registered civil engineer, shall be submitted unless all of the following conditions are met:

1. The site is less than one-quarter of an acre in area and there is less than one hundred fifty cubic yards of excavation or fill;
2. The provisions for runoff control are in accordance with the provisions of this chapter and are acceptable to the director of public services;
3. The average slope of the site before grading is less than fifteen percent;
4. The proposed grading does not pose a threat to adjacent or downstream properties as determined by the director of public services;
5. The proposed grading does not obstruct drainage channels;
6. The proposed grading is deemed to have no significant environmental impact as determined pursuant to the provisions of the California Environmental Quality Act, as amended, and the regulations promulgated by the California Resources Agency and the Pinole City Council to implement said Act.

B. The final erosion and sediment control plan must effectively minimize soil erosion and sedimentation from the completed project site and must also provide for the control of runoff from the site.

C. The final and interim erosion and sediment control plans shall contain the following information:

1. A description and delineation of the vegetative measures to be taken to minimize erosion and sedimentation;
2. A description and delineation of the temporary and permanent measures to be taken to protect manufactured or disturbed slopes from erosion by mechanical means such as with mulches, diversion dikes, etc.;
3. The delineation of the drainage control measures to be taken which shall include surface runoff and sediment yield calculations;
4. The extent and manner of the cutting of trees and the clearing of vegetation, the disposal of same, and the measures to be taken for the protection of undisturbed trees and vegetation;
5. The methods to be used for the disposal of excess materials;
6. The methods to be used for the control of dust;
7. A description and delineation of the temporary and permanent measures to be taken to retain sediment on the site;
8. A description of the measures to be taken to maintain the devices shown on the plan during grading operations and construction on the site;
9. The extent of disturbed ground that will exist, what streets will be paved, and what drainage devices will be installed prior to the start of each rainy season;

10. Any other information required by the director of public services;
11. Schedule for installation and maintenance of erosion and sediment control measures.

D. The Erosion and Sediment Control Handbook should be used as a guide as to what measures should be taken for any particular set of circumstances.

E. An interim erosion and sediment control plan is required prior to each rainy season during construction for a project for which a final erosion and sediment control plan is required by this chapter. The city will determine by July 15th if an interim plan will be necessary and on what stage of project completion the plan shall be based. The plan must be submitted in a timely manner thereafter to allow the city to review and approve the plan prior to September 1st. The measures delineated and described in the plan must be operational prior to October 1st.

F. An estimate of the cost of accomplishing the work described and delineated on the final and interim erosion and sediment control plans and the permit must be submitted in a form which is acceptable to the director of public services.

G. Rainy season work may be authorized by the public services director if erosion and sediment control measures are installed and functioning. (Ord. 486 (part), 1986).

#### **15.36.200 TIME SCHEDULE.**

The time schedule shall define the staging of the work, including the construction and implementation of the facilities shown on the grading plan and the interim and final erosion and sediment control plan. (Ord. 486 (part), 1986).

#### **15.36.210 SECURITY.**

A. The applicant shall secure the performance of the work described and delineated on the grading plan and the permit if required by the director of public services in an amount not to exceed one hundred percent of the approved estimate of cost of performing said work. The form of security shall be one or the combination of the following at the option of and subject to approval by the director of public services.

1. Bond or bonds by one or more duly authorized corporate sureties. The form of the bond or bonds shall be subject to the approval of the city;

2. A deposit, either with the city or a responsible escrow agent or trust company, at the option of the city, of money or negotiable bonds of the kind approved for securing deposits of public moneys;

3. An instrument of credit from one to more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the act secured are on deposit and guaranteed for payment.

B. The applicant shall secure the performance of the work described and delineated on the final and interim erosion and sediment control plans and the permit in an amount to be determined by the director of public services, but not less than one

hundred percent of the estimated cost of performing said work. The form of security shall be either a deposit or instrument of credit as described in this section for security of the work shown on the grading plan, at the option of and the subject to the approval of the director of public services.

C. The director of public services shall suspend or revoke the permit if the actions or inactions of the permittee give cause to do so pursuant to the provisions of this chapter. The director of public services shall notify the permittee of the suspension or revocation and, if emergency conditions do not exist, shall give the permittee a period of time to correct the cause of the suspension or revocation.

D. If the permittee does not correct the cause of the suspension or revocation, or if emergency conditions exist as determined by the director of public services, the city may perform or cause to be performed the necessary work to bring the site to a safe condition which will not endanger adjacent property or the public at large. The city may collect the cost of this work from the permittee's security. Also, fines and penalties may be assessed for violations.

E. Security for the work shown on the grading plan will not be released until the director of public services certifies that the work has been satisfactorily completed.

F. Security for the work shown on the final erosion and sediment control plan must be maintained for a period of one year after the director of public services certifies that the work has been satisfactorily completed or until the erosion control measures are permanently stabilized, as determined by the director of public services, whichever is longer. (Ord. 486 (part), 1986).

#### **15.36.220 FEE SCHEDULE.**

A. The following fees are to be paid in amounts to be established by resolution of the City Council:

1. A permit fee which is to be paid at the time the permit application is submitted.
2. An inspection fee which is based on the actual cost to the city for inspection services.

B. A permit fee need not be paid for a revised application for a project for which the original application was denied if the original permit fee was paid, if the revised application is submitted within a period of one year from the date of the original application, and if the scope of the project has not changed. (Ord. 486 (part), 1986).

#### **15.36.230 INSPECTION.**

A. No grading work shall be done before a permit is issued therefor.

B. The permittee shall notify the city forty-eight hours prior to starting work at the beginning of the project and on each occasion where work has stopped for more than three consecutive working days.

C. The city shall have the right to inspect the work regularly for compliance with the requirements of this chapter and the conditions of the permit.

D. The city shall place special emphasis on inspection at critical times in the sequence of construction, such as immediately prior to July 15th, immediately prior to October 1st, immediately after the first significant rainfall of the season, and after every heavy storm.

E. The civil engineer who prepared the grading plans shall submit a progress report at the end of every month during which work was done.

F. The permittee must call for city inspection for any drainage device and the city must make its inspection before the device is covered. (Ord. 486 (part), 1986).

#### **15.36.240 EROSION CONTROL.**

A. The erosion and sediment control handbook shall be used as a guide for the design and suitability of erosion and sediment control measures.

B. The faces of cut and fill slopes must be protected against damage by erosion and the methods utilized for each protection must offer effective erosion control prior to the beginning of, as well as during, the rainy season.

C. Where graded slopes are steeper than three feet horizontal to one foot vertical or are higher than ten feet, they shall be protected with a temporary soil stabilization measure such as jute matting or an equivalent mulch until planting is established.

D. The surface of all cut slopes higher than five feet and all fill slopes higher than three feet must be permanently protected against damage by erosion by the planting and establishment of protective vegetation.

E. Slopes higher than fifteen feet shall be planted with shrubs spaced ten feet maximum on centers or trees spaced twenty feet maximum on centers or a combination of shrubs and trees at equivalent spacings in addition to other vegetative cover.

F. The planting or seeding of vegetative protection must be effective. If the vegetation does not grow and offer proper protection, it must be replanted or reseeded.

G. The maintenance of vegetative protection on graded slopes shall be the responsibility of the permittee and shall be guaranteed until the vegetation is well established as determined by the director of public services or until the maintenance is officially assumed by another party approved by the director of public services.

H. Sediment control facilities must be constructed and in working order prior to the beginning of the rainy season and must prevent sediment from being transported from the site.

I. The outlet from any sedimentation basin must be designed to handle 1.5 times the maximum design inflow.

J. A standby emergency crew must be provided by the permittee and must be available at all times during the rainy season to repair and maintain the erosion and sediment control devices.

K. Erosion control materials must be stockpiled on the site for emergency repairs during the rainy season.

L. Minor protective devices that have been removed during the working day shall be replaced at the end of the working day if the chance of rain is greater than forty percent.

M. After each rainfall the permittee shall inspect all erosion and sediment control devices and shall clean them and repair any damage.

N. Erosion control devices must be installed where drainage facilities discharge into natural channels. The devices may be rip-rap or concrete channel protection, stilling basins, check dams, drop structures or other devices which will effectively minimize erosion in the opinion of the director of public services. (Ord. 486 (part), 1986).

### **15.36.250 GENERAL REGULATIONS.**

A. Work may be prohibited during inclement weather upon the order of the director of public services.

B. The hours of work shall be limited to seven a.m. to six p.m., Monday through Friday, and eight a.m. to five p.m. on Saturday.

C. Work must be controlled to prevent causing a public nuisance due to dust, noise, vibration, etc.

D. Topsoil stockpiles on the site must be protected from erosion.

E. Hauling routes are subject to the approval of the director of public services. (Ord. 486 (part), 1986).

### **15.36.260 EXCAVATIONS.**

A. Cut slopes can be no steeper than necessary, but shall in no case be steeper than two feet horizontal to one foot vertical.

B. No cut slope shall be higher than thirty feet unless approved by the director of public services.

C. The top of the excavation slope shall not be closer than three feet to the site boundary.

D. Slopes less than thirty percent shall require six inches of topsoil on all nonpaved areas. Topsoil shall satisfy the following requirements:

1. Criteria.

a. United States Department of Agriculture Classifications: Topsoil shall be sandy loam, sandy clay loam or loam containing: twenty-five to eighty percent sand (0.02 - 2.0 mm), and zero to fifty percent silt (0.002 - 0.05 mm), and ten to thirty percent clay (0 - 0.002 mm).

b. Chemistry: Significant chemistry parameters will be within the following specified ranges:

- |      |   |         |
|------|---|---------|
| i.   | Salinity (ECe)<br>(Saturation extract conductivity)   | 0 - 4.0 |
| ii.  | Sodium (SAR)<br>(Calculated sodium adsorption ratio)  | 0 - 6.0 |
| iii. | Boron<br>(Concentration in ppm of saturation extract) | 0 - 1.0 |
| iv.  | Reaction  |         |

5.5 - 7.0

(pH of saturated paste)

c. Organic Matter (surface to six inches)

permitted range:

(percent dry weight) 2 - 5

d. Fertility: Soil to contain sufficient quantities of available nitrogen, phosphorus, potassium, calcium and magnesium to support initial normal plant growth.

e. Percolation rate: (inches per hour) 0.15 -

2.0

2. In addition to removal and replacement, the following mitigation measures are acceptable.

a. USDA Classifications: None;

b. Chemistry:

i. Salinity (ECe) may be reduced by leaching to extent required to yield a twenty-four-inch profile of nonsaline (ECe less than 4.0) soil,

ii. Sodium may be reduced by amending and leaching to extent required to yield a twenty-four-inch profile of soil with sodium adsorption ratio (SAR) less than 6.0,

iii. Boron may be reduced by leaching to extent required to yield a twenty-four-inch profile with boron concentration in saturation extract solution less than 1.0 ppm;

c. Organic matter: May be enhanced by the addition of organic soil amendments including peat moss, wood residuals or bark residuals as required to yield prescribed organic content in the surface six-inch profile;

d. Fertility: May be enhanced by fertilization extent required;

e. Retesting: Where mitigations are elected, results must be demonstrated by appropriate laboratory testing.

3. Testing: The soil samples shall be taken by developer or its agent under supervision of city staff and delivered to a city approved testing laboratory. All costs for testing shall be paid by the developer including retesting as required to demonstrate success in mitigation attempts. (Ord. 535 § 2(part), 1990; Ord. 486 (part), 1986).

### **15.36.270 FILLS.**

A. The area on which fill is to be placed shall be cleared of all vegetation, such as trees, logs, stumps, and roots of trees, brush, heavy growth of grass and weeds, and any other objectionable material, such as debris, concrete foundations, metal, or nonearthen materials which cannot be properly consolidated or will not support the load of the embankment or structures. The cleared area shall extend to a width of two feet outside the area to be filled. All trees, existing stumps and large roots shall be removed, except that within the area where fills will be three feet or more in height, trees may be cut flush with the existing ground and grubbing of the remaining stumps will not be required except at locations where sub-drainage, trenches, drain pipes, foundations or

other structures are to be constructed or where unsuitable material is to be removed before construction of the embankment.

- B. The existing ground shall be prepared to receive fill construction by:
  - 1. The installation of subdrains to intercept and dispose of waters from springs, aquifers, or other underground sources of water; and storm drains to intercept and dispose of surface waters where required on approved plans.
  - 2. Compacting the ground area upon which any embankment is to be constructed to a minimum relative compaction of ninety percent throughout the top six inches.
- C. Embankment fills shall not be constructed upon natural ground slopes which are steeper than five horizontal to one vertical unless such embankments are keyed into the natural ground; and the native material together with the fill material shall be recompacted to a relative compaction of ninety percent. The width of the steps for keying new embankments to existing slopes shall be the width of the compaction equipment plus five feet but not less than ten feet. The construction operation shall be such that a slip plane is not created between the original material and the newly compacted material.
- D. Fill slopes shall be no steeper than necessary, but shall in no case be steeper than two feet horizontal to one foot vertical.
- E. No fill slope shall be higher than thirty feet unless approved by the public services director.
- F. Except as noted below for rock fill, material for embankments and backfill for excavations, slides, walls and other structures shall be spread in layers not exceeding eight inches in loose thickness before compaction, and each layer shall not be compacted to a relative compaction of not less than ninety percent.
- G. The side slopes of all embankments shall be compacted by means of tampers or rollers to a minimum of eighty-five percent relative compaction.
- H. When fill material includes rock, individual rocks shall not be greater than three feet in greatest dimension, and no rock larger than six inches in greatest dimension will be permitted closer than eighteen inches below finished grade of the embankment. No large rocks will be permitted to nest, and all voids shall be filled with earth or other fine material and properly compacted.
- I. At the time of compaction, the moisture content of the embankment material shall be such that the relative compaction specified may be obtained with the compacting equipment being used. Water shall be added in the required amount to obtain the optimum moisture content for achieving maximum density. Compaction of embankment material which contains excessive moisture shall be delayed until material has been allowed to dry to such an extent that the relative compaction specified may be produced with the compacting equipment being used.
- J. Sufficient field tests to determine the relative compaction of the ground and embankment material shall be taken and shall be reported to the city.
- K. The top and bottom of fill slopes shall not be closer than three feet to the site boundary.
- L. Slopes less than thirty percent shall require six inches of topsoil on all unpaved areas. Topsoil shall satisfy the requirements specified in Section 15.36.260 D of this chapter. (Ord. 535 § 2(part), 1990; Ord. 486 (part), 1986).

**15.36.280 DRAINAGE.**

A. Benches at least six feet wide shall be installed on all cut and fill slopes at not more than twenty-foot vertical intervals.

B. All benches shall have city standard concrete V-ditches for drainage. The ditches shall have a minimum gradient of five percent and a maximum gradient of forty percent.

C. All natural embankments adjacent to or within residential lots twenty feet or more in height shall have benches and V-ditches near the bottom of the slope to prevent runoff from the embankment from flowing onto the residential lot.

D. Runoff shall not be allowed to flow over the top of a slope onto the slope face.

E. Drainage facilities must discharge into existing manmade drainage facilities or into natural channels subject to the approval of the director of public services.

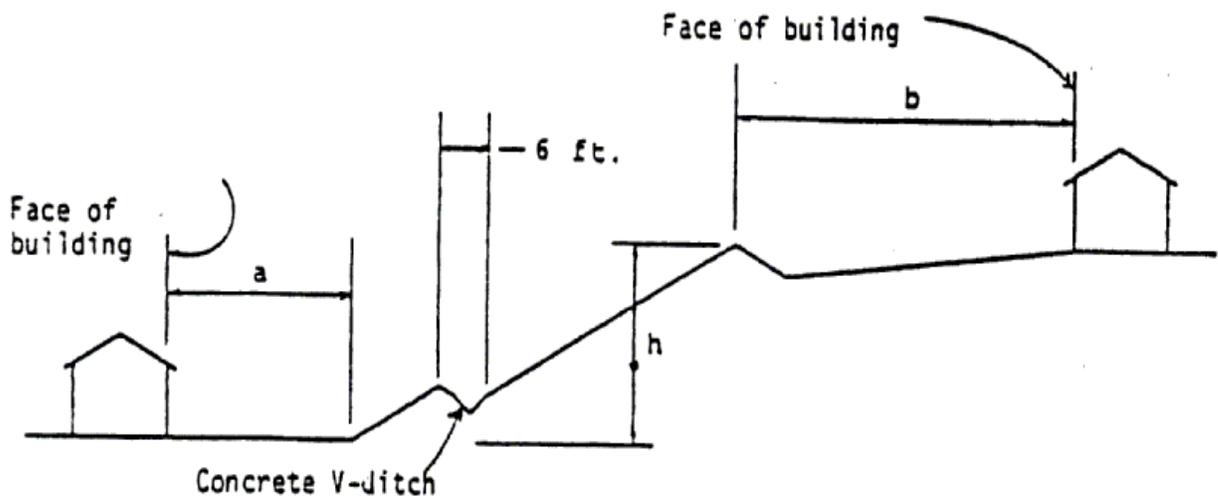
F. Drainage facilities must be designed to handle as a minimum the runoff computed in accordance with the requirements and standards of this chapter as specified for runoff calculations which must accompany the grading plan.

G. Building pads must slope a minimum of two percent toward drainage facilities.

H. All drainage devices not accepted for maintenance by the city must be maintained by the property owner. (Ord. 486(part), 1986).

**15.36.290 BUILDING SETBACKS.**

Slopes shall be set back from buildings and property lines as shown below:



Required Minimum Setback		
h, ft.	2, ft. <sup>1</sup>	b, ft. <sup>2</sup>
0 - 10	h/2, 3 ft. min	5 ft.
10 - 30	5 ft	h/2
Over 30	5 ft	15 ft.

1. If the slope is flatter than 5 horizontal to 1 vertical, the required setback is 2 feet.
2. If the slope is flatter than 5 horizontal to 1 vertical, and no drainage ditch is located in this area, the required setback is 2 feet; otherwise use tabular value.

**15.36.300 COMPLETION OF WORK.**

- A. Upon notification of permittee, city shall make a final inspection to determine if all work has been completed satisfactorily in accordance with the permit and the approved plans.
- B. The soils engineer who prepared the soils and geological reconnaissance report, if required, shall certify that all work has been done in accordance with this chapter, the approved plans and specifications, and the grading permit and conditions thereof.
- C. A reproducible copy of the grading plan reflecting any changes made and showing all improvements as finally constructed must be submitted.
- D. A reproducible copy of the erosion and sediment control plan reflecting any changes made and showing all improvements as finally constructed must be submitted.
- E. When all work has been completed satisfactorily in accordance with the permit and the approved plans, and when the director of public works has received the required certification and “as built” copies of the plans, the director of public services shall issue a completion to the permittee. (Ord. 486 (part), 1986).

**15.36.310 DESIGN STANDARDS.**

- A. Any method or material may be used to accomplish the results specified in this chapter, subject to the approval of the director of public works.
- B. The Erosion and Sediment Control Handbook should be used for guidance in designing erosion and sediment control facilities. (Ord. 486 (part), 1986).

## Title 16 SUBDIVISIONS\*

\* For statutory provisions on city control of subdivisions, see Gov. Code § 66410 *et seq.*

Chapters:

- 16.04 Administration and Enforcement
- 16.08 Definitions
- 16.12 Tentative Maps
- 16.16 Final Maps
- 16.20 General Regulations and Design
- 16.24 Improvements
- 16.28 Parkland Dedication
- 16.30 West County Subregional Transportation Mitigation Program
- 16.32 Exceptions
- 16.36 Appeals
- 16.40 School Facilities Fee and Dedication

### Chapter 16.04 ADMINISTRATION AND ENFORCEMENT

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Sections:

- 16.04.010 Purpose of title.
- 16.04.020 Planning commission – Advisory agency.
- 16.04.030 Planning commission – Powers and duties.
- 16.04.040 Compliance required.
- 16.04.050 Enforcement.

#### **16.04.010 PURPOSE OF TITLE.**

This title is enacted for the purpose of adopting subdivision regulations for the city of Pinole, state of California. (Ord. 89 § 1(part), 1955).

#### **16.04.020 PLANNING COMMISSION – ADVISORY AGENCY.**

The planning commission of the city of Pinole, state of California, referred to in this title as the planning commission, is designated as the advisory agency with respect to subdivisions as provided in the Subdivision Map Act of the state. (Ord. 89 § 1.1, 1955).

**16.04.030 PLANNING COMMISSION – POWERS AND DUTIES.**

The planning commission shall have all the powers and duties with respect to tentative and final maps, and the procedures relating thereto which are specified by law and by this title. (Ord. 89 § 1.2, 1955).

**16.04.040 COMPLIANCE REQUIRED.**

It is unlawful for any individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity, as a principal, agent, or otherwise, to offer to sell, to contract to sell, or to sell any subdivision of land or any part thereof in the city of Pinole, unless and until all the requirements provided in this title have been complied with. (Ord. 89 § 1.3, 1955).

**16.04.050 ENFORCEMENT.**

All departments, official and public employees of the city of Pinole vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title, and shall issue no permit or license for uses, buildings, or purposes in conflict with the provisions of this title, and any such permit or license issued in conflict with the provisions of this title shall be null and void. It shall be the duty of the city engineer of the city to enforce the provisions of this title pertaining to the subdivision of land, or any part thereof, in the city of Pinole, unless and until all of the requirements provided in this title have been complied with. (Ord. 89 § 10, 1955).

**Chapter 16.08  
DEFINITIONS**

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Sections:

- 16.08.010 Area classification.
- 16.08.020 Cross slope.
- 16.08.030 Cul-de-sac.
- 16.08.040 Long-term land lease.
- 16.08.050 Loop street.
- 16.08.060 Major street.
- 16.08.070 Map act.
- 16.08.080 Minor street.
- 16.08.090 Minor subdivision.
- 16.08.100 Owner.
- 16.08.110 Secondary street.
- 16.08.120 Street.
- 16.08.130 Subdivider.
- 16.08.140 Subdivision.

**16.08.010 AREA CLASSIFICATION.**

**AREA CLASSIFICATION.** The classification by type of areas wherein thirty per cent of the lots have cross slopes in excess of the values set forth in Section 16.20.290. This definition shall be applicable to portions of a proposed subdivision as well as to the whole proposed subdivision. (Ord. 193 § 1(part), 1963: Ord. 89 § 2.7, 1955).

**16.08.020 CROSS SLOPE.**

**CROSS SLOPE.** The maximum grade of natural terrain measured from the highest point of land to the lowest point of land within each lot. (Ord. 193 § 1(part), 1963: Ord. 89 § 2.1, 1955).

**16.08.030 CUL-DE-SAC.**

**CUL-DE-SAC.** A dead-end street with a turn around at the closed end. (Ord. 193 § 1 (part), 1963: Ord. 89 § 2.8(d), 1955).

**16.08.040 LONG-TERM LAND LEASE.**

**LONG-TERM LAND LEASE.** Any land lease of five years or over excluding leases for all agricultural uses. (Ord. 89 § 2.3, 1955).

**16.08.050 LOOP STREET.**

**LOOP STREET.** A minor street which forms a loop and returns to the same street from which it originated. A street forming a connection between two other streets is not considered a loop street. (Ord. 89 § 2.8(e), 1955).

**16.08.060 MAJOR STREET.**

**MAJOR STREET.** A street that serves a large volume of vehicular traffic with intersections at grade and generally having direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic. (Ord. 193 § 1(part), 1963: Ord. 89 § 2.8(a), 1955).

**16.08.070 MAP ACT.**

**MAP ACT.** The Subdivision Map Act of the state of California. (Ord. 89 § 2.2,

1955).

**16.08.080 MINOR STREET.**

*MINOR STREET.* A street that serves the local needs of residential properties in a neighborhood. (Ord. 193 § 1(part), 1963: Ord. 89 § 2.8(c), 1955).

**16.08.090 MINOR SUBDIVISION.**

*MINOR SUBDIVISION.* Any real property improved or unimproved, or portion thereof, shown on the latest adopted county tax roll as a unit or as contiguous units, which is divided for the purpose of sale, lease, or financing, whether immediate or future, by any subdivider in four or less parcels. (Ord. 244 § 2 (part), 1967: Ord. 89 § 2.6(a), 1955).

**16.08.100 OWNER.**

*OWNER.* The individual, firm, association, syndicate, copartnership, or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this title, and while used here in the masculine gender and singular number it shall be deemed to mean the feminine and neuter gender and plural number whenever required. (Ord. 89 § 2.4, 1955).

**16.08.110 SECONDARY STREET.**

*SECONDARY STREET.* A street that serves abutting property and carries traffic to the arterials and expressways. (Ord. 193 § 1(part), 1963: Ord. 89 § 2.8(b), 1955).

**16.08.120 STREET.**

*STREET.* An improved public or private right-of-way providing the primary access to abutting property. (Ord. 89 § 2.8(f), 1955).

**16.08.130 SUBDIVIDER.**

*SUBDIVIDER.* Any individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity commencing proceedings under this title, to effect a subdivision of land hereunder for himself or for another, and while used herein in masculine gender and singular number it shall be deemed to mean and include the feminine or neuter gender and the plural number whenever required. (Ord. 89 § 2.5,

1955).

### **16.08.140 SUBDIVISION.**

***SUBDIVISION.*** Any real property, improved or unimproved, or portion thereof, shown on the latest adopted county tax roll as a unit or as contiguous units, which is divided for the purpose of sale, lease, or financing, whether immediate or future, by a subdivider into five or more parcels. (Ord. 244 § 2(part), 1967; Ord. 89 § 2.6, 1955).

## **Chapter 16.12 TENTATIVE MAPS\***

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\* For statutory provisions on tentative maps, see Gov. Code § 66452 *et seq.*

Sections:

- 16.12.010 Four or less lots.
- 16.12.020 Four or less lots – Filing with clerk – Fee.
- 16.12.030 Four or less lots – Form.
- 16.12.040 Four or less lots – Approval by planning commission.
- 16.12.050 Four or less lots – Final approval.
- 16.12.060 Five or more lots.
- 16.12.070 Five or more lots – Filing with clerk – Fee.
- 16.12.080 Five or more lots – Approval by planning commission.
- 16.12.090 Size.
- 16.12.100 Contents.
- 16.12.110 Statement accompanying map – Contents.
- 16.12.120 Approval by planning commission.
- 16.12.130 Dedication of playgrounds.
- 16.12.140 Nonapproval by commission.
- 16.12.150 Improvement plans.
- 16.12.160 Development plan – Filing.
- 16.12.170 Development plan – Form.
- 16.12.180 Development plan – Action by review committee.
- 16.12.190 Parcel map – Preparation – Fees.
- 16.12.200 Parcel map – Boundaries.
- 16.12.210 Parcel map – Compilation.
- 16.12.220 Parcel map – Certificate of approval by engineer.
- 16.12.230 Parcel map – Form.
- 16.12.240 Parcel map – Form – Drawing specifications.
- 16.12.250 Parcel map – Form – Size and scale.
- 16.12.260 Parcel map – Form – Number.
- 16.12.270 Parcel map – Form – Indication of boundaries.
- 16.12.280 Parcel map – Form – Surveyor's certificate.
- 16.12.290 Parcel map – Filing with county recorder.
- 16.12.300 Vesting tentative maps.

**16.12.010 FOUR OR LESS LOTS.**

Filing and approval of tentative maps of minor subdivisions of four or less lots shall be as provided in Sections 16.12.020 through 16.12.050. (Ord. 244 § 3(part), 1967: Ord. 89 § 3.1(part), 1955).

**16.12.020 FOUR OR LESS LOTS – FILING WITH CLERK – FEE.**

Two copies of the tentative map of a proposed subdivision' of any land into four or less lots shall be filed, together with a filing fee of ten dollars per lot shown on the tentative map, with the City Clerk who shall immediately transmit it to the planning commission. (Ord. 244 § 3(part), 1967: Ord. 193 § 1(part), 1963: Ord. 89 § 3.1(a), 1955).

**16.12.030 FOUR OR LESS LOTS – FORM.**

The tentative map shall show the dimensions of the proposed lots or division and any other information deemed necessary by the planning commission. (Ord. 89 § 3.1(b), 1955).

**16.12.040 FOUR OR LESS LOTS – APPROVAL BY PLANNING COMMISSION.**

The planning commission shall determine whether the proposed minor subdivision is in conformity with law and this chapter, whether the size and shape of the proposed lots is in general conformance to city requirements, and whether all the proposed lots will have proper and sufficient access to a public street. Approval shall be by vote of a majority of the members of the planning commission and shall be noted by endorsement on the map. One copy of the approved map shall be retained in the files of the planning commission. (Ord. 244 § 3(part), 1967: Ord. 89 § 3.1(c), 1955).

**16.12.050 FOUR OR LESS LOTS – FINAL APPROVAL.**

Approval of the tentative map with amendments, if any, shall be deemed as final approval and no final map need be submitted except a parcel map shall be submitted as provided in Sections 16.12.190 through 16.12.290 of this chapter. The planning commission may, however, require that all the provisions of this chapter pertaining to subdivision into five or more lots be complied with where it is the opinion of the planning commission that the intent is ultimately to subdivide in. five or more lots. (Ord. 244 § 3(part), 1967: Ord. 89 § 3.1 (d), 1955).

**16.12.060 FIVE OR MORE LOTS.**

Filing and approval of tentative maps of subdivisions of five or more lots shall be as provided in Sections 16.12.070 and 16.12.080. (Ord. 89 § 3.2(part), 1955).

**16.12.070 FIVE OR MORE LOTS – FILING WITH CLERK – FEE.**

Twelve copies of a tentative map and statement of the proposed subdivision of any land into five or more lots shall be filed with the City Clerk who shall immediately transmit it to the planning commission at least fifteen days prior to the meeting of the planning commission, at which consideration is desired, together with a filing fee of twenty-five dollars. (Ord. 89 § 3.2(a), 1955).

**16.12.080 FIVE OR MORE LOTS – APPROVAL BY PLANNING COMMISSION.**

The planning commission shall transmit copies of such tentative map to the city engineer and may transmit copies to other departments and public agencies having any interest therein, as it deems advisable. Upon receipt of a copy of such tentative map, each department to whom or to which, the same has been transmitted, shall examine the map to ascertain if same conforms to the requirements coming within the authoritative scope of such department, and within ten days after receipt thereof, each department shall make a written report to the planning commission. If the map conforms to the requirements coming within its authorized scope, such department shall so state within its report to the planning commission. If the map does not conform to such requirements, or any of them, such department shall so state in the report, noting therein the particulars in which the map does not conform. (Ord. 89 § 3.2(b), 1955).

**16.12.090 SIZE.**

Tentative maps shall be eighteen by twenty-six in size and to a scale of one inch equals one hundred feet, unless otherwise approved by the planning commission, and shall be clearly and legibly reproduced. (Ord. 89 § 3.2(c), 1955).

**16.12.100 CONTENTS.**

The tentative map shall contain the following information:

- A. The subdivision name or number, date, north point, scale, and sufficient description to define the location and boundaries of the proposed subdivision;
- B. The name and address of record owner or owners of the subdivision;
- C. The name and address of the subdivider;
- D. The name, business address, and number of the registered civil engineer, or licensed surveyor, who prepared the map of the subdivision;
- E. Elevations and contours at intervals of five feet referred to city of Pinole datum, to determine slope of the land and the high and low points thereof, unless

approval is obtained from the city engineer to allow greater intervals;

F. The locations, names, widths and approximate grades of all roads, streets, highways and ways in the proposed subdivision and along the boundaries thereof;

G. The location and character of all existing or proposed public utility facilities in the subdivision, or on the adjoining and contiguous highways, streets and ways;

H. The approximate widths, location and purpose of all existing or proposed easements contiguous to, and necessary to, the proposed subdivision;

I. Approximate lot layout and approximate dimensions of each lot and each to be numbered;

J. The outline of any existing buildings to remain in place, and their location in relation to existing or proposed street and lot lines;

K. Approximate location of all areas subject to inundation or storm water overflow, and the location, width, and direction of flow of all water courses;

L. Typical street sections and detail. (Ord. 89 § 3.3, 1955).

#### **16.12.110 STATEMENT ACCOMPANYING MAP – CONTENTS.**

The statement to accompany map shall contain the following information:

A. Existing use, or uses, of the property;

B. Proposed use of property. If property is proposed to be used for more than one purpose, the area, lots, or lot, proposed for each type of use shall be shown on the tentative map;

C. Statement of the improvements and public utilities, including water supply and sewerage disposal, proposed to be made or installed, and of the time at which such improvements are proposed to be completed;

D. Public areas proposed;

E. Tree planting proposed;

F. Restrictive covenants proposed;

G. Itemized estimated costs of construction, to include structures, buildings and improvements for public use;

H. Justification and reasons for any exceptions to provisions of this chapter. (Ord. 89 § 3.4, 1955).

#### **16.12.120 APPROVAL BY PLANNING COMMISSION.**

The planning commission shall determine whether the tentative map is in conformity with the provisions of law and of this chapter, and upon that basis, within thirty days after the filing of the tentative map, unless the subdivider has consented to an extension of time, approve, conditionally approve, or disapprove the same, and shall report such action direct to the subdivider and shall also transmit to the city engineer a copy of the tentative map, and a memorandum setting forth the action of the commission thereon. (Ord. 89 § 3.5(a), 1955).

### **16.12.130 DEDICATION OF PLAYGROUNDS.**

The planning commission may require the subdivider to dedicate suitable areas for the parks and playgrounds, and set aside areas for schools and other public building sites that will be required for the use of the population which is intended to occupy the subdivision under the plan of proposed property uses therein. In all cases the planning commission shall suggest to the subdivider such measures as will make for excellence of residential, commercial, or industrial development. (Ord. 89 § 3.5(b), 1955).

### **16.12.140 NONAPPROVAL BY COMMISSION.**

The planning commission may refuse to approve a tentative map when the only practical use which can be made of the property proposed to be subdivided, is a use prohibited by ordinance or law, or if the property is deemed unhealthful or unfit for human habitation or occupancy by the health officer of the city. (Ord. 89 § 3.5(c), 1955).

### **16.12.150 IMPROVEMENT PLANS.**

Following the approval of the tentative map, the subdivider shall furnish the city engineer with the following information, provided it has not been previously required:

- A. The profile of each street, with tentative grades and typical street cross-sections, showing the width of roadways, location and width of sidewalks, curb and gutter;
- B. A plan and profile of proposed sanitary sewers, storm drains and culverts, with grades and sizes indicated;
- C. Proposed location of drainage structures, culverts and sewer manholes;
- D. Contract plans and specifications for improvements to be constructed within the subdivision as specified by Chapter 16.24. (Ord. 89 § 3.6, 1955).

### **16.12.160 DEVELOPMENT PLAN – FILING.**

A. The subdivider, his or her agent, or others, or any builder of on site improvements shall submit a development plan to the city planning commission for approval by its subdivision review committee at any time after approval of the tentative map but at least thirty days prior to obtaining any building permit application for the proposed subdivision or portion thereof. Ten white prints of the development plan and the accompanying data shall be submitted. The development plan and the accompanying data shall be reviewed by the city engineer, city building inspector, superintendent of parks and such other city departments as may be concerned with the development plan. Recommendations of the technical staff shall be considered by the subdivision review committee of the city planning commission in acting upon the development plan.

B. Where lots are to be developed in groups of four or less by individual builders the planning commission may waiver all or part of the required data where such

information is already provided by the tentative subdivision map. The provisions of this section may be waived by the planning commission where the building is to be owner occupied. (Ord. 186 (part), 1963: Ord. 143 § 1(part), 1960: Ord. 89 § 3.70, 1955).

#### **16.12.170 DEVELOPMENT PLAN – FORM.**

The development plan shall be legibly drawn at a scale large enough to show clearly all details thereof, and the map of said plan shall contain the following information:

1. Finished grading;
2. The circulation system within the subdivision and its connection with the system outside of the subdivision, incorporating any pedestrian paths and proposed transit routes;
3. Relation of the subdivision to prevailing winds;
4. Relationship of shape and size of each house to shape, size and finished contours of its lots;
5. Relationship of one house to another and to any living areas, planting areas or screening between houses;
6. Planting, if any, to serve as screens, buffers, shade control or decoration to enhance neighborhood design or outdoor and indoor living areas;
7. A complete unit of the subdivision with houses correctly located and any main planting areas shown, to indicate that houses are placed on their lots considering grade, views, wind and relationship of adjacent or neighboring houses or structures;
8. Detailed drawing of typical dwellings, including floor plan, size plan and exterior elevations indicating application to the typical dwelling of the provisions of this section. (Ord. 143 § 1(part), 1960: Ord. 89 § 3.71, 1955).

#### **16.12.180 DEVELOPMENT PLAN – ACTION BY REVIEW COMMITTEE.**

A. Upon receipt of the recommendation of the agencies and departments reviewing the development plan, the subdivision review committee shall approve, approve conditionally, or disapprove the development plan.

B. The subdivision review committee shall consider the effect which the approval of any subdivision might have on the economic, social, and esthetic characteristics of the surrounding neighborhood. When the subdivision shall be deemed by the city planning commission to comprise a complete community or neighborhood unit or other area possessed of a unified character or identity, and when varying from the strict and literal interpretation of the height, area, parking or yard requirements of Title 17 of this code will, in the opinion of the subdivision review committee, improve the design and development of the subdivision, the committee shall have authority to grant upon such conditions and safeguards as it may determine such varying therefrom as it may deem necessary to assure the most desirable development of the subdivision.

C. The subdivision review committee may require the preservation of such features as existing trees or tree masses, or root outcrops.

D. In the event that such development plan is disapproved or conditionally approved, the subdivision review committee shall return to the subdivider one copy of the plan with a statement of the reason for its action and a statement of what changes would be necessary to render the plan acceptable. Another copy of the plan, together with a copy of the statement, shall remain permanently in the files of the city planning commission and one copy of the aforesaid statement shall be sent to the following:

1. The city engineer;
2. The city building inspector; and
3. The superintendent of parks.

E. Should the subdivider be dissatisfied with any action of the subdivision review committee with respect to the development plan, or the kinds, nature or extent of the improvements recommended by the committee to be required, he or she may within fifteen days after such action, appeal in writing to the city planning commission for a public review thereof by the entire city planning commission. The city planning commission shall hear the appeal, upon notice to the subdivider at its next succeeding regular meeting at which time it shall consider the opinions of the subdivider and the recommendations of its subdivision review committee. Upon conclusion of the review the commission upon vote concurred in by a majority of its members shall accept, modify, or reject the recommendations or findings of the subdivision review committee. In the event that the subdivider is dissatisfied with the action taken by the planning commission, he or she may appeal in writing to the City Council for a public hearing thereon, as provided for in Chapter 16.36.

F. Upon final approval of a development plan, one copy of the approved plan shall be retained permanently in the files of the city planning commission and one copy of the plan shall be transmitted to each of the following; the city engineer, the city building inspector and the superintendent of city parks. Subsequent building and planting within the subdivision by the subdivider or his or her agents shall be in accordance with the approved development plan.

G. In the event that the subdivider wishes to alter the development plan subsequent to its approval, he or she shall submit, together with his or her proposed revisions, reasons therefor which the subdivision review committee shall find proper and adequate prior to considering the proposed revisions. The subdivision review committee shall act upon the proposed revision within five working days of receipt thereof by the planning commission. (Ord. 143 § 1(part), 1960; Ord. 89 § 3.72, 1955).

#### **16.12.190 PARCEL MAP – PREPARATION – FEES.**

Upon approval of the tentative map of subdivision of four lots or less by the planning commission and within one year thereof, a parcel map shall be prepared by a registered civil engineer or licensed land surveyor and presented to the city engineer, for examination, together with a checking fee of twenty-five dollars and a recording fee of five dollars for the first sheet and two dollars for each additional sheet. (Ord. 244 § 3(part), 1967; Ord. 89 § 3.11(a), 1955).

#### **16.12.200 PARCEL MAP – BOUNDARIES.**

The parcel map shall show the definite location of streets or property lines bounding the property for the purpose of showing proposed street widening, conformity with proposed building setback lines, and other information required by the planning commission for the orderly administration of the zoning and building regulations. (Ord. 244 § 3(part), 1967: Ord. 89 § 3.11(b), 1955).

**16.12.210 PARCEL MAP – COMPILATION.**

The parcel map may be compiled from recorded or filed data when survey information exists on filed maps to sufficiently locate and retrace the exterior boundary lines of the parcel map and when the location of at least one of these boundary lines can be established from an existing monumented line. (Ord. 244 § 3 (part), 1967: Ord. 89 § 3.11(c), 1955).

**16.12.220 PARCEL MAP – CERTIFICATE OF APPROVAL BY ENGINEER.**

Within twenty days after receiving the parcel map, or within such additional time as may be reasonably necessary, the city engineer shall examine it for the survey information shown thereon, and if he or she is satisfied that it is technically correct, he or she shall place the following certification on the map:

“CITY ENGINEER'S CERTIFICATE

This map has been examined this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ for conformance with the requirements of Section 11575 of the Subdivision Map Act.

Signed

City Engineer”

(Ord. 244 § 3(part), 1967: Ord. 89 § 3.11(d), 1955).

**16.12.230 PARCEL MAP – FORM.**

Information on the parcel map shall contain the information described in Sections 16.12.240 and 16.12.280. (Ord. 244 § 3(part), 1967: Ord. 89 § 3.12 (part), 1955).

**16.12.240 PARCEL MAP – FORM – DRAWING SPECIFICATIONS.**

It shall be a map legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black or tracing cloth or polyester base film, including certificates. If ink is used in polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility. (Ord. 244 § 3(part), 1967: Ord. 89 § 3.12(a), 1955).

**16.12.250 PARCEL MAP – FORM – SIZE AND SCALE.**

The size of each sheet shall be eighteen by twenty-six inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown. (Ord. 244 § 3 (part), 1967: Ord. 89 § 3.12(b), 1955).

**16.12.260 PARCEL MAP – FORM – NUMBER.**

Each parcel shall be numbered or otherwise designated. (Ord. 244 § 3 (part), 1967: Ord. 89 § 3.12(c), 1955).

**16.12.270 PARCEL MAP – FORM – INDICATION OF BOUNDARIES.**

The exterior boundary of the land included within the parcel or parcels being created shall be indicated by colored border. The map shall show definite location of such parcel or parcels, and particularly its relation to surrounding surveys. The definite location of the remainder of the original parcel need not be shown. (Ord. 244 § 3(part), 1967: Ord. 89 § 3.12(d), 1955).

**16.12.280 PARCEL MAP – FORM – SURVEYOR'S CERTIFICATE.**

Certificates shall appear on a parcel map as follows:

“SURVEYOR'S CERTIFICATE

This map was prepared by me or under my direction (and was compiled from record data) (and is based on a filed survey) in conformance with the requirements of the Subdivision Map all at the request of (name of person authorizing map) on , 19\_\_ hereby certify (that it conforms to the approved tentative map and the conditions of approval thereof; that) all provisions of applicable state law and local ordinances have been complied with.

Signed and sealed

L.S. (or R.C.E.) No.

RECORDER'S CERTIFICATE

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_m  
in Book \_\_\_\_\_ of \_\_\_\_\_ at page \_\_\_\_\_ at the request of  
Signed

County Recorder”

(Ord. 244 § 3(part), 1967: Ord. 89 § 3.13(a), 1955).

**16.12.290 PARCEL MAP – FILING WITH COUNTY RECORDER.**

After affixing his or her certificate as required in Section 16.12.220 above the city engineer shall present the map to the county recorder for filing. (Ord. 244 § 3(part), 1967; Ord. 89 § 3.13(b), 1955).

### **16.12.300 VESTING TENTATIVE MAPS.**

#### **A. General Provisions.**

1. **Citation and Authority.** This section is enacted pursuant to the authority granted by Chapter 4.5 (Commencing with Section 66498.1) of Division 2 of Title 7 of the Government Code of the state of California (hereinafter referred to as the Vesting Tentative Map Statute), and may be cited as the vesting tentative map ordinance.

2. **Purpose and Intent.** It is the purpose of this section to establish procedures necessary for the implementation of the Vesting Tentative Map Statute, and to supplement the provisions of the Subdivision Map Act and the subdivision ordinance. Except as otherwise set forth in the provisions of this section, the provisions of, the subdivision ordinance shall apply to the vesting tentative map ordinance. To accomplish this purpose., the regulations outlined in this section are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development.

3. **Consistency.** No land shall be subdivided and developed pursuant to a Vesting Tentative Map for any purpose which is inconsistent with the general plan and any applicable specific plan or is not permitted by the zoning ordinance or other applicable provisions of the municipal code.

#### **4. Definitions.**

a. ***VESTING TENTATIVE MAP.*** A tentative map for a residential subdivision, as defined in the Pinole subdivision ordinance, that shall have printed conspicuously on its face the words: “Vesting Tentative Map” at the time it is filed in accordance with subsection B1 of this section, and is thereafter processed in accordance with the provisions hereof.

b. All other definitions set forth in the Pinole subdivision ordinance are applicable.

#### **5. Application.**

a. This chapter shall apply only to residential developments. Whenever a provision of the Subdivision Map Act, as implemented and supplemented by the Pinole subdivision ordinance, requires the filing of a tentative map for a residential development, a vesting tentative map may instead be filed in accordance with the provisions hereof.

b. If a subdivider does not seek the rights conferred by the Vesting Tentative Map Statute, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

#### **B. Procedures.**

1. **Filing and Processing.** A vesting tentative map shall be filed in the same form and have the same contents, accompanying data and reports, and shall be processed in the same manner as set forth in the Pinole subdivision ordinance for a

tentative map except as hereinafter provided.

a. At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words: "Vesting Tentative Map."

b. At the time a vesting tentative map is filed, a subdivider shall also supply the following information:

i. Topography of the land with contour intervals as required by the city planning staff;

ii. Proposed street system and lot design;

iii. Areas proposed to be dedicated or reserved for parks, playgrounds, parkways, school sites, public or quasi-public buildings, and other such uses;

iv. Areas proposed for commercial uses, off-street parking, multiple-family and single-family dwellings and all other uses to be established within the district;

v. Proposed locations of buildings on the land;

vi. General elevations or perspective drawings of all proposed structures other than single-family dwellings;

vii. The existing natural land features, topography, rock outcrops, location of all trees which exceed six inches in diameter, tree masses and watercourses on and adjacent to the proposed development;

viii. Preliminary landscape and recreational plans;

ix. Preliminary grading proposed;

x. Engineering feasibility investigation, analyze conditions and make tentative conclusions and recommendations regarding the feasibility of constructing the proposed project; review and comment on such items as:

(A) Soils, slope, and geologic conditions and hazards, if any,

(B) Availability of utility services,

(C) Drainage,

(D) Traffic,

(E) Adequacy of planned structures;

xi. Proposed development schedule including all staging and phasing, if project is not to be developed as per unit. If project is to be developed in stages, the first phase shall be either:

(A) At least one-third the project ground area,

(B) A major tenant;

xii. Other data and information which may be deemed necessary by the planning commission or City Council for proper consideration of the application at the time of any public hearing.

2. Fees. Upon filing a vesting tentative map, the subdivider shall pay the fees in an amount set by resolution of the City Council, for the filing and processing of a vesting tentative map.

3. Expiration. The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the

same extensions, established by the subdivision ordinance or the expiration of the approval or conditional approval of a tentative map.

C. Development Rights.

1. Vesting on Approval of Vesting Tentative Map.

a. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code, Section 66574.2. However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

b. Notwithstanding paragraph a. of this subdivision, a permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:

i. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

ii. The condition or denial is required in order to comply with state or federal law.

c. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in subsection B3 of this section. If the final map is approved, these rights shall last for the following period of time:

i. An initial time period of eighteen months where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this initial time period shall begin for each phase when the final map for that phase is recorded.

ii. The initial time period set forth in subparagraph i above shall be automatically extended by any time used for processing a complete application for a grading permit or for design or architectural review, if such processing exceeds thirty days, from the date a complete application is filed.

iii. A subdivider may apply for a one-year extension at any time before the initial time period set forth in subparagraph i expires. If the extension is denied, the subdivider may appeal that denial to City Council within fifteen days.

iv. If the subdivider submits a complete application for a building permit during the periods of time specified in subparagraphs i through iii above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.

d. The rights conferred by this section shall be for the time periods set forth in subsection C1c of this section.

2. Applications Inconsistent with Current Policies. Notwithstanding any provision of this chapter, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies, and standards described in subsections C1a and C2 of this section, and local agencies may grant these approvals or issue these permits to the extent that the departures are authorized under applicable law.

D. Effective Date. The effective date of the ordinance codified in this section is January 1, 1986. (Ord. 478 § 2, 1986).

## **Chapter 16.16 FINAL MAPS\***

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\* For statutory provisions on final maps, see Gov. Code § 66456 *et seq.* and 66433 *et seq.*; for provisions on street dedications, see Gov. Code § 66477.2; for provisions pertaining to security for payment of taxes, see Gov. Code § 66493.

Sections:

- 16.16.010 Filing.
- 16.16.020 Form – Legibility – Size and scale.
- 16.16.030 Form – Multiple sheets.
- 16.16.040 Form – Determination of boundaries.
- 16.16.050 Form – Dimensions of lots.
- 16.16.060 Form – Establishing centerlines.
- 16.16.070 Form – Location of monuments.
- 16.16.080 Form – Additional specifications.
- 16.16.090 Certificates on map.
- 16.16.100 Liens and assessments – Filing certificate with clerk.
- 16.16.110 Liens and assessments – Payment required.
- 16.16.120 Approval by city engineer.
- 16.16.130 Approval by planning commission.
- 16.16.140 Approval by City Council.
- 16.16.150 Improvements – Agreement.
- 16.16.160 Improvements – Bond.
- 16.16.170 Improvements – Failure to complete.
- 16.16.180 Improvements – Certification of completion.

### **16.16.010 FILING.**

A. Within one year after approval or conditional approval of the tentative map, the subdivider shall cause the subdivision, or any part thereof, to be surveyed and a final map thereof be prepared in conformance with the tentative map as approved or conditionally approved. The tracing, or a Van Dyke negative and three blue line prints, one of which shall be on linen, of the final map shall be filed with the planning commission, together with a filing fee of twenty-five dollars plus three dollars per lot shown on the final map, which map shall be checked by the office of the city engineer. An extension of time for filing of the final map may be granted by the City Council upon recommendation by the planning commission, provided written application is made by the subdivider within one year after action on tentative map.

B. At the time of the filing of the final map with the planning commission, the subdivider shall also file therewith the following:

1. In the event any dedication is to be made for the public use, a

preliminary title report issued by a title insurance company in the name of the owner of the land, issued to or for the benefit and protection of the city of Pinole, showing all parties whose consent is necessary to their interests therein;

2. The instrument prohibiting traffic over the side lines of a major highway, parkway, street, or freeway, when and if the same is required under Section 16.20.230.

3. Photostat copies of field notes, sheets and drawings showing traverse closures, and the computation of all distances, angles and courses shown on the final map, ties to existing and proposed monuments, and adjacent subdivisions, street corners and/or highway stations. (Ord. 89 § 4.1, 1955).

#### **16.16.020 FORM – LEGIBILITY – SIZE AND SCALE.**

The final subdivision map shall be clearly and legibly drawn upon tracing cloth of good quality. All lines, letters, figures, certifications, acknowledgments and signatures shall be made in black India ink. Typewriting or rubber stamps shall not be used. The map shall be so made and shall be in such a condition when filed, that good legible blueprints and negatives can be made therefrom. The size of the sheets of tracing cloth shall be eighteen by twenty-six inches leaving a margin of two inches at the left edge and one inch at the other three edges of the sheets. The scale of the final map shall be one inch equals one hundred feet. (Ord. 89 § 4.2(a), 1955).

#### **16.16.030 FORM – MULTIPLE SHEETS.**

When the final map consists of more than two sheets, a key map showing the relation of the sheets shall be placed on Sheet One. Every sheet comprising the map shall bear the scale, north point, legend, sheet number, and number of sheets comprising the map. (Ord. 89 § 4.2(b), 1955).

#### **16.16.040 FORM – DETERMINATION OF BOUNDARIES.**

Wherever the city engineer has established a system of coordinates, then the survey shall be tied into such system. The map shall show clearly what stakes, monuments or other evidence where found on the ground to determine the boundaries of the subdivision. The adjoining corners of all adjoining subdivisions, shall be identified by lot and block numbers, subdivision name, and place of record, or other proper designation. (Ord. 89 § 4.2(c), 1955).

#### **16.16.050 FORM – DIMENSIONS OF LOTS.**

Sufficient data must be shown to determine readily the bearing and length of every lot line, block line, and boundary line. Dimensions of lots shall be given as total

dimensions, corner to corner, and shall be shown in feet and hundredths of a foot. No ditto marks shall be used. Lots containing one acre or more shall show total acreage to nearest hundredth. Bearing and lengths of straight line, and radii and arc length for all curves as may be necessary to determine the location of the centers of curves and tangent points shall be shown. No lot shall be dimensioned to contain any part of an existing or proposed public right of way. The traverse of the exterior boundary and of each lot and block shall close within a limit of error of one foot to fifteen thousand feet of perimeter. (Ord. 89 § 4.2(d), 1955).

#### **16.16.060 FORM – ESTABLISHING CENTERLINES.**

Whenever the city engineer has established the centerline of a street or alley, adjacent to or in the proposed subdivision, the data shall be shown on the final map indicating all monuments found and making reference to a field book or map. If the points were reset by ties, the course and detail of relocation data used by the city engineer shall be stated. (Ord. 89 § 4.2(e), 1955).

#### **16.16.070 FORM – LOCATION OF MONUMENTS.**

The map shall show the location and description of all monuments employed in making the survey of the subdivision. (Ord. 89 § 4.2(f), 1955).

#### **16.16.080 FORM – ADDITIONAL SPECIFICATIONS.**

In addition, the final map shall be prepared in full compliance with the following requirements:

A. The final map shall show the line of high water in case the subdivision is adjacent to a stream, channel, or any body of water, and shall also show any area subject to periodic inundation by water, or subject to land slide or subsidence;

B. The final map shall show any area which has been, or will be, filled in the development of the subdivision;

C. The boundary of the subdivision shall be designated by a red border applied to the reverse side of the tracing and on the face of the blue line prints. Such border shall not interfere with the legibility of figures or other data;

D. The maps shall show the center border lines of all streets, the total width of all streets, the width of the portion being dedicated and the width of existing dedications, and the widths each side of the centerline, also the width of railroad rights-of-way, appearing on the map;

E. The map shall show the side lines of all easements to which the lots are subject. The easements must be clearly labeled and identified, and if already of record, its recorded reference given. If any easement is not definitely located of record, a statement of such easement must appear on the title sheet. Easements for storm drain, sewers, and other purposes shall be denoted by fine dotted lines. Building lines shall be indicated by

dotted lines of the same width as the lines denoting street boundaries. The width of the easement and the length and bearings of the lines thereof, and sufficient ties thereto, definitely locating the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication;

F. City boundary lines crossing or bounding the subdivision shall be clearly designated and referenced;

G. Block numbers shall begin with the number "1" and continue consecutively without omission or duplication throughout the subdivision. The numbers or letters shall be solid and of sufficient size and thickness to stand out; shall be so placed as not to obliterate any figure and shall not be enclosed in any design. Each block in its entirety shall be shown on the sheet. Where adjoining blocks appear on separate sheets, the street adjoining both blocks shall be shown on both sheets with center line and property line data;

H. Lot numbers shall begin with the number "1" and continue consecutively without omission throughout the subdivision, and shall be numbered in a clockwise direction from the upper left-hand corner; north shall be generally up on the map;

I. The map shall also show all other data that is or may be required by law;

J. The final map shall particularly define, delineate, and designate all lots intended-for sale or reserved for private purposes, all parcels offered for dedication for any purpose, public or private, with all dimensions, boundaries and courses clearly shown and defined in every case. Parcels offered for dedication but not accepted shall be designated by letters. (Ord. 89 § 4.2(g), 1955).

#### **16.16.090 CERTIFICATES ON MAP.**

The following certificates and acknowledgments and all other now or hereafter required by law shall appear on the final map; such certificates may be combined where appropriate:

A. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the map; provided, however, that the signatures of parties owning the following types of interests may be omitted if their names and the nature of their interests are set forth on the map:

1. Rights-of-way, easements or other interest, none of which can ripen into a fee,

2. Rights-of-way, easements or reversions, which, by reason of changed conditions, long disuse or laches, appear to be no longer of practical use of value, and which signature it is impossible or impractical to obtain. In this case, a reasonable statement of the circumstances preventing the procurement of the signature shall be set forth on the map;

3. Any subdivision map including land originally patented by the United States or the state of California, under patent reserving interest to either or both these entities, may be recorded under the provision of this chapter without the consent of the United States or the state of California thereto, or to dedication made thereon;

- B. A certificate signed and acknowledged as provided in subsection A, offering for dedication all parcels of land shown on the final map and intended for any public use, except those parcels other than streets, which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants, and servants
- C. A certificate by the civil engineer or licensed surveyor responsible for the survey and final map. The signature of such civil engineer or surveyor unless accompanied by his or her seal must be attested;
- D. A certificate for execution by the city engineer;
- E. A certificate for execution by the city planning commission;
- F. A certificate for execution by the City Clerk;
- G. A certificate for execution by the county recorder. (Ord. 89 § 4.3, 1955).

#### **16.16.100 LIENS AND ASSESSMENTS – FILING CERTIFICATE WITH CLERK.**

Prior to the filing of the final map with the governing body, the subdivider shall file with the clerk of the board of supervisors of the county in which any part of the subdivision is located, a certificate from the official computing redemptions in Contra Costa County and the city of Pinole, showing that according to the records of his or her office, there are no liens against the subdivision or any part thereof for unpaid state, county, municipal, or local taxes, or special assessments collected as taxes, except taxes or special assessments not yet payable. As to taxes or special assessments collected as taxes not yet payable, the subdivider shall file with the clerk of the board of supervisors, a certificate by each proper officer giving his or her estimate of the amount of taxes and assessments which are a lien but which are not yet payable. (Ord. 89 § 4.4, 1955).

#### **16.16.110 LIENS AND ASSESSMENTS – PAYMENT REQUIRED.**

Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map shall not be recorded until the owner or subdivider executes and files with the board of supervisors of the county wherein any part of the subdivision is located a good and sufficient bond to be approved by the board and by its terms inure to the benefit of the county and conditioned upon the payment of all state, county, municipal, and local taxes and all special assessments collected as taxes, which, at the time the final map is recorded, are a lien against the property, but which are not yet payable. In lieu of a bond, a deposit may be made of money or negotiable bonds in the same amount, and of the kind approved for securing deposits of public money. (Ord. 89 § 4.5, 1955).

#### **16.16.120 APPROVAL BY CITY ENGINEER.**

Upon receipt of the final map and other data submitted therewith by the planning commission, the map and data shall be referred to the city engineer who shall examine

such to determine that the subdivision as shown is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all provisions of the law and of this chapter applicable at the time of approval of the tentative map have been complied with, and that he or she is satisfied that the map is technically correct. If the city engineer shall determine that full conformity therewith has not been made, he or she shall advise the subdivider of the changes or additions that must be made for such purposes, and shall afford the subdivider an opportunity to make such changes or additions. If the city engineer shall determine that full conformity therewith has been made, he or she shall so certify on said map and shall transmit the map to the planning commission. In the event a sub-division is partly in the city and partly outside the city, the county surveyor and the city engineer shall enter into an agreement by and with the consent of their respective governing bodies, providing that the county surveyor when by such agreement all such duties devolve upon him or her, may, after his or her performance thereof, make the aforesaid certification upon the map, and, when by such agreement the duties are apportioned between the county surveyor and city engineer, it shall be sufficient, if each shall after the performance thereof, make a certification on the map, showing the duties performed by each, after which the map shall be transmitted to the planning commission. (Ord. 89 § 4.6(a), 1955).

#### **16.16.130 APPROVAL BY PLANNING COMMISSION.**

Upon return of the final map by the city engineer or county surveyor, the planning commission shall examine the same to determine whether the map conforms with the tentative map and with all changes permitted and all requirements imposed as a condition to its acceptance. If the planning commission shall determine not to recommend the map, it shall advise the subdivider of the changes or additions that must be made for such purpose, and shall accord him or her an opportunity to make same. If the planning commission shall thereupon determine that the map is in conformity therewith, it shall certify its approval thereon and shall transmit the map to the City Clerk, together with any documents which may have been filed therewith for presentation to the City Council. (Ord. 89 § 4.6(b), 1955).

#### **16.16.140 APPROVAL BY CITY COUNCIL.**

At its first regular meeting following the filing of the map with the City Clerk, or within ten days following the filing thereof, the City Council shall consider the map, the plan of subdivision and the offers of dedication. The City Council may reject any or all offers of dedication. If the City Council shall determine that the map is in conformity with the requirements of this chapter and that it is satisfied with the plan of subdivision, it shall approve the map. When the subdivider shall have filed with the City Clerk the agreement and bond, or made the deposit described in Section 16.16.150, and when such agreement and bond shall have been approved by the City Attorney, as to form, and by the city engineer as to sufficiency, the City Clerk shall transmit the map to the clerk of the county board of supervisors. When all bonds, money, or negotiable bonds required

under the provision of this chapter to secure the payment of taxes and assessments which are a lien on some part of the subdivision but which are not yet payable, have been deposited with and approved by the board of supervisors, the clerk of the board shall transmit the final map to the county recorder. If the City Council shall determine either that the map is not in conformity with the requirements of this chapter, or that it is not satisfied with the plan of subdivision, it shall disapprove said map specifying its reason or reasons therefor and the City Clerk shall in writing advise the subdivider of such disapproval and of the reason or reasons for such disapproval. Within thirty days after the City Council has disapproved any map, the subdivider may file with the planning commission a map altered to meet the approval of the City Council. In such case the subdivider shall conform to all the requirements imposed upon him or her by this chapter when filing the first final map with the planning commission, and the same proceedings shall be had thereon as are prescribed by this chapter upon the filing of the first final map with the planning commission. No map shall have any force or effect until the same has been approved by the City Council and no title to any property described in any offer of dedication shall pass until this recordation of the final map. (Ord. 89 § 4.6(c), 1955).

#### **16.16.150 IMPROVEMENTS – AGREEMENT.**

Upon the approval by the City Council of the final map, the subdivider shall execute and file an agreement between himself and the city, specifying the period within which he or she or his or her agent or contractor shall complete all improvement work to the satisfaction of the city engineer, and providing that if he or she shall fail to complete such work within such period, the city may complete the same and recover the full cost and expense thereof from the subdivider. The agreement may also provide as follows:

- A. For the construction of the improvements in units;
- B. For an extension of time under conditions therein specified;
- C. For the termination of the agreement upon the completion of proceedings under an assessment district act for the construction of improvements deemed by city engineer to be at least the equivalent of the improvement specified in said agreement and required to be constructed by the subdivider; and
- D. For progress payments.

(Ord. 89 § 4.7(part), 1955).

#### **16.16.160 IMPROVEMENTS – BOND.**

The subdivider shall also file with the agreement mentioned in Section 16.16.150, to assure his or her full and faithful performance thereof, a bond for such sum as is by the city engineer deemed sufficient to cover the cost of the improvements, engineering, inspection, and incidental expenses, and to cover replacement and repair of existing streets and other improvements damaged in the development of the subdivision. Such bond shall be executed by a surety company authorized to transact a surety business in the state of California and may be satisfactory to and be approved by the City Attorney as to form, by the city engineer as to sufficiency. In lieu of the bond, the subdivider may

deposit with the City Treasurer cash money in an amount as deemed sufficient by the city engineer. (Ord. 89 § 4.7 (part), 1955).

#### **16.16.170 IMPROVEMENTS – FAILURE TO COMPLETE.**

In the event the subdivider shall fail to complete all improvement work in accordance with the provisions of this chapter and the city shall have completed same, or if the subdivider shall fail to reimburse the city for the cost of inspection, engineering, and incidental expenses, and to cover cost of replacement and repair of existing streets or other improvements damaged in the development of the subdivision, the city shall call on the surety for reimbursement, or shall appropriate from any cash deposits funds for reimbursement. In any such case, if the amount of surety bond or cash deposit shall exceed all cost and expense incurred by the city, it shall release the remainder of such bond or cash deposit, and if the amount of the surety bond or cash deposit shall be less than the cost and expense incurred by the city, the subdivider shall be liable to the city for such difference. (Ord. 89 § 4.7(part), 1955).

#### **16.16.180 IMPROVEMENTS – CERTIFICATION OF COMPLETION.**

No extension of time progress payments from cash deposits, or releases of surety bond or cash deposit shall be made, except upon certification by the city engineer that work covered thereby has been satisfactorily completed, and upon recommendation of the City Manager and approval of the City Council. (Ord. 89 § 4.7(part), 1955).

## **Chapter 16.20 GENERAL REGULATIONS AND DESIGN\***

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\* For statutory provisions authorizing local agencies to regulate and control the design of subdivisions, see Gov. Code § 66411.

Sections:

- 16.20.010 Streets and highways – Width and alignment.
- 16.20.020 Streets and highways – Boundaries of right-of-way.
- 16.20.030 Streets and highways – Alignment with adjacent streets.
- 16.20.040 Streets and highways – Right angle intersections.
- 16.20.050 Streets and highways – Turnaround.
- 16.20.060 Streets and highways – Intersection corner.
- 16.20.070 Streets and highways – Curve radius
- 16.20.080 Streets and highways – Grade.
- 16.20.090 Streets and highways – Reserved strips.
- 16.20.100 Streets and highways – Determination of width.
- 16.20.110 Streets and highways – Major street rights-of way.
- 16.20.120 Streets and highways – Secondary street rights-of-way.
- 16.20.130 Streets and highways – Minor street rights-of-way.

- 16.20.140 Streets and highways – One-way street rights-of-way.
- 16.20.150 Streets and highways – Two-level street rights-of-way.
- 16.20.160 Streets and highways – Cul-de-sac street rights-of-way.
- 16.20.170 Lots – Size and shape.
- 16.20.180 Lots – Side lines.
- 16.20.190 Lots – Setback lines.
- 16.20.200 Lots – Divided by city boundary.
- 16.20.210 Lots – Frontage required.
- 16.20.220 Lots – Frontage on several streets.
- 16.20.230 Lots – Service roads and off-street parking.
- 16.20.240 Lots – Nonaccess and planting strips.
- 16.20.250 Lots – Alleys.
- 16.20.260 Street names.
- 16.20.270 Acre – Large lot subdivision.
- 16.20.280 Easements.
- 16.20.290 Lot sizes by area classification and improvements required.
- 16.20.300 Walkways.
- 16.20.310 Watercourses.
- 16.20.320 Master plan.
- 16.20.330 Deed restrictions.
- 16.20.340 Land subject to inundation.

#### **16.20.010 STREETS AND HIGHWAYS – WIDTH AND ALIGNMENT.**

The street and highway design shall conform both in width and alignment to any master plan of streets and highways approved by the City Council and right-of-way for such street or highway indicated on the master plan shall be dedicated. (Ord. 89 § 5.1(part), 1955).

#### **16.20.020 STREETS AND HIGHWAYS – BOUNDARIES OF RIGHT-OF-WAY.**

The street and highway design shall conform to any proceedings affecting the subdivision, which may have been initiated by the City Council or approved by the Council upon initiation by other legally constituted bodies of the city, county, or state. If a parcel of land to be subdivided includes a portion of the right-of-way to be acquired for a public freeway or parkway, and the City Council shall determine the boundaries of the right-of-way to be acquired, the subdivider shall either dedicate or withhold from a subdivision for a period of not to exceed eighteen months, all the area included in the right-of-way. (Ord. 89 § 5.1(part), 1955).

#### **16.20.030 STREETS AND HIGHWAYS – ALIGNMENT WITH ADJACENT STREETS.**

All streets shall, as far as practicable, be in alignment with adjacent streets by continuations of the centerlines thereof, or by adjustments by curves, and shall be in general conformity with the plans of the planning commission for the most advantageous development of the area in which the subdivision lies. (Ord. 89 § 5.2(a), 1955).

**16.20.040 STREETS AND HIGHWAYS – RIGHT ANGLE INTERSECTIONS.**

Streets shall be required to intersect one another at an angle as near to a right angle as is practicable in each specific case. (Ord. 89 § 5.2(b), 1955).

**16.20.050 STREETS AND HIGHWAYS – TURNAROUND.**

Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall extend to the boundary of the property and the resulting dead-end streets may be approved without a turnaround provided that control of access across such dead-end street shall be vested in the city. In all other cases a turnaround having a minimum radius of forty feet shall be required. (Ord. 89 § 5.2(c), 1955).

**16.20.060 STREETS AND HIGHWAYS – INTERSECTION CORNER ARC.**

At all street intersections, property line corners shall be rounded by an arc, the minimum radius of which shall be twenty feet. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.2(d), 1955).

**16.20.070 STREETS AND HIGHWAYS – CURVE RADIUS.**

The centerline curve radius on all streets and highways shall conform to accepted engineering standard of design and shall be subject to approval by the city engineer. (Ord. 89 § 5.2 (e), 1955).

**16.20.080 STREETS AND HIGHWAYS – GRADE.**

No street or highway shall have a grade of more than twelve percent unless because of topographical conditions or other exceptional conditions, the city engineer determines that a grade in excess of twelve percent is necessary. (Ord. 89 § 5.2(f), 1955).

**16.20.090 STREETS AND HIGHWAYS – RESERVED STRIPS.**

Reserved strips controlling the access to public ways or minimizing values for special improvement assessments will not be approved unless such strips are necessary

for the protection of the public welfare or of substantial property rights, or both, and in no case unless the control and disposal of the land comprising such strips is placed definitely within the jurisdiction of the city under conditions approved by the planning commission. (Ord. 89 § 5.2(g), 1955).

**16.20.100 STREETS AND HIGHWAYS – DETERMINATION OF WIDTH.**

Streets and highways not shown on any master street and highway plan, or not affected by proceedings initiated by the City Council or approved by the City Council, upon initiation by other legally constituted governmental bodies, shall not be less width than those set forth under this chapter, except where it can be shown by the subdivider, to the satisfaction of the planning commission and the City Council, that the topography of the small number of lots served and the probable future traffic development are such as to unquestionably justify a narrower width. Increased widths may be required where streets are to serve commercial property or where probable traffic conditions warrant such. Approval or determination of street or highway classification shall be made by the planning commission. (Ord. 89 § 5.3(part), 1955).

**16.20.110 STREETS AND HIGHWAYS – MAJOR STREET RIGHTS-OF-WAY.**

Major street rights-of-way shall be of a width not less than eighty feet with the minimum pavement width sixty-four feet. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.3(a), 1955).

**16.20.120 STREETS AND HIGHWAYS – SECONDARY STREET RIGHTS-OF-WAY.**

Secondary street rights-of-way shall be of a width not less than sixty feet with the minimum pavement width forty feet. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.3(b), 1955).

**16.20.130 STREETS AND HIGHWAYS – MINOR STREET RIGHTS-OF-WAY.**

Minor street rights-of-way shall be of a width not less than fifty feet with the minimum pavement width thirty-eight feet. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.3(c), 1955).

**16.20.140 STREETS AND HIGHWAYS – ONE-WAY STREET RIGHTS-OF-WAY.**

One-way street rights-of-way shall be of a width not less than thirty-two feet with the minimum pavement width twenty feet. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.3(d),

1955).

**16.20.150 STREETS AND HIGHWAYS – TWO-LEVEL STREET RIGHTS-OF-WAY.**

Two-level street rights-of-way shall be of sufficient width to provide a minimum pavement width of two twenty-foot pavement sections plus sufficient width for a proper slope between the levels and for sidewalk areas of a width and location acceptable to the director of public works. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.3(e), 1955).

**16.20.160 STREETS AND HIGHWAYS – CUL-DE-SAC STREET RIGHTS-OF-WAY.**

Cul-de-sac street rights-of-way shall be of the widths of minor streets. The minimum radius of the turnaround shall be forty-eight feet excepting where the cul-de-sac street serves industrial or commercial property, the minimum radius shall be seventy-three feet. The maximum length of cul-de-sac streets shall be five hundred feet measured from the near right-of-way line of the intersection street along the centerline of the street to the center of the turnaround. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.3(f), 1955).

**16.20.170 LOTS – SIZE AND SHAPE.**

The size and shape of lots shall be in conformance with the zoning ordinance and with the requirements set forth in Section 16.20.290. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.4(a), 1955).

**16.20.180 LOTS – SIDE LINES.**

The side lines of all lots, so far as possible, shall be at right angles to the street which the lot faces, or radial, or approximately radial, if the street is curved. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.4(b), 1955).

**16.20.190 LOTS – SETBACK LINES.**

Building setback lines shall be indicated by “dotted” lines on the subdivision map, as required by the planning commission. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.4(c), 1955).

**16.20.200 LOTS – DIVIDED BY CITY BOUNDARY.**

No lot shall be divided by a city boundary line. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.4(d), 1955).

#### **16.20.210 LOTS – FRONTAGE REQUIRED.**

Lots without frontage on a street will not be permitted. (Ord. 193 § 1(part), 1963: Ord. 89 § 5.4(e), 1955).

#### **16.20.220 LOTS – FRONTAGE ON SEVERAL STREETS.**

Lots, other than corner lots, may front on more than one street where necessitated by topographical or other unusual conditions. (Ord. 193 § 1 (part), 1963: Ord. 89 § 5.4(f), 1955).

#### **16.20.230 LOTS – SERVICE ROADS AND OFF-STREET PARKING.**

When any lots proposed for commercial usage front on any major or secondary street or highway, the subdivider shall be required to dedicate and improve a service road to provide ingress or egress to and from such lots or in lieu thereof, if approved by the planning commission, the subdivider may dedicate for public use and improve an area approved by the planning commission and adjacent to such lots, for off-street parking purposes. When the front of any lots proposed for residential usage front on any freeway, state highway, or parkway, the subdivider shall dedicate and improve a service road at the front of such lots, unless such is already existent as a part of such freeway or parkway. In addition to any requirement for a service road, the planning commission may require adequate off-street parking areas for all lots proposed for commercial usage. (Ord. 89 § 5.5, 1955).

#### **16.20.240 LOTS – NONACCESS AND PLANTING STRIPS.**

When the rear of any lots border any major or secondary street, highway, or parkway, the subdivider may be required to execute and deliver to the city an instrument, deemed sufficient by the City Attorney, prohibiting the right of ingress and egress to the rear of such lots across the side lines of such street or highways. When the rear of any lots border any freeway, state highway, or parkway, the subdivider may be required to dedicate and improve a planting strip adjacent to such parkway or freeway. (Ord. 89 § 5.6, 1955).

#### **16.20.250 LOTS – ALLEYS.**

When any lots are proposed for commercial or industrial usage, alleys at least

thirty feet in width shall be required at the rear thereof with adequate ingress and egress for truck traffic. (Ord. 89 § 5.7, 1955).

**16.20.260 STREET NAMES.**

All street names shall be as approved by the planning commission. (Ord. 89 § 5.8, 1955).

**16.20.270 ACRE – LARGE LOT SUBDIVISION.**

Where a parcel is subdivided into lots of one acre or more, the planning commission may require that the blocks shall be of such size and shape, and be so divided into lots, as to provide for the extension and opening of streets and alleys at such intervals as will permit a subsequent division of any parcel into lots of-normal size. (Ord. 89 § 5.9, 1955).

**16.20.280 EASEMENTS.**

The subdivider shall dedicate easements not less than six feet in width for public utility, sanitary sewer and drainage purposes on each side of rear lot lines, along side lot lines, and in planting strips wherever necessary, provided easements of lesser width may be allowed when at the determination of the city engineer that the purposes of easements may be accomplished by easements of lesser widths, and provided further that in such determination, the city engineer shall prescribe the width of such easements. Easements for overhead wire lines shall be provided at the rear of all lots, except where alleys are available, and in contiguous locations to permit anchorage, line continuity, ingress and egress. Dedication of easements shall be to the city for the purpose of installing utilities, planting strips, and for other public purposes as may be ordered or directed by the City Council. (Ord. 89 § 5.10, 1955).

**16.20.290 LOT SIZES BY AREA CLASSIFICATION AND IMPROVEMENTS REQUIRED.**

**LOT SIZES BY AREA CLASSIFICATION AND IMPROVEMENTS REQUIRED**

AREA CLASSIFICATION	TYPE I	TYPE I	TYPE III	TYPE IV	TYPE V	TYPE VI
Slopes: 30% of lots have cross slopes in excess of		10%	15%	20%	25%	35%

Lot Areas:						
Interior lot minimum (Sq. Ft.)	6,000	6,500	7,500	10,000	15,000	25,000
Corner lot minimum (Sq. Ft.)	7,400	7,900	8,900	10,000	15,000	25,000
Lot Frontages:						
Minimum*	60'	65'	75'	80'	100'	125'
Except at end of cul-de-sac	45' (75' on corner lots)	45'	55'	60'	60'	75'
Lot widths at Setback Lines: Minimum	60'	65'	75'	80'	90'	100'
Street Design:	Standard	Standard	Standard	Standard	Standards may be modified by Planning Commission	Standards may be modified by Planning Commission
Street Improvements:						
Sanitary Sewer System and Storm Drain System	Required	Required	Required	Required	Required	Required

**16.20.300 WALKWAYS.**

The subdivider may be required to dedicate and improve walkways across long blocks or to provide access to school, park, or other public areas. (Ord. 89 § 5.12, 1955).

\* Upon approval by the Planning Commission, 20% of the lots in any subdivision (not including lots at end of cul-de-sacs) may have reduced frontages provided that such reductions are not below the requirements of the next less restrictive type or classification of subdivision.

**16.20.310 WATERCOURSES.**

The subdivider shall, subject to riparian rights, dedicate a right-of-way for storm drain-age purposes confronting substantially with the lines of any natural watercourse or channel, stream, or creek that traverses the subdivision, or at the option of the subdivider, provide by dedication further and sufficient easements or construction, or both, to dispose of such surface waters and stormwaters. The Council may require adequate fencing of all ditches and streams when it is in the public interest. (Ord. 89 § 5.13, 1955).

**16.20.320 MASTER PLAN.**

In all respects, the subdivider will be considered in relation to the master plan of the city, or any part thereof, or proposed master plans made in anticipation thereof. (Ord. 89 § 5.14, 1955).

**16.20.330 DEED RESTRICTIONS.**

A copy of the deed restrictions applicable to the subdivision shall be filed with the planning commission at the time of filing final map. (Ord. 89 § 5.15, 1955).

**16.20.340 LAND SUBJECT TO INUNDATION.**

If any portion of any land, within the boundaries shown on any such final map, is subject to overflow, inundation or flood hazard by stormwaters, such fact and the portion shall be clearly shown on such final map enclosed in a border on each sheet of the map, and further adequate storm drain system and/or levees, dikes and pumping systems shall be provided, and if fill is used in tideland areas, it shall be a minimum of two feet above high tide. (Ord. 89 § 5.16, 1955).

**Chapter 16.24  
IMPROVEMENTS\***

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\* For provisions on improvements not completed, see Gov. Code § 66462; for provisions on improvement security, see Gov. Code § 66499 *et seq.*

Sections:

- 16.24.010 Standard specifications.
- 16.24.020 Plans – Approved by engineer.
- 16.24.030 Notification of engineer required.
- 16.24.040 Required improvements.
- 16.24.050 Service connections.
- 16.24.060 Compliance with chapter – Approval by engineer.
- 16.24.070 Required changes.

16.24.080	Streets and highways.
16.24.090	Structures.
16.24.100	Sidewalks, curbs, and gutters.
16.24.110	Sewers.
16.24.120	Water mains.
16.24.130	Fire hydrants.
16.24.140	Street trees.
16.24.150	Street signs.
16.24.160	Railroad crossings.
16.24.170	Permanent boundary markers.
16.24.180	Concrete monuments.
16.24.190	Permanent elevation benchmarks.
16.24.200	Replacement of monuments and benchmarks.
16.24.210	Data relating to monuments and benchmarks.
16.24.220	Setting monuments and benchmarks.
16.24.230	Underground utilities.

#### **16.24.010 STANDARD SPECIFICATIONS.**

All improvements mentioned in this chapter shall conform to those required in the “Standard Improvement Specifications” prepared by the city engineer, recommended by the planning commission, and adopted by the City Council, copies of which are on file in the office of the City Clerk and the city engineer. (Ord. 89 § 6.1 (part), 1955).

#### **16.24.020 PLANS – APPROVED BY ENGINEER.**

Grading and improvement work shall not be commenced until plans and profiles for such work have been submitted to and approved by the city engineer. Such plans may be required before approval of the final map. All such plans and profiles shall be prepared on tracing cloth in accordance with requirements of the city engineer. All such plans and profiles shall be prepared by a registered civil engineer. (Ord. 89 § 6.1(a), 1955).

#### **16.24.030 NOTIFICATION OF ENGINEER REQUIRED.**

Grading and improvement work shall not be commenced until the city engineer has been notified in writing seven days in advance, and if work has been discontinued for any reason, it shall not be recontinued until the city engineer has been notified. (Ord. 89 § 6.1(b), 1955).

#### **16.24.040 REQUIRED IMPROVEMENTS.**

All required improvements shall be constructed under the inspection of and to

approval of the city engineer. Cost of inspection shall be paid by the subdivider as established by resolution of the City Council. (Ord. 89 § 6.1(c), 1955).

#### **16.24.050 SERVICE CONNECTIONS.**

All underground utilities, sanitary sewers, storm drains and culverts installed in streets, service roads, alleys or highways, shall be constructed prior to the surfacing of such street service roads, alleys, or highways. Service connections for all underground utilities and sanitary sewers shall be placed to such length as will obviate the necessity for disturbing the street or alley improvements when service connections thereto are made. Roadway subdrains shall be installed when requested by the city engineer prior to placing of the crusher run base. (Ord. 89 § 6.1(d), 1955).

#### **16.24.060 COMPLIANCE WITH CHAPTER – APPROVAL BY ENGINEER.**

The subdivider, his or her engineer and his or her contractor shall develop plans and complete all improvement work in accordance with the provisions of this chapter and to the approval of the city engineer. (Ord. 89 § 6.1(e), 1955).

#### **16.24.070 REQUIRED CHANGES.**

The subdivider shall install improvements in accordance with the general requirements set forth in this chapter; provided, that the city engineer may require changes in typical section and details if unusual conditions due to soil conditions arise during construction to warrant such change; such changes to be at the expense of the subdivider. (Ord. 89 § 6.2(part), 1955).

#### **16.24.080 STREETS AND HIGHWAYS.**

All streets and highways shall be graded and paved to cross-sections and grades approved by the city engineer. The subdivider shall improve the extension of all subdivision streets, highways, or public ways to the intercepting paving line of any county road, city street, or state highway. (Ord. 89 § 6.2(a), 1955).

#### **16.24.090 STRUCTURES.**

Structures shall be installed as deemed necessary by the city engineer, for drainage, access and/or public safety; such structures to be placed to grades and to be of a design approved by the city engineer. (Ord. 89 § 6.2(b), 1955).

#### **16.24.100 SIDEWALKS, CURBS, AND GUTTERS.**

Curbs, gutters, and sidewalks shall have a minimum width of four feet, except as otherwise specified in this chapter shall be installed to grades, cross section and layout approved by the city engineer; the location of the sidewalks to be approved by the planning commission. (Ord. 89 § 6.2(c), 1955).

#### **16.24.110 SEWERS.**

Sanitary sewer facilities connecting with the existing city sewer system shall be installed to serve each lot and to grades, locations, designs, and sizes approved by the city engineer. Stormwater sewers shall be installed as required by the city engineer. In cases of economic and physical hardship, the City Council may waive the requirement for sanitary sewers. (Ord. 89 § 6.2(d), 1955).

#### **16.24.120 WATER MAINS.**

A. Water mains, layout and locations approved by the city engineer, insofar as the responsibility of the city, and the utility serving the city, connection to the water system serving the city of Pinole, shall be installed in accordance with standards adopted by the National Board of Fire Underwriters entitled, "Standard Schedule for grading Cities & Towns of the United States with reference to their Fire Defenses and Physical Conditions," Edition of 1956.

B. No water main to which a fire hydrant is to be connected shall be smaller than six inches in size. (Ord. 143 § 2 (part), 1960: Ord. 89 § 6.2(e), 1955).

#### **16.24.130 FIRE HYDRANTS.**

Fire hydrants shall measure not less than twelve inches from finished grade to bottom of lowest hydrant outlet. Fire hydrants shall be installed at a maximum distance of four hundred feet apart. Fire hydrants shall be installed of a design, layout and location approved by the city engineer and fire chief, and in accordance with standards adopted by the National Board of Fire Underwriters entitled, "Standard Schedule for grading Cities & Towns of the United States with reference to their Fire Defenses and Physical Conditions," Edition of 1956. (Ord. 143 § 2(part), 1960: Ord. 89 § 6.2(f), 1955).

#### **16.24.140 STREET TREES.**

Street trees shall be required by the planning commission and shall be of the type approved by the city engineer, and planted on locations approved by the city engineer. (Ord. 89 § 6.2(g), 1955).

#### **16.24.150 STREET SIGNS.**

Street signs shall be required by the planning commission and shall be of a type approved by the city engineer and installed in location approved by him or her. (Ord. 89 § 6.2(h), 1955).

#### **16.24.160 RAILROAD CROSSINGS.**

Provision shall be made for any and all railroad crossings necessary to provide access to or circulation within the proposed subdivision, including the preparation of all documents necessary for application to the California State Public Utilities Commission for the establishment and improvement of such crossing. The cost of such railroad crossing improvement shall be borne by the subdivider. (Ord. 89 § 6.2(i), 1955).

#### **16.24.170 PERMANENT BOUNDARY MARKERS.**

Permanent markers. of a type approved by the city engineer shall be set at each boundary corner of the subdivision, along exterior boundaries at intervals of not over five hundred feet, at the beginning and end of property line curves, and at any other points as may be required by the city engineer. (Ord. 89 § 6.2(j), 1955).

#### **16.24.180 CONCRETE MONUMENTS.**

Concrete monuments depressed below street grade with cast iron ring and cover of a type approved by the city engineer shall be set at intersections of street centerline tangents or off-sets therefrom, and where such intersect on private property at the beginning and end of centerline curve and/or off-sets therefrom. The exact location of all such monuments shall be shown on the final map before approval is requested. (Ord. 89 § 6.2(k), 1955).

#### **16.24.190 PERMANENT ELEVATION BENCHMARKS.**

Permanent elevation benchmarks of a type approved by the city engineer and referred to the city datum shall be set at each street intersection in the curb return or other location approved by the city engineer. (Ord. 89 § 6.2(1), 1955).

#### **16.24.200 REPLACEMENT OF MONUMENTS AND BENCHMARKS.**

Any monument, or benchmark, as required by this chapter, that is disturbed or destroyed before acceptance of all improvements, shall be replaced by the subdivider to the satisfaction of the city engineer. (Ord. 89 § 6.2(m), 1955).

#### **16.24.210 DATA RELATING TO MONUMENTS AND BENCHMARKS.**

Complete field notes in a form satisfactory to the city engineer, showing references, ties, locations, elevations and other necessary data relating to monuments and benchmarks set in accordance with the requirements of this chapter, shall be submitted to the city engineer, when so requested. (Ord. 89 § 6.2(n), 1955).

#### **16.24.220 SETTING MONUMENTS AND BENCHMARKS.**

Monuments and benchmarks shall be set before acceptance of the improvements by the City Council, unless exception is recommended by the city engineer and approved by the City Council. (Ord. 89 § 6.2(o), 1955).

#### **16.24.230 UNDERGROUND UTILITIES.**

A. All public utility distribution facilities, including but not limited to electric, communication and cable television lines, installed in and for the purpose of supplying service to any residential subdivision shall be placed underground except as follows:

1. Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts;
2. Metal poles supporting only high voltage wires, switches, transformers and street lights.

B. Where, in the opinion of the city engineer, adequate street lighting facilities necessitate the installation of street lighting standards and luminaries in addition to the metal poles mentioned in subparagraph 2 of subsection A, the subdivider shall be responsible for the installation of the street lighting standards and luminaries.

C. The subdivider shall be responsible for compliance with these requirements, shall make the necessary arrangements with the utility companies, and shall submit satisfactory evidence of the arrangements prior to acceptance and approval of the final map.

D. The planning commission may except a subdivision, or a portion thereof, from the requirements of this section. (Ord. 214 § 1, 1965; Ord. 89 § 6.2(p), 1955).

## **Chapter 16.28 PARKLAND DEDICATION\***

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\* For statutory provisions on dedication see Gov. Code § 66475 *et seq.*  
Prior ordinance history: Ord. 360.

Sections:

- |           |                                 |
|-----------|---------------------------------|
| 16.28.010 | Purpose.                        |
| 16.28.020 | Requirements.                   |
| 16.28.030 | General standard.               |
| 16.28.040 | Formula for dedication of land. |

16.28.050	Formula for fees in lieu of land dedication.
16.28.060	Amount of fee in lieu of land dedication.
16.28.070	Determination of land or fee.
16.28.080	Credit for private open space.
16.28.090	Procedure.
16.28.100	Disposition of fees.
16.28.110	Exemptions.
16.28.120	Subdivider-provided park and recreation improvements.
16.28.130	Street access – Waiver.

### **16.28.010 PURPOSE.**

This chapter is enacted pursuant to the authority granted by Section 66477 of the Government Code of the state of California. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this chapter are in accordance with the recreation element of the general plan of the city. (Ord. 461 § 1(part), 1984).

### **16.28.020 REQUIREMENTS.**

At the time of approval of the tentative map or parcel map, the planning commission shall determine pursuant to Section 16.28.040 of this chapter the land required for dedication or in-lieu fee payment. As a condition of approval of a final subdivision map or parcel map, determination shall be made whether the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the city, for neighborhood and community park or recreational purposes at the time and according to the standards contained in this chapter. (Ord. 461 § 1(part), 1984).

### **16.28.030 GENERAL STANDARD.**

It is found and determined that the existing neighborhood and community parkland areas exceed five acres of property for each one thousand persons residing in the city and therefor the public interest, convenience, health, welfare and safety require a five-acre park standard for each one thousand additional population. (Ord. 461 § 1(part), 1984).

### **16.28.040 FORMULA FOR DEDICATION OF LAND.**

A. Where a park or recreation facility has been designated in the general plan and is to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall dedicate land for a local park sufficient in size and topography that bears a reasonable relationship to serve the present and future needs of the residents of the subdivision. The

amount of land to be provided shall be determined pursuant to the following formula:

The formula for determining acreage to be dedicated shall be as follows:

$$2.9 \text{ (average persons/unit)} : \frac{1,000 \text{ population}}{5 \text{ (ac.)}} = .0145 \text{ ac/DU} \quad \text{or} \quad 631 \text{ sq. ft./DU}$$

B. Dedication of the land shall be made in accordance with the procedures contained in Section 16.28.090 of this chapter.

C. For the purposes of this section, the number of new dwelling units shall be based upon the number of parcels indicated on the map when in an area zoned for one dwelling unit per parcel. When all or part of the subdivision is located in an area zoned for more than one dwelling unit per parcel, the number of proposed dwelling units shall be used. In the case of a condominium project, the number of new dwelling units shall be the number of condominium units. The term “new dwelling unit” does not include dwelling units lawfully in place prior to the date on which the parcel or final map is filed.

D. The subdivider shall, without credit:

1. Provide full street improvements and utility connections including, but not limited to, curbs, gutters, street paving, traffic control devices, street trees, and sidewalks to land which is dedicated pursuant to this section;

2. Provide for fencing along the property line of that portion of the subdivision contiguous to the dedicated land;

3. Provide improved drainage through the site; and

4. Provide other minimal improvements which the planning commission determines to be essential to the acceptance of the land for recreational purposes. (Ord. 461 § 1 (part), 1984).

#### **16.28.050 FORMULA FOR FEES IN LIEU OF LAND DEDICATION.**

A. General Formula; Fifty-one Parcels or More. If there is no park or recreation facility designated in the Pinole general plan to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall, in lieu of dedicating land, pay a fee equal to the value of that land, plus twenty percent toward costs of off-site improvements, prescribed for dedication in Section 16.28.040 of this chapter, and in an amount determined in accordance with the provisions of Section 16.28.060 of this chapter, such fee to be used for a local or community park which bears a reasonable relationship to serve the present and future residents of the area being subdivided.

For the purposes of this chapter, “off-site improvements” are defined as those improvements which would have been required if land had been dedicated using the provisions of Section 16.28.040.

B. Fees in Lieu of Land; Fifty Parcels or Less. if the proposed subdivision contains fifty parcels or less, the subdivider shall pay a fee equal to the land value, plus twenty percent toward costs of off-site improvements, of the portion of the local park required to serve the needs of residents of the proposed subdivision as prescribed in Section 16.28.040 of this chapter and in an amount determined in accordance with the provisions of Section 16.28.060. However, nothing in this section shall prohibit the

dedication and acceptance of land for park and recreation purposes in subdivisions of fifty parcels or less, where the subdivider proposes such dedication voluntarily and the land is acceptable to the planning commission.

C. Use of Money. The money collected hereunder shall be used only for the purpose of acquiring necessary land and developing new or rehabilitating existing park or recreational facilities reasonably related to serving the subdivisions. (Ord. 461 § 1(part), 1984).

#### **16.28.060 AMOUNT OF FEE IN LIEU OF LAND DEDICATION.**

When a fee is to be paid in lieu of land dedication, value of the amount of such fee shall be based upon the fair market value of the amount of land which would otherwise be required for dedication pursuant to Section 16.28.040 plus twenty percent toward costs of off-site improvements, such as extension of utility lines. The fees shall be calculated as follows:

Formula for Computation of Dwelling Unit (DU) Fee

631 (required sq. ft. dedication/DU) X \$8 (land value) X 1.2

(20% off-site improvement) = \$6,057 Residential Dwelling Unit Fee

This formula may be modified pursuant to the provisions of Chapter 16.28 to reflect approved parkland dedication. (Ord. 2005-06 § 1, 2005; Ord. 461 § 1(part), 1984).

#### **16.28.070 DETERMINATION OF LAND OR FEE.**

Whether the planning commission accepts land dedication or elects to require payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

- A. The natural features, access and location of land in the subdivision available for dedication;
- B. The size and shape of the subdivision and land available for dedication;
- C. The feasibility of dedication;
- D. The compatibility of dedication with the Pinole general plan; and
- E. The location of existing and proposed park sites and trailways. (Ord. 461 § 1(part), 1984).

#### **16.28.080 CREDIT FOR PRIVATE OPEN SPACE.**

No credit shall be given for private open space in the subdivision except as hereinafter provided. Where private open space usable for active recreational purposes is provided in a proposed planned development or real estate development as defined in Sections 11003 and 11003.1 of the Business and Professions Code, partial credit, not to exceed seventy-five percent shall be given against the requirement of land dedication or payment of fees in lieu thereof if the planning commission finds that it is in the public interest to do so and that all the following standards are met:

A. Yards, court areas, setbacks and other open areas required by the zoning and building ordinances and regulations shall not be included in the computation of such private open space; and

B. Private park and recreation facilities shall be owned by a homeowners association composed of all property owners in the subdivision and being an incorporated nonprofit organization capable of dissolution only by a one hundred percent affirmative vote of the membership, operated under recorded land agreements through which each lot owner in the neighborhood is automatically a member and each lot is subject to a charge for a proportionate share of expenses for maintaining the facilities; and

C. Use of the private open space is restricted for park and recreation purposes by recorded covenant which runs with the land in favor of the future owners of the property and which cannot be defeated or eliminated without the consent of the city or its successor; and

D. The proposed private open space is reasonably adaptable for use for park and recreation purposes, taking into consideration such factors as size, shape, topography, geology, access and location; and

E. Facilities proposed for the open space are in substantial accordance with the provisions of the recreation element of the general plan. (Ord. 461 § 1(part), 1984).

#### **16.28.090 PROCEDURE.**

A. At the time of approval of the tentative map or parcel map, the planning commission shall determine pursuant to Section 16.28.040 of this chapter the land required for dedication. If the planning commission requires in-lieu fee payment by the subdivider, the planning commission will set the amount of land upon which the in-lieu fee will be based.

B. At the time of the filing of the final subdivision map or parcel map, the subdivider shall dedicate the land as required by the planning commission. Where the planning commission has determined that fees shall be paid in lieu of or in addition to the dedication of land, these fees shall be paid on a lot-by-lot basis prior to the issuance of any building permit for any building or structure to be located upon any one of the lots in the subdivision. The in-lieu fees shall be based on the land dedication requirements established at the time of tentative map approval using current land values at the time of building permit issuance as set forth in Section 16.28.060. Open space covenants for private park or recreation facilities shall be submitted to the city prior to approval of the final subdivision map or parcel map and shall be recorded contemporaneously with the final subdivision map or parcel map. (Ord. 461 § 1(part), 1984).

#### **16.28.100 DISPOSITION OF FEES.**

A. Fees determined pursuant to Section 16.28.060 of this chapter shall be paid to the city and shall be deposited into the subdivision park trust fund. Money in said fund, including accrued interest, shall be expended solely for acquisition or development of parkland, or improvements reasonably related to serving the subdivision.

B. If such fees are not committed to a specific project within five years after the issuance of building permits on one-half the lots created by the subdivision, these fees, less an administrative charge, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots in the subdivision.

C. The City Manager shall report to the City Council at least annually on income, expenditures and status of the subdivision park trust fund. (Ord. 461 § 1(part), 1984).

#### **16.28.110 EXEMPTIONS.**

The provisions of this chapter do not apply to commercial or industrial subdivisions; nor do they apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building when no new dwelling units are added. (Ord. 461 § 1(part), 1984).

#### **16.28.120 SUBDIVIDER-PROVIDED PARK AND RECREATION IMPROVEMENTS.**

The planning commission in its discretion may grant a total or partial credit for the value of park and recreation improvements provided by the subdivider to dedicated land against the fees or dedication of land required by this chapter. (Ord. 461 § 1(part), 1984).

#### **16.28.130 STREET ACCESS – WAIVER.**

All land offered for dedication to local park or recreational purposes shall have access to at least one existing or proposed public street. This requirement may be waived by the planning commission if the planning commission determines that public street access is unnecessary for the maintenance of the park area or use thereof by residents. (Ord. 461 § 1(part), 1984).

## **Chapter 16.30 WEST COUNTY SUBREGIONAL TRANSPORTATION MITIGATION PROGRAM**

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Sections:

- 16.30.010 Purpose.
- 16.30.020 Findings.
- 16.30.030 Fees.
- 16.30.040 Project descriptions, funding commitments, and eligible costs and implementation schedule.

16.30.050 Notice and hearings.

**16.30.010 PURPOSE.**

The purpose of the subregional transportation mitigation program (STMP) is to meet the intent of Measure C by levying a fee on new development to mitigate the impacts of new trips generated by that development. Further, the purpose is to raise funds for the construction of several regional transportation projects in west county. (Ord. 97-102 § 2, 1997).

**16.30.020 FINDINGS.**

A. The STMP fee is required solely to provide capital infrastructure facilities (the projects) needed for health and safety reasons (traffic safety, improved commute and traffic conditions) as a direct result of the projects, since growth places a greater burden on the roadway and transit systems.

B. The STMP will raise funds for three projects: the Highway 4 West project (consistent with progress towards full implementation of the Measure C project), the Richmond intermodal station enhancement program, and the El Cerrito Plaza BART parking structure (site acquisition and direct connections to station platform and intermodal area). A detailed description of the projects can be found in Section 16.30.040.

C. After the three projects listed in subsection B of this section have been funded with STMP revenues, if additional revenues are available, the STMP may fund other projects submitted through the call for projects: the Crockett and Pinole Sections of the S.F. Bay trail and the Hercules/Pinole Bay trail connector, the West Contra Costa pathfinder sign program (BART), and AC Transit's San Pablo Avenue corridor and alternative transportation improvements. Other eligible regional transportation or transit improvement projects may be considered by WCCTAC. All potential additional projects are subject to technical analysis to determine the nexus and shall not be eligible for funding until the nexus analysis is complete.

D. The total cost of funding the unfunded portion of all transportation improvements submitted through the call for projects is approximately \$24.5 million in 1997 dollars. West county jurisdictions and the county could require new development to mitigate the cost of all congestion caused; however, the cost of these improvements exceeds the amount of funding private development could support. Therefore, the highest priority projects have been included in the STMP and the approximate amount of revenues to be raised is \$5.1 million.

E. The nexus findings, in conformance with Government Code Section 66000 et seq., can be found in the "Nexus Analysis Report" prepared by Cambridge Systematics, Inc. for WCCTAC. Two copies of the "Nexus Analysis Report" are on file with the City Clerk.

F. A five step process aided in the design of the STMP which included:

1. Projecting the amount of new development using ABAG's

Projections '94;

2. Specifying the transportation improvements needed to accommodate growth;
3. Evaluating the relationship between the improvements, the share of funding from new development, and the impacts of new trip generation;
4. Allocating the costs across land use types (residential, retail, office, industrial); and
5. Preparing fee schedules and implementation ordinances. (Ord. 97-102 § 3, 1997).

**16.30.030 FEES.**

A. Levy of the Fee and Fee Structure. In order to fund the program and projects stated in this chapter, it is agreed that the following developer fee schedule shall be implemented effective September 12, 1997 and shall terminate on December 31, 2010. The following fees are payable to the city/county at the time of issuance of a building permit:

<u>Land Use Type</u>	Fee Amount
Single-family residential Individual units and duet homes with one shared wall and residential condominiums	\$700/ dwelling unit
Multifamily residential	\$560/ dwelling unit
Commercial, office, industrial, retail	\$.20 per square foot of gross floor area
Other nonresidential uses not identified above	\$150 per trip generated, as calculated by a traffic study approved by the local jurisdiction with methodology approved by WCCTAC

B. No development shall be exempt from the fee; provided, that any development which, as of the effective date of the ordinance codified in this chapter, (1) has perfected an exemption pursuant to the vested tentative map law; or (2) has entered into a development agreement with city which expressly excludes assessment of additional fees, shall not be subject to the fees required to be imposed by this chapter.

C. A project that replaces an existing structure or development is subject to the fee only to the extent that it would generate more peak hour vehicle trips than the

existing development.

D. The fees set forth in Section 16.30.030A above are already subject to a significant discount and do not reflect the full cost of the traffic impacts associated with development. Nevertheless, a developer may request a further reduction in fees through the governing jurisdiction if it is the opinion of the developer that the project may generate a lower number of trips than the data provided by the Institute of Transportation Engineers (ITE) that was used as the basis for the Nexus Analysis Report, or for a use not identified in Section 16.30.030A above. Any further fee reduction would be based upon a traffic study which determines that the traffic impacts of the proposed development would generate fees that are less than the fees that are set forth in Section 16.30.030A above. The methodology for conducting the study shall be developed and approved by the WCCTAC technical advisory committee, with concurrence of the WCCTAC. The city shall determine the appropriate fee reduction based upon the proportionate reduction in trips demonstrated in the traffic study.

E. A developer may receive credit against fees for the dedication of land for right-of-way and/or construction of improvements for specific STMP projects, where such right-of-way or construction is beyond that which would otherwise be required for approval of the proposed development. The calculation of the amount of credit against fees for STMP dedications or improvements shall be based on a determination by the jurisdiction that such credits are in fact exclusive of the dedications, setbacks, improvements, and/or traffic mitigation measures which are required by local ordinance, standards, or other practice. In addition, the credit shall be calculated based upon the actual cost of construction of improvements or, in the case of land dedication, on an independent appraisal approved by the local jurisdiction.

F. The fees specified in this chapter shall be made a condition of approval of all tentative and final subdivision maps. Except as provided above with respect to projects which, as of the effective date of this chapter, already had a tentative and/or final approved subdivision map, the fees shall be collected prior to the issuance of any building permit.

G. The STMP fees specified above shall be collected for projects in the entire city.

H. Fees paid pursuant to this chapter shall be remitted on a quarterly basis to the CCTA, to be placed in a fund to be used solely for the purposes described in this chapter and in the cooperative agreement between the cities/county, WCCTAC and CCTA. Any interest accumulated on such funds shall also be used only for the purposes specified in this chapter. A total of ten and one-half percent of the funds remitted to the Contra Costa transportation authority and any interest accrued thereon (collectively "STMP funds") will be transferred to WCCTAC for the Richmond intermodal station project (nine percent), along with administrative oversight fees specified in the cooperative agreement (one and one-half percent).

I. The fees will be used to pay for administration of the STMP and for the planning, environmental documentation, design, acquisition of right-of-way and construction of the projects.

J. Effective July 1, 1998 and on each subsequent anniversary date of such date, the amount of each of the developer fees set forth in Section 16.30.030A above shall increase by the amount of the increase in the Engineering News-Record Construction

Cost Index for the San Francisco Bay Area for the period ending June 30th of the preceding fiscal year over the year-earlier amount. The increase shall be an automatic increase which shall occur irrespective of being accompanied by a subsequent authorizing resolution or ordinance amendment.

K. Pursuant to Government Code Section 66001(d), after the fifth fiscal year (and every subsequent fifth fiscal year), following the first deposit of STMP revenues, the Contra Costa transportation authority shall make findings regarding the Highway 4 West and the El Cerrito Plaza BART station parking structure project costs and WCCTAC shall make findings regarding the Richmond intermodal station project costs.

L. Fees may be updated and adjusted, if needed, not less frequently than every five years, in order to take into account changes in cost estimates for the projects, development rates within the region, project priorities, and other funding commitments. WCCTAC shall prepare, circulate and approve (by unanimous vote of its members), a project update, providing a status report as to projects and plan development and projected revenues and expenditures which includes cash flows and project estimates for a twenty year period from the date of the project update. To the extent that fees are updated, such update shall be included in a project update. Upon approval by WCCTAC as provided above, the fee adjustment shall be submitted for approval by the local jurisdictions by an ordinance adopted by the governing bodies of each of the local jurisdictions which is a party to the master cooperative agreement. (Ord. 97-102 § 4, 1997).

#### **16.30.040 PROJECT DESCRIPTIONS, FUNDING COMMITMENTS, AND ELIGIBLE COSTS AND IMPLEMENTATION SCHEDULE.**

A. List of Projects. The STMP fees provided for in this chapter shall be used exclusively for the following projects; provided, however, fees collected by the county shall only be used for the Highway 4 West project:

1. Construct safety improvements, upgrades and widening of Highway 4 West between Interstate 80 and Cummings Skyway, consistent with progress towards full implementation of the Measure C project;
2. El Cerrito Plaza BART Station Parking Structure. Acquisition of 2.7 acres of the El Cerrito Plaza shopping center and enhancements to the parking structure to create direct pedestrian connections to both the Plaza BART station platform and intermodal area;
3. Richmond Intermodal Station Facilities Enhancement Program. Construct improvements and enhance access to the Richmond intermodal station which will increase utilization of all transportation modes including BART, Amtrak, Capitol Corridor trains, bus transit, bicycling and pedestrian.

In the event that WCCTAC determines that one or more of the projects cannot proceed, or if funds are collected in excess of the anticipated \$5.1 million, funds may be used to complete the shortfall of the projects; or projects from the original call for projects may be recommended for inclusion in the program; or other eligible regional transportation or transit improvement projects may be considered by WCCTAC.

B. Funding Commitments and Eligible Costs. Program revenues shall be

available for all necessary project costs through completion of construction. Costs include, but are not limited to, environmental clearance, conceptual engineering, traffic studies, design, right-of-way acquisition, utility relocation, litigation and settlement costs, and costs of construction. Funding amounts are estimates and are in 1997 dollars. Actual funding commitments will depend upon regional fee revenues.

<u>Project</u>	<u>Regional Fee Commitment</u>	Total Estimated Cost (as of 1995)
Highway 4 West	\$4,029,000	\$48,000,000
El Cerrito Plaza BART parking structure	\$459,000	\$6,000,000
Richmond intermodal station improvements	\$459,000	\$7,000,000

Administrative costs shall not exceed three percent of the program revenues (one and one-half percent to WCCTAC and one and one-half percent to CCTA). Administrative costs include the development of the JPA amendment, the cooperative agreement, and the ordinance, as well as the administration of duties included in the documents.

C. Implementation Schedule. Subject to environmental clearance, right-of-way acquisition and dedication, utility relocation, and other factors (the timing of which may be beyond the control of WCCTAC), and subject to the availability of regional fee and other funding sources as may be required, the following implementation guidelines shall apply to project development:

1. The Highway 4 West improvements funded by STMP revenues, shall be disbursed to leverage Measure C, local, state and federal funds to promote timely implementation of the improvements. It is the parties' intent that the Highway 4 West project be given construction priority from funds available through the program and that seventy-nine percent of the STMP funds collected will be used for the Highway 4 West project.

2. Funding for the El Cerrito Plaza BART parking structure improvements and the Richmond intermodal station improvements will be determined by WCCTAC and CCTA at a later date, subject to scheduled need. Eighteen percent of the STMP funds collected will be distributed equally to the transit projects.

3. WCCTAC and CCTA will work to promote steady progress on all the projects, to the extent that funding and project readiness permit. (Ord. 97-102 § 5, 1997).

**16.30.050 NOTICE AND HEARINGS.**

This chapter was adopted pursuant to the procedures established by state law, and all required notices have been given, and the public hearing has been properly held and conducted. (Ord. 97-102 § 6, 1997).

## **Chapter 16.32 EXCEPTIONS**

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Sections:

- 16.32.010 Petition.
- 16.32.020 Recommendation of planning commission.
- 16.32.030 Authorization by Council.

### **16.32.010 PETITION.**

The planning commission may recommend that the City Council authorize conditional exceptions to any of the requirements and regulations set forth in this chapter. Application for any such exception shall be made by a certified petition of the subdivider, stating fully the grounds of the application and the facts relied upon by the petitioner. Such petition shall be filed with the tentative map of the subdivision. In order for the property referred to in the petition to come within the provisions of this section, it shall be necessary that the planning commission shall find the following facts with respect thereto:

- A. That there are special circumstances or conditions affecting the property;
  - B. That the exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
  - C. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.
- (Ord. 89 § 7.1, 1955).

### **16.32.020 RECOMMENDATION OF PLANNING COMMISSION.**

- A. In recommending such exceptions, the planning commission shall secure substantially the objectives of the regulations to which the exceptions are granted, as to light, air, and the public health, safety, convenience, and general welfare.
  - B. In recommending the authorization of any exception under the provisions of this section, the planning commission shall report to the City Council its findings with respect thereto, and all facts in connection therewith, justifying such exceptions, and shall specifically and fully set forth the exception recommended and the conditions designated.
- (Ord. 89 § 7.2, 1955).

### **16.32.030 AUTHORIZATION BY COUNCIL.**

Upon receipt of such report, the City Council may, by resolution, authorize the planning commission to approve the tentative map with the exceptions and conditions the City Council deems necessary to substantially secure the objectives of this chapter. (Ord. 89 § 7.3, 1955).

## **Chapter 16.36 APPEALS**

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Sections:

16.36.010	Appeal by subdivider.
16.36.020	Appeal by interested party.
16.36.030	Resident or property owner deemed interested person.
16.36.040	Filing with City Clerk.
16.36.050	Hearing.
16.36.060	Notice of hearing.
16.36.070	Decision by Council.

### **16.36.010 APPEAL BY SUBDIVIDER.**

Pursuant to the provisions of Section 66452.5 of the Government Code, the subdivider may appeal from any action of the planning commission with respect to any tentative map to the City Council as provided in this chapter in Section 66452.5. (Ord. 375 § 2 (part), 1978; Ord. 89 § 8.1, 1955).

### **16.36.020 APPEAL BY INTERESTED PARTY.**

Any interested person adversely affected by a decision of the planning commission with respect to a tentative map may file an appeal with the City Council in the manner and form provided in this chapter. (Ord. 375 § 2(part), 1978; Ord. 89 § 8.2, 1955).

### **16.36.030 RESIDENT OR PROPERTY OWNER DEEMED INTERESTED PERSON.**

For purposes of this section, the City Council of the city of Pinole finds that a resident or a property owner is an interested person adversely affected by the decision of the planning commission. (Ord. 375 § 2(part), 1978; Ord. 89 § 8.3, 1955).

### **16.36.040 FILING WITH CITY CLERK.**

Such appeal shall be filed with the City Clerk within fifteen days after the action

of the planning commission. The appeal may be on a form provided by the City Clerk, including the name and address of the appellant, residence and/or property owned, if any, and the grounds or reason for the appeal. (Ord. 375 § 2(part), 1978: Ord. 89 § 8.4, 1955).

#### **16.36.050 HEARING.**

At the first public meeting of the City Council following the filing of appeal, a hearing shall be set not later than thirty days following the filing of the appeal. (Ord. 375 § 2(part), 1978: Ord. 89 § 8.5, 1955).

#### **16.36.060 NOTICE OF HEARING.**

Notice of hearing shall be by publication once at least ten days before the hearing in a newspaper of general circulation circulated in the city. (Ord. 375 § 2(part), 1978: Ord. 89 § 8.6, 1955).

#### **16.36.070 DECISION BY COUNCIL.**

Upon conclusion of the hearing, the City Council shall, within seven days, declare its findings based upon the testimony, evidence and documents produced before it or the planning commission. The City Council may sustain, modify, reject or overrule any recommendation or ruling of the planning commission and may make such findings as are not inconsistent with the provision of Section 66451 *et seq.* of the Government Code and any ordinance that has been adopted pursuant to this chapter. (Ord. 375 § 2(part), 1978: Ord. 89 § 8.7, 1955).

## **Chapter 16.40**

### **SCHOOL FACILITIES FEE AND DEDICATION**

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Sections:

- |           |  |
|-----------|--|
| 16.40.010 | General provisions.                            |
| 16.40.020 | Definitions.                                   |
| 16.40.030 | Overcrowding attendance area.                  |
| 16.40.040 | Requirements, standards and procedures.        |
| 16.40.050 | Fee payment on land dedication.                |
| 16.40.060 | Uses and limitations of uses of fees and land. |

#### **16.40.010 GENERAL PROVISIONS.**

A. Authority. This chapter is adopted pursuant to the provisions of Chapter 4.7 (commencing with Section 65970 of Division 1 of Title 7 of the Government Code).

B. Purpose. The purpose of this chapter is to provide a method for financing school facilities necessitated by new residential developments causing conditions of overcrowding.

C. Regulations. The City Council may, from time to time, by resolution, issue regulations to provide for the administration and implementation of this chapter. (Ord. 438 § 1(part), 1982).

#### **16.40.020 DEFINITIONS.**

A. **BEDROOM.** A room with a dwelling unit other than a living room adjacent to the main entry, a dining room adjacent to the kitchen, a family room adjacent to a kitchen or dining room, a kitchen, halls, dining rooms, closets and bathrooms.

B. **CONDITIONS OF OVERCROWDING.** That the total enrollment of a school, including enrollment from proposed developments, exceeds the capacity of the school as determined by the governing body of the district.

C. **DWELLING UNIT.** A building or a portion thereof, or a mobile home, designed for residential occupancy by one person or a group of two or more persons living together as a domestic unit.

D. **REASONABLE METHODS FOR MITIGATING CONDITIONS OF OVER- CROWDING.** Include, but are not limited to, agreements between a subdivider and the affected school district whereby temporary use buildings will be leased to the school district or temporary use buildings owned by the school district will be used.

E. **RESIDENTIAL DEVELOPMENT.** A project containing residential dwellings, including mobile homes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units. Residential development includes, but is not limited to, a preliminary or final development plan, a subdivision tentative or final map, a parcel map, a conditional use permit, a building permit, or any other discretionary permit for new residential use. (Ord. 438 § 1 (part), 1982).

#### **16.40.030 OVERCROWDING ATTENDANCE AREA.**

A. Findings and Notice. Pursuant to Government Code Section 65970 *et seq.*, the governing board of the school district may make a finding supported by clear and convincing evidence that:

1. Conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for such conditions existing; and

2. That all reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible method for reducing such conditions exist. Upon making such a finding, the governing board of the school district shall notify the City Council in writing of such finding, as specified in subsection B of this section.

B. Findings – Requirements. Any notice of findings sent by a school district to the city shall specify:

1. The findings listed in subsection A of this section;

2. Findings of facts and a summary of the evidence upon which the findings in subsection A of this section were based;
3. The mitigation measures and methods considered by the school district in any determination made by the district;
4. The precise geographic boundaries of the overcrowded attendance area or areas; and
5. Such other information as may be required by a Council regulation.

C. Concurrence by City. Within thirty days after receipt of notice of findings by the governing board of the school district, the City Council, if it concurs with such school district findings, shall do so by resolution.

D. Findings for Development Approval. Within an attendance area, where the City Council has concurred in a school district's notice of finding pursuant to Government Code Section 65971 that conditions of overcrowding exist, the City Council or any other city decision making body shall not approve an ordinance rezoning property to a residential use, grant a discretionary permit for residential use, or approve a tentative subdivision map for residential purposes within such area, unless the City Council makes one of the following findings:

1. That this chapter is a chapter adopted pursuant to Government Code Section 65974;
2. That there are specific overriding fiscal, economic, social or environmental factors which in the judgment of the City Council would benefit the city, thereby justifying the approval of a residential development otherwise subject to Government Code Section 65974. (Ord. 438 § 1(part), 1982).

#### **16.40.040 REQUIREMENTS, STANDARDS AND PROCEDURES.**

A. Payment of Fees – Dedication of Land. In an attendance area where the City Council has concurred as provided in Section 16.40.030 that overcrowding exists, the applicant of a proposed residential development, as a condition of approval for the obtaining of a building permit, shall pay fees, make an equivalent arrangement in lieu of, dedicate land, or do a combination thereof unless accepted as provided in Section 16.40.030 as determined by the Council or other city decision making body during the hearings and other proceedings on specific residential development applications falling within their respective jurisdictions.

B. Payment of Fees in Small Residential Developments. Only the payment of fees shall be required in residential development containing fifty parcels or less, or other developments containing fifty units or less.

C. Standards for Fees or Land. Any requirement imposed pursuant to this chapter shall bear a reasonable relationship and will be limited to the needs of the community for interim elementary or high school facilities, and shall be reasonably related and limited to the need for the schools caused by the development.

D. Amount of Fees or Land.

1. When fees are required by this chapter to be paid in lieu of land dedication or as a combination, or both, such fees shall be, and paid, as follows:

	<u>K-6</u>	7-8	9-12
One bedroom living unit	No Contribution		
Two bedroom living unit	\$366	\$84	\$96
Threebedroom living unit	732	168	192
Four bedroom living unit	1,098	252	288
Five bedroom living unit	1,464	336	384

2. The total land area required by this chapter to be dedicated shall be at least equal in monetary value to the fees which would be otherwise required by subdivision 1 of this subsection. The city administrator shall determine and establish the monetary value of land area for the purpose of this division.

E. Changes in Fee Structure. Upon request of the governing board of the school district, the City Council shall evaluate the fee schedule set forth in subdivision 1 of subsection D of this section, and adjust the figures to reflect increases or decreases in costs of alleviating conditions of overcrowding. (Ord. 438 § 1(part), 1982).

**16.40.050 FEE PAYMENT OF LAND DEDICATION.**

A. Fee Required. If the payment of a fee is required, the payment shall be made prior to the approval and issuance of a building permit. Fees shall be paid to the affected school district, which shall furnish the applicant with written receipt of such payment.

B. Land Dedication. When land is to be dedicated, it shall be offered for dedication in substantially the same manner as prescribed in this title. Land shall be deeded directly to the school district or districts under procedures adopted by the City Council.

C. Refunds.

1. If a final subdivision map, a parcel map or conditional use permit is vacated or voided, and if the city still retains the land, and if the applicant so requests, the city shall order the land returned.

2. If a final subdivision map, a parcel map, conditional use permit, development plan or building permit is cancelled or voided, and if the affected school district still retains the land and/or fees, and if the applicant so requests, the school district shall return to applicant the land and/or fees. If the school district has been caused to incur fees or costs in connection with the transfer or retransfer of any such land, the applicant shall reimburse the school district, as a condition of retransfer of title, for all fees and costs necessitated thereby.

D. School District Schedule. Following concurrence by the City Council

pursuant to Section 16.40.030 C, the City Manager or his or her designee shall notify each school district affected thereby. The governing board of the school district shall then submit a schedule specifying how it will use the fees or land, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available and the time when such facilities will be available. In the event the governing board of the school district cannot meet the schedule, it shall submit modifications to the City Council and the reasons for the modifications. (Ord. 438 § 1(part), 1982).

#### **16.40.060 USES AND LIMITATIONS OF USES AND LAND.**

A. Use of Fees and Land. All fees or land, or both, collected pursuant to this chapter and transferred to a school district, shall be used only by the district for the purpose of providing elementary or high school classroom and related facilities.

B. Account. Any school district receiving funds or lands pursuant to this chapter shall maintain a separate account for any fees paid and disposition of land received, and shall file an annual report with the City Council on the balance and account of the end of the previous fiscal year and the facilities leased, purchased or constructed during the previous fiscal year. In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be filed by August 1st of each year.

C. Termination of Dedication or Fee Requirements. When it is determined by the governing board of the affected school district that conditions of overcrowding no longer exist in an attendance area, the City Council shall cease imposition of any requirements under this chapter.

D. Validity. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, the decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted the chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is invalid. (Ord. 438 § 1(part), 1982).

## Title 17 ZONING\*

\* For statutory provisions of zoning regulations generally, see Gov. Code Sec. 65800 *et seq.*

Prior ordinance history: Ords. 291, 314, 325, 334, 350, 365, 379, 393, 394, 395, 404, 422, 423, 435 and 436.

### Chapters:

- [17.04](#) In General
- [17.08](#) Designation of Districts
- [17.12](#) Establishment of Districts
- [17.16](#) Definitions
- [17.20](#) District Regulations
- [17.24](#) Parking and Loading Regulations
- [17.26](#) Home Occupations
- [17.28](#) Signs
- [17.29](#) Condominium New Projects and Conversions Ordinance
- [17.30](#) Wind Energy Conversion Systems
- [17.31](#) Second Dwelling Units
- [17.32](#) General Provisions and Exceptions
- [17.33](#) Wireless Telecommunications Facilities
- [17.34](#) Recycling Facilities and Areas
- [17.35](#) Design Review and Sign Permits
- [17.36](#) Use Permits
- [17.38](#) Landscape Requirements for New Construction
- [17.40](#) Variances
- [17.44](#) Nonconforming Uses
- [17.48](#) Amendments, Alterations and Changes in Districts
- [17.52](#) Enforcement, Legal Procedures and Penalties

## **Chapter 17.04 IN GENERAL**

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Sections:

[17.04.010](#) Adoption of zoning (district) plan.

[17.04.020](#) Purpose of the plan.

[17.04.030](#) Effect of the plan.

[17.04.040](#) Intent of the plan.

### **17.04.010 ADOPTION OF ZONING (DISTRICT) PLAN.**

There is adopted a zoning enabling plan for the city, which constitutes a specific plan based upon the adopted general plan of the city. As used in this title, general plan includes master plan and specific plan includes precise plan. (Ord. 440 § 2(part), 1982).

### **17.04.020 PURPOSE OF THE PLAN.**

The plan is adopted to provide reasonable protective regulations designed to promote and protect the public health, safety, peace, morals, comfort, convenience and general welfare, and:

A. To protect the established character and the social and economic stability of agricultural, residential, commercial, industrial and other types of improved areas; and

B. To assist in providing a definite comprehensive plan for sound and orderly development, and to guide and regulate such development in accordance with the master plan and the objectives and standards set forth therein; and

C. To provide a guide for the rezoning of properties within the Pinole planning area in conjunction with the annexation proceedings, as provided by law. (Ord. 440 § 2 (part), 1982).

### **17.04.030 EFFECT OF THE PLAN.**

The zoning plan consists of the establishment of various districts within some, all or none of which it is unlawful to erect, construct, alter, move, locate or maintain certain buildings or to carry on certain trades or occupations or to conduct certain uses of land or buildings; within which the heights and bulk of future buildings are limited; within which certain open spaces are required about future buildings and consisting further of appropriate additional regulations to be enforced in such districts, all as set forth in this title. (Ord. 440 § 2(part), 1982).

#### **17.04.040 INTENT OF THE PLAN.**

A. The zoning plan is intended to apply to all private, public, quasi-public, institutional and public utility properties and all other lands, buildings and structures within the incorporated area of the city; and

B. The zoning plan is intended to indicate the nature of rezoning and future zoning of lands beyond the city limits in the Pinole planning area. (Ord. 440 § 2 (part), 1982).

## **Chapter 17.08 DESIGNATION OF DISTRICTS**

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Sections:

[17.08.010](#) Classes of districts.

[17.08.020](#) Combining districts.

#### **17.08.010 CLASSES OF DISTRICTS.**

The several classes of general districts established and into which the city is or may be divided are designated as follows:

- A. OS, open space district;
- B. PR, parks and recreation district;
- C. SPC, San Pablo Bay conservation district;
- D. S/R, suburban/rural residential district;
- E. R-1, single-family residence district;
- F. R-2, two-family residence district;
- G. R-3, neighborhood apartment district, three-family and four-family;
- H. R-3-6, neighborhood apartment district, maximum six-family;
- I. R-3-8, neighborhood apartment district, maximum eight-family;
- J. R-4, general apartment district;
- K. PF, public facilities district;
- L. C-1, neighborhood business district;
- M. C-2, central business district;
- N. C-3, general commercial district;

- O. SC, service commercial district;
- P. PA, professional and administrative district;
- Q. M-1, light industrial district;
- R. M-2, general industrial district;
- S. M-L, limited industrial district;
- T. PD, planned development district. (Ord. 97-106 § 1(part), 1997: Ord. 97-101 § 1(part), 1997: Ord. 97-100 § 1(part), 1997: Ord. 440 § 2(part), 1982).

### **17.08.020 COMBINING DISTRICTS.**

In addition to the classes of districts listed in subsections A through T of Section 17.08.010, certain combining districts are established and are designated as follows:

- A. A, special agricultural district;
- B. B, special building site district;
- C. CD, special civic center district;
- D. F, special highway frontage district;
- E. FP, special floodplain district;
- F. H, special height district;
- G. HP, special historic preservation district;
- H. HP-L, special historic preservation district, list;
- I. MU, special mixed use district;
- J. OTP, special old town parking. (Ord. 97-106 § 1(part), 1997: Ord. 97-101 § 1(part), 1997: Ord. 97-100 § 1(part), 1997: Ord. 440 § 2(part), 1982).

## **Chapter 17.12 ESTABLISHMENT OF DISTRICTS**

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Sections:

- [17.12.010](#) Applicability of regulations.
- [17.12.020](#) Uncertainty of boundaries.

### **17.12.010 APPLICABILITY OF REGULATIONS.**

The classes of districts and certain combinations thereof as designated in Chapter 17.08, and the regulations pertaining thereto are applied to the land areas of the city, as delineated on the zoning map of the city, and the land areas designated thereon are subject to the provisions and regulations in this title. (Ord. 440 § 2(part), 1982).

### **17.12.020 UNCERTAINTY OF BOUNDARIES.**

Where uncertainty exists as to the boundaries of any of the districts listed in Sections 17.08.010 and 17.08.020 as shown on the zoning map, the following rules shall apply:

A. Lands not included within the boundaries of a district on the zoning map of the city shall constitute an R-1 district unless otherwise designated by this title, and lands hereafter annexed to the city shall constitute such districts as have been designated in rezoning procedures or shall be designated on the zoning map by procedures set forth in this title to conform to the general plan.

B. Where district boundaries are indicated as approximately following street and alley lines, such street and alley lines shall be construed to be such boundaries.

C. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

D. In case further uncertainty exists, the planning commission upon written application or upon its own motion, shall determine the location of such boundaries. (Ord. 440 § 2(part), 1982).

## **Chapter 17.16 DEFINITIONS**

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Sections:

[17.16.010](#) General terminology.

[17.16.020](#) Definitions.

### **17.16.010 GENERAL TERMINOLOGY.**

Words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular; the word “building” includes the word “structure,” and the word “shall” is mandatory; “City Council” means the City Council of the city and “planning commission” means the planning commission of the city. (Ord. 01-105 § 1(part), 2001: Ord. 97-103 § 1(part), 1997: Ord. 97-100 § 2(part), 1997: Ord. 590 § 2(part), 1996: Ord. 578 § 4(part), 1995: Ord. 573 § 1, 1995: Ord. 440 § 2(part), 1982).

### **17.16.020 DEFINITIONS.**

As used in this title:

A. **ACCESSORY BUILDING.** A detached subordinate building, the use of which is incidental to that of the main building on the same lot, or to the use of the land.

B. **ACCESSORY USE.** A use or building incidental or subordinate to the principal use or building on the same lot.

C. **ACTIVITY, TEMPORARY.** Any activity which lasts for three or more consecutive days and occurs at least once a year. Such activities include but are not limited to: Christmas tree lots, pumpkin patches, street fairs, swap meets, farmers markets, retail sales outdoors.

D. **AGENCY.** An office or commercial establishment in which goods, material or equipment is received for servicing, treatment or processing elsewhere.

E. **ALLEY.** A public or permanent private way or lane less than forty feet in width which affords a secondary means of access to abutting property.

F. **APARTMENT HOUSE.** Any building or portion thereof which is designed and built for occupancy by three or more families.

G. **BASEMENT.** A portion of a building wholly underground or in which more than one-half the distance from the floor to the ceiling is below the average adjoining grade, and as otherwise defined in the building code currently in effect.

17.16.020

H. **BOARDINGHOUSE.** A building, or portion thereof, other than a hotel, where regular meals for three or more persons are provided for compensation or profit.

I. **BUILDING.** Any structure having a roof supported by columns and/or walls and intended for the housing or shelter of any persons, animal or chattel.

J. **BUILDING COVERAGE.** The land area covered by all buildings on a lot, including all projections except eaves.

K. **BUILDING HEIGHT.** The vertical distance from the average finished ground level of all walls of the building and the highest point of the building, and as otherwise defined in the building code currently in effect.

L. **BUILDING SITE.** The land area occupied by or capable of being covered by all structures permissible under this title.

M. **CHURCH.** An institution which people regularly attend or participate in or hold religious services, meetings and other activities. The term church shall not carry a secular connotation, and shall include buildings in which services of any denomination are held.

N. **CLINIC.** A medical office providing diagnosis and care of outpatients by doctors.

O. **DWELLING.** A building designed for and/or occupied by one or more persons or families.

P. **DWELLING GROUP.** Two or more detached one-family or two-family dwellings, other than a commercial, tourist or motor court, located upon a building site, together with all open spaces as required by this title.

Q. **DWELLING, MULTIPLE-FAMILY.** A building designed and/or used to house three or more families, living independently of each other, including all necessary employees of each family.

R. **DWELLING, ONE-FAMILY.** A building designed for and/or occupied by one family and containing not more than one kitchen.

S. **DWELLING, TWO-FAMILY.** A building containing not more than two kitchens, designed and/or used to house not more than two families, living independently of each other, including all necessary employees of each such family.

T. **FAMILY.** One person living alone, or two or more persons related by blood, marriage or legal adoption; or a group not exceeding five persons living together as a single housekeeping unit.

17.16.020

U. **FIREARM.** As defined in Section 12001 of the Penal Code, means any device, designed to be used as a weapon, including the frame or receiver of any such weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion. **FIREARM** includes any rocket, rocket propelled projectile launcher, or other similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

V. **FIREARM AMMUNITION.** A bullet, missile, or component, including any cartridge or encasement, or bullet projectile, primer or propellant or explosive material used in the manufacture of ammunition.

W. **FIREARM SALES.** The sale, transfer, lease, offer or advertising for sale, transfer or lease of a firearm as defined under “firearm,” or “firearm ammunition” or firearm ammunition component, including any cartridge or encasement, bullet or projectile, primer or propellant or explosive material used in the manufacture of ammunition.

X. **GARAGE, COMMERCIAL.** A building, other than private garage, used for the parking, repair or servicing of motor vehicles.

Y. **GARAGE, PARKING.** A public garage designed and/or used on a commercial basis for the storage only of vehicles.

Z. **GARAGE, PRIVATE.** An accessory building or portion of a building designed and/or used only for the shelter or storage of vehicles by the occupants of the dwelling, -including covered parking space or carport.

AA. **HELICOPTER PORT and HELIPORT.** A site designed and intended to be used for the landing and taking off of helicopters and similar vertical lift aircraft, and for the fueling and servicing thereof.

BB. **HELISTOP.** A site designed and intended to be used only for the landing and taking-off of helicopters and similar vertical lift aircraft and where no fueling or other services are provided.

CC. **HOME OCCUPATION, CONDITIONAL.** Limited service for financial consideration rendered on the premises of a residentially zoned parcel without face-to-face contact with the customer on these premises. Such use shall be incidental to the primary use of the premises as a residence.

DD. **HOTEL.** Any building or portion thereof containing six or more guest rooms used or intended or designed to be used, let or hired out to be occupied or which are occupied by six or more guests, whether the compensation for hire is paid directly or indirectly in money, goods, wares, merchandise, labor or otherwise and shall include hotels, motels, lodging houses and rooming houses, dormitories, turkish baths, bachelor hotels, studio hotels, public and private clubs and any such building of any nature whatsoever so occupied, designed or intended to be so occupied, except jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes and similar buildings where human beings are housed or detained under legal restraint.

EE. **INFILL LOT.** Vacant land or property adjacent to developed land or property on at least two sides or adjacent to developed land or property on one side and adjacent to an area zoned for open space, parks and recreation, or San Pablo Bay conservation on another side.

FF. **JUNKYARD.** An area of one hundred eighty square feet or more, not enclosed within a building, which is used for the storage or handling of junk, scrap or used materials including metal, glass, paper, rags, lumber and building materials, fixtures and appliances, or for the wrecking or dismantling of automobiles, vehicles, machinery or appliances.

GG. **LIVE/WORK.** A building or a portion of a building used as work and/or living spaces for artists including, but not limited to, architects, carpenters, computer artists, dancers, fashion designers, graphic artists, jewelers, musicians, painters, photographers, potters and sculptors. A live/work unit must be at least eight hundred square feet.

HH. **LODGINGHOUSE.** A building or portion thereof, other than a hotel, containing three or more guest rooms used, intended or designed to be used, let or hired out or to be occupied by paying guests.

II. **LOT.** A parcel of land under one ownership used or capable of being used under the regulations of this title, and including both the building site and all required yards and other open spaces and frontage as defined in this section.

JJ. **LOT, CORNER.** A lot located at the junction of two or more intersecting streets, with a boundary line thereof bordering on each of such streets. The shortest such street frontage shall constitute the front of the lot.

LL. **LOT WIDTH.** The distance between side lot lines measured at the front yard building line.

MM. **MEDICAL OFFICE.** A use providing consultation, diagnosis, therapeutic, preventative, or corrective treatment services by doctors, dentists, medical laboratories and

similar practitioners of medical and healing arts for humans and licensed for such practice by the state of California.

NN. **NONCONFORMING BUILDING.** A building or structure or portion thereof lawfully existing at the time this title became effective, which was designed, erected or structurally altered for a use that does not conform to the use regulations of the district in which it is located.

OO. **OUTDOOR ADVERTISING SIGN OR STRUCTURE.** Any structure of any kind or character erected, maintained or used for outdoor advertising purposes upon which any outdoor advertising is or may be placed or displayed.

PP. **PARKING LOT.** An area of land, a yard or other open space on a lot used for or designed for use by standing motor vehicles.

QQ. **PARKING SPACE.** Space on an area of land, covered or uncovered, designed and intended to be used for parking a motor vehicle, which space is improved with a durable dustless surface suitable for use under all weather conditions, and which space shall not be located in any required front yard, or any required side yard adjacent to a street.

RR. **PAVING.** A surface such as concrete or asphalt or other material or combination of materials that is impervious.

SS. **PHYSICAL THERAPIST.** A person who treats physical dysfunction or injury by the use of therapeutic exercise and the application of modalities, intended to restore or facilitate normal function or development. A physical therapist is not required to be a medical doctor by law.

TT. **PLAYGROUND.** An outdoor area set aside for recreation and play, especially one containing equipment such as seesaws, slides and swings.

UU. **PUBLIC PARK.** An area publicly owned and/or leased and dedicated as a park whether developed or not.

VV. **PUBLIC RECREATION FACILITY, OUTDOOR.** An outdoor facility public owned or leased which has been set aside for assembly, recreation, play, and/or ornamental purposes.

WW. **RIGHT-OF-WAY.** All or any part of an existing or proposed drainage facility, pedestrian, equestrian, or bicycle trail, any type of cable line, pipeline, transmission line, sidewalk, road, street, highway, railroad, or Bay Area Rapid Transit line whether or not such entire area or structure is actually used for trail, drainage, cable access, piping, transmitting, sidewalk, road, street, highway, railroad, or Bay Area Rapid Transit purposes.

XX. **SCHOOL.** An institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school, or any special institution of learning under the jurisdiction of the State Department of Education, but it does not include a vocational or professional institution or an institution of higher education, including a community or junior college or university.

YY. **SERVANTS QUARTERS.** A secondary dwelling or apartment without any kitchen facilities designed for and used only by persons regularly employed on the property.

ZZ. **SERVICE STATION.** A retail business establishment supplying motor fuel and oil, and minor accessories and services for motor vehicles, and not including repairs.

AAA. **SETBACK LINE.** A line established by this title to govern the placement of buildings with respect to streets and alleys.

BBB. **SPORTS ARENA.** An enclosed structure for the presentation of sports events, concerts and other such spectacles with tiered seating for spectators.

CCC. **STABLE, COMMERCIAL.** A stable for horses to be let, hired or used on a commercial basis.

DDD. **STABLE, PRIVATE.** A stable for horses to be used by the owners thereof.

EEE. **STADIUM.** An enclosed structure for the presentation of sports events, concerts and other such spectacles with tiered seating for spectators.

FFF. **STORY.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story is that portion of the building included between the upper surface of the topmost floor and the ceiling or roof above, and as otherwise defined in the building code currently in effect.

GGG. **STREET.** A public or permanent private way forty feet or more in width which affords a primary means of access to property.

HHH. **STRUCTURAL ALTERATIONS.** Any change in the supporting members of a building, such as bearing walls, columns, beams or girders and floor joists, ceiling joists or roof rafters.

III. **STRUCTURE.** Anything constructed or erected upon the ground or attached to a structure having location on the ground.

JJJ. **TOURIST COURT.** A group of buildings designed for use by tourists or transients with living or sleeping rooms, garages, parking spaces and related facilities advertised or offered on a commercial basis, including an auto court, motor court and motor lodge.

KKK. **TRAILER COACH (MOBILE HOME).** A vehicle equipped and/or used as a dwelling or for living or sleeping purposes.

LLL. **TRAILER COURT (MOBILE HOME PARK).** A lot or parcel of land used or designed or intended to be used for the accommodation of two or more trailer coaches or mobile homes.

MMM. **TRUCK.** Any vehicle that is registered as a commercial vehicle with the Department of Motor Vehicles of any state and which vehicle measures eighty-four inches or more in width and seventy-eight inches or more in height, not including recreational vehicles constructed in such a manner that they principally provide human sleeping and living accommodations.

NNN. **WORKSTATION (BARBERSHOP, BEAUTY SALON, OR PERSONAL SERVICE).** A workstation where hair is cut or styled, or where nails are manicured.

OOO. **YARD, FRONT.** A yard extending across the full width of the lot measured between the street line (or the lot line connected to a street by legal access) and the nearest line of the main building or enclosed or covered porch. The front yard of a corner lot is the yard adjacent to the shorter street frontage.

PPP. **YARD, REAR.** A yard extending between the side yards of the lot and measured between the rear line of the lot and the rear line of the main building or enclosed or covered porch nearest the rear line of the lot.

QQQ. **YARDS.** Land unoccupied or unobstructed except for such encroachments as may be permitted by this title, surrounding a building site.

RRR. **YARD, SIDE.** A yard on either side of the lot extending from the front yard to the rear lot line, the width of each yard being measured between the side line of the lot, and the nearest part of the main building or enclosed porch. (Ord. 01-108 § 1, 2001; Ord. 01-105 § 1(part), 2001; Ord. 97-103 § 1(part), 1997; Ord. 97-100 § 2 (part), 1997; Ord. 590 § 2(part), 1996; Ord. 578 § 4 (part), 1995; Ord. 573 § 1, 1995; Ord. 530 § 1, 1990; Ord. 440 § 2(part), 1982; Ord. 2001-108 § 1, 2001).

## DISTRICT REGULATIONS\*

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\* Prior ordinance history: Ords. 440, 442, 453, 457, 503, 530, 545, 573, 578 and 590.

Sections:

- [17.20.002](#) OS, open space district regulations.
- [17.20.003](#) PR, parks and recreation district regulations.
- [17.20.004](#) SPC, San Pablo Bay conservation district regulations.
- [17.20.005](#) S/R, suburban/rural residential district regulations.
- [17.20.010](#) R-1, single-family residential district regulations.
- [17.20.020](#) R-2, two-family residence district regulations.
- [17.20.030](#) R-3, neighborhood apartment district regulations.
- [17.20.040](#) R-4, general apartment district regulations.
- [17.20.050](#) PF, public facilities district regulations.
- [17.20.060](#) C-1, neighborhood business district regulations.
- [17.20.070](#) C-2, central business district regulations.

- [17.20.080](#) C-3, general commercial district regulations.
- [17.20.090](#) SC, service commercial district regulations.
- [17.20.100](#) PA, professional and administrative district regulations.
- [17.20.110](#) M-1, light industrial district regulations.
- [17.20.120](#) M-2, general industrial district regulations.
- [17.20.130](#) M-L, limited manufacturing district regulations.
- [17.20.140](#) PD, planned development district regulations.
- [17.20.150](#) A, special agricultural combining district regulations.
- [17.20.160](#) B, special building site combining district regulations.
- [17.20.170](#) CD, special civic district combining district regulations.
- [17.20.180](#) F, special highway frontage covering district regulations.
- [17.20.190](#) FP, special floodplain combining district regulations.
- [17.20.200](#) H, special height combining district regulations.
- [17.20.210](#) HP, special historic preservation combining district regulations.
- [17.20.220](#) MU, special mixed use combining district regulations.
- [17.20.230](#) OTP, special old town parking combining district regulations.

## **17.20.002 OS, OPEN SPACE DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules of Chapter 17.32 apply in all OS districts. The OS district is intended to protect and preserve open space lands which are of notable ecological, scenic, cultural and scientific value so such land remains a permanent local and regional resource. In OS districts land should be free of improvements and structures.

B. Uses Permitted.

1. Educational and cultural uses including wildlife habitat sanctuaries, botanical conservatories, outdoor nature preserves and any structure incidental to such use existing at the time of inclusion in the OS district;
2. Scientific study;
3. Open space as a reserve for fire protection, seismic or other geotechnical safety, water conservation, flood control, protection of views, buffer zone between differing land uses or jurisdictions, or similar appropriate purposes;

4. Trails, provided they do not interfere with sensitive plant and animal habitats;
5. Signs, in conjunction with a permitted use.

C. Uses Requiring Use Permits.

1. Public restrooms;
2. Public viewing facilities such as observation platforms or nature study areas.

D. Lot Area. No minimum required.

E. Design Review. All uses permitted within this district, including those for which a use permit is required, shall be subject to design approval for any development, construction, or improvements as provided in Chapter 17.35. (Ord. 97-100 § 3(part), 1997).

### **17.20.003 PR, PARKS AND RECREATION DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules of Chapter 17.32 apply in all PR districts. The PR district is intended to create, preserve and enhance public and private, local and regional areas of outstanding scenic, historic and cultural values including parks and related facilities such as swimming pools, playing fields, recreational buildings, trails and associated parking. In PR districts, school sites should be combined with public park and recreation facilities wherever possible.

B. Uses Permitted.

1. Public and private park and recreation lands including but not limited to: play fields, athletic fields, baseball/softball diamonds, basketball courts, tennis courts and bicycle and hiking facilities;
2. Educational and cultural uses including botanical conservatories, wildlife habitat sanctuaries, outdoor nature and wildlife preserves;
3. Public and private schools including day care centers;
4. Uses and buildings normally incidental and accessory to a principal use such as refreshment stands and equipment rental shops;
5. Trails, provided they do not interfere with sensitive plant and animal habitats;
6. Single-family dwelling units incidental and accessory to a permitted conditional use.

C. Uses Requiring Use Permits.

1. Public or private community centers, stadiums, arenas, auditoriums, exhibition halls, convention and visitor facilities and theaters;
2. Educational, charitable, research and philanthropic institutions, including museums, interpretative centers and research facilities;

3. Golf courses and driving ranges, country clubs, rod and gun clubs, swimming pools and equestrian facilities;

4. Other recreational land uses which the planning commission finds to be of a similar nature and which are not contrary to the purpose of this district.

D. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

E. Lot Area. No regulation.

F. Building Height Limit. Two stories, but not to exceed thirty-five feet.

G. Loading Area. As required by Chapter 17.24.

H. Automobile, Bicycle and Motorcycle Parking. See Chapter 17.24.

I. Signs. See Chapter 17.28.

J. Design Review. All uses permitted within this district, including those for which a use permit is required, shall be subject to design approval for any development, construction, or improvements as provided in Chapter 17.35 of this code. (Ord. 97-100 § 3(part), 1997).

#### **17.20.004 SPC, SAN PABLO BAY CONSERVATION DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules set forth in Chapter 17.32 shall apply to all SPC districts. The SPC district is intended to prohibit intensive development in the area extending into the San Pablo Bay and the land immediately adjacent to the San Pablo Bay; to assure permanent open space in and for beaches and recreation areas, scenic lands and wildlife habitats, wherein development would adversely affect public use and natural environmental benefits; to allow for and regulate commercial uses which are directly related to, and enhance the waterfront.

B. Uses Permitted.

1. Outdoor classes, public or private; for scientific research, art and other subjects;

2. Privately owned or public recreation areas, parks, permanent landscape or open space, playgrounds and swimming beaches;

3. Public fishing facilities;

4. Public viewing facilities such as observation platforms or nature study areas;

5. Trails, provided they do not interfere with sensitive plant and animal habitats;

6. Safety structures, including but not limited to, warning signs, barricades and lifeguard towers built by, or under the direction of, or with special approval of, the city;

7. Walls or fences.

C. Uses Requiring Use Permits.

1. Boat launching facilities;
  2. Marinas, harbors, mooring facilities;
  3. Parking lots;
  4. Piers;
  5. Public or private commercial facilities, such as restaurants and marine related retail and offices which are directly related to the waterfront;
  6. Public restrooms;
  7. Single-family dwelling units incidental and accessory to a permitted or conditional use.
- D. Bulk, Space and Height. Minimum bulk and space requirements and height limit.
- E. Building Height Limit. Two stories, but not to exceed thirty feet.
- F. Signs. See Chapter 17.28 of this code.
- G. Design Review. All uses permitted within this district, including those for which a use permit is required, shall be subject to design approval for any development, construction, or improvements as provided in Chapter 17.35 of this code. (Ord. 97-100 § 3(part), 1997).

#### **17.20.005 S/R, SUBURBAN/RURAL RESIDENTIAL DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules set forth in Chapter 17.32 apply in all S/R districts. It is intended that this district classification be applied in areas both developed and undeveloped which are located in hill area terrain and are designated to be used for single-family residential development.

B. Uses Permitted.

1. One-family dwellings, including private garages, accessory buildings, and uses;
2. Agriculture, horticulture, gardening, keeping of animals as permitted by city ordinance, but not including stands or structures for the sale of agricultural or nursery products;
3. Advertising signs as permitted by Chapter 17.28;
4. Home occupations, conditional;
5. Day care of not more than twelve children;
6. Day care of more than twelve but not more than twenty children at any one time, when it has been determined by the city planner or community development director that such use is consistent with guidelines adopted by resolution of the City Council. Such administrative use permits will be conditional upon applicant possessing the applicable state or county licenses, fire department approval and being in compliance with applicable building and housing codes of

the city. The application for such an administrative use permit shall be in written form signed by the intended operator and property owner. Such use permit shall be for one year conditional, personal to the operator and nontransferable.

C. Uses Requiring Use Permits.

1. Public parks, schools, playgrounds, libraries, firehouses and other public buildings;
2. Private and religious schools, nursery schools and day care centers;
3. Churches, home occupations, general;
4. Golf and country clubs;
5. Temporary real estate offices, tract sales offices, tract advertising signs on tract sites during sales periods as permitted by Chapter 17.28 and temporary tract construction offices and construction materials yards on tract sites during construction of such tracts;
6. Day care of twenty-one children or more at any one time, or when the city planner or community development director has denied an application for an administrative use permit for a day care center for more than twelve children but less than twenty-one children. Such use permits will be consistent with guidelines adopted by resolution of the City Council. Such permits will be conditional upon applicant possessing the applicable state or county licenses, fire department approval and compliance with applicable building and housing codes of the city. The application for such a permit shall be in written form signed by the intended operator and property owner. Ten days' notice of public hearing on the application for such use permits shall be given by mail to the owners and residents of all property within a radius of three hundred feet from the property for which the application is made.

D. Minimum Bulk and Space Requirements and Height Limit.

1. Lot area, sixty-five thousand square feet;
2. Lot width, one hundred forty feet;
3. Maximum main building coverage, no regulations;
4. Front yard, twenty-five feet;
5. Side yards, twenty-five feet;
6. Rear yard, twenty feet;
7. Building height limit, two stories, but not to exceed thirty-five feet.

E. Automobile Parking. See Chapter 17.24.

F. Design Review. The provisions of Section 17.20.170 shall be complied with prior to erecting or externally altering any structure or grading in excess of fifty cubic yards in the S/R zoning district. (Ord. 97-100 § 3(part), 1997).

## **17.20.010 R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and the general rules set forth in Chapter 17.32 apply in all R-1 districts. It is intended that this district classification be applied in areas subdivided and used or designated to be used for single-family residential development.

### B. Uses Permitted.

1. One-family dwellings, including private garages, accessory buildings and uses;
2. Agriculture, horticulture, gardening, keeping of animals as permitted by city ordinance, but not including stands or structures for the sale of agricultural or nursery products;
3. Public parks, schools, playgrounds, libraries, firehouses and other public buildings and uses included in the general plan;
4. Advertising signs, as permitted by Chapter 17.28;
5. Home occupations, conditional;
6. Day care of not more than twelve children;
7. Day care of more than twelve but not more than twenty children at any one time, when it has been determined by the city planner or community development director that such use is consistent with guidelines adopted by resolution of the City Council. Such administrative use permits will be conditional upon applicant possessing the applicable state or county licenses, fire department approval, and compliance with applicable building and housing codes of the city. The application for such an administrative use permit shall be in written form signed by the intended operator and property owner. Such use permit shall be for one year conditional, personal to the operator and nontransferable.

### C. Uses Requiring Use Permits.

1. Public parks, schools, playgrounds, libraries, firehouses and other public buildings and uses not included in the general plan;
2. Private and religious schools, nursery schools and day care centers;
3. Churches, home occupations, general;
4. Golf and country clubs;
5. Temporary real estate offices, tract sales offices, tract advertising signs on tract sites during sales periods as permitted by Chapter 17.28 and temporary tract construction offices and construction materials yards on tract sites during construction of such tracts;
6. Day care of twenty-one children or more at any one time; or when the city planner or community development director has denied an application for an administrative use permit for a day care center for more than twelve children but less than twenty-one children. Such use permits will be consistent with guidelines adopted by resolution of the City Council. Such permits will be conditional upon applicant possessing the applicable state or county licenses, fire department approval and compliance with applicable building and housing codes of the city. The

application for such a permit shall be in written form signed by the intended operator and property owner. Ten days' notice of public hearing on the application for such use permits shall be given by mail to the owners and residents of all property within a radius of three hundred feet from the property for which the application is made.

- D. Bulk, Space and Height. Minimum bulk and space requirements and height limit.
- E. Lot Area. Six thousand square feet for interior lots; seven thousand five hundred square feet for corner lots.
- F. Lot Width. Sixty feet for interior lots; seventyfive feet for corner lots.
- G. Maximum Main Building Coverage. Thirty-five percent of lot area.
- H. Front yard. Twenty feet.
- I. Side Yards. Five feet, except that the side yard on the street side of each corner lot shall be not less than twenty percent of lot width and need not exceed fifteen feet.
- J. Rear Yard. Twenty percent of lot depth; may not be less than ten feet, need not exceed twenty feet.
- K. Building Height Limit. Two stories, but not to exceed thirty-five feet.
- L. Automobile Parking. See Chapter 17.24. (Ord. 97-100 § 3(part), 1997).

#### **17.20.020 R-2, TWO-FAMILY RESIDENCE DISTRICT REGULATIONS.**

A. Applicability. The following regulations and general rules set forth in Chapter 17.32 apply in all R-2 districts. It is intended that this district classification be applied where two-family dwellings are, or are intended to be the dominant use.

- B. Uses Permitted.
  - 1. Uses as permitted in R-1 districts (Section 17.20.010B);
  - 2. Two-family dwellings;
  - 3. Advertising signs, as permitted by Chapter 17.28.
- C. Uses Requiring Use Permits.
  - 1. Uses as permitted in R-1 district (Section 17.20.010C).
- D. Bulk, Space and Height. Minimum bulk and space requirements and height limit.
- E. Lot Area. Six thousand square feet.
- F. Lot Width. Sixty feet.
- G. Maximum Main Building Coverage. Forty percent of lot area.

H. Front Yard. Twenty feet.

I. Side Yards. Side yards shall total not less than twenty percent of the lot width, and no side yard may be less than five feet. Three feet shall be added to each required side yard for each story above the first story of any building. The side yard on the street side of each corner lot shall be not less than ten feet.

J. Rear Yard. Twenty feet.

K. Building Height Limit. Two stories, but not to exceed thirty-five feet.

L. Automobile Parking. See Chapter 17.24. (Ord. 97-100 § 3(part), 1997).

### **17.20.030 R-3, NEIGHBORHOOD APARTMENT DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and the general rules set forth in Chapter 17.32 apply in all R-3 districts. It is intended that this district classification be applied in areas where homes and small apartments are the desirable uses.

B. Uses Permitted. Uses permitted in R-1 and R-2 districts and three-family and four-family dwellings; provided further, that:

1. In R-3 districts where the number “6” is added to the district symbol (R-3-6) five-family and six-family dwellings may also be permitted; provided, that there is one thousand four hundred square feet of lot area for each dwelling unit; and

2. In R-3 districts where the number “8” is added to the district symbol (R-3-8), seven-family and eightfamily dwellings may be permitted; provided, that there is one thousand two hundred fifty square feet of lot area for each dwelling unit;

3. Advertising signs, as permitted by Chapter 17.28.

C. Uses Requiring Use Permits. Uses as permitted in R-1 districts (Section 17.20.010B).

D. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

E. Lot Area. Six thousand square feet.

F. Lot Width. Sixty feet.

G. Maximum Main Building Coverage. Forty percent of lot area.

H. Front Yard. Twenty feet.

I. Side Yards. Side yards shall total not less than twenty percent of the lot width, and no side yard may be less than five feet. Three feet shall be added to each required side yard for each story above the first story of any building. The side yard on the street side of each corner lot shall be not less than ten feet.

J. Rear Yard. Twenty feet.

- K. Building Height Limit. Two stories, but not to exceed thirty-five feet.
- L. Automobile Parking. See Chapter 17.24. (Ord. 97-100 § 3(part), 1997).

#### **17.20.040 R-4, GENERAL APARTMENT DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules set forth in Chapter 17.32 apply in all R-4 districts. It is intended that this district classification be applied in areas where group dwellings and apartments are the logical and desirable uses.

B. Uses Permitted.

1. Uses permitted in R-1, R-2, R-3, R-3-6 and R-3-8 districts, group dwellings, multiple-family dwellings and apartment houses; provided, that no one such building may contain more than sixteen dwelling units;
2. Parks, playgrounds, public and private schools, churches and religious institutions, libraries, day care centers and public buildings;
3. Boardinghouses and lodginghouses;
4. Private garages, or parking lots uncovered and screened by suitable walls or planting, when operated by or in conjunction with a permitted use;
5. Advertising signs, as permitted by Chapter 17.28;
6. Incidental and accessory buildings and uses on the same lot which are necessary for the operation of any permitted use;
7. Day care of not more than twelve children;
8. Day care of more than twelve but not more than twenty children at any one time, when it has been determined by the city planner or community development director that such use is consistent with guidelines adopted by resolution of the City Council. Such administrative use permits will be conditional upon applicant possessing the applicable state or county licenses, fire department approval and compliance with applicable building and housing codes of the city. The application for such an administrative use permit shall be in written form signed by the intended operator and property owner. Such use permit shall be for one year, conditional, personal to the operator and nontransferable.

C. Uses Requiring Use Permits.

1. Hotels, monasteries, convents;
2. Professional offices for doctors, dentists, architects, attorneys, engineers, artists, authors, accountants;
3. Hospitals, rest homes, sanitariums, mortuaries, clinics;
4. Clubs, lodges and fraternal organizations except those operated as a business or for profit;

5. Day care of twenty-one children or more at any time; or when the city planner or community development director has denied an application for an administrative use permit for a day care center for more than twelve children but less than twenty-one children. Such use permits will be consistent with guidelines adopted by resolution of the City Council. Such permits will be conditional upon applicant possessing the applicable state or county licenses, fire department approval and compliance with applicable building and housing codes of the city. The application for such a permit shall be in written form signed by the intended operator and property owner. Ten days' notice of public hearing on the application for such use permits shall be given by mail to the owners and residents of all property within a radius of three hundred feet from the property for which the application is made;

6. Other uses which, by formal action of the planning commission, are found to be similar to the uses in subsections (C) (1) to (5) of this section.

D. Refuse Storage Area. Shall not be located in any required front yard and shall not project more than two feet into any required side yard. All such storage areas shall be screened from view by fences, enclosures or planting

1. For each dwelling unit, provide an area of six square feet;
2. For other uses, provide storage area adequate to serve each use.

E. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

F. Lot Area. Six thousand square feet for each permitted use.

G. Lot Width. Sixty feet.

H. Maximum Main Building Coverage. Sixty percent of lot area.

I. Front Yard. Twenty feet.

J. Side Yards. Side yards shall total not less than twenty percent of the lot width, and no side yard may be less than five feet. Three feet shall be added to each required side yard for each story above the first story of any building. The side yard of the street side of each corner lot shall be not less than ten feet.

K. Rear Yard. Twenty feet.

L. Distances Between Main Buildings on Same Lot. Ten feet.

1. Group dwellings in a single row "side-to-side" series facing a side lot line; side yards to the rear of buildings, eight feet; side yards in front of buildings, fourteen feet;

2. Group dwellings in a double row side-to-side series facing a central court; side yards to the rear of buildings, eight feet; width of central court, twenty-four feet; distance between buildings, ten feet;

3. The rear yard on a lot on which a dwelling group is constructed may be reduced to not less than twelve feet. No building in a group dwelling development shall have the rear thereof abutting upon a street.

- M. Building Height Limit. Four stories, but not to exceed fifty feet.
- N. Loading Area. As required by Chapter 17.24.
- O. Automobile Parking. See Chapter 17.24. (Ord. 01-108 § 2(part), 2001; Ord. 97-100 § 3(part), 1997).

#### **17.20.050 PF, PUBLIC FACILITIES DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules set forth in Chapter 17.32 apply in all PF districts. The intent and purpose of this section is to establish a zoning district that provides for the orderly development of public, quasi-public and institutional uses, or the expansion of existing facilities, within areas designated for these uses in the land use element of the general plan.

B. Uses Permitted.

1. Cemeteries;
2. Civic centers and related municipal facilities and offices;
3. Community centers;
4. Fire stations and police stations;
5. Libraries;
6. Museums and botanical or zoological gardens;
7. Post office facilities operated by the U.S. Postal Service;
8. Reservoirs and other water delivery, storage, or supply facilities;
9. Schools, public or private, administration offices and facilities;
10. Social halls;
11. Trails;
12. Transit facilities;
13. Other offices, services, or retail which by formal action of the planning commission are determined to be similar or supporting of the foregoing.

C. Uses Requiring Use Permits.

1. Golf courses and driving ranges, country clubs, rod and gun clubs, swimming pools and equestrian facilities;
2. Lodges and community service organizations;
3. Utility substations, public and private.

D. Uses Requiring Administrative Use Permits.

1. Temporary Activities.
  - a. Arts and craft shows, outdoors,
  - b. Circuses and carnivals,
  - c. Flea markets and swap meets,
  - d. Live entertainment events,
  - e. Outdoor exhibits,
  - f. Street fairs,
  - g. Trade fairs.

E. Refuse Storage Area. Shall not be located in any required front yard and shall not project more than two feet into any required side yard. All such storage areas shall be screened from view by fences, enclosures, or planting.

1. For agencies and services, provide an area of one square foot for each one hundred square feet of area up to ten thousand square feet and one square foot for each additional one thousand square feet or portion thereof;

2. For all other uses, as determined by the planning commission.

F. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

G. Lot Area. Six thousand square feet.

H. Lot Width. Sixty feet.

I. Maximum Main Building Coverage. Ninety percent of lot area.

J. Front Yard. Shall not be less than ten percent of lot width.

K. Side Yards. No regulations. For facilities in Old Town, refer to Old Town's design guidelines.

L. Rear Yard. No regulations. For facilities in Old Town, refer to Old Town's design guidelines.

M. Building Height Limit. Three stories, but not to exceed fifty feet. For facilities in Old Town, refer to old Town's design guidelines.

N. Loading Area. As required by Chapter 17.24.

O. Automobile, Bicycle and Motorcycle Parking. As required by Chapter 17.24.

P. Signs. As required by Chapter 17.28. (Ord. 97-100 § 3(part), 1997).

## **17.20.060 C-1, NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules of Chapter 17.32 apply in all C-1 districts. It is intended that this district classification be applied on properties suitable to serve residential areas with convenience shopping and service facilities.

### B. Uses Permitted.

1. The following retail business uses:
  - a. Food stores, dairy products and bakery goods stores,
  - b. Bookstores and rental libraries,
  - c. Drugstores, including soda fountains and food,
  - d. Florists, variety, hardware, clothing stores
  - e. Other retail business uses which, in the opinion of the planning commission, are similar to the foregoing;
2. The following agencies and services:
  - a. Laundry and cleaning agencies, pressing shops,
  - b. Barber shops and beauty parlors,
  - c. Repair shops for shoes, radios, television and household appliances,
  - d. Professional offices, studios and clinics,
  - e. Self-operated laundries and dry-cleaning establishments,
  - f. Other services and agencies which, by formal action of the planning commission, are found to be similar to the foregoing;
3. Public buildings, public utility substations and offices;
4. Advertising signs, as permitted by Chapter 17.28;
5. Incidental and accessory buildings and uses on the same lot which are necessary for the operation of any permitted use;
6. Automobile parking lots and automobile parking garages.
7. Activity, temporary or seasonal as permitted by Chapter 17.36.

### C. Uses Requiring Use Permits.

1. Drive-in types of commercial uses, such as dairy products, food stores, gasoline service stations, restaurants and other similar uses.

### D. Refuse Storage Area.

1. For retail sales uses, provide an area of four square feet for each one hundred square feet of retail sales area up to five thousand square feet and one square foot for each additional one thousand square feet or portion thereof;

2. For agencies and services, provide an area of one square foot for each one hundred square feet of area up to ten thousand square feet and one square foot for each additional one thousand square feet or portion thereof.

E. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

F. Lot Area. Minimum five thousand square feet.

G. Lot Width. No regulations.

H. Lot Coverage. No regulations.

I. Front Yard. Fifteen feet, which yard shall be landscaped and maintained in an attractive manner.

J. Side Yards. No regulations, except as required by building code or other regulations.

K. Rear Yard. Fifteen feet.

L. Building Height Limit. Two stories, but not to exceed thirty feet.

M. Loading Area. As required by Chapter 17.24.

N. Automobile Parking. As required by Chapter 17.24. (Ord. 97-100 § 3(part), 1997; Ord. 590 § 3, 1996).

### **17.20.070 C-2, CENTRAL BUSINESS DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules of Chapter 17.32 apply in all C-2 districts. It is intended that this district classification be applied where general business facilities are necessary for public service and convenience.

B. Uses Permitted.

1. Uses permitted in C-1 districts;

2. Retail stores and business or service enterprises which, in the opinion of the planning commission, are similar to the following:

a. Banks, business offices, bowling alleys, food, drug and clothing stores,

b. Business colleges, music and dancing studios;

c. Blueprinting shops, photographic stores,

d. Catering shops, cafes and restaurants,

e. Art and antique shops, pawnshops,

- f. Theaters, auditoriums, lodge halls and social clubs
  - g. Newspapers and commercial printing shops,
  - h. Mortuaries,
  - i. Bakeries, employing not more than five persons, full-time or part-time, excluding sales personnel;
- 3. Professional offices, studios and clinics;
  - 4. Advertising signs, as permitted by Chapter 17.28;
  - 5. Incidental storage and accessory uses, including repair operations and services; provided, that such uses are clearly incidental to the sales of retail products on the premises, shall not employ more than five persons excluding sales personnel, and shall be so placed and constructed as not to be offensive or objectionable because of odor, dust, smoke, noise or vibration.

C. Uses Requiring Use Permits.

- 1. Drive-in types of commercial uses, such as car wash, dairy products, food stores, gasoline service stations, restaurants and other similar uses;
- 2. Outdoor advertising structures.
- 3. Wireless telecommunication facilities;
- 4. Hotels;

D. Refuse Storage Area.

- 1. For retail sales uses, provide an area of four square feet for each one hundred square feet of retail sales area up to five thousand square feet and one square foot for each additional one thousand square feet or portion thereof;
- 2. For agencies and services, provide an area of one square foot for each one hundred square feet of area up to ten thousand square feet and one square foot for each additional one thousand square feet or portion thereof;
- 3. For all other uses, as determined by the planning commission.

E. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

F. Lot Area. Five thousand square feet.

G. Lot Width. No regulations.

H. Lot Coverage. No regulations.

I. Front Yard. No regulations.

J. Side Yards. Side yards shall not be less than ten feet abutting residentially zoned property. Five feet shall be added to each required side yard for each story above the second

story of any building. Side yards may be zero feet abutting commercial or industrially zoned property, except as required by building code or other regulations.

K. Rear Yards. Twelve feet wide parallel to rear property line where accessible from street, alley or parking lot for loading purposes. Building may project over rear yard loading area providing fourteen feet vertical distance from the ground level is maintained. Where an approved loading area as designated by Chapter 17.24 is elsewhere provided, the building may be constructed to the rear property line. Rear yards shall not be less than ten feet abutting residentially zoned property. Five feet shall be added to each required rear yard for each story above the second story of any building. Rear yards may be zero feet abutting commercial or industrially zoned residential property, except as required by building codes or other regulations.

L. Building Height Limit. Four stories, but not to exceed fifty feet; and provided, that buildings shall be confined within inclined planes sloping inward at a ratio of one foot horizontally to two feet vertically; such planes beginning directly above property lines at an elevation of thirty feet above average ground level.

M. Loading Area. As required by Chapter 17.24.

N. Automobile Parking. As required by Chapter 17.24. (Ord. 01-108 § 2 (part), 2001; Ord. 97-100 § 3 (part), 1997).

### **17.20.080 C-3, GENERAL COMMERCIAL DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules set forth in Chapter 17.32 apply in all C-3 districts. This district classification is intended to be applied where general commercial facilities are necessary for public service and convenience.

B. Uses Permitted.

1. Uses permitted in C-2 districts except as noted in subsection C of this section;
2. The following and other uses which, in the opinion of the planning commission, are of similar character:
  - a. Drive-in commercial services,
  - b. Billboards and outdoor advertising signs and structures,
  - c. Gasoline service stations; provided, that all operations except the servicing with gasoline, oil, air and water are carried on within a building,
  - d. Commercial automobile repair garages and incidental services,
  - e. Automobile sales and service, used car lots, equipment sales and service,
  - f. Wholesale distribution uses, warehouses;
3. All other commercial uses except those uses which are specified in Section 17.20.090;

4. Incidental storage and accessory uses, including repair operations and services, provided such uses are clearly incidental to the sale of retail products on the premises, shall not employ more than five persons excluding sales personnel, and shall be so placed and constructed as not to be offensive or objectionable because of odor, dust, smoke, noise or vibration;

5. Advertising signs, as permitted by Chapter 17.28.

C. Uses Requiring Use Permits.

1. The following when conducted within an enclosure consisting of a solid wall or fence not less than six feet in height of a type approved by the planning commission: retail lumber yards;

2. Automobile service stations.

3. Wireless telecommunication facilities;

4. Hotels;

D. Refuse Storage Area. Shall not be located in any required front yard and shall not project more than two feet into any required side yard. All such storage areas shall be screened from view by fences, enclosures or planting.

1. For each dwelling use, provide an area of six square feet;

2. For other uses, provide storage area adequate to serve each use.

E. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

F. Lot Area. No regulations.

G. Lot Width. No regulations.

H. Lot Coverage. No regulations.

I. Front Yard. No regulations.

J. Side Yards. Side yards shall not be less than ten feet abutting residentially zoned property. Five feet shall be added to each required side yard for each story above the second story of any building. Side yards may be zero feet abutting commercial or industrially zoned property, except as required by building code or other regulations.

K. Rear Yards. Twelve feet wide parallel to rear property line where accessible from street, alley or parking lot for loading purposes. Building may project over rear yard loading area providing fourteen feet vertical distance from the ground level is maintained. Where an approved loading area as designated by Chapter 17.24 is elsewhere provided, the building may be constructed to the rear property line. Rear yards shall not be less than ten feet abutting residentially zoned property. Five feet shall be added to each required rear yard for each story above the second story of any building. Rear yards may be zero feet abutting commercial or industrially zoned residential property, except as required by building codes or other regulations.

L. Building Height Limit. Four stories, but not to exceed fifty feet; and provided, that buildings are confined within inclined planes sloping inward at a ratio of one-foot horizontally to two-foot vertically; such planes beginning directly above property lines at an elevation of thirty feet above average ground level.

M. Loading Area. As required by Chapter 17.24.

N. Automobile Parking. As required by Chapter 17.24. (Ord. 01-108 § 2(part), 2001; Ord. 97-100 § 3(part), 1997).

### **17.20.090 SC, SERVICE COMMERCIAL DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules set forth in Chapter 17.32 apply in all SC districts. This district classification is intended to be applied in centralized areas near industrial concentrations where general commercial facilities are necessary for public city-wide service and convenience. The uses in this district are frequently incompatible with the operations of retail shopping or office areas. This district can serve as a transitional district between commercial and industrial areas.

B. Uses Permitted.

1. The following retail business uses:

- a. Automobile sales, rentals and service, used car lots and equipment sales,
- b. Heavy equipment sales and machinery sales and services,
- c. Pawnshops, second hand clothing and appliance stores,
- d. Plant nurseries,
- e. Retail business supply,
- f. Retail outlet stores,
- g. Other retail business uses which the planning commission finds to be of a similar nature and which are not contrary to the purposes of this district;

2. The following service uses:

- a. Animal boarding, grooming and hospitals/veterinary,
- b. Baker's shops,
- c. Beauty salons,
- d. Catering services,
- e. Gasoline service stations; provided that all operations, except the servicing with gasoline, oil, air and water, are carried on within a building,
- f. Television, computer, video and radio repair,

- g. Water treatment facilities,
- h. Wholesale distribution uses, and warehouses,
- i. Other service business uses which the planning commission finds to be of a similar nature and which are not contrary to the purpose of this district;

3. Incidental storage and accessory uses, including repair operations and services, provided such uses are clearly incidental to the sale of retail products on the premises. Incidental storage and accessory uses shall not employ more than five persons excluding sales personnel, and shall be so placed and constructed as not to be offensive or objectional because of odor, dust, smoke, noise, or vibration.

C. Uses Requiring Use Permits.

- 1. Dwelling units as living quarters for caretakers and security personnel and their families;
- 2. Live/work units;
- 3. Libraries and museums;
- 4. Mortuaries;
- 5. General office uses;
- 6. Drive-in types of commercial uses such as: car washes, food stores, restaurants and other similar uses;
- 7. Research and development institutes and laboratories;
- 8. Cabinet shops, construction and material yards. Exception: Not permitted are gravel, rock and cement material yards;
- 9. Retail lumber yards within an enclosure consisting of a solid wall or fence not less than six feet in height of a type approved by the planning commission;
- 10. Minor utilities;
- 11. Recycling facilities.

D. Refuse Storage Area. Shall not be located in any required front yard and shall not project more than two feet into any required side yard. All such storage areas shall be screened from view by fences, enclosures, or planting.

E. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

F. Lot Area. No regulations.

G. Lot Width. No regulations.

H. Lot Coverage. No regulations.

I. Front Yard. Ten feet.

J. Side Yards. No regulations, except as required by building code or other regulations.

K. Rear Yard. Twelve feet wide parallel to the rear property line where accessible from street, alley, or parking lot for loading purposes. Building may project over rear yard loading area providing fourteen feet of vertical distance from the ground level is maintained.

Where an approved loading area as designated by Chapter 17.24 is elsewhere provided, the building may be constructed to the rear property line. Building code and other regulations shall apply.

L. Building Height Limit. Four stories, but not to exceed fifty feet.

M. Loading Area. As required by Chapter 17.24.

N. Automobile, Bicycle and Motorcycle Parking. As required by Chapter 17.24.

O. Signs. As required by Chapter 17.28.

#### **17.20.100 PA, PROFESSIONAL AND ADMINISTRATIVE DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and the general rules set forth in Chapter 17.32 apply to all PA districts. It is intended that this district classification be applied on properties suited to serve the public for medical, dental, professional and administrative offices.

B. Uses Permitted.

1. Uses permitted include the following:

a. Medical, dental, architects', engineers', attorneys', accountants and auditors offices,

b. Insurance, bonding company, lending company offices, banks, and business and administrative consultants,

c. Authors', artists and photographers studios,

d. Prescription drugstores,

e. Advertising and realty agencies,

f. Other offices or services which by formal action of the planning commission are determined to be similar to the foregoing;

2. Advertising signs, as permitted by Chapter 17.28.

C. Uses Requiring Use Permits.

1. Hospitals;

2. Convalescent hospitals, sanitariums.

D. Refuse Storage Area. Shall not be located in any required front yard and shall not project more than two feet into any required side yard. All such storage areas shall be screened from view by fences, enclosures or planting.

1. For retail sales uses, provide an area of four square feet for one hundred square feet of retail sales area up to five thousand square feet and one square foot for each additional one thousand square feet or portion thereof;

2. For agencies and services, provide an area of one square foot for each one hundred square feet of area up to ten thousand square feet and one square foot for each additional one thousand square feet or portion;

3. For all other uses, as determined by the planning commission.

E. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

F. Lot Area. Six thousand square feet.

G. Lot Width. Sixty feet.

H. Maximum Main Building Coverage. Sixty percent of lot area.

I. Front Yard. Twenty feet.

J. Side Yards. Shall total not less than twenty percent of lot width. May be on one side only where permitted by building code except that the side yard on the street side of corner lots shall be not less than ten feet.

K. Rear Yard.

1. For lots having frontage on one street only, twelve feet wide parallel to the rear property line where rear yard is accessible from a side street, alley or parking lot when used for loading purposes. Where an approved loading area as designated by Chapter 17.24 is elsewhere provided, the building may be constructed to the rear property line. Building codes and other regulations shall apply;

2. For lots having frontage on two approximately parallel streets, twenty feet where the street is the boundary of an R-1 district. Such rear yards shall be screened from view by a view-obstructing fence four feet in height or by planting or as approved by the planning commission.

L. Building Height Limit. Two stories, but not to exceed thirty feet.

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M. Loading Area. As required by Chapter 17.24.

N. Automobile Parking. As required by Chapter 17.24. (Ord. 440 § 2 (part), 1982).

## **17.20.110 M-1, LIGHT INDUSTRIAL DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules set forth in Chapter 17.32 apply in all M-1 districts.

B. Uses Permitted.

1. Uses permitted in C-3 districts except as stated in subsection C of this section;
2. The following uses of land and buildings are permitted in M-1 districts:
  - a. Wholesale and storage warehouses, feed and fuel yards,
  - b. Manufacturing, processing, fabricating, refining, repairing, packaging or treatment of goods, materials or produce by electric power, oil or gas. Exception: Not permitted are operations involving fish fats and oils, bones and meat products, or similar substance commonly recognized as creating offensive conditions or odors in the handling thereof,
  - c. Dyeing and dry-cleaning plants, rug cleaning plants, laundries, cabinet shops, construction and material yards. Exception: Not permitted are gravel, rock and cement material yards;
3. The following when conducted within a building:
  - a. Body and fender repair shops,
  - b. Auto painting shops,
  - c. Cooperage and bottling works,
  - d. Sheet metal shops and welding shops;
4. The following when conducted within an enclosure consisting of a solid wall or fence not less than six feet in height of a type approved by the planning commission:
  - a. Truck and bus terminals, truck and bus parking, truck and bus storage, truck and bus repair facilities,
  - b. Retail lumber yards;
5. Advertising signs, as permitted by Chapter 17.28.

C. Uses Requiring Use Permits.

1. Wireless telecommunication facilities;
2. Hotels;

D. Bulk, Space and Height. Minimum bulk and space requirements and height limit.

E. Lot Area. No regulations.

F. Lot Width. No regulations.

G. Maximum Lot Coverage. No regulations.

H. Front Yard. No regulations.

I. Side Yards. Side yards shall not be less than ten feet abutting residentially zoned property. Five feet shall be added to each required side yard for each story above the second story of any building. Side yards may be zero feet abutting commercial or industrially zoned property, except as required by building codes or other regulations.

J. Rear Yard. Twelve feet wide parallel to rear property line where accessible from street, alley or parking lot for loading purposes. Building may project over rear yard loading area providing fourteen feet vertical distance from the ground level is maintained. Where an approved loading area as designated by Chapter 17.24 is elsewhere provided, the building may be constructed to the rear property line. Rear yards shall not be less than ten feet abutting residentially zoned property. Five feet shall be added to each required rear yard for each story above the second story of any building. Rear yards may be zero feet abutting commercial or industrially zoned property, except as required by building codes or other regulations.

K. Building Height Limit. Same as for C-2 district.

L. Loading Area. As required by Chapter 17.24.

M. Automobile Parking. As required by Chapter 17.24. (Ord. 01-108 § 2(part), 2001; Ord. 97-100 § 3(part), 1997).

#### **17.20.120 M-2, GENERAL INDUSTRIAL DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules set forth in Chapter 17.32 apply in all M-2 districts.

B. Uses Permitted.

1. Uses permitted in M-1 districts except as noted in subsection C of this section;
2. The following specific uses which are permitted only in M-2 districts:
  - a. Wholesale lumber yards and lumber mills,
  - b. Pottery kilns and ceramic works of heavy industrial type,
  - c. Concrete batching plants,
  - d. Casting foundries and blacksmith shops;
3. The following when enclosed within a solid wall or fence not less than eight feet in height, and of a type approved by the planning commission:
  - a. Building material storage yards and contractors' storage yards,
  - b. Junkyards, auto wrecking yards.

C. Uses Requiring Use Permits.

1. Lawful uses not otherwise provided for in this title;
  2. Wireless telecommunications facilities;
  3. Hotels.
- D. Bulk, Space and Height. Minimum bulk and space requirements and height limit.
- E. Lot Area. No regulations.
- F. Lot Width. No regulations.
- G. Maximum Lot Coverage. No regulations.
- H. Front Yard. No regulations.
- I. Side Yards. Side yards shall not be less than ten feet abutting residentially zoned property. Five feet shall be added to each required side yard for each story above the second story of any building. Side yards may be zero feet abutting commercial or industrially zoned property, except as required by building codes or other regulations.
- J. Rear Yard. Rear yards shall not be less than ten feet abutting residentially zoned property. Five feet shall be added to each required rear yard for each story above the second story of any building. Rear yards may be zero feet abutting commercial or industrially zoned property, except as required by building codes or other regulations.
- K. Distances Between Buildings on Same Lot. No regulations.
- L. Building Height. No regulations.
- M. Loading Area. As required by Chapter 17.24.
- N. Automobile Parking. As required by Chapter 17.24.
- (Ord. 01-108 § 2(part), 2001; Ord. 97-100 § 3(part), 1997).

### **17.20.130 M-L, LIMITED MANUFACTURING DISTRICT REGULATIONS.**

A. Applicability. The following specific regulations and general rules set forth in Chapter 17.32 apply in all M-L districts. This district classification is intended to accommodate a limited group of business, professional, research and technical manufacturing uses which may have unusual requirements for space, light and air, and the operations of which are clean and quiet.

- B. Uses Permitted.
1. Commercial and professional offices;
  2. The following and similar uses from which smoke, dust, odors and other such offensive features are confined to the premises of each use:
    - a. Research institutes and laboratories,

- b. Small electronic and plastic products manufacturing,
  - c. Electrical products and instrument manufacturing,
  - d. Bookbinding, printing, lithography and cartography,
  - e. Editorial and designing service,
  - f. Garment and paper products manufacturing;
- 3. Advertising signs, as permitted by Chapter 17.28;
  - 4. The route of any proposed transmission line shall be discussed with the planning commission prior to acquisition.
- C. Bulk, Space and Height. Minimum bulk and space requirements and height limit.
  - D. Lot Area. Ten thousand square feet.
  - E. Lot Width. No regulations.
  - F. Maximum Lot Coverage. No regulations.
  - G. Front Yard. Twenty feet.
  - H. Side Yards. Twenty feet.
  - I. Rear Yard. Twenty feet.
  - J. Building Height Limit. Two stories, but not to exceed forty feet.
  - K. Loading Area. As required by Chapter 17.24. (Ord. 97-100 § 3(part), 1997).

#### **17.20.140 PD, PLANNED DEVELOPMENT DISTRICT REGULATIONS.**

A. Purpose and Intent. The purpose of a planned development district is to encourage and provide the means for promoting desirable development in the city which may be characterized by variations in siting, mixed land use, mixed housing types and integrated design techniques which result in complementing surrounding uses. The planned development district permits diverse building setbacks, lot size and building height while complying with the intent of the general plan and development standards necessary to ensure the requirement of public health, safety and general welfare.

#### **B. General Requirements of Planned Development District.**

1. A property owner, owners or assignee, may submit an application for the rezoning of an area to planned development district provided all of the provisions set forth in the following paragraphs have been met:

a. A document, executed by all property owners within the proposed area to be rezoned, shall be furnished to the city, agreeing to comply with all conditions and regulations applicable to the district as it may be approved;

b. Prior approval by the planning commission of a preliminary development plan as described in subsection C of this section;

c. Payment of a fee as prescribed by resolution of the City Council, no part of which is refundable.

C. Preliminary Development Plan.

1. Preparation. The preliminary development plan for areas over two acres shall be developed and endorsed by a design team consisting of persons licensed or registered in the state in the following professional disciplines:

a. Architecture;

b. Landscape architecture;

c. Civil engineering. At least one member of the design team is required to have site planning and soils engineering expertise.

2. Content. The preliminary development plan shall include the following information:

a. Topography of the land with contour intervals as required by the city planning staff;

b. Proposed street system and lot design;

c. Areas proposed to be dedicated or reserved for parks, playgrounds, parkways, school sites, public or quasi-public buildings and other such uses;

d. Areas proposed for commercial uses, off-street parking, multiple-family and single-family dwellings and all other uses to be established within the district;

e. Proposed locations of buildings on the land;

f. General elevations or perspective drawings of all proposed structures other than single-family dwellings;

g. The existing natural land features, topography, rock outcrops, location of all trees which exceed six inches in diameter, tree masses and watercourses on and adjacent to the proposed development;

h. Preliminary landscape and recreational plans;

i. Preliminary grading proposed;

j. Engineering feasibility investigation, analyze conditions and make tentative conclusions and recommendations regarding the feasibility of constructing the proposed project; review and comment on such items as:

i. Soils, slope, and geologic conditions and hazards, if any,

ii. Availability of utility services,

- iii. Drainage,
  - iv. Traffic,
  - v. Adequacy of planned structures;
  - k. Proposed development schedule including all staging and phasing, if project is not to be developed as one unit. If project is to be developed in stages, the first phase shall be either:
    - i. At least one-third the project ground area, or
    - ii. A major tenant;
  - l. Other data and information which may be deemed necessary by the planning commission or City Council for proper consideration of the application at the time of any public hearing.
3. Findings by the City Related to the Preliminary Development Plan.
- a. Appropriate findings shall be made based on the required environmental documents prepared for the proposal in compliance with CEQA, the State Environmental Impact Report guidelines, and the city environmental impact report procedures and guidelines;
  - b. Findings shall be made as to conformance of the project to the general plan.
4. Action by the City on the Preliminary Development Plan. Following the submittal of a complete preliminary development plan and support data, the planning commission shall review the submittal and hold a public hearing, at which it may take one of the following actions:
- a. Approval of the preliminary development plan with a statement of tentative approval (see subsection C5 of this section);
  - b. Disapproval of the preliminary development plan as submitted;
  - c. Hold over the hearing to another meeting, or meetings, for further consideration and, if necessary, for revision of the preliminary development plan to include changes deemed necessary to provide an acceptable plan.
5. Statement of Tentative Approval. As part of any preliminary development plan approval, the planning commission shall prepare a statement of tentative approval which includes all major points of understanding on the preliminary development plan and stipulations thereto which shall apply to the final development plan that may later be submitted. This statement of tentative approval shall be appended to the approved preliminary development plan and support data.

D. Rezoning Application.

- 1. Application. Property owner, owners or their assignees may apply for such rezoning to planned development only after conforming with the requirements of subsection B of this section.

2. Term of Planned Development District. If, within eighteen months after properties have been rezoned as provided for in Chapter 17.48, a use permit has not been approved, or if within one year after a use permit has been approved, no building permit has been issued, then the preliminary development plan and use permit, if any, shall be considered null and void unless these periods have been extended after a duly authorized public hearing by the planning commission. In case of such expiration, as set forth above, the city shall initiate rezoning procedures to revert the property to the zoning classification in effect on the property prior to a rezoning to planned development district; or rezone the property to another suitable zoning district which complies with the general plan.

E. Use Permits. A use permit is required for any and all development in the planned development district.

1. Application. A property owner, owners or their assignees, may apply for a use permit under planned development district only when all three of the following conditions have been met:

- a. The planning commission has granted approval of a preliminary development plan as provided in subsection C of this section and such plan is still in full force and effect;
- b. Planned development district has become effective on the site;
- c. The planning commission has approved and certified all required environmental documents for the project.

2. Submittals Required. An application for a use permit under planned development district zoning shall include the following:

- a. All submittals normally required by the city for a use permit application;
- b. A final development plan and proposal compatible with the approved preliminary development plan, including points of understanding, stipulations and other content of the statement of tentative approval;
- c. Any additional information or exhibits required by the city to assure compliance with the intent of the district on the specific site in question.

3. Processing. The remainder of or from an approved preliminary development plan proposed in a final development plan shall require approval of a new preliminary development plan in full compliance with subsection B of this section. The planning commission is responsible for determining major modifications and among the items to be considered major are:

- a. Introduction of a new type of land use not included in the approved preliminary development plan;
- b. Changes to the layout of land use (affecting one acre of land or more) or other changes which may change the development concept contained in the preliminary development plan;

- c. Changes to the proposed street system that would alter land use or circulation concepts contained in the preliminary development plan;
  - d. Changes or additions to design standards which could change the stated intent of the concepts contained in the preliminary development plan;
  - e. Any change to the plan which would increase the potential for environmental impact.
4. Procedure for Modification. If a modification is determined to be major, then it requires approval of a new preliminary development plan. If the modification is not determined to be major, then the final development plan shall be processed accordingly. (Ord. 97-100 § 3(part), 1997).

#### **17.20.150 A, SPECIAL AGRICULTURAL COMBINING DISTRICT REGULATIONS.**

A. Applicability. The following uses are permitted and regulations apply in all districts which are combined A districts in addition to the regulations specified in this title and are subject to Chapter 17.32.

B. Uses Permitted.

- 1. All uses permitted in the respective district with which the A district is combined;
- 2. Agriculture and horticulture;
- 3. Animal husbandry and livestock farming; provided, that not more than one horse, one mule, one cow, one steer or five sheep are kept for each half acre of land;
- 4. Small livestock farming; provided, that a use permit is required for the raising of more than one hundred head of either poultry or animals;
- 5. Sale of agricultural products produced on the premises; provided, that no commercial structure for such purpose other than a temporary stand, is permitted.

C. Uses Requiring Use Permits.

- 1. Dog and cat kennel, private and commercial stables;
- 2. Dairy, poultry and rabbit slaughter and processing;
- 3. Veterinary hospital.

D. Special Yard and Distances Between Buildings.

- 1. Barns, stables, chicken houses and similar accessory buildings shall be not less than fifty feet from the front property line; not less than twenty feet from any side property line; nor less than thirty feet from any dwelling. (Ord. 97-100 § 3(part), 1997).

#### **17.20.160 B, SPECIAL BUILDING SITE COMBINING DISTRICT REGULATIONS.**

A. Applicability. In any district with which is combined a B district, the following regulations shall apply as to building site areas, depth of front yard and widths of side yards; provided, however, that such application shall not be made in any case in which any of the following regulations are less than corresponding regulations specified in this title for any district with which is combined a B district.

B. Special Regulations.

1. Building Site Area Required. Building site area required shall be indicated by a number following the letter B in the district designation, which number represents the required area in thousands of square feet.

2. Side Yards Required. Ten percent of lot width on each side to a maximum requirement of sixteen feet, but in no case less than eight feet for interior side yards or ten feet for side yards adjacent to streets on corner lots. (Ord. 97-100 § 3(part), 1997).

### **17.20.170 CD, SPECIAL CIVIC DISTRICT COMBINING DISTRICT REGULATIONS.**

In any district with which the CD district is combined, such districts to be located around civic center, public parks and public buildings and grounds as indicated upon the zoning map, no building permit for any proposed building or structure shall be issued until the planning commission has reviewed and approved the plans for such building or structure to insure an orderly development in the vicinity of public sites and buildings within the district. (Ord. 97-100 § 3(part), 1997).

### **17.20.180 F, SPECIAL HIGHWAY FRONTAGE COVERING DISTRICT REGULATIONS.**

A. Applicability. In any district with which is combined an F district, the regulations of this section apply in addition to those specified in this title for such district; provided, that if conflict in regulations occurs, the regulations of this section shall govern.

B. Special Regulations.

1. A front yard of not less than twenty feet is required for all uses, unless a greater front yard distance is required in the district with which the F district is combined.

2. Screen planting or fencing of permitted commercial uses of open land is required as a condition to the granting of a use permit in each particular case.

3. No outdoor advertising signs or structures are permitted except such signs or structures which pertain directly to permitted commercial uses; which are located on or immediately adjacent to such uses; and which do not exceed forty square feet in area for all such signs or structures for any one use.

4. Directional and informational signs of not more than six square feet may be permitted upon the securing of a -use permit in each particular case. (Ord. 97-100 § 3(part), 1997).

### **17.20.190 FP, SPECIAL FLOODPLAIN COMBINING DISTRICT REGULATIONS.**

A. Applicability. In any district with which is combined an FP district, the regulations of this section shall apply in addition to those specified in this title for such districts;. provided, that if conflict in regulations occurs, the regulations of this section shall govern.

B. Special Provisions.

1. Crop and tree farming and truck gardening and buildings and structures directly related to the permitted agricultural use of the land may be permitted without requirement for a use permit.

2. Other uses and structures otherwise permitted in the district may be permitted only upon the securing of a use permit in each particular case. (Ord. 97-100 § 3 (part), 1997).

### **17.20.200 H, SPECIAL HEIGHT COMBINING DISTRICT REGULATIONS.**

A. Applicability. In any district with which is combined an H district, the following special height regulations shall apply in lieu of the height regulations otherwise provided for.

B. Special Height Regulations.

1. The height regulations shall be indicated by the symbol H followed by a numerical figure, which figure represents the maximum permitted height in feet measured from the average elevation of the ground area to be covered

by a particular building or structure.

2. In cases where the H district is created to provide protection against airport hazards in an airport hazard area, the following applies:

a. The symbol AV shall be added to the district symbol;

b. The height limit applies to all buildings and structures, and to all trees and other objects of natural growth;

c. The height limit shall be measured from datum elevation which shall be the established elevation of the end of the airport closest to the particular hazard area district. (Ord. 97-100 § 3(part), 1997).

### **17.20.210 HP, SPECIAL HISTORIC PRESERVATION COMBINING DISTRICT REGULATIONS.**

A. Applicability. This district classification is intended to be combined with any primary district in which several properties or structures of archeological, architectural, cultural or historical significance exist. The purpose of this district is to:

1. Implement those portions of the general plan pertaining to the city's archeological, architectural, cultural or historical significance including:

a. Create a “historic preservation district... [to] preserve the historic resources” (see Section 10, Implementation Programs and Priorities, in the general plan),

b. “Protect and conserve existing housing and community heritage” (see Housing Goal H-3 in the general plan),

c. “Preserve and enhance the natural resources, high quality residential neighborhoods and commercial areas, and the small-town (semi-rural) character of Pinole” (see Land Use and Economic Development Goal LU1 in the general plan);

2. Create a list of structures in which the archeological, architectural, cultural or historical integrity of the structures may permit exemptions from the Uniform Building Code. For example, structures on the list may be exempt from the disabled access regulations for nonresidential rehabilitations, hand rail height, rail spacing, stair width and height, and heating and cooling regulations (see Section 104(f) and 3403.5 of the Uniform Building Code). This exemption will permit property owners to improve their properties while maintaining their archeological, architectural, cultural and historic significance;

3. Foster civic pride in the beauty and accomplishments of the past.

B. General Regulations.

1. Are subject to the old town design guidelines.

C. HP Combining Districts Where the Letter “L” Is Added to the District Symbol.

1. Any pre-1940 archeological, architectural, cultural or historical structure or combination of structures within the HP combining district shall be eligible for an HP-L designation if one or more of the following criteria are met:

a. Possesses character, interest or value as part of the heritage of the city, county, state or nation,

b. Is the location of a significant historical event,

c. Is identified with a person or group whose work has influenced the heritage or contributed significantly to the culture and development of the city, county, state or nation,

d. Is connected with a business or use which was once common, but is now rare,

e. Exemplifies a particular architectural style or way of life important to the city, county, state or nation,

f. Embodies elements of outstanding attention to architectural or landscape design, detail, materials or craftsmanship,

g. Is a valuable example of the use of indigenous material or craftsmanship,

h. Is a unique location which represents an established and familiar visual feature of a neighborhood;

2. Structures in the HP-L district may be exempt from some regulations including, but not limited to, the Uniform Building Code, when compliance with the regulation would be detrimental to the archeological, architectural, cultural or historical significance of a given structure (see Section 104(f) and 3403.5 of the Uniform Building Code). Structures exempt from the Uniform Building Code must comply with the life and safety regulations of the State Historic Code;

3. Structures in the HP-L district may not be demolished unless one of the following criteria are met:

a. The building official or fire chief, after consultation with the city planner or community development director, determines that an imminent safety hazard exists and that demolition of the structure is necessary to secure the public safety,

b. The City Council determines that such property cannot be economically used and denial of a demolition would deprive the owner of all or most of his or her economic interest in the property;

4. Filing of an Application for HP-L Zoning.

a. Only the property owner(s) may file an application to zone her/his/their property HP-L,

b. Zoning a property HP-L is done voluntarily by the property owner(s),

c. Before the planning commission will consider zoning a structure HP-L, the property owner(s) must file an application with the city planner,

d. All applications shall include the following:

i. Address and name of the property owner(s) of the structure(s),

ii. Address or boundaries of the property,

iii. The age of the structure(s),

iv. A brief description of the structural conditions of the property,

v. A description of the archeological, architectural, cultural, and/or historical significance of the property,

vi. Photographs, sketches, or drawings, or other descriptive material of the property,

vii. Other supporting information as required by the city planner;

5. Review and Approval.

a. The planning commission must review all applications and approve, disapprove or modify the application for a structure to be zoned HP-L,

b. After a structure is approved for a HP-L designation, the City Clerk shall send a notice of approval to the building official and the community development department. The community development department must add each newly approved structure to the list of official historic structures;

D. Property Outside the HP Combining District.

1. Property owners may apply to add their property to the HP-L combining district;
2. To be eligible for inclusion in the HP-L combining district, the property must include at least one structure which meets the criteria outlined in Section 17.20.210C1;
3. Before the planning commission will consider adding a property to the HP-L combining district, the property owner(s) must file an application with the city planner
  - a. All applications must include the information outlined in Section 17.20.210C4d. (Ord. 97-106 § 2 (part), 1997).

**17.20.220 MU, SPECIAL MIXED USE COMBINING DISTRICT REGULATIONS.**

A. Applicability. In any district with which is combined a MU district, the regulations of this section apply in addition to those specified in this title. This district's classification is intended to allow commercial or industrial districts to be combined with the uses in single- or multifamily districts. The appropriateness of combining uses from two districts will be determined by certain factors, including but not limited to the following: how the combined uses will affect the surrounding area; and if the combined uses are to operate in an existing building, how well the existing use(s) will function, operate or perform with a new use;

B. Uses Permitted.

1. Residential Uses Permitted in R-2, R-3 and R-4 Districts. No residential uses shall be combined with commercial or industrial uses located near uses, such as auto painting shops and oil refineries, which may cause hazard to human health. Residential uses permitted in R-2, R-3 and R-4 districts are permitted with commercial uses if they are located on the second floor or above, or on a separate portion of the site, where the ground floor is occupied by a commercial use permitted under ordinances governing the primary commercial district,

2. Uses Permitted in C-1, C-2, C-3 and M-1 districts;

C. Uses Requiring Use Permits.

1. Mixed uses with more than two residential units;
2. Hotels.

D. Refuse Storage Area.

1. Residential use refuse storage areas shall not be located in any required front yard and shall not project more than two feet into any required side yard of use. All such storage areas shall be screened from view by fences, enclosures or planting,

2. For retail sales uses, provide an area of four square feet for each one hundred square feet of retail sales area up to five thousand square feet and one square foot for each additional one thousand square feet or portion thereof,

3. For agencies and services, provide an area of one square foot for each one hundred square feet of area up to ten thousand square feet and one square foot for each additional one thousand square feet or portion thereof,

4. For all other uses, as determined by the planning commission;

E. Bulk Space and Height. Minimum bulk and space requirements and height limit;

F. Lot Area.

1. For residential uses located adjacent to existing residential, six thousand square feet,

2. For commercial uses and mixed uses, minimum five thousand square feet;

G. Lot Width.

1. For residential uses located adjacent to existing residential, sixty feet,

2. For commercial uses and mixed uses, no regulations;

H. Maximum Main Building Coverage.

1. For residential uses, sixty percent of lot area,

2. For commercial uses and mixed uses, no regulations;

I. Front Yard.

1. For residential uses located near, but not above, commercial uses, twenty feet,

2. For commercial uses, no regulations;

J. Side Yards.

1. For residential uses located near, but not above, commercial uses, side yards shall total not less than twenty percent of the lot width, and no side yard may be less than five feet. Three feet shall be added to each required side yard for each story above the first story of any building. The side yard on the street side of each corner lot shall be not less than ten feet,

2. For commercial uses, side yards shall not be less than ten feet abutting' residentially zoned property. Five feet shall be added to each required side yard for each story above the second story of any building. Side yards may be zero feet abutting commercial or industrially zoned property, except as required by building codes or other regulations.

K. Rear Yards.

1. For residential uses, located near, but not above, commercial uses, twenty feet,

2. For commercial uses, fifteen feet. Building may project over rear yard loading area providing fourteen feet vertical distance from the ground level is maintained. Where an approved

loading area as designated by Chapter 17.24 is elsewhere provided, the building may be constructed to the rear property line. Building code and other regulations shall apply;

L. Distances between Main Buildings on Same Lot. Ten feet;

M. Building Height Limit. Four stories, but not to exceed fifty feet. For mixed uses in old town, refer to old town's design guidelines;

N. Loading Area. As required by Chapter 17.24;

O. Automobile, Bicycle and Motorcycle Parking. As required by Chapter 17.24;

P. Signs. As required by Chapter 17.28. (Ord. 01 108 § 2(part), 2001; Ord. 97-106 § 2(part), 1997; Ord. 97 100 § 3 (part), 1997).

### **17.20.230 OTP, SPECIAL OLD TOWN PARKING COMBINING DISTRICT REGULATIONS.**

A. Applicability. This district classification is intended to be combined with the principal districts in the core area of old town which extends to the northern side of Park Street, the eastern side of John Street, the southern side of Plum Street, and the western side of Oak Ridge Road. The purpose of this district is to:

1. Spur growth in the core of old town by not requiring uses to provide more parking spaces than presently exist in the core;

2. Manage the growth of old town by limiting the number of businesses, offices, lodges, clubs and associations in the core of old town which may generate traffic or parking demands in excess of commercial, office and public assembly parking availability, causing the overflow of traffic and parking to spill over onto adjacent residential streets;

3. Manage traffic circulation and parking capacity by periodically assessing parking capacity in the core of old town;

4. Manage traffic circulation and parking by requiring reciprocal easement agreements between new parking lots and adjacent properties zoned for public facility, commercial, office or mixed use on which new parking lots can potentially be developed. The provision of reciprocal easements is intended to reduce street traffic and the number of on-street parking spaces used by allowing customers to find a space in an adjacent parking lot which may not be full.

B. Number of Parking Spaces Required.

1. Nonresidential uses in the old town parking combining district (OTP) are not required to meet the parking regulations as set forth in Chapter 17.24, Parking and Loading Regulations, Section 17.24.090, "Schedule of off-street parking requirements," unless one of the following applies:

a. The planning commission determines, based on a parking assessment, a parking problem exists in the OTP district;

b. The planning commission determines a new use or an existing use which expands by fifty percent or more and exceeds the use limitation, as established in Section 17.20.230C, would cause a significant impact on parking availability in the core of old town.

C. Use Limitations.

1. Applies to uses which are open on weekdays before four p.m.;
2. Applies to new uses and to existing uses which expand by fifty percent or more;
  - a. The total number of restaurants where the food is consumed on premises creating a low turnover of patrons shall not exceed eight,
  - b. The total number of restaurants of a carryout nature, including coffee shops which only serve drinks and pastries, dessert shops and bread shops shall not exceed two,
  - c. The total number of barber shops, beauty salons and personal services shall not exceed five,
  - d. The total number of dance studios and gymnasiums shall not exceed one,
  - e. The total number of lodges, clubs, associations, community centers, union halls, meeting halls, convention halls, auditoriums, and business, trade and professional societies shall not exceed two;
3. Applies to all new uses and to existing uses which expand by fifty percent or more which would require thirty or more parking spaces as established in Chapter 17.24, Parking and Loading Regulations.

D. Parking Capacity Assessment in the Core of Old Town.

1. A parking capacity assessment shall be conducted the sooner of every two years or after every fifth new use, that would require ten or more parking spaces, as outlined in Chapter 17.24, Parking and Loading Regulations, locates in the core of old town.
  - a. City staff shall prepare the parking capacity assessment for planning commission review.
  - b. To the extent possible, the parking capacity assessment shall show average and peak parking capacity in the core of old town.

E. Reciprocal Easement Agreements.

1. Property owners of new parking lots are required to provide reciprocal easements to adjacent properties zoned for public facility, commercial, office or mixed use on which new parking lots could potentially be developed as determined by the city engineer or city planner.
2. Placement of reciprocal easements will be determined by the city engineer and/or city planner. (Ord. 97-101 § 2(part), 1997).

## **PARKING AND LOADING REGULATIONS**

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Sections:

- [17.24.010](#) General requirements of parking spaces.
- [17.24.020](#) Parking facilities--When required.
- [17.24.030](#) Parking space size definition--Off-street.
- [17.24.040](#) Location and type.
- [17.24.050](#) Improvements.
- [17.24.060](#) Parking required.
- [17.24.070](#) Definitions.
- [17.24.080](#) Basic requirements.
- [17.24.090](#) Schedule of off-street parking space requirements.
- [17.24.100](#) Enforcement.

### **17.24.010 GENERAL REQUIREMENTS OF PARKING SPACES.**

The general requirements in Sections 17.24.020 through 17.24.100 apply to all parking spaces. (Ord. 01-105 § 2(part), 2001: Ord. 97-103 § 2(part), 1997: Ord. 440 § 2 (part), 1982).

### **17.24.020 PARKING FACILITIES--WHEN REQUIRED.**

At the time of either:

- A. The construction of any new building or the enlargement of an existing structure by more than fifty percent;
- B. The increase in capacity by adding dwelling units, guest rooms, floor or assembly areas;  
or
- C. The conversion of any portion of a dwelling unit or its accessory structure to a different use, other than for dwelling purposes, then the minimum off-street parking spaces as set forth in Section 17.24.090 shall be provided only for such new construction, enlargement or increased capacity. (Ord. 01-105 § 2(part), 2001: Ord. 97-103 § 2(part), 1997: Ord. 440 § 2(part), 1982).

### **17.24.030 PARKING SPACE SIZE DEFINITION--OFF-STREET.**

Size of parking space shall conform with and be as prescribed in the table in subsection E of Section 17.24.090, and shall be striped or marked accordingly with paint as established in city standards. Each space shall be provided with adequate ingress and egress as

established by city standard. Parking space required to be located in a garage shall not be less than twenty feet in length and ten feet in width, interior dimensions. (Ord. 01-105 § 2(part), 2001: Ord. 97-103 § 2(part), 1997: Ord. 440 § 2(part), 1982).

#### **17.24.040 LOCATION AND TYPE.**

A. Off-Street. Parking spaces shall be located off the streets as specified in this section.

B. Dwellings. For dwellings and other residential uses, required parking spaces shall not be located within required front, side or rear yard setback areas. Additional parking for a recreational vehicle may be provided in the side yard. The maximum amount of paving within the required front yard setback area shall not exceed sixty percent except with approval of the planning commission.

Parking spaces shall be located on the same lot or parcel as the building or use that they are to serve, or located on an adjacent or contiguous lot under a recorded easement appurtenant to the property being served.

The parking of trucks over two tons load capacity on private residential lots is prohibited.

C. Commercial Uses. Parking spaces shall be located on the same lot or parcel as the building or use that they serve, or located on a separate parcel within three hundred feet and under an easement appurtenant to the property to be served. Off-site parking in excess of three hundred feet may be considered under variance proceedings. Parking may also be provided through a commonly owned or operated parking lot or garage provided the building/development can provide adequate guarantee or proof of participation in the common parking lot program and such parking is located within three hundred feet.

D. Industrial Uses. Off-street parking may be provided off-site, provided such off-street parking is located within three hundred feet of the property to be served and provided the amount of off-site parking satisfies not more than fifty percent of the parking requirements of the activity for which parking is provided.

E. Mixed Uses. Parking requirements may be reduced for mixed uses.

1. For residential and commercial and residential and office mixed uses, fifty percent of the smaller parking space requirement must be provided, plus all of the greater parking space requirement must be provided. A minimum of one parking space must be provided for the smaller requirement. If the parking requirement for the residential use is the same as the requirement for the commercial use, then only one of the requirements is considered smaller.

#### **Mixed Use Requirement Examples**

Example 1: Residential and Commercial or Residential and Office Mixed Use (50% of the smaller requirement, plus all of the greater requirement must be provided.)

Residential requirement = 6 parking spaces (6 is the smaller requirement)

Commercial/office requirement = 14 parking spaces

1.  $6 \times .50 = 3$  (50% of the smaller requirement is 3)
2. 3 parking spaces + 14 parking spaces = 17 parking spaces total (17 parking spaces are required)

Example 2: Residential and Commercial or Residential and Office Mixed Use (50% of the smaller requirement, plus all of the greater requirement must be provided. If the two requirements are equal, only one requirement may be considered smaller.)

Residential requirement = 8 parking spaces

Office requirement = 8 parking spaces

(Since the two requirements are equal, only one of the two requirements may be considered smaller)

1.  $8 \times .50 = 4$  (50% of only one requirement is 4)
2. 4 parking spaces + 8 parking spaces = 12 parking spaces total (12 parking spaces are required)

2. For residential and commercial and residential and office mixed uses the planning commission may waive the covered parking requirement on a case-by-case basis.

#### F. Shared Parking.

1. The planning commission may allow the sharing of parking stalls within a three hundred foot distance of the use, provided:

- a. A clear separation of time/use (i.e., movie theater/professional office) is guaranteed in writing and in a manner acceptable to the City Attorney;
- b. The planning commission deems the shared parking stalls usable, i.e., easy to walk to.

2. For assembly uses including, but not limited to, religious assembly, auditoriums and gymnasiums, with occupancy loads greater than one hundred and fifty, the planning commission may allow the sharing of parking stalls within a five hundred foot distance of the use, provided:

- a. The parking easement is recorded, and a clear time separation of the main assembly room and the other use is guaranteed in a manner acceptable to the City Attorney;
- b. The planning commission deems the shared parking stalls usable, i.e., easy to walk to.

3. If uses change to ones requiring time overlap, parking will be required to be provided on the original nonsharing basis. (See subsections B through E of this section.)

G. Parking of Transportable Facilities. Off-street parking facilities shall not be used for the parking of transportable facilities used for commercial purposes except during the construction period wherein mobile homes or transportable facilities may be used for construction office purposes. (Ord. 01-105 § 2(part), 2001: Ord. 97-103 § 2(part), 1997: Ord. 440 § 2(part), 1982).

#### **17.24.050 IMPROVEMENTS.**

A. Surface. All parking areas, with the exception of temporary lots, unless required by the approving authority, shall be surfaced with an aggregate base and asphalt concrete surface as approved by the city engineer. Adequate drainage improvements shall be provided as approved by city engineer. Minimum structural section shall be five-inch P.C.C. or four-inch Class II A.B. and two-inch A.C.

B. Access.

1. Each entrance and exit to a parking lot shall be constructed and maintained so that any vehicle entering or leaving the parking lot will be visible for a distance of thirty feet on a forty-five degree angle to any passing vehicle. Exit from parking lots shall be clearly posted with "STOP" signs. Appropriate bumper guards, entrance and exit signs, and directional signing shall be maintained where needed;

2. Access driveways for dwellings shall not be less than twelve feet in width throughout, or as required by city subdivision ordinance. Driveways shall be surfaced with five-inch P.C.C. or four-inch Class II A.B. and two-inch A.C. at option of owner;

3. Parking lots for multifamily, commercial, industrial and mixed uses shall be designed so as not to necessitate backing onto a public street;

4. Driveway placement subject to city review and approval.

C. Landscaping for Surfaced Parking Lots with More than Ten Spaces.

1. Each parking lot shall provide a minimum of interior landscaping.

2. Each parking lot shall provide a perimeter landscaped structure at least five feet wide where the lot adjoins a property line. The perimeter landscaped strip may include any landscaped yard or landscaped area otherwise required, and shall be continuous except for required access to the site or to the parking lot. An administrative variance may permit altered standards for side and rear property line landscaping upon making a finding that the intent of this section is met by the submitted plans. Where the parking lot adjoins another site, a fence wall or other equivalent screening feature may be required. Where the landscaped strip adjoins a public street or sidewalk, a landscaped strip shall be provided which is sufficient as determined by the public works director to prevent vehicles from backing over sidewalks. Each parking lot containing less than thirty stalls shall provide a landscaped strip adjoining the public street and other areas inconvenient for parking. Diagonal parking arrangements in small lots shall be supplemented with landscaping in the unused triangular portions adjacent to the side lot lines.

3. Interior landscaping shall include at least one tree of minimum five-gallon size for each four parking spaces. Groundcover alone is not acceptable. Where screening is desirable, a

combination of trees and shrubs shall be used. Interior landscaping shall be distributed throughout the paved area.

4. Provision shall be made for permanent irrigation of all landscaping. All new construction requires automatic irrigation of all landscaping.

5. All landscaping shall be protected with concrete curbs or equivalent barriers.

6. All landscaping shall be continuously maintained free of weeds, debris or litter.

7. The submission of any plan for off-street parking facilities shall be accompanied by a detailed landscape plan for approval.

D. Lighting. All lighting used to illuminate such parking facilities shall be approved by the planning commission. Any lighting used shall be so arranged as to reflect the light away from adjoining residential areas or public streets. Lighting shall be installed with the intent to provide only as much light as is necessary for public safety.

E. Temporary Lots.

1. Temporary parking lots may be permitted on vacant lots in the neighborhood or downtown commercial zoning districts or within three hundred feet of temporary uses including, but not limited to, pumpkin patches and Christmas tree lots.

2. Approved temporary lots shall be permitted for a specified time limit as determined by the planning commission.

3. Temporary lots must be:

a. Level;

b. Free of large rocks, litter and debris, glass, obstructions and stored materials.

4. The planning commission shall approve or deny a request for a temporary lot and decide if additional restrictions shall be required on a case-by-case basis.

F. Maintenance.

1. All parking lots must be maintained.

a. Parking lots must be free of litter and debris, glass, potholes and stored materials;

b. Surface striping and painting must be maintained in a clear and visible manner.

2. All lighting approved in section D of this section must be maintained.

a. Burnt out and broken light bulbs must be replaced.

b. Lighting fixtures must remain graffiti and rust free.

c. Painted light fixtures must not be chipping or peeling.

3. All required landscaping in section C of this section must be maintained.

a. When any landscaping is deemed dead by the city planner or community development director, the owner of the parking lot must replace the required landscaping as approved in section C of this section. (Ord. 01-105 § 2 (part), 2001: Ord. 97-103 § 2 (part), 1997: Ord. 440 § 2(part), 1982).

#### **17.24.060 PARKING REQUIRED.**

A. All uses within the city area shall provide adequate off-street parking as outlined in this chapter, except that all uses within a parking assessment district in the city shall meet the parking requirements established for the parking assessment district.

B. For parking lots with fifty or more employee and/or residential spaces, parking space reductions of up to fifteen percent may be permitted by the planning commission if a property is within three hundred feet of a public transit stop or if a professional transportation engineer, hired by the property owner, can demonstrate that a business' or nonprofit organization's vanpooling, carpooling, bicycling or other automobile trip reduction strategy merits a reduction in parking requirements. In the later case an agreement on how the reduction of trips will be created and maintained must be written by the property owner and approved by the planning commission. If any part of the agreement is breached, the agreed upon reduction in off-street parking requirements is null and void and all of the required spaces for the use, as specified in Section 17.24.090, must be provided.

C. All uses allowed in their respective zoning district are subject to approval of design of building and location of parking lot. Off-street parking shall be required and provided in all districts as specified in Sections 17.24.070 through 17.24.090. (Ord. 01-105 § 2(part), 2001: Ord. 97-103 § 2(part), 1997: Ord. 440 § 2(part), 1982).

#### **17.24.070 DEFINITIONS.**

As used in this chapter:

A. **FLOOR AREA, GROSS.** The sum of the gross horizontal area of the total number of floors of a building and its accessory buildings on the same site measured from the outside wall.

B. **FLOOR AREA, NET.** The sum of the gross floor area (see subsection A of this section) minus the following areas measured from the center of the inside walls: areas used for public corridors, interior stairways, public restrooms, mechanical equipment areas (heating, cooling equipment, etc.), elevators and elevator shafts.

C. **FLOOR AREA, TABULATION.** All applications for use permits, architectural design review or building permits shall be accompanied by a detailed tabulation of the proposed use, net floor area as defined in subsection B of this section, and a calculation of the required number of off-street parking spaces required, as well as the number of spaces provided as specified in Section 17.24.090. (Ord. 01-105 § 2 (part), 2001: Ord. 97-103 § 2 (part), 1997: Ord. 440 § 2(part), 1982).

## 17.24.080 BASIC REQUIREMENTS.

A. At the time of initial occupancy, alteration or enlargement of a site or structure, completion of construction of a structure, or change in use of a structure which requires a larger number of off-street parking spaces to be provided as defined in this chapter, there shall be provided off-street parking facilities for vehicles in accord with the schedule of off-street parking space requirements as prescribed in Section 17.24.090.

B. If, in the application of the requirements of this chapter, a fractional space requirement is obtained, one parking space shall be provided for a fraction of one-half or more, and no parking space is required for a fraction of less than one-half.

C. For a use not specified in Section 17.24.090, the same number of off-street parking spaces will be provided as required of the most similar specified use as determined by city staff.

D. Commercial or industrial off-street parking facilities providing ten or more spaces may include parking spaces for compact vehicles provided not more than twenty-five percent of the total number of spaces provided are designated for compact parking purposes. Such spaces shall be clearly identified and must be dispersed throughout the parking lot. All spaces for residential uses shall be full size.

E. Parking spaces specifically reserved for vehicles licensed by the state for use by the handicapped shall be provided in each parking lot as required by state law, or in a common use blue curb zone within two hundred feet as allowed by city ordinance. This is in addition to off-street parking requirements in Section 17.24.090.

Handicap parking spaces shall not exceed two percent slope and shall be located near or convenient to a level or ramped entrance not exceeding 12:1 slope to the facility served by the parking space. Handicap parking spaces shall be signed and restricted for use by handicapped only. (Ord. 01-105 § 2(part), 2001: Ord. 97-103 § 2(part), 1997: Ord. 440 § 2(part), 1982).

## 17.24.090 SCHEDULE OF OFF-STREET PARKING SPACE REQUIREMENTS.

### A. General Requirements.

<i>Use</i>	<i>Vehicle Spaces Required</i>	Comments
Residential		
Single-family dwellings: 1 to 2 units on in-fill lots	2 spaces for each dwelling unit, 1 of which shall be a garage space	Tandem parking spaces are permitted in "Old Town" as defined by the general plan
3 or more units on infill lots and units not on infill lots	2 garage spaces for each dwelling unit	Tandem parking spaces are not permitted

Multiple-family dwellings: Studio units	1 garage or carport space for each dwelling unit. Plus .3 spaces per dwelling unit for visitor parking	All fractions are to be rounded to the next highest number with a minimum of 1 guest space for each development with 3 or more units. All garages are to be used primarily for storage of vehicles. Tandem parking spaces are not permitted
1 bedroom units	1.5 spaces for each dwelling unit, 1 of which shall be a garage or carport space. Plus .3 spaces per dwelling unit for visitor parking	
2 bedroom or more units	2 owned spaces for each dwelling unit, 1 of which shall be a garage or carport space. Plus .3 spaces per dwelling unit for visitor parking	
Secondary units: Maximum 800 square feet	1 space per bedroom, with a maximum of two bedrooms and two parking spaces	
Live/work units	2 spaces for each dwelling unit. Plus .3 spaces per dwelling unit for visitor parking	
Boardinghouses, rooming houses and transient homes, sleeping accommodations of clubs and lodges, shelters and dormitories, including those of fraternities and sororities	1 space for each family, based on capacity as designed. Plus .8 spaces for each employee during the peak employment shift and .8 spaces for each full-time resident staff	
*Convalescent, rest and nursing homes for the aged and sanitariums	1 space for each 3.5 beds	
*Assisted senior housing	.5 spaces for each unit	
*Senior and disabled housing	1 space for each unit. Plus .03 spaces per dwelling unit for visitor parking	
<i>Schools:</i>		
Business, trade and other schools or colleges, not including dormitories, stadiums	1 space for each 2 full time equivalent students enrolled. Plus 1 space for each employee during	

and gymnasiums	the peak employment shift	
High schools, not including stadiums and gymnasiums	1 space for each 4 daytime students. Plus 1 space for each employee during the peak employment shift	
Intermediate, elementary and nursery schools	1.2 spaces for each employee during the peak employment shift	
<i>Places of Public Assembly</i>		
Recreation and entertainment: *Billiard and pool halls	1 space for each 4 seats as determined by maximum occupancy load, or 1 space for each 60 square feet of gross floor area used for assembly, whichever is the greater requirement	Plus space requirements for offices, storage area, dining areas and similar uses associated therewith
*Bowling alleys	4 spaces for each lane	
*Dance halls and night clubs	1 space for each 4 seats as determined by maximum occupancy load, and 1 space for each 50 square feet of dance floor area	
*Golf uses:		
Golf courses	6 spaces for each hole	
Golf driving ranges	1 space for each tee	
Miniature golf	2 spaces for each hole. Plus 1 space for each 250 square feet of gross floor area used for other commercial uses	
*Gymnasiums	1 space for each 4 seats as determined by maximum occupancy load, or 1 space for each 60 square feet of gross floor area used for assembly, whichever is the greater requirement	

*Health spas	1 space for each 200 square feet of gross floor area	Plus space requirements for offices, storage area, dining areas and similar uses associated therewith
*Libraries and museums	1 space for each 300 square feet of gross floor area	
*Marina	1 space for each 2 berths	Plus space requirements for offices, storage area, dining areas and similar uses associated therewith  Plus space requirements for dwelling units or berths containing boats, yachts, ships, or like vessels used for dwelling purposes
*Movie theaters, located in conjunction with regional shopping centers	1 space for each 4 seats as determined by maximum occupancy load	
Parks, playgrounds and outdoor public recreation facilities	As specified by use permit	Plus space requirements for offices, storage area, dining areas and similar uses associated therewith
*Racquet ball and tennis clubs	1 space for each 200 square feet of office, court and dressing room areas	
*Sport arenas, stadiums and skating rinks	1 space for each 4 seats as determined by maximum occupancy load, or 1 space for each 60 square feet of gross floor area used for assembly, whichever is the greater requirement	
*Stables	1 space for each 4 horses based upon the maximum number of horses stated on the stable permit	
*Swimming pools, except pools reserved for use by residents of the premises	1 space for each 200 square feet of water, office and dressing room areas	

*Video game areas	1 space for each 4 seats as determined by maximum occupancy load, or 1 space for each 60 square feet of gross floor area used for assembly, whichever is the greater requirement	Plus space requirements for offices, storage area, dining areas and similar uses associated therewith
*Funeral homes and mortuaries	1 space for each 4 seats as determined by maximum occupancy load, or 1 space for each 60 square feet of gross floor area used for assembly, whichever is the greater requirement	
Religious assembly, lodges, clubs, associations, community centers, business, trade and professional societies, union halls, auditoriums, convention or meeting halls and theaters	1 space for each 3 seats or .33 spaces for each person as determined by maximum occupancy load of the area for assembly, whichever is the greater requirement	
Temporary uses	As specified by conditional use permit	
<i>Offices</i>		
Automatic teller machines (ATM)	1 space for each ATM	
*Banks and saving and loans	1 space for each 150 square feet of gross floor area used for customer service	Plus space requirements for offices, storage area, dining areas and similar uses associated therewith
Clinics	6 spaces for each doctor or 1 space for each 125 square feet of gross floor area, whichever is greater	
Medical offices, dental offices, and laboratories, not including mental health practitioners	5 spaces for each doctor/dentist or 1 space for each 150 square feet of gross floor area, whichever is greater	

*Mental health practitioners	1 space for each 250 square feet of gross floor area	
*Offices, business and professional	1 space for each 250 square feet of gross floor area	
<b><i>Retail Trade and Service Uses</i></b>		
Animal uses:		
Animal boarding	1 space for each 500 square feet of gross floor area. Plus 1 space for each employee during the peak employment shift	
Animal grooming	1 space for each 400 square feet of gross floor area. Plus 1 space for each employee during the peak employment shift	
*Animal hospitals/ veterinary	1 space for each 250 square feet of gross floor area	
Ambulance services	1 space for each employee during the peak employment shift and 1 space for each commercial vehicle	
Automobile car wash:		
Full service	1 space for each employee during the peak employment shift. Plus queue for 5 vehicles per washing bay	
Self service	2 spaces per washing bay. Plus queue for 1 vehicle per washing bay	
Automobile and truck rentals	1 space for each employee during the peak employment shift	
*Barber shops, beauty salons and personal services	1 space for each 150 square feet of gross floor area or 1 space for	A greater number of spaces may be required when the

	each workstation, whichever provides greater number of spaces	subletting of space occurs
*Catering services	1 space for each 400 square feet of gross floor area	Plus loading as per subsection D of this section
*Dry-cleaning establishments and laundromats	1 space for each 2 washing and/or dry cleaning machines or 1 space for each 250 square feet of gross floor area, whichever is greater	
Hospitals	Parking study required	
Hotels, motels and bed and breakfast inns	1 space for each unit. Plus 2 spaces for each full-time resident staff and 1 space for each employee during the peak employment shift	
*Restaurants, cafes, or other food establishments:		
Restaurants where food is consumed on premises creating a low turnover of patrons	1 space for each 80 square feet of gross floor area (which includes kitchen and office space)	
Restaurants of a fast-food or carry-out nature	1 space for each 60 square feet of gross floor area (which includes kitchen and office space)	
*Retail sales, light, including:	1 space for each 200 square feet of gross floor area where gross floor area is 5,000 square feet or less. 1 space for each 250 square feet of gross floor area is 5,001 square feet or greater	
Food markets		
Apparel shops		
Department and general merchandise stores		

Sales and convenience floor area where gross goods and articles such as beverages, drugs, liquor, milk, stationery and similar items		
*Retail sales, heavy commercial sales and repair services including:	1 space for each 175 square feet of gross floor area devoted to sales display and 1 space for each 300 square feet of gross floor area devoted to repair or service	Plus loading as per subsection D of this section
Appliances		
Business machines		
Hardware		
Household equipment		
Plant nurseries		
*Furniture sales	1 space for each 500 square feet of gross floor area	Plus loading as per subsection D of this section
*Retail sales, heavy commercial sales and repair services including:	1 space for each 200 square feet of gross floor area used for offices and 1 space for each 300 square feet of gross floor area for sales and sales display. Plus 1 space for each 600 square feet of gross floor area used for repair or service. Plus 1 space for each 2,000 square feet of outdoor sales, sales displays and storage areas	Plus loading as per subsection D of this section  Spaces in service repair areas shall not be counted as spaces which meet the off-street parking requirements
Automobile, boat and trailer sales, automobile, boat and trailer equipment and accessories sales and service		
Building materials, building trade uses such as plumbing, sheet metal working, heating, roofing, woodworking, upholstering, printing and dry-cleaning agencies		
Service stations	.8 spaces for each employee during the peak employment shift and 3 spaces for each hoist, rack or area primarily designed for the servicing or minor repair of 1	In no case shall there be less than 5 off street parking spaces

	vehicle, but excluding fuel pump service areas. Plus 1 space for each 250 square feet of gross floor area devoted to retail sales or office use	provided Spaces in service repair areas shall not be counted as spaces which meet the off-street parking requirements
Temporary uses including:	As specified by administrative use permit	
Art and craft shows (outdoors)		
Flea markets and swap meets		
Seasonal sales lots, such as Christmas tree and pumpkin sales lots		
Retail sales (outdoors)		
<b><i>Industrial, Wholesale, Storage and Transportation Uses</i></b>		
Bottling establishments and canneries	Spaces based upon the maximum number of persons proposed to be employed during the peak employment shift, or on 2 overlapping shifts employing the largest number, whichever is greater	
Communications equipment and service facilities		
Creameries		
Manufacturing, processing or assembly uses		
Research or testing laboratories	Spaces based upon the maximum number of persons proposed to be employed during the peak employment shift, or on 2 overlapping shifts employing the largest number, whichever is greater	
Storage		
Transportation uses and freight transportation terminals		
Wholesale or warehouse establishments		

Utility yards and facilities and lumber yards		
Recycling facilities	1 space for each employee during the peak employment shift. Plus space shall be provided for the anticipated peak load of customers to circulate, park and deposit recyclable materials. If the facility is open to the public, an on-site parking area shall be provided for a minimum of 10 customers at any one time	

B. Employee Off-Street Parking. The following chart applies to all use designations marked with an asterisk “\*” in subsection A of this section, General Requirements.

Number of Persons Employed	Number of Required Spaces per Employee
1 - 49	.8
50 - 99	.75
100 - 149	.7
150 - 199	.65
200 and over	.6

C. Bicycle and Motorcycle Parking. For uses which require twenty or more automobile parking spaces there shall be a requirement to provide bicycle parking spaces, amount equal to three percent of the number of automobile parking spaces, and to provide motorcycle parking spaces, amount equal to five percent of the number of automobile parking spaces. Each bike parking space should have a stationary object to secure and lock the bike. For uses which require twenty or more automobile parking spaces, there shall be a credit of one eight-foot by sixteen-foot automobile parking space for each six bicycle spaces or for each four motorcycle parking spaces provided. The credit shall not exceed one-twentieth of the total number of required automobile parking spaces for uses requiring thirty-nine or fewer spaces and one-fortieth of the total number of required spaces for uses requiring forty or more spaces.

D. Off-Street Loading and Unloading Spaces. Commercial and industrial uses involving the sale, retail or wholesale, exchange or storage of manufactured goods, merchandise or movable property or raw materials and any similar use irrespective of where maintained, shall provide the following loading/unloading spaces:

Under 3,000 square feet gross area	1 space
3,001 to 30,000 square feet gross area	2 spaces
30,001 to 90,000 square feet gross area	3 spaces
90,001 to 15,000 square feet gross area	4 spaces

E. Parking Space and Parking Lot Dimensions.

**Off-Street Parking Chart**

**TABLE OF MINIMUM DIMENSIONS**

The requirements below are minimum standards; they will not necessarily provide good design. It may be advantageous in some cases to use larger dimensions.

Angle of Parking	A= Space Width	B= Space Depth	C= Aisle Width	D= Curb Length Per Car	E= Right Angle Length	F= Turning Radius	G= Angle to Angle Depth	H= Diagonal Depth
Parallel	9' 0"	23' 0"	12' 0"	23' 0"	0' 0"	- -	8' 0"	8' 0"
30°	9' 0"	17' 0"	12' 0"	18' 0"	30' 0"	- -	13' 4"	17' 3"
45°	9' 0"	19' 0"	13' 0"	13' 0"	20' 1"	16' 5"	16' 7"	20' 1"
60°	9' 0"	20' 0"	17' 0"	11' 0"	12' 3"	15' 0"	18' 9"	21' 3"
90°	9' 0"*	19' 0"*	24' 0"	9' 0"	0' 0"	20' 0"	19' 0"	19' 0"

\*Compact car spaces shall be a minimum of eight feet by sixteen feet for ninety degree parking.

(Ord. 01-105 § 2 (part), 2001; Ord. 97-103 § 2 (part), 1997; Ord. 564 § 2, 1994; Ord. 458 § 1, 1984; Ord. 440 § 2 (part), 1982).

**17.24.100 ENFORCEMENT.**

All sections of this chapter are enforceable and subject to the legal procedures and penalties as adopted in Chapter 17.52 of the Pinole zoning code. (Ord. 2004-11 § 1 (part), 2004; Ord. 97-103 § 2(part), 1997).

## **Chapter 17.26 HOME OCCUPATIONS**

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Sections:

- [17.26.010](#) Purpose.
- [17.26.020](#) Administrative use permit required.
- [17.26.030](#) Home occupation regulations.
- [17.26.040](#) Exclusions.
- [17.26.050](#) Revocation.

### **17.26.010 PURPOSE.**

The purpose and intent of this chapter is to establish regulations under which limited service for financial consideration may be conducted from a dwelling where the use is incidental to the residential use of the dwelling and which does not adversely affect the neighborhood. (Ord. 573 § 3(part), 1995).

### **17.26.020 ADMINISTRATIVE USE PERMIT REQUIRED.**

All home occupations shall require an administrative use permit subject to the provisions in Chapter 17.36, and shall meet all of the home occupation regulations set forth in Section 17.26.030. The city planner may limit the length of time for a home occupation in order to effect periodic review thereof. No more than one administrative permit for a home occupation shall be granted per dwelling unit. (Ord. 573 § 3(part), 1995).

### **17.26.030 HOME OCCUPATION REGULATIONS.**

All home occupations shall continuously meet the following regulations:

- A. Primary use must be the residence of the person conducting the occupation;
- B. Services restricted to those conducted by mail, or telephone or actives wherein the operator picks up and delivers;
- C. No customer calling on the premises;
- D. No employees, other than those persons who reside in the dwelling unit;
- E. Is confined completely within a legal structure and occupies not more than twenty-five percent of the floor area of a dwelling or two hundred square feet of a normal accessory building, and involving no internal or external alterations of either type of structure;

F. Involves no sales of merchandise other than that produced on the premises, or directly related to and incidental to the services offered;

G. Is carried on by the members of the family occupying the dwelling;

H. Produces no evidence of its existence upon or beyond the premises such as external alterations creating nonresidential or unsightly appearance of a structure, noise, smoke, odors or vibrations;

I. No signs pertaining to home occupations are permitted;

J. No more than one truck with a one ton load capacity or other motor vehicle shall be permitted in conjunction with any home occupation;

K. Each administrative permit issued pursuant to this section shall be legally effective only for the service specified therein. (Ord. 573 § 3 (part), 1995).

#### **17.26.040 EXCLUSIONS.**

The following uses shall not in any case qualify as a home occupation:

A. Stores;

B. Teaching of organized classes totaling more than three persons at one time;

C. Operation of food handling, processing or packaging;

D. Auto or other vehicle repair shop, junk or secondhand merchandise yard;

E. Firearm or firearm ammunition sales;

F. Operation of barbershop or beauty parlor with more than one chair. (Ord. 573 § 3(part), 1995).

#### **17.26.050 REVOCATION.**

Failure to comply with the home occupation regulations, the city planner may after notice revoke the home occupation administrative use permit. Such revocation may be appealed to the planning commission pursuant to the appeal procedure provided in Section 17.36.060G of this code. (Ord. 573 § 3(part), 1995).

## **Chapter 17.28 SIGNS**

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Sections:

[17.28.010](#) General provisions.

- [17.28.020](#) Definitions.
- [17.28.030](#) Sign regulations.
- [17.28.040](#) Special use and exempt signs.
- [17.28.050](#) Sign permits.

## **17.28.010 GENERAL PROVISIONS.**

- A. The purpose of this chapter is to promote and protect the public's health, welfare and safety of the city as applicable to signing.
- B. This chapter is intended to create a more attractive and economic business climate.
- C. This chapter recognizes the right of the citizenry to identify itself, its products and its services. (Ord. 440 § 2(part), 1982).

## **17.28.020 DEFINITIONS.**

In this chapter, unless the context otherwise defines:

- A. **A-BOARD.** A portable sign capable of standing without support or attachment.
- B. **ACCESSORY SIGN.** A subordinate or informational sign which is secondary to a primary sign.
- C. **AUXILIARY BUSINESS IDENTIFICATION SIGN.** A sign which more specifically identifies the location of the business entrance to persons already in the vicinity of the business.
- D. **CAMPAIGN SIGN, NONPOLITICAL.** Signs announcing a campaign, drive or event of a civic, philanthropic, educational or religious organization.
- E. **CAMPAIGN SIGN, POLITICAL.** A temporary sign designed for the purpose of soliciting or advertising support of or opposition to a political party or candidate, or proposition at a public election.
- F. **COMMUNITY DIRECTIONAL SIGN.** A nonaccessory sign indicating the location of a community service organization, public facility, church, hospital or school.
- G. **CONSTRUCTION SIGN.** A temporary sign identifying the architect, engineer or contractor directly connected with a construction project and which is placed upon the premises where construction, repair or renovation is in progress.
- H. **DIRECTORY SIGN.** A sign displaying the name of each occupant of a building who is engaged in a business, profession or occupation.
- I. **FREESTANDING SIGN.** A sign which is self-supporting in a fixed location and not attached to a building or structure.

J. **FLASHING SIGN.** An illuminated sign in which the artificial or reflected light is not intended to be maintained in a stationary or constant intensity.

K. **FRONTAGE OF A LOT.** The lineal distance of the property line of a taxable unit of property, which line is also the right-of-way line of a public street. If the lots front on more than one street, the longest such property line constitutes the frontage of the lot.

L. **GROUND LEVEL.** The average elevation of the finished surface of the ground, paving or sidewalk existing beneath, adjacent to, or within a five-foot horizontal distance from any sign or structure related thereto.

M. **MOBILE SIGN.** A sign mounted on any type of device which is movable or capable of being moved by a vehicle, but does not include lettering or illustration which is attached to or painted on, and does not extend more than one-quarter inch from the surface of such vehicle.

N. **MONUMENT SIGN.** A freestanding sign not exceeding six feet in height and which is permanently affixed to the ground surface.

O. **MOVING SIGN.** A sign which has an actual or apparent moving, revolving or rotating part, activated by electrical, mechanical or other device, or by wind current. A moving sign includes, but is not limited to, banner, pennant, flag (other than the United States and/or California flag), balloon or other device inflated with air or helium, or a sign which changes or appears to change. Moving sign does not include a time or temperature recording device, nor a motor vehicle.

P. **NONACCESSORY SIGN.** A sign which is not accessory to a business or use on the same property, and other than a community directional sign or an open house sign.

Q. **PLANNING COMMISSION.** The planning commission of the city, or such other city board, commission, committee or official authorized by planning commission and approved by City Council to discharge certain specific functions on behalf of the planning commission.

R. **POLE SIGN.** A sign supported on a pole.

S. **PORTABLE SIGN.** A sign which is not attached to the ground or a structure.

T. **PREMISES.** The building, portion of a building, or property containing an activity for which a permit for a sign is being sought or a sign is maintained.

U. **PRIMARY SIGN.** A sign which identifies the business or organization located on the premises, or advertises or informs about business, products or services sold or rendered on the premises.

V. **PROJECTING SIGN.** A sign other than a wall sign which is suspended from or supported by a building or wall and which projects out from the building or wall.

W. **PUBLIC OPEN SPACE.** Includes a public or private unenclosed area, square or courtyard open to pedestrian and/or vehicular traffic.

X. **SHINGLE SIGN.** A type of projection sign consisting of a plank or slab that hangs by means of chains, cables or ropes from any structural support.

Y. **SHOPPING CENTER** or **SIMILAR REGIONAL COMPLEX**. An integrated shopping complex comprised of five or more retail stores.

Z. **SHOPPING CENTER** and/or **SIMILAR REGIONAL COMPLEX SIGN**. A freestanding sign which denotes the name of the shopping center or regional complex only and may have no tenant names on either the sign or the structure to which it is affixed.

AA. **SIGN**. A lettered surface or other display used to identify or advertise a place of business, merchandise, services or activities sold or conducted on a premises.

BB. **STREET SETBACK LINE**. An official line for planned future street widening adopted by the City Council pursuant to applicable state law.

CC. **SUBDIVISION**. The area covered by the tentative or final subdivision map.

DD. **TAXABLE UNIT OR PROPERTY**. A parcel of real property shown upon the county assessment roll.

EE. **UNDER-MARQUEE SIGN**. A sign suspended upon a marquee, porch, canopy, walkway covering or similar covering structure, and other than the main business identification sign.

FF. **USE**. A purpose or activity for which the land or building is designed, arranged, intended or for which it is occupied or maintained to function as a separate unit.

GG. **WALL SIGN**. A sign visible from any street frontage of a premises and is attached parallel to or flat against an exterior wall; it includes a primary sign on a canopy.

HH. **WINDOW SIGN**. A sign maintained in or painted upon a window, which is intended to be viewed from outside the building. It does not include merchandise offered for sale on such premises. (Ord. 466 § 1, 1985; Ord. 440 § 2(part), 1982).

### **17.28.030 SIGN REGULATIONS.**

#### A. General.

1. Each new sign installed, erected, modified or displayed after March 15, 1982 shall comply with the provisions in this section.

2. Except as provided in this chapter, no person may:

a. Construct, erect, paint or affix a sign in a manner that it faces or is visible from a public street or public open place;

b. Modify an existing sign by changing the words or design. Any signs on the interior of the building, including signs on the inside of windows shall not be regulated.

3. Except as permitted in this chapter, total signing permitted per business shall not exceed the following schedule:

<i>Business Area</i>	Maximum Total Sign Area Permitted
0 - 2,500 sq. ft. =	200 sq. ft.
2,501 - 5,000 sq. ft. =	250 sq. ft.
5,501 - 7,500 sq. ft. =	300 sq. ft.
7,501 - 10,000 sq. ft. =	400 sq. ft.
10,001 - 30,000 sq. ft. =	450 sq. ft.
30,001 and over =	500 sq. ft.

a. Square footage of the business shall be the square footage of the building and the outside sales area(s);

b. More than one street frontage allows an additional twenty percent of signing;

c. In addition to the total sign area restrictions above, no individual wall sign shall exceed twenty-five percent of the building face.

B. Maximum Permissible Sign Area. The maximum permissible sign area shall not include:

1. Campaign signs as provided for in subsection H of this section.
2. Permanent automobile service station gasoline price signs as provided in subsection I of this section.
3. Temporary signs defined in subsection N of this section.
4. Exempt signs defined in Section 17.28.040 A.
5. Shopping center signs defined in Section 17.28.040 H.

C. Projection Limits. No part of a sign attached to or mounted on a building may project beyond twelve inches from the wall to which it is attached except as permitted in subsection I of this section.

D. Height Limitation. No part of a sign affixed to a building may extend above the eave of the roof of the building to which it is attached. In case of mansard roof, the sign may be incorporated in the roof if such sign is an integral part of the architectural design of the building.

E. Freestanding Signs--Monument Type.

1. A monument sign shall not exceed six feet in height above ground level.
2. The area of a monument sign shall not exceed thirty-six square feet per side.

F. Freestanding Signs--Pole Type.

1. A pole sign shall be subject to use permit approval in accordance with the provisions of Chapter 17.36, Use Permits.

2. A pole sign shall only be permitted when the otherwise permissible freestanding monument sign would not be sufficiently visible due to obstruction or where there is no space in which to place the sign between the sidewalk and building.

3. A pole sign shall not exceed twenty-five feet in height above ground level.

4. The bottom of the pole sign shall be no lower than seven and one-half feet above ground level in areas having normal pedestrian traffic.

5. The area of the pole sign shall not exceed sixty square feet per side.

6. The pole sign shall not have any exposed, connecting or supporting wires.

G. Planned Sign Programs. Application for sign permits under the provisions of a planned sign program shall be submitted and reviewed as provided in this subsection:

1. Applicability.

a. Mandatory sign program application required. Application under provisions of a planned sign program shall be required if the site to be developed will have permanent signing requirements which exceed either five signs or two hundred square feet total aggregate sign area.

b. Optional sign program application permitted. Application under the provisions of a planned sign program shall be at the option of the applicant whenever such application is not mandatory and the site meets any of the following conditions:

i. The site to be considered shall consist of five or more separate business activities.

ii. The area to be included for consideration shall consist of a lot, parcel or a series of lots or parcels combined, to total a minimum of two acres.

iii. The site to be considered shall consist of a lot, parcel or a series of lots or parcels combined, which front on two or more publicly dedicated street rights-of-way.

2. Review procedures. The planning commission shall review the planned sign program and shall make a determination to either approve, approve with modifications, or deny the application. In reviewing the planned sign program, the planning commission shall make the findings required under subdivision 3 of this subsection.

3. Findings required. A planned sign program shall not be approved unless the following findings are made:

a. That the proposed signs satisfy the intent of this chapter;

b. That the proposed signs are in harmony and visually related to:

i. Other signs included in the planned sign program. This shall be accomplished by incorporating several common design elements such as materials, letter style, colors, illumination, sign type or sign shape,

ii. The buildings they identify. This may be accomplished by utilizing materials, colors or design motifs included in the building being identified,

iii. The surrounding development. Approval of a planned sign program shall not adversely affect surrounding land uses or obscure adjacent conforming signs;

c. That the proposed signs will comply with all the provisions of this Chapter, except the planning commission may allow modifications with regard to:

i. Allocated sign area authorized,

ii. Number of signs allowed,

iii. Location and height of signs.

4. Addition, replacement or modification of signs within a previously approved planned sign program. Application for the addition, modification or replacement of signs requiring permits, within the boundaries of an area having a previously approved planned sign program shall be made in the following manner:

a. Whenever the total number of signs to be added, modified or replaced total less than twenty-five percent of the number of permitted signs presently on the site, application shall be made under the provisions of a standard sign application.

b. When the total number of signs to be added, modified or replaced total twenty-five percent or more of the number of permitted signs presently on the site, application shall be made under the provisions of a planned sign program.

#### H. Campaign Signs.

1. Nonpolitical signs are permitted for a period not to exceed fifteen days. Such signs shall not exceed thirty-two square feet in area and no portion of such sign shall be higher than ten feet above finished grade level.

2. Election signs are permitted for a reasonable time in all districts preceding an election. Such signs shall not exceed sixteen square feet in area and no portion shall be higher than ten feet above grade. Such signs shall not be placed on public property or utility poles, and such signs shall be removed within five days after the election.

I. Price Signs for Automobile Service Stations. On premises where gasoline is dispensed to motor vehicles, the display of a price sign, and two signs in case of a corner lot, which may be read from a public street is permitted, in addition to the authorization and limitations contained elsewhere in this chapter. The area of gasoline price signs shall not exceed twelve square feet area.

#### J. Projecting Signs.

1. Policy: Businesses may have the option of installing a wall sign and/or a projecting sign.
2. Limitations: A projecting sign may be permitted to the following conditions:
  - a. It shall be suspended with a clear space of at least six inches between the sign and the building;
  - b. It may not project more than sixty-six inches from the surface of the building to which it is attached;
  - c. It may not contain more than thirty square feet of display area per side (excluding the suspension structure);
  - d. In the case of a one-story building, the top of the sign shall, exclusive of the suspension structure, be no higher than the roof eave line.
  - e. The bottom of the sign shall not be lower than seven and one-half feet above the ground level.
  - f. Projecting signs are permitted only at right angles to the building front;
  - g. Projecting signs shall be spaced to maximize the visibility of signing;
  - h. Projecting signs may be internally illuminated.

K. Computations of Sign Area.

1. The sign area is computed by including the single display surface which is visible from a single ground position. The structure supporting a sign is not included in determining the sign area.
2. The area of a sign is determined by computing the an encompassing circle, triangle or rectangle, whichever is smaller.
3. Projecting signs which extend into or over public right-of-way are subject to application for and approval of an encroachment permit.

L. Interference with Motorist's or Pedestrian's Vision.

1. No sign shall be located in a manner which may obstruct or interfere with the view of a traffic signal or other traffic regulatory signs. No sign shall, as determined by the city engineer, be so located as to create a hazard to the life or property of any person using the public right-of-way.
2. Any required landscaping may be trimmed as needed to provide maximum visibility of the sign or signs.

M. Certain Types of Signs Prohibited. No person shall erect, establish, display or permit a sign which:

1. Is flashing;

2. Is off-site;
3. Has banners, flyers, pennants, pinwheels or utilizes two or more light bulbs in a wire string;
4. Is portable, except as authorized in Section 17.28.040 C and D;
5. Is an A-board located on public property
6. Is painted upon a fence;
7. Is painted on or affixed to a structure or property not owned by the person installing the sign without the written consent of an owner, lessee or adult occupant;
8. Is dilapidated or abandoned or in disrepair or dangerous condition;
9. Is affixed to a fence, utility pole or structure, or a tree, shrub, rock or other natural object;
10. Is mobile or is attached to a motor vehicle which is parked with the intent to advertise to the public passing by; a business name permanently affixed to a side of a commercial vehicle is not a sign for purposes of this section;
11. Is nonaccessory;
12. Is moving.

N. Temporary Signs. In addition to other signs permitted by this section, the following signs may be installed and maintained subject to the following conditions:

1. Special Sale Signs. These are signs for the purpose of advertising a bona fide special sale or promotion on the premises. Such signs are authorized only when installed and maintained for the duration of the specific sale or promotion, or thirty days, whichever is shorter. Such signs do not require sign permits under Section 17.28.050 providing the following requirements are met:

a. Outdoor and Exterior Signs. In case of merchandise normally stored or displayed outdoors, such signs may be located on or immediately next to the merchandise on sale; provided, that the aggregate area of such signs visible from a street or other premises does not exceed thirty-two square feet in area. Such signs do not require sign permits under Section 17.28.050 providing each sign is dated with the date of installation.

2. New Business Signs.

a. Temporary Announcements. Upon notification given to the city, special signs, banners and pennants are permitted to announce the opening of a new business, new management, new ownership or a substantial change in existing business. Such signs may be installed without first securing a sign permit; provided, that:

i. They are maintained for no longer than thirty days or such longer period of time the planning commission may so authorize,

ii. The city has determined that such signs do not interfere with the safety of vehicular and pedestrian traffic, and with crime prevention. For the purpose of such determination, the city may consult the city engineer and the police chief;

b. Temporary Main Business Sign. Upon notification given to the city, one temporary main business sign is permitted for a new business, new management, new ownership or a substantial change in existing business. Such sign may be installed without first securing a sign permit; provided, that:

i. It is maintained for no longer than sixty days, or such longer period of time as the city may authorize,

ii. The city has determined that such signs do not interfere with the safety of vehicular and pedestrian traffic and with crime prevention, the city may consult the city engineer and police chief,

iii. An application for permanent sign(s) has been filed with the city.

O. Limitation on Number and Area of Under-marquee Sign. One under-marquee sign is permitted per business, with the square footage of the sign being included as part of the total signing square footage.

P. Clearance from Public Utility Facilities. The person erecting a sign and the owner of the premises shall maintain legal clearance from communications and electric facilities. A sign may not be constructed, erected, installed, maintained or repaired in any manner that conflicts with a rule, regulation or order of the California Public Utilities Commission pertaining to the construction, operation and maintenance of public utilities facilities. (Ord. 466 §§ 2, 3, 1984; Ord. 440 § 2 (part), 1982).

#### **17.28.040 SPECIAL USE AND EXEMPT SIGNS.**

A. Exempt Signs. The following signs are exempt from this chapter, except as to regulations pertaining to prohibited signs (See Section 17.28.030 M) and the location of signs with reference to street intersections:

1. Barber pole, attached or freestanding, when previously approved by the city as to size, location and design;

2. Memorial tablet having a sign area of four square feet or less;

3. Sign which is not visible from a public street, public open space or from other premises under separate occupancy;

4. Sign having a display area not exceeding four square feet and intended solely for the information, safety, direction or convenience of the public (rather than advertisement of goods or services) including a sign which indicates days, hours, emergency telephone number, street address, credit card honored, membership in civic, business or professional organizations, or which directs customers where to park, which identifies restrooms, or which locates a public telephone or freight entrance. The aggregate display area of all such signs related to a single

occupancy which can conveniently be seen from outside the premises may not exceed twenty square feet;

5. Sign placed by a public utility showing the location of underground facilities;
6. Sign advertising a community event of general public interest which does not exceed in the aggregate for all events five square feet of sign area per premises;
7. Sign or emblem affixed to clothing worn;
8. Bumper sticker affixed to the bumper of a motor vehicle;
9. The message portion of a church bulletin board;
  
10. Noncommercial signs in residential areas, such as Christmas decorations;
11. Temporary sign reasonably required for the safety of persons, preservation of property, or the convenience of the public and authorized by the city;
12. Monuments and mechanical sculptures when approved by planning commission.

**B. Subdivision Signs.**

1. After first receiving a permit from the planning commission, a person offering real estate for sale in a recorded subdivision may erect and maintain not more than four primary signs identifying the subdivision, two of which may be off-site;
2. The total maximum display area for each sign is thirty-two square feet. The sign may not be located within fifty feet of an occupied residence unless the planning commission first finds that the maintenance of such distance is not feasible. The sign may not be illuminated;
3. In addition to the terms and conditions which the planning commission may impose, a person proposing to erect a subdivision sign shall enter into a written agreement with the city. Such agreement shall provide for the following:
  - a. A deposit of five hundred dollars for each sign guaranteeing maintenance and removal of the sign upon expiration of the permit,
  - b. Removal of the sign within six months from the date erected or such other period as the planning commission prescribes,
  - c. Permission of the city to remove and dispose of the sign should the sign not be removed by the subdivider,
  - d. A covenant to reimburse the city its cost of such removal and disposal.

**C. For Sale, For Lease and Contractor Identification Signs.**

1. Without application for a sign permit, a person may erect a temporary sign including an A-frame sign, for the purpose of advertising construction work on the premises, or of offering

the property for sale or lease. The display area of the sign may not exceed the following limitations:

a. In residential land-use district, twelve square feet per acre of land, not to exceed forty square feet,

b. In any other land-use district, twelve square feet per acre of land, not to exceed forty square feet,

c. The sign shall be removed within fifteen days after the transfer of title, lease or the completion of construction.

D. **Open House Sign.** In addition to the sign authorized by subsection C of this section, a person may, without application for a sign permit, erect a nonaccessory or accessory sign or both, which advertises real estate for sale and is open for inspection. The sign, an A-frame or otherwise portable, may not exceed four square feet in area. Not more than three open house signs may be used in connection with one taxable unit of real property. The sign may state the name of the selling agent or broker and that the property is open for inspection. The open house sign may be displayed only during the hours between eight a.m. and ten p.m.

E. **Apartment Houses and Roominghouses.**

1. The allowable display area for a sign for the identification of an apartment house shall be computed on the basis of one-half square foot for each dwelling unit;

2. The allowable display area for a sign for the identification of a roominghouse shall be computed on the basis of one-half square foot for each rentable room;

3. In each case, the maximum display area is twelve square feet.

F. **Service Club Signs.** A sign for identification of a service club is subject to approval by the planning commission as to location, size, height, width, lighting and general design. This section does not apply to membership sign displayed by members of a service club, but is subject to all regulations of Chapter 17.28.

G. **Signs and Displays by Neighborhood Association.** A sign for neighborhood identification is subject to approval by the planning commission as to location, size, height, lighting and design. The sign shall be for the sole purpose of identifying the area and may not advertise a dwelling for sale or lease.

H. **Community Directional Signs.** A community directional sign is subject to the following limitations:

1. A community facility may be identified by more than two directional signs;

2. Each sign may not exceed three square feet in area.

I. **Shopping Center and/or Similar Regional Complex Signs.** Shopping center and/or similar regional complex signs may have only the name of the center, and no tenant names on either the sign or the structure to which it is affixed, whether it is a pole or monument-type sign, with a maximum area of two hundred square feet per side and a maximum height of fifty feet above the

ground level. Where a shopping center or similar regional complex, as defined in subsection 25 of Section 17.28.020, has an approved shopping center sign as allowed in this subsection, not more than one freestanding pole-type sign may be additionally authorized for that center. (Ord. 440 § 2(part), 1982).

### **17.28.050 SIGN PERMITS.**

A. Permit Required. A person may not erect or maintain a sign without a permit, except that a permit is not required for:

1. Temporary sign, Section 17.28.030N.
2. Exempt sign, Section 17.28.040A.
3. For sale, for lease or contractor identification sign, Section 17.28.040C.
4. Open house sign, Section 17.28.040D.
5. Campaign signs, Section 17.28.030H.
6. Apartment and roominghouse signs, Section 17.28.040E.
7. Maintenance work which does not result in the change of words, design, size or shape.

B. Contents of Application.

1. The application for a sign permit shall be on a form prepared by the city and among other matters which may be reasonably prescribed, shall contain or include drawings showing the location, size, colors, shape, type of illumination, copy design and manner of installation of the proposed sign and the frontage of the premises. It shall also disclose all existing signs on the premises, including exempt signs, giving the size and location of each.

2. A single application may cover more than one sign, but is limited to a single business.

C. Filing and Action on Application.

1. The sign application shall be filed with the city. The application shall be referred to the planning commission if action is not taken under this subsection. If the planning commission does not approve, conditionally approve, or deny the application for a proposed new sign within thirty calendar days from the date of the first planning commission meeting after the application is filed, the application is deemed approved. The planning commission may for good cause and with consent of the applicant, extend the planning commission time to act. The planning commission may require that changes be made in the design of the sign as necessary to carry out the purposes of this chapter. Planning commission approval of a sign application constitutes a sign permit.

2. If the planning commission finds that a variance is required for approval of the permit, or where the commission finds that the sign as proposed should be modified, the planning commission shall deny the application and advise the applicant of the reasons for denial

in writing within five days of the meeting at which the approval was denied. In this case, the applicant may, without paying additional fees, submit a revised application within ninety days following denial.

D. Permit Issuance. The city staff has the responsibility to issue sign permits which shall be called administrative use permits as specified and prescribed in subdivisions 1 through 5 of this subsection:

1. Type of Signs.

a. All signs requiring a sign permit except main business identification signs and except those signs which are a part of a project that requires planning commission approval such as use permit, variance, development plan or design approval.

b. Signs where use permit or variance approval have already been given to a particular business use and a new or existing owner of that business use wants to change a sign face but still be in conformance with the location, size, shape and height of the original permit.

c. Such other. signs or sign details when specifically authorized by the planning commission.

2. Criteria. Such permits may be issued only when the proposed sign clearly meets all requirements of the zoning ordinance and design criteria as specified in subsection E of this section. Permits which do not clearly meet such requirements shall be referred to the planning commission.

3. Reporting of Actions. The city staff shall report actions regarding sign permits in writing on the agenda of the first regular planning commission and City Council meetings following the action(s).

4. Effective Date of Approval. The effective date of approval shall be ten calendar days after the planning commission meeting, providing that the planning commission had not set aside the city's staff action. In setting aside the city staff's action, planning commission shall substitute its own decision. The planning commission may make this decision at the same meeting that the matter is reported, or set the matter on the agenda for the next planning commission meeting. If the planning commission does not set aside the city staff's action, the sign application shall be considered approved by the planning commission.

5. Appeals. Any person may appeal to the planning commission an act or decision of the city staff relative to this section. Such appeal shall be filed with the City Clerk

within ten days after the act or decision of the city. Notice and hearing on such appeal and a further appeal to the City Council shall be in the same form, manner and time as provided in Section 17.40.030.

E. Design Criteria. In its evaluation of quality of design, the planning commission shall apply the following criteria:

1. General criteria.

a. Signs shall relate to the architectural design of the building. Signs which cover windows, or which spill over natural boundaries or architectural features and obliterate parts of upper floors of buildings shall be discouraged.

b. Sign illumination shall be designed so as to avoid glare and light intrusion onto other signs or premises, and brightly illuminated signs shall be discouraged.

c. Exposed neon should be carefully and sparingly used in signs.

d. Careful consideration shall be given to minimizing and simplifying every sign's supporting structure.

e. Signs obviously designed to attract the attention of motorists on the freeway shall be discouraged except for shopping center signs, or such other similar regional complex.

f. Signs within a shopping center or other complex shall be a part of a sign design theme of the project.

2. Specific criteria. The following specific design criteria shall be applied in each of the following zoning districts:

a. C-1 and PA zoning districts.

i. Signs in the C-1 and PA zones which identify buildings, businesses, shops and other private uses shall be designed as part of the building facade.

ii. Projecting signs shall be discouraged.

iii. Signs shall not occur above the building eave line for one story structures. In case of a mansard roof, the sign may be incorporated in the roof if such sign is an integral part of the design of the building.

iv. In multiple story structures, the signs shall not occur above the first story.

v. One freestanding monument sign shall be permitted for each parcel or lot.

b. C-2 zoning district.

i. Signs in the C-2 zone which identify buildings, businesses, shops and other private uses shall be designed as part of the building facade.

ii. Signs shall not occur above the building eave line for one-story structures. In the case of a mansard roof, the sign may be incorporated in the roof if such sign is an integral part of the design of the building.

iii. In multiple-story structures, the signs shall not occur above the first story.

iv. One freestanding monument sign shall be permitted for each parcel or lot.

c. C-3 and all M (industrial) zoning districts.

i. Signs in the C-3 and M zones which identify buildings, businesses, shops and other private uses shall be designed as part of the building facade.

- ii. Projecting signs shall be discouraged.
- iii. Signs shall not occur above the building eave line for one-story structures. In the case of a mansard roof, the sign may be incorporated in the roof if such sign is an integral part of the design of the building.
- iv. In multiple-story structures, the signs shall not occur above the first story.
- v. One freestanding monument or pole sign shall be permitted for each parcel or lot. (Ord. 466 § 4, 1984; Ord. 440 §2 (part), 1982).

## **Chapter 17.29**

# **CONDOMINIUM NEW PROJECTS AND CONVERSIONS ORDINANCE**

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### Sections:

- [17.29.010](#) Intent and purpose.
- [17.29.020](#) Definitions.
- [17.29.030](#) Requirements--Use permit application.
- [17.29.040](#) Condominium development policy, standards and criteria.
- [17.29.050](#) Declaration of covenants, conditions and restrictions and project elements.
- [17.29.060](#) Additional requirements.
- [17.29.070](#) Effect of proposed apartment conversions on the city's housing stock.
- [17.29.080](#) Advertising.
- [17.29.090](#) Findings.

### **17.29.010 INTENT AND PURPOSE.**

A. Intent. Residential condominiums provide for individual ownership of separate dwelling units which usually are in close proximity to one another. The area surrounding the dwelling units is a common area that is managed and maintained by the individual owners of dwelling units in accordance with the rules of an association agreement. This mix of individual and common ownership is different from single-family residences and apartment house use; in single-family homes the dwelling is physically separate and the yard areas are under the more or less complete control of the owner; in conventional apartments there is an implied guarantee of continuous and effective management of the project. The occupant is not the owner of the unit and does not have the financial commitment or problems of use, maintenance or resale associated with ownership. The unique nature of condominium projects tends to magnify the effects associated with higher urban densities to the point where they may have deleterious

effects upon the occupant, seller and buyer who often do not fully appreciate the implications of condominium living and ownership and which may lead to conditions of mismanagement, neglect and blight that impact upon the public health, safety, welfare and economic prosperity of the larger community. To ensure that such problems are avoided in both the short and long term, it is the express intent of the city to treat such projects differently from other multiple-family dwelling developments or other structures which are not residential condominium projects. It is found that the implementation of this chapter requires adoption of special requirement contained in this chapter for new condominium developments, and the conversion of existing community apartment projects to residential condominiums. No part of this chapter is intended to be applicable to commercial condominiums.

B. Purpose.

1. To establish requirements and procedures to be followed for the review and approval or disapproval of:
  - a. New condominium project developments, and
  - b. The conversion of existing multiple-family rental housing to residential condominiums;
2. To establish criteria for new condominium developments and condominium conversion projects;
3. To ensure that the developer of the project provides adequate private outdoor living space, storage and parking space, open space and other amenities;
4. To provide for planning and compliance with the city's general plan, housing element and housing assistance plan;
5. To provide:
  - a. A desirable balance of rental and ownership housing within the city, and
  - b. A variety of individual choice of tenure, type, price and location of housing;
6. To ensure that the project sponsor is attentive to the performance characteristics of the structure and mitigates such problems as vibration and noise transmission, which if not adequately attenuated, may nevertheless render the living environment within the project insufferable and the transfer of unit ownership difficult. (Ord. 440 § 2(part), 1982).

### **17.29.020 DEFINITIONS.**

For the purpose of this chapter, certain words and phrases are defined and certain provisions shall be construed as set forth in this section unless it is apparent from their context that a different meaning is intended.

A. **ASSOCIATION.** An organization composed of persons who own a condominium unit(s) or right of exclusive occupancy in a community apartment, and who are organized to operate and maintain common areas for condominiums.

B. **COMMERCIAL/INDUSTRIAL CONDOMINIUM.** 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 commercial and/or industrial building.

C. **COMMON AREA.** The area that is available to the common use of unit owners in an entire project, excepting the individual units therein.

D. **COMMUNITY APARTMENT.** One residential unit within a community apartment project. For the purposes of this section, **COMMUNITY APARTMENT** means the same thing and shall be treated in the same manner as a unit as defined in subsection Q of this section.

E. As defined in Section 11004 of the Business and Professions Code, a **COMMUNITY APARTMENT PROJECT** means a development of real property in which an undivided interest in the land is coupled with the right of exclusive occupancy of a designated residential unit located thereon or therein. For the purposes of this section, **COMMUNITY APARTMENT PROJECT** means the same thing and shall be treated in the same way as a residential condominium, as defined in subsection O of this section.

F. **CONDOMINIUM.** 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 building such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property. Air space condominiums are those units in which ownership is limited to all interior space up to, but not including walls, floors and ceilings. Planned unit developments are those units in which ownership extends to centerline of exterior walls, ground under the unit as well as adjoining patios, porches, etc.

G. **CONDOMINIUM DOCUMENTS.** The covenants, conditions and restrictions, the description of the project elements, and any other documents establishing a plan for condominium ownership.

H. **CONVERSION.** A change in the ownership of real property (together with the existing attached structures), to that defined as a condominium or community apartment project in subsections E and F of this section. The conversion shall be so defined regardless of prior or current use of the land and structures, and whether substantial improvements have been or are to be made to such structures.

I. **COVENANTS, CONDITIONS AND RESTRICTIONS.** A written declaration relating to the maintenance, operation, duties and responsibilities of the common owners of the project and may include, but is not limited to, those restrictions provided for in Section 1355 of the California Civil Code and as such may hereafter be amended.

J. **DEVELOPER.** Owner or subdivider of real property with a controlling proprietary interest in the proposed project.

K. **OPEN SPACE.**

1. **COMMON OPEN SPACE.** Open space on the project (exclusive of the required front setback area) which is to be used exclusively for leisure and recreational purposes, for the use and enjoyment of all occupants of units on the project and to which such occupants shall

have the exclusive right of use and enjoyment. Accessory structures such as swimming pools, recreational buildings and landscaped areas may be included as common open space.

2. **PRIVATE OPEN SPACE.** That area delineated as either individually owned or under private control of individual unit, i.e., patios, balconies, private yards, etc.

L. **OWNER.** The owner of a residential condominium unit.

M. **PROJECT.** The entire parcel of real property divided or to be divided into condominiums, including all structures thereon.

N. **PROJECT ELEMENTS.** The condominium units which are to be conveyed, the areas and spaces which are to be assigned to such units, and the common areas (including improvements) which are to be shared by the owners of all units.

O. **RESIDENTIAL CONDOMINIUM.** A condominium for residential purposes.

P. **SUBDIVISION MAP ACT.** Division 2 of the California Government Code, commencing with Section 66410 and following, as may hereafter be amended.

Q. **UNIT.** The element of a residential condominium project which is not owned in common with the owners of other condominiums in the project or is an apartment in a community apartment project to which an owner of an undivided interest in common in a community apartment project has a right of exclusive occupancy. (Ord. 440 § 2 (part), 1982).

### **17.29.030 REQUIREMENTS--USE PERMIT APPLICATION.**

The developer of a new condominium project or a developer who desires to convert an existing multiple-family rental housing or a nonresidential structure to a residential condominium shall first submit an application for a use permit to the planning department. The application shall include, but not be limited to, the following, in as many copies as the planning department determines to be sufficient for its staff and the planning commission to evaluate the project:

A. A complete legal description of the property and a boundary map showing the existing topography of the site and the location of all existing easements, structures and other improvements, and trees over six inches in diameter;

B. Dimensioned schematic development plans consisting of at least a site plan, parking plan, typical floor plan, building elevations showing natural and proposed grades, transverse and longitudinal section showing natural and proposed grades, and a conceptual landscaping plan for the project as a whole. (In instances where the project involves the conversion of an existing structure to condominium usage, the developer shall submit plans showing existing conditions and proposed improvements, and other information and plans as determined by the city staff);

C. A tabular analysis (submitted on forms provided by the city) showing how the project compares to the minimum standards for condominium projects in the residential district in which it would be located;

D. Drawings of typical detailed sections indicating types of wall, floor and ceiling construction that would be used in both common and interior partition walls within the condominium project, including either published data from a recognized and approved testing laboratory or a statement from a licensed acoustical engineer or the city building official as to the STC (Sound Transmission Class) and IIC (Impact Insulation Class) of the proposed type of construction;

E. Such other information which the planning commission or planning department determines is necessary to evaluate the proposed project;

F. No application shall be considered unless all the information required by subsections A through E inclusive, is provided to the planning department, or the developer files with the planning department an affidavit or declaration showing good cause for failure to provide such information. This affidavit or declaration shall set forth in detail all efforts undertaken to discover such information and all reasons why the information cannot be obtained;

G. Upon formal approval of the use permit, the developer will then be required to submit a tentative subdivision map for city approval. (Ord. 440 § 2 (part), 1982).

#### **17.29.040 CONDOMINIUM DEVELOPMENT POLICY, STANDARDS AND CRITERIA.**

To achieve the purpose of this chapter, the planning commission requires that all proposals for condominium usage made pursuant to the provisions of this section, including the conversion of existing multiple-residential structures to condominiums, conforms to the requirements of the residential district in which the project is located. Additionally, the planning commission must review the project proposal in order to determine its degree of compliance with both the condominium development standards and development criteria delineated in subsections A and B of this section. A condominium proposal which does not comply with all of the precise development standards in subsection A of this section may be approved by the planning commission where the commission finds that there are unusual circumstances regarding the development's location, site or configuration, that the project is in substantial compliance with both the development standards and development criteria, and that there are mitigating features incorporated in the project which tend to further the expressed intent and purpose of this chapter.

Recognizing that the conversion of existing multiple residential structures to condominium usage presents unique problems with respect to the requirements of this chapter, the planning commission is empowered to vary any and all requirements contained in this chapter with regard to a particular conversion proposal upon a specific finding or findings that the creation of the proposed condominium will not contravene the intent and purpose of this chapter. Project characteristics of critical importance in determining whether or not a proposed conversion will contravene the intent and purpose include the age of the structure and the degree to which the proposal varies from the required standards for the following: Parking, private open space, storage space, sound transmission characteristics, fire protection and development criteria.

The planning commission is also empowered to impose conditions on any approval given which would require that specified modifications, designed to bring a structure into compliance

with the condominium development standards contained in this section, are made to the structure proposed for conversion.

A. Condominium Development Standards. To achieve the purpose of this section, the planning commission shall require, except as noted above, that all condominium projects conform to the requirements of the residential district in which the project is located and all of the following condominium development standards:

1. All new condominiums or community apartment projects shall be developed with at least one bedroom per unit and include garage/parking and storage.

2. Parking Requirements. All condominium developments shall conform to the following parking requirements: Each unit in the development, irrespective of size, shall have at least two and two-tenths parking spaces consisting of two owned spaces (minimum one garage space), and two-tenths guest space (common). All fractions to be rounded to next highest number with a minimum of one guest space per development. All garages to be used primarily for storage of vehicles.

3. Provision of Private Open Space for Each Unit. Each unit within the project shall have an appurtenant private patio, deck, balcony, atrium or solarium with a minimum area of one hundred fifty square feet, except that a one bedroom unit is required to have a minimum area of one hundred thirty square feet. Such space shall be designed for the sole enjoyment of the unit owner, shall have at least two weatherproofed electrical convenience outlets, and shall have a shape and size that would allow for optional usable space. Such space shall be at the same level as, and immediately accessible from a room within the unit. The planning commission may allow variations from the above dimensional standards where it can be shown that the required private open space meets the intent and purpose of this subsection.

4. Storage Space for Each Unit.

a. In addition to guest, linen, food pantry and clothes closets customarily provided, each unit within the project shall meet minimum FHA storage standards. All exterior storage spaces shall be weatherproof, lockable and meet fire department requirements. Such space shall be for the sole use of the unit owner. Walk-in exterior storage shall have a minimum clear access opening of two and one-half feet by six and two-thirds feet.

b. Such space may be provided in any location approved by the planning commission, but shall not be divided into more than two locations within a reasonable distance of the unit.

c. If such space is located within a common area within the project, the association shall be responsible for the care and maintenance of the exterior surface of the space in order to assure that that surface is maintained in a manner compatible with the architectural treatment of the project.

d. Regardless of the location, the precise architectural treatment of such space shall be approved by the planning commission to ensure that such areas are safe, convenient and unobtrusive to the functional and aesthetic qualities of the project.

5. Sound Transmission Characteristics. Condominiums present a unique problem in relation to sound transmission. The following methods shall be utilized to regulate noise transmission:

a. Shock Mounting of Mechanical Equipment. All permanent mechanical equipment such as motors, compressors, pumps and compactors which is determined by the building official to be a source of significant 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 building official.

b. Noise Resistance. As a minimum, all common walls and floors between units shall comply with Uniform Building Code Standard No. 35-1. All separating floor-ceiling assemblies between separate units shall provide impact sound insulation equal to that required to meet an Impact Insulation Class (IIC) of fifty (forty-five if field-tested) as defined in Uniform Building Code Standard No. 35-2. Developers of conversions shall submit to the planning department prior to approval of the tentative map a written statement of compliance signed by a certified sound engineer. (The sound transmission requirements stated in this subdivision do not preclude requirements outlined in the California Environmental Quality Act, appropriate city ordinances and criteria).

c. Plumbing shall be located within walls interior to the unit whenever possible. Any plumbing in common walls shall be wrapped and caulked to effectively reduce noise transmission.

d. Patios or balconies adjacent to bedroom areas shall be improved with solid walls constructed of masonry, wood, wood and stucco, wood on wood, or other acceptable materials at a rate of two pounds per square foot minimum and to a minimum of five feet in height.

6. Fire Prevention.

a. Every dwelling unit shall be provided with a smoke detector conforming to Uniform Building Code Standard No. 43-6. The detector shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes. Where sleeping rooms are on an upper level, the detector shall be placed at the center of the ceiling directly above the stairway. All detectors shall be located within twelve inches of the ceiling. Care shall be exercised to insure that this installation will not interfere with the operating characteristics of the detector. When actuated, the detector shall provide an alarm in the dwelling unit.

b. Draft stops shall be placed in all attics that are determined to be accessible by the building official.

c. All condominiums shall meet minimum requirements of fire department.

7. Condition of Equipment and Appliances. On conversions, the developer shall provide a one-year warranty to the buyer of each unit at the close of escrow on any dishwashers, garbage disposals, washers and dryers, stoves, refrigerators, hot water tanks and air conditioners that are provided. At such time as the Homeowners' Association takes over management of the development, the developer shall provide a one-year warranty to the association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the association is in operable working condition.

8. Condition of Paved Areas. Prior to close of escrow of conversion units, the developer shall make any repairs necessary to all paved surfaces to meet current city standards.

B. Condominium Development Criteria. The overall quality of the project, including design, site layout, density, open space and recreational facilities of the condominium shall be evaluated by the planning commission using the following criteria:

1. Land Use Intensity. Land use intensity shall be consistent with general plan and zoning ordinance.

2. Overall Design and Site Layout. The following criteria shall be considered in reviewing the overall design and site layout of the project:

a. The project should have a comprehensive and integrated design, providing its own open space, off-street parking and amenities for contemporary living. Insofar as the scale of the project allows, open space, walkways and other areas for people should be separated from parking areas, driveways and areas for automobiles.

b. Architectural unity and harmony should be achieved both within the project and between the project and the surrounding community so that it does not constitute an adverse disruption to the established fabric of the community.

c. The layout of structures and other facilities should effect a conservation in street, driveway, curb cut, utility and other public or quasi-public improvements. Additionally, structures should be designed to minimize, within the context of accepted architectural practice, the consumption of natural resources either directly or indirectly, i.e., gas, water and electricity.

d. A landscape and lighting plan shall be submitted to and approved by the planning commission for all outdoor areas, and shall be submitted with or as part of the project site plan. The plan shall be subject to approval of the planning commission prior to the issuance of any building permits. Landscaping shall be installed prior to occupancy or, as the case with conversions, prior to close of escrow of the first unit. Landscaping shall be maintained in accord with the approved landscape plan.

e. Mailboxes shall be located in central locations in a manner approved by the planning commission and the postal service.

f. Access to all common areas (open space, facilities, parking) located on the ground floor areas shall be provided with a barrier-free design (including curb cuts, ramps, wide gates, etc.) for the handicapped.

g. All common areas shall be maintained by a homeowner's association.

3. Other Facilities. Consideration shall be given by the planning commission to the inclusion of the following facilities in the project:

a. A laundry area shall be provided in each unit, or if common laundry facilities are provided, then such facilities shall be subject to the review of the planning commission as to their adequacy.

b. Provision shall be placed in the codes, covenants and restrictions precluding the parking of recreational vehicles and boats on required owned or guest spaces.

4. Utilities.

a. All units to be subdivided shall be provided with separate gas and electric meters and provision made for individual shut-off valves.

b. All units shall be provided with separate water meters and shut-off valves. If a master water meter is used, private, individual meters will nonetheless be required for water service.

c. Sewer Lines. Condominium (air space) units: Each unit shall be provided a separate sewer lateral wherever possible. Where not possible, each floor shall have its own lateral and the Homeowner's Association shall be responsible for all maintenance

of the common laterals from the individual unit to the connection with the main sewer line. Planned unit developments: Each unit shall be provided a separate sewer lateral. No cross-connections or common connections shall be allowed of any plumbing.

d. Individual utility meters, phone panels and address directories shall be clustered for efficient access for residents and service.

e. Group plumbing vents and ducts together wherever possible in condominium (air space) units to minimize roof penetration. Where mechanical equipment must be located on the roof, it shall be integrated into design of the roof and/or recessed or screened from view from adjoining properties.

C. Approval of Tentative/Final Subdivision Map. Approval of the tentative and final subdivision maps for new condominiums and conversions shall be pursuant to Section 66427 of the California Government Code and local subdivision ordinance as amended. (Ord. 440 § 2(part), 1982).

#### **17.29.050 DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND PROJECT ELEMENTS.**

To achieve the purpose of this section, the planning commission requires that the declaration of covenants, conditions and restrictions and project elements relating to the management of the common area and facilities be approved by the planning department prior to the approval of the final map. In addition to such covenants, conditions and restrictions that may be required by the Department of Real Estate of the state pursuant to Title 6 (Condominiums) of the Civil Code or other state laws or policies, such declaration shall be subject to recording and shall provide for the following, none of which, when approved by the planning commission, or planning department shall be amended, modified or changed without first obtaining the written consent of the city and all of which shall contain a statement to that effect. The minimum criteria and conditions which are described in this section and any other conditions to be placed in the codes, covenants and restrictions shall be distributed to the developer at the time of the preliminary conference on the tentative map:

A. Conveyance of Private Open Space. The surface area and appurtenant air space of private open space areas, including but not limited to the private patio, deck, balcony, solarium or atrium required by Section 17.29.040 A3 and any integral portion of that space may exceed the minimum area requirements, shall be described and conveyed in the grant deed as an integral part of the unit.

B. Conveyance of Private Storage Areas. The surface and appurtenant air space of private storage spaces required by Section 17.29.040 A4 shall be described and conveyed in the declaration as an integral part of the unit.

C. Assignment and Use of Required Off-street Parking Spaces. Required off-street parking spaces shall be permanently and irrevocably specifically assigned to particular units within the project on the basis of the parking spaces required per unit pursuant to Section 17.29.040 A2. To the maximum practicable extent the spaces assigned to each unit shall be contiguous. In no case shall the private storage area of one unit overhang or take its access from the required off-street parking space of another unit. All parking spaces shall be for the use of unit owners. One bedroom units shall be assigned two parking spaces and may rent additional spaces from the association as available. An occupant of a unit with two or more bedrooms may rent one parking space back to the association. All parking spaces, except those specifically designated for recreational vehicles, shall be used solely for the purpose of parking motor vehicles as defined by the Vehicle Code of the state, and shall not be used for trailers, unmounted campers, boats or similar recreational vehicles.

D. Right of Public Entry to Common Area. The developer shall file a petition by a majority of the owners, requesting that the provisions of the California Vehicle Code be enforced on privately owned and maintained roads as provided in Section 21107.07 of the California Vehicle Code.

E. Maintenance of Common Areas and Facilities--General. In order to protect the public health, safety and welfare, provision shall be made both for annual assessments of the owners for maintenance and special assessments for capital improvements. The amount of the regular annual assessment, and the procedure for its change shall be specified. The manner in which special assessments may be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area shall be specified. The remedies which the association may bring for the nonpayment on assessments shall be specified and may include penalties for late payment.

F. Utility Easements Over Private Streets and Other Areas. If the condominium project contains private streets, paths or roadways, provision shall be made for public utility easement over the entire private street, path or roadway network. The planning commission may also require public utility easements adjacent to public streets or over other portions of the project to accommodate fire hydrants, water meters, street furniture, storm drainage, sanitary sewers, water and gas mains, electrical lines and similar public improvements and utilities. The planning commission may also require access routes necessary to assure that firefighting equipment can reach and operate efficiently in all areas of the project.

G. Access for Construction, Maintenance or Repairs. The association shall have an easement for entry upon any privately owned unit, where necessary, in connection with construction, maintenance or repair for the benefit of the common area or the owners of the units

in common. Codes, covenants and restrictions shall include a requirement for prior notice of entry to occupants when at all possible.

H. Termination of Contract. Unless otherwise prohibited by law, or any local, state or federal regulation, the association has the right to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties three months after the association assumes control of the project, or at that time renegotiate any such contracts.

I. Preparation of By-laws. A complete set of by-laws for operation of the Homeowner's Association shall be prepared and submitted to the city subject to approval as to form to accomplish the purposes contained in this subsection. Additionally, the by-laws and the codes, covenants and restrictions shall provide for, and the developer/owner shall establish, a continuously active guarantee of an amount equal to or greater than the estimated costs of normal operation of the association for a period of not less than six months. (Ord. 440 § 2(part), 1982).

#### **17.29.060 ADDITIONAL REQUIREMENTS.**

In addition to the requirements for a subdivision, the application for the subdivision of existing multiple-family rental housing as a condominium conversion is subject to the following additional requirements:

A. Code Inspection, Compliance and Disclosure.

1. All units to be under separate ownership or lease after conversion shall be inspected by the city prior to city approval of final map. Separate ownership means a condominium unit where the entire fee is in one entity whether individually, in joint tenancy, or as tenants-in-common. The cost of such inspection shall be borne by the applicant;

2. All units shall be brought into compliance with applicable Uniform Building Codes heretofore adopted by the city pursuant to ordinance, prior to final map approval by the city.

B. Public Report Application. A copy of the proposed application submitted by the applicant to the Department of Real Estate of the state for a subdivision public report on the current forms required by the Department of Real Estate shall be submitted to the city planning department together with the submittal of the tentative map. Such application need not contain exhibits regarding the availability of utility services or the organizational documents of the project. However, the application for the final subdivision map shall include a full and complete copy of all information submitted to the Department of Real Estate by applicant.

C. Notification to Tenants. Developers of apartment conversions shall, with the use permit application, submit to the city the following:

1. A list of names and addresses of the residents of each unit in the conversion project certified as to accuracy by the developer as of the date of the application; and

2. Certification that the residents of the project have been notified of the proposed conversion in a manner approved by the planning department; or

3. A separate stamped, preaddressed envelope to the resident of each unit shall be furnished the city by the developer at the time the developer submits an application for a use permit. The city shall use such envelopes to notify the residents by mailing a copy of the planning commission agenda and notice to tenants no less than seven days prior to the proposed meeting date on the use permit;

4. All new tenants who occupy the property after an application for a use permit for conversion has been filed with the city, shall be notified of the application by the developer prior to occupancy by the tenant.

D. Pest Infestation and Dry Rot Report. The developer shall, prior to approval of the final map, submit to the planning department a copy of a structural pest infestation and dry rot report for all buildings within the proposed project. This report shall be made available to all prospective buyers by the developer.

E. Building Security. The developer shall comply with all conditions of the city's police department in respect to building security. In addition, prior to the approval of the final map, all locks in the project shall be changed so that no master key or other keys previously used will allow entry into any unit of the project after conversion. (Ord. 440 § 2 (part), 1982).

#### **17.29.070 EFFECT OF PROPOSED APARTMENT CONVERSIONS ON THE CITY'S HOUSING STOCK.**

In reviewing requests for conversion of existing apartment buildings to condominiums, the city shall consider the following:

A. Whether or not the amount and impact of the displacement of tenants if the conversion is approved, would be detrimental to the health, safety or general welfare of the community;

B. The role that 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-income and moderate-income households. Standard definitions of low-income and moderate-income rents used by the federal and state governments will be used in the evaluation. Along with other factors, the city will consider the following:

1. The number of families on current waiting lists for assisted rental housing programs that operate in Pinole, such as Section 23, and Section 236 programs;

2. The probable income range of tenants living in existing apartments based on the assumption that households pay between one-quarter and one-third of their income for housing. That income range will be compared with existing income limits for the Section 8 program to determine whether potential displaced tenants can be categorized as low-income and moderate income;

C. The need and demand for lower cost homeownership opportunities which are increased by the conversion of apartments to condominiums;

D. Normally, conversion projects shall not be approved by the commission if, on the basis of a representative sampling of the number of rental dwelling units in percentage to total

available dwelling units in the city (supplied by developer and verified by city) the percentage is less than fifteen percent rental stock;

E. If the planning commission or City Council determines that vacancies in the project have been increased for the purpose of preparing the project for conversion, the tentative map and use permit application may be disapproved. In evaluation of the current vacancy level under this subsection, the increase in rental rates for each unit over the preceding five years and the average monthly vacancy rate for the project over the preceding two years shall be considered;

F. The applicant shall provide relocation information consisting of data indicating the current and continually available, competitively priced, decent, safe and sanitary dwelling units within the immediate area (Pinole, Hercules, Rodeo, El Sobrante). The number of available dwelling units shall be sufficient to assure accommodation of such displaced tenants. This requirement is not applicable if the city determines, on the basis of a representative sampling of apartment buildings conducted by the city, that the city-wide apartment vacancy rate exceeds five percent. Any such representative sampling used shall not be more than ninety days old. In addition, the developer shall pay each household displaced by the project an amount determined by the planning commission as being representative of commercial relocation costs within the market area. (Ord. 440 § 2(part), 1982).

#### **17.29.080 ADVERTISING.**

The developer shall make no advertising use of any city approval of use, subdivision or occupancy for the project. (Ord. 440 §2(part), 1982).

#### **17.29.090 FINDINGS.**

Approval of the final map for a condominium or the conversion of residential real property into a condominium project is subject to findings as required by Section 66427.1 of the Government Code, as amended. The findings shall not diminish, limit or expand, other than as provided in this chapter, the authority of the city to approve or disapprove any condominium projects. (Ord. 440 § 2(part), 1982).

## **Chapter 17.30 WIND ENERGY CONVERSION SYSTEMS**

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Sections:

- [17.30.010](#) Purpose.
- [17.30.020](#) Definitions.
- [17.30.030](#) Wind energy conversion systems regulations.
- [17.30.040](#) Revocation of use permit.

### **17.30.010 PURPOSE.**

The purpose of this chapter is to regulate the placement of wind energy conversion systems (WECS) so that the public health, safety and general welfare will not be jeopardized and to insure that the future placement of WECS will be effective and efficient. (Ord. 445 § 1(part), 1982).

### **17.30.020 DEFINITIONS.**

For the purposes of this chapter, the following words have the following meanings, unless the context clearly indicates otherwise:

- A. **OVERSPEED CONTROL.** A mechanism used to limit the speed of blade rotation to below the design limits of the WECS.
- B. **ROTOR AREA.** The largest area of the WECS which extracts energy from the windstream. In a conventional propeller-type WECS there is a direct relationship between rotor area and the rotor diameter.
- C. **SITE.** The plot of land where the WECS is to be placed. The site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties.
- D. **TOTAL HEIGHT.** The height of the tower and the furthest vertical extension of all parts of the WECS.
- E. **WIND ENERGY CONVERSION SYSTEM.** A machine that converts the kinetic energy in the wind into a usable form (commonly known as a wind turbine or windmill). The WECS includes all parts of the system except the tower and the transmission equipment. (Ord. 445 § 1(part), 1982).

### **17.30.030 WIND ENERGY CONVERSION SYSTEMS REGULATIONS.**

Wind energy conversion systems are permitted in all zones subject to the following requirements:

- A. **Use Permit Required.** A use permit is required for all WECS subject to the provisions of Chapter 17.36.
- B. **Documentation Required.** All use permit applications for wind energy conversion systems shall include the following information:
  - 1. Name and address of the applicant;
  - 2. Evidence that the applicant is the owner of the premises involved or that the applicant has written permission of the owner to make such an application;
  - 3. A plot plan and development plan drawn in sufficient detail to clearly describe:

- a. A property line and physical dimensions of the proposed site,
- b. Location, approximate dimensions and types of major existing structures and uses of the site,
- c. Location and elevation of the proposed WECS,
- d. Location of all aboveground utility lines and other WECS on-site or within one radius of the total height of the proposed WECS,
- e. Location and size of structures or trees above thirty-five feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennae and slender or open-lattice towers are not considered structures,
- f. Location of all transmission facilities proposed for installation, and
- g. Location of all road and other service structures proposed as part of the installation including any easements for servicing and dismantling.

C. Compliance with Uniform Building Code required for all WECS.

1. Building permit applications shall be accompanied by drawings of the structural components of the wind energy conversion system including support structures, tower, base and footings. Drawings and any necessary calculations shall be certified in writing by a California registered professional engineer that the system complies with the Uniform Building Code;

2. Where the structural components or installation vary from the standard design or specification, the proposed modifications shall be certified by a California registered professional engineer for compliance with the seismic and structural design provisions of the Uniform Building Code.

D. Compliance with National Electrical Code required for all WECS.

1. Building permit applications shall be accompanied by a line drawing identifying the electrical components of the wind system to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. The application shall include a statement from a California registered professional engineer indicating that the electrical system conforms with standard engineering practices and complies with the National Electrical Code;

2. Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a California registered professional engineer for compliance with the requirements of the National Electrical Code and standard engineering practices.

E. Rotor Safety. Each wind energy conversion system must be equipped with both manual and automatic control to limit the rotational speed of the blade below the design limits of the rotor. The application must include a statement by a California registered professional engineer certifying that the rotor and overspeed controls have been designed and fabricated for the

proposed use in accordance with standard engineering practices. The engineer should also certify the structural compatibility of the proposed tower with proposed rotor.

F. Performance Standards.

1. Wind energy conversion systems shall be designed to prevent the intrusion of exterior noise levels beyond the following prescribed levels. Proper design shall include but not be limited to, setbacks, shielding, automatic shut-off and sound insulation. Exterior noise levels attributable to any WECS shall not exceed a daily community noise equivalent level (CNEL) of fifty db as measured at/or beyond adjacent property lines within residential zoning districts or a CNEL of sixty db within all other zoning districts. The applicant shall include an acoustical report prepared by a practicing acoustical engineer (registered with the state office of noise control) or other qualified professional, certifying that the proposed WECS, including all mechanical hardware, will not exceed the prescribed CNEL during its full range of operation. Any noise abatement plan included in the acoustical report shall also indicate the expected final CNEL after required mitigation measures have been implemented.

2. A WECS shall not be installed in any location along the major axis of an existing microwave communications link where the operation of the WECS is likely to produce an unacceptable level of electromagnetic interference unless the applicant provides sufficient evidence indicating that the degree of interference will not disrupt the communications link. The WECS shall be located in accordance with guidelines of the Federal Aviation Administration.

G. Signs. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage and that rotor may start without notice.

H. Height. The maximum allowable hub height is one hundred feet from the ground and in no case shall the lowest reach of the rotor be less than twenty feet from the ground. Tower climbing apparatus shall be no lower than twelve feet from the ground and shall be equipped with an anti-climbing device approved by the public services department.

I. Wind Access. The proposed site of a WECS shall have sufficient access to unimpeded air flow for adequate operation of the WECS in accordance with the manufacturer's recommendations. The WECS shall be set back a minimum of two rotor diameters from all property lines unless it can be demonstrated that a lesser setback can protect the wind access of the downwind properties. Calculations for these setbacks may include streets, flood control channels and transmission line and railroad rights-of-way. Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than one single owner is used to meet the setback requirement, there shall be an easement recorded on the affected properties after prior review and approval by the City Attorney.

J. Design Considerations. All electric lines serving the WECS shall be installed underground. No towers with guy wire supports and no lattice-type towers are allowed on lots less than one acre. Guyed towers shall be located within a six-foot fence of sufficient radius to enclose all guy cables.

K. Utility Notification (For Those WECS Which Will be Interconnected to a Utility Grid). No wind turbine shall be installed until written notice has been given to the utility company and a copy filed with the city public services department.

L. Maintenance. The tower and generating unit shall be kept in good repair. The WECS shall be deemed abandoned if not in continuous use except for maintenance and repairs for a period exceeding six months and shall be removed. (Ord. 445 §1(part), 1982).

#### **17.30.040 REVOCATION OF USE PERMIT.**

The City Council may revoke any use permit subject to the procedures established in Section 17.36.050, in any case where the conditions of the granting of such use permit or the provisions of this chapter have not been complied with. (Ord. 445 § 1 (part), 1982).

## **Chapter 17.31 SECOND DWELLING UNITS**

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Sections:

- [17.31.010](#) Purpose.
- [17.31.020](#) Definitions.
- [17.31.030](#) Second dwelling unit regulations.
- [17.31.040](#) Findings.
- [17.31.050](#) Owner occupancy compliance.
- [17.31.060](#) Revocation of use permit.
- [17.31.070](#) New application.

#### **17.31.010 PURPOSE.**

The purposes of this chapter are to encourage more affordable rental housing, while maintaining the quality of existing residential neighborhoods and to establish procedures for reviewing the placement of second dwelling units in residential zoning districts. (Ord. 564 § 1(part), 1994).

#### **17.31.020 DEFINITIONS.**

As used in this chapter:

A. ***CERTIFICATE OF OCCUPANCY.*** A permit that is issued allowing occupancy of a building or structure which has received final approval from all of the necessary city departments.

B. **OWNER OCCUPANCY AGREEMENT.** A written agreement with the city recorded in the office of the Contra Costa County recorder and describing the property on which the second dwelling unit is located. The agreement shall require the owner of the property to occupy one of the two dwelling units as a principal residence at all times that the permit for the second dwelling unit is in place.

C. **PRIMARY DWELLING UNIT.** The primary or main dwelling unit located on a residentially zoned lot. This unit is larger in size than a second dwelling unit. In most cases the primary dwelling unit already exists on the property at the time an application is made to add a second dwelling unit.

D. **SECOND DWELLING UNIT.** A secondary dwelling unit, with a separate entrance and kitchen that is either attached to the primary dwelling unit or detached from and located on the same lot as the primary dwelling unit. (Ord. 564 § 1 (part), 1994).

### **17.31.030 SECOND DWELLING UNIT REGULATIONS.**

Second dwelling units may be permitted on any lot zoned residential on which there is a single-family house, subject to the following regulations:

A. **Documentation Required.** All use permit applications for second dwelling units shall include, but are not limited to, the following:

1. A completed building permit application;
2. Proof of ownership of the property;
3. A plot plan showing the location of any and all easements, structures, parking for both the primary and secondary dwelling units, other improvements and trees over six inches in diameter;
4. Floor plan of the second dwelling unit showing total floor area;
5. Elevations showing all sides of the second dwelling unit or changes being made to the single-family home in order to add a second dwelling unit;
6. Colors and materials board;
7. Such other information which the city planner or planning commission determines is necessary to evaluate the proposed project. (Ord. 2004-11 § 1 (part), 2004; Ord. 564 §1(part), 1994).

### **17.31.040 FINDINGS.**

In order to grant a building permit for a second dwelling unit the following findings must be made:

A. The second dwelling unit meets all of the applicable zoning regulations for the specific zoning district in which it is located.

B. The second dwelling unit has a separate entrance and contains a separate kitchen and bathroom facility.

C. The area of floor space of an attached second dwelling unit does not exceed thirty percent of the existing living area of the floor space of the primary dwelling unit, except that an attached second unit must be a maximum of eight hundred square feet. The area of the floor space of a detached second dwelling unit does not exceed eight hundred square feet.

D. The addition of the second dwelling unit is compatible with the existing house as to height, style, materials and colors.

E. The second dwelling unit has one additional off-street parking space each bedroom, with a maximum of two bedrooms and parking spaces per second unit. Parking spaces can be in tandem, may be uncovered, and can be located within the front setback if it can be demonstrated that no other option exists.

F. The second dwelling unit is located on a lot which was legally created and conforms to the minimum lot size for the specific zoning district.

G. Detached second dwelling units shall:

1. Not be less than eight feet from the main structure;
2. Not exceed one story or fifteen feet in height;
3. Not exceed a total rear lot coverage of fifty percent when combined with all other accessory buildings.
4. Not be established on a substandard lot in the R-1, Single Family Residential District, in Old Town Pinole.
5. A second unit must be constructed at the rear or side of an existing single-family residence, or otherwise appear secondary in nature and cannot be constructed in front of the primary structure.

H. The primary unit meets current codes as adopted by the city. (Ord. 2004-11 § 1 (part), 2004; Ord. 564 § 1(part), 1994).

### **17.31.050 OWNER OCCUPANCY COMPLIANCE.**

Prior to issuance of a certificate of occupancy permit the property owner shall record an owner occupancy agreement stating, under penalty of perjury, that the owner of the property shall live in one of the two units as their principal residence. Use permit will be revoked if the agreement is found to have been breached. (Ord. 2004-11 § 1 (part), 2004; Ord. 564 § 1(part), 1994).

### **17.31.060 REVOCATION OF USE PERMIT.**

The City Council may revoke any use permit, subject to the procedures established in Section 17.36.050 or in any case where the conditions of granting of such use permit or the provisions of this chapter have not been complied with. (Ord. 564 §1 (part), 1994).

### **17.31.070 NEW APPLICATION.**

Following the denial or revocation of a use permit for a second dwelling unit, no application for the same or substantially the same use permit for a second dwelling unit shall be filed within one year of the date of denial or revocation of the use permit for a second dwelling unit unless the denial or revocation is made without prejudice. (Ord. 564 § 1(part), 1994).

## **Chapter 17.32 GENERAL PROVISIONS AND EXCEPTIONS**

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Sections:

- [17.32.010](#) General provisions and exceptions.
- [17.32.020](#) Rules governing use of zoning map and symbols.
- [17.32.030](#) Regulations are minimum.
- [17.32.040](#) Relationship to other regulations and to private restrictions.
- [17.32.050](#) Additional uses permitted.
- [17.32.060](#) Building sites, areas and easements.
- [17.32.070](#) Yards.
- [17.32.080](#) Firearm sales.
- [17.32.085](#) Firearm ammunition.
- [17.32.090](#) Design review required for multiple dwellings.
- [17.32.100](#) Public utility uses permitted.
- [17.32.110](#) Satellite antennas.

### **17.32.010 GENERAL PROVISIONS AND EXCEPTIONS.**

The regulations specified in this chapter are subject to the general provisions and exceptions in Sections 17.32.020 through 17.32.100. (Ord. 573 § 4(part), 1995: Ord. 440 § 2 (part), 1982).

### **17.32.020 RULES GOVERNING USE OF ZONING MAP AND SYMBOLS.**

Where uncertainty exists as to the boundaries of any district shown on the zoning map, the following rules shall apply:

- A. Where such boundaries are indicated as approximately following property, street or alley lines, such lines shall be construed to be such boundaries.
- B. It is unsubdivided property and where a district boundary divides a lot, the location of such boundary, unless the boundary is indicated by dimensions, shall be determined by use of the scale appearing on the zoning map.
- C. A symbol indicating the classification of property on the zoning map shall in each instance apply to the whole of the area within the district boundaries.
- D. Where a public street, alley or parcel of land is officially vacated or abandoned, the regulations applicable to abutting property shall apply equally to the vacated or abandoned street or alley.
- E. Where one land ownership is divided by a district boundary, the total ownership may be placed in either district by rezoning procedures as prescribed by law. (Ord. 573 § 4(part), 1995: Ord. 440 § 2(part), 1982).

### **17.32.030 REGULATIONS ARE MINIMUM.**

In interpreting and applying the provisions of this chapter, unless otherwise stated, they shall be held to the minimum requirements for the promotion and protection of the public safety, health and general welfare. (Ord. 573 § 4(part), 1995: Ord. 440 § 2(part), 1982).

### **17.32.040 RELATIONSHIP TO OTHER REGULATIONS AND TO PRIVATE RESTRICTIONS.**

- A. Where conflict occurs between the regulations of this chapter and any building code or other regulations effective within the city, the more restrictive of any such regulations shall apply.
- B. It is not intended that this chapter shall interfere with or abrogate or annul any easement, covenants or other agreements now in effect; provided, however, that where this chapter imposes greater restrictions than are imposed or required by other ordinances, rules or regulations, or by easements, covenants or agreements, the provisions of this chapter shall apply. (Ord. 573 § 4(part), 1995: Ord. 440 § 2(part), 1982).

### **17.32.050 ADDITIONAL USES PERMITTED.**

The following accessory uses, in addition to those mentioned, are permitted:

- A. The renting of rooms and/or the providing of table board for not more than four paying guests in a dwelling;
- B. The operation of necessary service facilities and equipment in connection with schools, colleges and other institutions when located on the site of the principal use;
- C. Recreation, refreshment and service buildings and public parks, playgrounds and golf courses;
- D. Off-street parking areas in conjunction with commercial use may be permitted in R districts on properties adjoining C or M districts upon the securing of a use permit in each case. (Ord. 573 § 4(part), 1995: Ord. 440 § 2 (part), 1982).

#### **17.32.060 BUILDING SITES, AREAS AND EASEMENTS.**

- A. Any parcel of land in one ownership having an area sufficient to contain two or more lots of legal area and dimensions may subdivide or otherwise divide such parcel in the manner prescribed by law, and use such divided land as prescribed in this section.
- B. A detached garage or accessory building not exceeding one story in height and without living quarters may occupy not more than fifty percent of the area of a required rear yard. In exception to the provisions of this section, a garage or other similar outbuilding not exceeding fifteen feet in height at the ridge may be built to the side and/or rear line; provided, that the garage or similar outbuilding is not less than eight feet clear distance to the main building.
- C. In the case of a corner lot abutting upon two streets, no detached accessory building shall be erected, altered or moved so as to occupy any part of the front half of such lot.
- D. Any lot of record existing prior to the date of adoption of the ordinance codified in this chapter is considered a legal building site. (Ord. 573 § 4(part), 1995: Ord. 564 § 3, 1994; Ord. 440 § 2(part), 1982).

#### **17.32.070 YARDS.**

- A. No yard or other open space provided around any building for the purpose of complying with the regulations of this chapter shall be considered as providing a yard or open space for any other building or structure.
- B. In any case where a setback line, building line or official plan line has been established, the required yards on the street frontages of lots shall be measured in accordance with such lines and in no case shall the provisions of this chapter be construed as permitting any structure to extend beyond such lines.
- C. Garages, carports and other accessory buildings may be attached to and have a common wall with the main building or, when located as required by this chapter, may be connected thereto by a breezeway. No parking spaces as required by this chapter shall be located in any required front yard, or in any required side yard on the street side of any corner lot.

D. In cases where side yards are to be computed on the basis of twenty percent of the width of the lot under the terms of this chapter, no such side yard need exceed sixteen feet in width unless required by other regulations.

E. Cornices, eaves, canopies, fireplaces and similar architectural features, but not including any flat wall or window surface, may extend into any required yard a distance not to exceed two feet.

F. Uncovered ground floor porches, stairs and landings, and open fire escapes and stairways at or above ground level may extend into any required yard a distance not to exceed two feet.

G. In any R district where fifty percent or more of the building sites in any one block, or portion thereof in the same district, have been improved with buildings, the required front yard shall be of a depth equal to the average of the front yard of the improved building sites, to a maximum requirement of ten feet.

Where adjoining lots are improved with buildings, the front yard required for a vacant building site shall be the average of the yards within sixty feet of the site on each side thereof.

H. In case a dwelling is to be located so that the front yard or rear yard thereof faces any side lot line, such dwelling shall be located not less than ten feet from such lot line. The shorter of the street frontages of a corner lot shall be considered the front of the lot.

I. Where the rear line of a corner lot lies along the side line of an adjoining interior lot in any R district, the yard setback on the street side of the corner lot within twenty feet of the side line of the interior lot shall be equal to the front yard required for the interior lot, and a clear five-foot yard shall be maintained adjacent to the rear line on the corner lot.

J. In residential districts fences and walls shall not exceed six feet above the finished grade immediately abutting the fence or wall with the following exceptions:

1. Solid fences and walls in a required front yard shall not exceed three and one-half feet in height.

2. The maximum height of open work fences (not less than eighty percent open) in a required front yard shall not exceed four and one-half feet in height.

K. In any full block of lots the front yards may be varied so that the required yard depth is not reduced more than five feet, the average of all lots equals the required yard depth, and corner lot yards are not reduced.

L. Nothing contained in the general provisions shall be deemed to reduce special yard requirements as set forth in the regulations for any R or B district.

M. Yards required for residential buildings which may be permitted on use permit shall be as required for the particular district or for R-4 districts, whichever yard requirements are greater.

N. All landscaping areas located adjacent to fences and within or abutting public rights-of-way shall be continuously maintained free of weeds, debris or litter.

(Ord. 573 § 4(part), 1995; Ord. 446 §§ 1, 2, 1983; Ord. 440 § 2(part), 1982).

### **17.32.080 FIREARM SALES.**

Firearm sales shall comply with the following regulations:

A. Obtain a permit from the police chief in accordance with Section 12071 of the Penal Code;

B. Be more than five hundred feet from the exterior limits of any premises occupied by a public or private day care center or day care home, elementary school, junior high school or high school. This subsection shall not apply to any dealer in firearm sales who is duly licensed by the state or federal governments, is in compliance with federal, state and local regulations and is operating and in business at such location prior to the effective date of this chapter;

C. All distances referred to in this section shall be measured between the closest points on the exterior property lines or area boundaries of the parcels or areas involved, except that when a permittee occupies property in a shopping center or a multi-unit structure located on a single parcel, distances shall be measured from the exterior boundaries of the unit so occupied. (Ord. 573 § 4(part), 1995)

### **17.32.085 FIREARM AMMUNITION.**

Firearm ammunition sales shall comply with the following:

A. Those regulations and procedures required for a firearm sales permit from the police chief;

B. Those regulations mentioned in subsections B through D of Section 17.32.080. (Ord. 573 § 4(part), 1995).

### **17.32.090 DESIGN REVIEW REQUIRED FOR MULTIPLE-DWELLINGS.**

Design review (following the procedures set forth in the D combining district) required for all multiple-dwellings in any zoning district. (Ord. 2004-11 § 1 (part), 2004; Ord. 440 § 2 (part), 1982).

### **17.32.100 PUBLIC UTILITY USES PERMITTED.**

Underground and aboveground public utility installations for local service are permitted in any district. (Ord. 440 § 2 (part), 1982)

### **17.32.110 SATELLITE ANTENNAS.**

A. General. This section regulates the installation of satellite antennas in all zoning districts within the city.

B. Purpose. The purpose of this section is to assure that a satellite antenna and its supporting structure is so located that it will perform its function while creating a minimal visual impact on the neighborhood in which the antenna is located. Satellite antenna, as used in this section means any antenna used for or designed for receiving or transmitting electronic signals to or from orbiting earth satellites, and/or microwave earth stations.

C. Satellite Antennas. Satellite antennas having a dimension of greater than eighteen inches installed in any zoning district shall comply with the following general criteria:

1. A setback equal to the height of the antenna or the setback which applies to the principal structure whichever is greater shall be maintained between any property line and any part of the antenna. In addition, installation shall be prohibited between any street and principal building on the site, except as provided in subsection C2 below.

2. In any case where a lot backs up to a public right-of-way or private street, a setback of fifteen feet shall be maintained between the rear property line and any portion of the antenna.

3. Maximum height of the antenna shall be fifteen feet measured from ground level immediately under the antenna to the highest point of the antenna or any appurtenance attached thereto.

4. All wires and/or cables necessary for the operation of the antenna or reception of the signal shall be placed underground excepting those wires or cables attached flush with the surface of a building.

5. Antennas installed with the use of guy wires are prohibited.

6. Highly reflective surfaces or colors shall not be used on any such antenna.

7. Additional attention and evaluation may be needed to assure that antennas proposed for property located in hillside areas are installed in locations which are the least visible from areas off-site.

8. No more than one antenna shall be installed on any parcel.

9. Installation shall be prohibited on the roof of any structure on the parcel except in nonresidential districts where the antenna is screened from view from adjacent parcels and rights-of-way.

10. No antenna which exceeds six feet in height from the ground level immediately below the antenna to the highest point of the antenna or any appurtenance attached thereto shall be erected on any parcel of land until a building permit for such antenna has been secured from the building department.

D. Exceptions. Exceptions to the provisions of this section may be granted by the planning commission upon the securing of a use permit in accordance with the provisions of Chapter 17.36, Use Permits. (Ord. 477 § 1, 1985).

## **Chapter 17.33**

# **WIRELESS TELECOMMUNICATION FACILITIES**

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Sections:

- [17.33.010](#) Purpose and intent.
- [17.33.020](#) Applicability.
- [17.33.030](#) Definitions.
- [17.33.040](#) Development standards.
- [17.33.050](#) Notification and approval process procedures.
- [17.33.060](#) Submittal requirements--General.
- [17.33.070](#) Length of permit--Discontinuance of use--Financial guarantee.

### **17.33.010 PURPOSE AND INTENT.**

It is the purpose and intent of this chapter to establish development standards for regulating the placement and design of commercial wireless telecommunication facilities in order to preserve and to protect the visual character of Pinole from the (any) adverse environmental effects of wireless telecommunications facilities; to insure against the creation of visual blight on the city's major or minor ridgelines, protected areas, and view corridors as identified on the general plan visual resources map (GP-12) of the general plan; and to protect the environmental resources of the city; protect the citizens of Pinole from the (any) possible adverse health effects associated with exposure to high levels of NIER (nonionizing electromagnetic radiation) to the extent permitted by the Federal Communication Commission (FCC). The city acknowledges the community benefit associated with the provision of commercial wireless telecommunication services within the city and encourages the lease of publicly owned properties for the development of commercial wireless telecommunication facilities to the extent compatible with existing facilities. The regulations as set forth are consistent with federal and state law related to the development of commercial wireless telecommunication transmission facilities. (Ord. 99-110 § 1(part), 1999).

### **17.33.020 APPLICABILITY.**

The development standards for wireless telecommunication facilities shall apply to all property owned by private citizens, firms, corporations and organizations, and to property owned by the city, including public streets and alleys and property, or by any local, state or federal government agency or political subdivision thereof with the exception of the following facilities:

- A. Satellite antennas, as defined in Section 17.32.110 of the municipal code;

B. Ham radio transmitting and receiving antenna towers, radar transmitters and receivers, commercial television transmitting and receiving towers, as required by Chapter 17.36 of the municipal code;

C. Emergency communication backup facilities;

D. Personal wireless telecommunication facilities which are determined by the city planner to have little or no adverse visual impact;

E. Any personal wireless telecommunication facility operated on land owned by the West Contra Costa County Unified School District (or any other special district), Contra Costa County, the state of California or by the federal government which are operated for public and not commercial purpose. (Ord. 99-110 § 1(part), 1999).

### **17.33.030 DEFINITIONS.**

The following words and phrases used in this chapter shall be defined as follows:

A. **ANTENNA.** Any system of towers, poles, panels, rods, wires, drums, reflecting discs or similar devices used for the transmission or reception of electromagnetic or radio frequency waves. The distinction is made between the support structure and the antenna(s) mounted thereon.

B. **ANTENNA SUPPORT STRUCTURE.** Any system of towers, poles or other structures used to support an antenna.

C. **APPLICANT.** Owner(s) of property or leaseholder or representative (and, where applicable, easements) upon which wireless telecommunication facilities are to be located.

D. **BROADCAST STATION TOWER.** A structure or supporting antennas or other equipment that transmits or receives electromagnetic signals which is part of an AM/FM international or television broadcast station or which supports antennas necessary for a cable system "head end" facility.

E. **BUILDING MOUNTED ANTENNA.** An antenna whose support structure is mounted to a building or rooftop equipment screen that transmits or receives electromagnetic signals.

F. **CO-LOCATION.** The location of two or more wireless telecommunication facilities on a single support structure or site otherwise sharing a common location. Co-location shall also include the location of wireless telecommunication facilities with other utility facilities and structures such as, but not limited to, water tanks, transmission towers and light standards.

G. **COMMERCIAL WIRELESS TELECOMMUNICATIONS FACILITY.** A facility that transmits and/or receives electromagnetic or radio frequency waves, including, but not limited to towers, antennas, monopoles support or accessory structures and related equipment. Amateur radio operators are not included in this definition.

H. **EQUIPMENT ENCLOSURE.** A cabinet or other structure used to house equipment associated with a wireless telecommunication facility.

I. **FREE-STANDING TELECOMMUNICATION TOWER.** An antenna support structure that is more than fifteen feet in height from finished grade and is designated to support the antennas of a facility regulated by this chapter. Monopoles and self-supported or guyed structures of lattice construction are examples of this type of structure. Roofmounted or building mounted antennas are excluded from this definition.

J. **GROUND-MOUNTED ANTENNA.** An antenna with its support structure placed directly on the ground; the total height, is not less than fifteen feet as measured from grade, including the height of the antenna.

K. **KNOLL.** As identified in the open space element of the general plan and depicted on map GP-12 of the general plan.

L. **MONOPOLE.** A single freestanding pole, post, or similar structure that is more than fifteen feet in height from finished grade used to support equipment associated with a commercial wireless telecommunications facility.

M. **NIER.** Nonionizing electromagnetic radiation (i.e. electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum).

N. **OPEN SPACE.** Those general plan designations that include publicly owned, open space lands which are not designated as “public facilities,” “parks and recreation,” or “San Pablo Bay conservation area.” Lands designated **OPEN SPACE** include, without limitation, wetlands and tidelands and other areas of significant ecological resources or geologic hazards.

O. **RELATED EQUIPMENT.** All equipment ancillary, to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable, conduit and connectors.

P. **RIDGELINE, MAJOR.** A long narrow chain of hills identified in the open space element and depicted on map GP-12 of the general plan.

Q. **RIDGELINE, MINOR.** A short narrow chain of hills which connects to a “major ridgeline” identified in the open space element and depicted on map GP-12 of the general plan.

R. **ROOF-MOUNTED ANTENNA.** An antenna directly attached or affixed to the roof of an existing structure which transmits or receive electromagnetic signals.

S. **SERVICE PROVIDER.** Any authorized provider of commercial wireless telecommunications services.

T. **STEALTH FACILITY.** Any commercial wireless telecommunication facility which is designed to blend into the surrounding environment by means of screening, concealment, or camouflage. The antenna and supporting antenna equipment are either not readily visible beyond the property on which it is located, or, if visible, appear to be part of the existing landscape or environment rather than the wireless communications facility. (Ord. 99-110 § 1(part), 1999).

### **17.33.040 DEVELOPMENT STANDARDS.**

In consideration of an application for a land use permit and/or development plan, all new commercial wireless telecommunication facilities shall be reviewed by the planning commission and design review board for compliance with the following general development standards:

A. General Development Standards. The following development standards shall be met by all new commercial wireless telecommunication facilities:

1. All proposed commercial wireless telecommunication facilities shall be located so as to minimize their visibility.
2. In order to use any telecommunication facility type and placement (such as ground-mounted, facade-mounted, roof-mounted or towers), the applicant will be required to demonstrate why a telecommunication type with a lesser adverse visual impact cannot be used.
3. In addition to the photo simulations showing before and after scenarios of the proposed facility, including landscaping, applicants may be required to submit further visual analysis (such as line of sight analysis) at the discretion of the city planner.
4. Applicants shall be required to construct a full scale “mock up” of a proposed facility less than twenty-five feet in height, using materials and colors that resemble the actual facility for proposed ground-mounted facilities and roof mounted facilities. The “mock up” shall be installed ten days prior to the scheduled public hearing date, and left in place for a period of ten days after the date of any final action taken on the project application. The notice of public hearing shall contain information about the location and placement of the “mock up” structure. Additionally, all “mock up” structures shall be removed by the applicant within one month from the date of final action taken on the project “application.”
5. All commercial wireless telecommunication facilities shall comply at all times with all Federal Communications Commission (FCC) rules, regulations, and standards, and any other applicable federal, state or city laws or regulations.
6. Sufficient anti-climbing deterrents, including warning signs (ANSI Standard C95.2-1982 Warning Symbol), shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.
7. To minimize overall visual impact, new commercial wireless telecommunication facilities shall be co-located with existing facilities and with other planned facilities, whenever feasible. In addition, whenever feasible, service providers are encouraged to co-locate antennas with other facilities such as water tanks, light standards, utility poles, and other utility structures, where the co-location is found to minimize the overall visual impact. To facilitate co-location in appropriate cases, conditions of approval for land use permits shall require all applicants to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a given site. The applicant shall agree, in writing, to allow future co-location of additional antennas and not to enter into a lease for the exclusive use of the site.
8. Telecommunication support facilities (i.e., vaults, equipment enclosures, rooms or buildings) shall have a nonreflective exterior finish and shall be placed in underground vaults whenever possible. All utilities (i.e., gas, electric, cable, phone and water) shall be placed underground.

9. All related equipment, equipment enclosures, antennas, poles or towers shall have a nonreflective finish and shall be painted or otherwise treated to minimize visual impacts.

10. The applicant shall demonstrate through manufacturer and industry information that the latest technology available to minimize visual impacts relating to the design of the commercial wireless telecommunications facility is being used.

11. Commercial wireless telecommunication facilities shall be located, designed and screened to blend with existing natural or built surroundings so as to reduce visual impacts considering the technological requirements of the proposed telecommunication service and the need to be compatible with neighboring residences and the character of the community.

12. Development of commercial wireless telecommunication facilities on vacant sites shall be temporary. When the site is developed, such facilities will be removed and replaced with building mounted antennas.

13. All commercial wireless telecommunication facilities which are not mounted on existing structures shall be (a) screened from the view of surrounding properties, as much as possible and co-located with existing facilities or structures so as not to create substantial visual, noise or thermal impacts; or (b) sited within areas with substantial screening by existing vegetation; or (c) designed to appear as natural features found in the immediate area, such as trees or rocks, so as to be effectively unnoticeable; or (d) screened with additional trees and other native or adapted vegetation which shall be planted and maintained around the facility, in the vicinity of the project site, and along access roads in appropriate situations, where such vegetation is required to screen telecommunications facilities. Such landscaping, including irrigation, shall be installed and maintained by the applicant, as long as the permit is in effect or (e) existing on-site vegetation shall be preserved or improved and disturbance of the existing topography shall be minimized. Landscaping shall be required in informal natural looking clusters in the vicinity of any proposed commercial wireless telecommunication facility, in addition to screening of the facility.

14. Commercial wireless telecommunication facilities shall provide written proof of the availability of the necessary water supply to sustain any landscaping required for visual screening prior to permit issuance. This may be in the form of a letter from the owner of the land allowing the applicant the use of required water facilities for landscaping installed improvements in the area.

15. Proposed equipment cabinets/structures and accessory structures shall be maintained in good condition over the term of the permit. This shall include keeping equipment cabinets and structures graffiti-free and maintaining security fences and warning signs in good condition.

16. Antennas, towers, dishes or mountings shall not be used for advertising.

17. Exterior lighting shall not be allowed on commercial wireless telecommunication facilities except for that required for use of authorized persons on-site during hours of darkness or where antenna structure owner or registrant is required to light the antenna structure by the terms of the FAA antenna structure registration applicable to the facility.

18. The applicant shall be required to provide evidence, in the form of a license or construction permit, from the FCC and/or FAA that the FCC and/or FAA has accepted the applicant's certification that the facility meets the FCC and/or FAA standard or provide evidence that the FCC and/or FAA has categorically exempted the applicant from demonstrating compliance with the FCC and/or FAA standard. If a license or construction permit has not yet been obtained by the applicant, the furnishing of such FCC and/or FAA license or construction permit shall become a condition of approval for the land use permit and/or development plan.

19. Where two or more commercial wireless telecommunications facilities operate in the same location, the carriers operating those facilities shall provide prior to consideration of an application by the planning commission documentation of testing done by an electromagnetic field (EMF) expert to verify that the cumulative ELF levels conform to standards adopted by the FCC.

20. Freestanding wireless telecommunication antennas and towers shall not be located within the required setback of any property and shall be located a minimum of one hundred feet from any residentially zoned property, except for suburban rural residential.

21. All freestanding wireless telecommunication towers shall be designed at the minimum functional height required for the coverage area unless it is determined that additional height, up to the maximum allowable for the zoning district, is needed for architectural reasons or is part of a city approved plan to reduce the impact(s) of future installations.

22. A technical review by a licensed electrical engineer with experience in telecommunications, or qualified expert as approved by the city planner, to determine if the proposed installation will create any electromagnetic interference with other facilities or uses in the area will be required. The community development department may retain the services of a private-sector consultant for peer review and to provide professional recommendations to the community development department. The applicant may be asked to describe the electromagnetic frequency needs of the wireless provider and to identify alternative sites which meet the applicant's telecommunications needs and can be readily or reasonably leased. The wireless provider will present its data and offer any additional information to community development department staff regarding its electromagnetic frequency needs. The wireless provider will also make staff aware of those alternative sites where leases can be secured that are suitable for its system. The city shall take reasonable steps within the requirements of state law to assure strict confidentiality of any alternative site leasing information submitted by an applicant. When deemed necessary by community development department staff, the wireless provider will also host information sessions for city staff and City Council and planning commission. The cost of such reviews shall be paid by the applicant and deposited with the city as part of the application fee.

23. In appropriate cases, the proposed wireless communication facilities may be located on city-owned or controlled property or within city rights-of-way.

24. Application review and all other subsequent reviews of proposed or existing commercial wireless telecommunication facilities shall include photo documentation of existing conditions and equipment for comparison with past conditions. At the time of the two year permit review photo documentation shall be updated to reflect current conditions/approvals.

25. Minor modifications to the communications equipment design, location, elevations, and other elements of the approved tower may be allowed by the city planner, if such modifications are in keeping with the architectural statement and layout design of the original approval.

26. All land use permit applications shall include conditions of approval that require modifications to the approved site plan if technology has advanced to the point where wireless telecommunication facilities can be made safer or less visually obtrusive, or redesigned to conform to equipment that is currently being installed at the time of permit review.

B. Development Standards--Building Mounted Antennas. In addition to all other applicable development standards mentioned in subsection A, commercial wireless telecommunication facilities proposed to be mounted or attached to an existing building shall be reviewed by the planning commission and design review board for compliance with the following:

1. Building-mounted antennas and any associated equipment should be in scale and architecturally integrated with the building design in such a manner as to minimize the visual impact. Screening designs may include locating the facility within attics, steeples, towers, behind and below parapets, or concealed with an architecturally compatible addition to a building.

2. Colors and materials of the antennas should match the existing building when attached directly to the facade of a building.

3. Wireless telecommunication facility equipment shall be located to minimize visibility from public places. Any visible portion of equipment shall be painted or treated in order to be architecturally compatible with the surrounding buildings and/or it shall be screened, using appropriate techniques, to camouflage, disguise and/or blend into the surrounding environment, as determined by the design review board.

4. Antennas shall be flush-mounted and located below the roof line of the building. Antennas and the associated mounting generally shall not project beyond a maximum of eighteen inches from the face of the building.

C. Development Standards--Roof Mounted Antennas. In addition to all other applicable development standards in subsection A, commercial wireless communication facilities proposed to be mounted or attached to the roof of existing buildings shall be reviewed for compliance with the following:

1. Roof-mounted equipment and antennas, other than facade antennas, shall be aesthetically compatible with and located as far away from the edge of the building as technically feasible as determined by the planning commission. Antennas attached to the building shall be painted or otherwise treated to match the exterior of the building or the antennas' background color.

2. Roof-mounted antennas shall not be allowed when they are to be placed in direct line of sight of scenic corridors or where they will significantly affect scenic vistas, unless the facilities incorporate appropriate techniques to camouflage, disguise and/or blend them into the surrounding environment, as approved by the design review board.

3. The height of roof-mounted antennas, including the support structure shall not be more than fifteen feet above the roof plate of the building to which they are attached.

4. Wireless telecommunication equipment, if located on the rooftop of buildings, shall be located so as to be minimally visible from public places. If any portion of the equipment is visible, it shall be camouflaged or screened from view, to the fullest extent possible.

D. Development Standards--Ground-Mounted Wireless Telecommunication Facilities. In addition to all other applicable development standards in subsection A, groundmounted wireless telecommunications facilities shall comply with the following:

1. Wireless telecommunication facilities visible on or above a ridgeline or knoll, as shown on the general plan visual resources map (GP-12), shall be prohibited unless, prior to approving the application, the planning commission determines that the applicant has demonstrated that there is no feasible alternative.

2. Ground-mounted wireless telecommunication facilities, operated by different carriers shall not be allowed within one thousand feet of one another facility, unless the planning commission determines that the cumulative visual or other physical environmental impacts can be reduced by allowing such facilities to locate within one thousand feet of one another.

3. Ground-mounted antennas shall be no taller than fifteen feet in total height, measured from the ground.

4. All proposed facilities should be located within easy reach of existing access roads, whenever possible. Unless visual impacts can be adequately mitigated, no new access roads on a ridgeline or knoll shall be allowed with any proposed wireless telecommunication facility.

5. All facilities shall incorporate appropriate techniques to camouflage, disguise and/or blend them into the surrounding environment (stealth techniques) to minimize visual impacts. A sample list of such techniques is set forth in subsection E of this section (Development Standards--Freestanding Wireless Telecommunication Towers).

6. All associated equipment for ground-mounted facilities shall be designed and located so as to minimize visual impacts and/or be screened from public view. Screening techniques may include landscaping and/or architectural treatment to make them compatible with existing buildings and/or partial or complete burial of the equipment.

E. Development Standards--Freestanding Wireless Telecommunication Towers. In addition to all other development standards in subsection A, freestanding wireless telecommunication towers zoning shall comply with the following:

1. Freestanding wireless telecommunication towers shall be located and designed to minimize visual impacts. When appropriate, monopoles in areas where adverse visual impacts cannot be avoided (as in some commercial areas), shall be camouflaged, disguised and/or blended into the surrounding environment, or disguised as pieces of art/sculpture, flag poles, telephone poles, light standards, or other visual forms to avoid an adverse visual impact.

2. Freestanding wireless telecommunication towers operated by different carriers shall not be allowed within one thousand feet of one another unless the planning commission

determines that the cumulative visual or other physical environmental impacts can be reduced by allowing the towers to locate within one thousand feet of one another.

3. All applicants for wireless telecommunication towers shall provide to the planning commission a written commitment to allow other wireless carriers, using compatible technology, to co-locate antennas on the proposed towers. The city may require applicants to construct a tower which is tall enough to accommodate two additional wireless telecommunication facility applicants. This section shall not be interpreted to prevent the applicant from requiring future applicants to pay fair and reasonable rental for the use of the applicant's tower and/or other facilities.

4. The smallest available and least visible antennas that provide the coverage objective shall be mounted on towers.

5. Lightning arrestor rods and beacon lights shall not be included as part of the tower design, unless the applicant can demonstrate that such are necessary for safety reasons or that such are required by applicable FAA/FCC standards.

F. Development Standards, for Major and Minor Ridgelines and Open Space Areas. In addition to all other applicable development standards in subsection A of this section, wireless telecommunication facilities proposed to be located within an area identified in the city general plan as a major or minor ridgeline or open space, shall be subject to the following:

1. Compliance with subsection D, Development Standards--Ground-Mounted Wireless Communication Facilities, and subsection E, Development Standards--Freestanding Wireless Telecommunications Towers.

2. No commercial wireless telecommunication facility, shall be located within four hundred horizontal feet of a major ridgeline (as shown on map GP-12 of the general plan) and one hundred horizontal feet of a minor ridgeline (as shown on map GP-12 of the general plan) and within one hundred vertical feet for both. The distance shall be measured from the peak of the ridge. An exception may be granted by the planning commission only if any of the following findings can be made:

a. Due to the specific location and design of the proposed facility, the facility will not be visible from surrounding properties or public view; or

b. Due to existing development or existing vegetation at the site, the proposed facility will be substantially screened from the view of surrounding properties and public view and will not result in an adverse visual impact; or

c. The applicant can demonstrate that there is no feasible alternative.

3. Special design considerations, including designs which simulate natural features found in the immediate area, i.e., trees or rocks, may be taken into account by the planning commission when facilities are proposed within areas identified as major and minor ridge line.

4. Development of a commercial wireless communication facility shall conform generally with the natural contours to avoid excessive grading. (Ord. 99-110 § 1(part), 1999).

### **17.33.050 NOTIFICATION AND APPROVAL PROCESS PROCEDURES.**

A. All applications for wireless telecommunication facilities require a use permit. A public hearing shall be held on each use permit application or modification in compliance with Chapter 17.36. Notification shall be given to all property owners within five hundred feet of the property, where the proposed facility will be located.

B. All permit approvals for commercial wireless telecommunication facilities are subject to a public hearing review every two years to demonstrate continuing compliance with the conditions of approval. When reviewing existing facilities for renewal, the planning commission shall determine whether substantial progress has been made in decreasing the visibility of these facilities. At the time of each two-year review, modifications may be required to the use permit, if technology has advanced to the point where commercial wireless telecommunication facilities can be made safer or less visually obtrusive, to conform to other similar commercial wireless telecommunication facilities that are currently being installed or are located in California at the time of permit review.

C. Application review and subsequent reviews of proposed or existing commercial wireless communication facilities shall include photo documentation of existing conditions and equipment for comparison with past conditions and in order to facilitate policy goals related to minimizing site disturbance and visibility. (Ord. 99-110 §1(part), 1999).

### **17.33.060 SUBMITTAL REQUIREMENTS--GENERAL.**

Applicants for wireless telecommunication facilities shall provide, in addition to those items required by Chapter 17.36, the following information:

- A. Site plan showing the following;
1. North arrow and title block,
  2. Scale of plans,
  3. Name and address of applicant,
  4. Date of preparation,
  5. All boundary lines on the subject property fully dimensioned and tied in with the center line of adjacent or nearby streets,
  6. Name, location, and width of any adjacent public or private streets. Widths should include any required street widening. Pavement, curbs and sidewalks should be indicated,
  7. A complete legal description showing the width and location of all existing or proposed public or private easements,
  8. All proposed improvements properly dimensioned. For structures located near major or minor ridge lines, as shown in the general plan, the applicant must provide documentation of the setback from the ridgeline. Structures, where possible, must be set back four hundred feet

horizontally from major ridge lines and one hundred feet from minor ridgelines and a vertical setback of one hundred feet from both,

9. Preliminary grading, including new and existing contours,
  10. Location and width of all vehicular and pedestrian access openings into and out of the property,
  11. Location of nearest walls and structures on adjacent properties, the use therein, and adjoining driveways,
  12. Location, dimension and elevation of all drainage facilities and utility connections,
  13. Provisions for undergrounding of all utilities;
- B. All exterior elevations; scale as appropriate for presentation;
- C. Specific materials for roofing, siding, trim, windows, doors, fences, etc.:
1. One elevation should be in color,
  2. Color samples and materials mounted on a board or rigid surface should be submitted;
- D. Screening of all mechanical equipment, gas meters, electric meters, electric transformers, etc.;
- E. Conceptual landscaping plans. (Note: Prior to issuance of building permits, a final plan will be required):
1. Compliance with city's landscape requirements for new construction ordinance,
  2. Provisions for automatic sprinkler system,
  3. Location, type and approximate size of existing trees where trunk exceeds six inches in diameter at a point twenty-four inches above grade,
  4. Location of existing shrubs of ten feet or more in height or width or hedges of five feet in height and fifteen feet in length,
  5. All trees, shrubs and hedges to be removed shall be noted,
  6. Location and dimension of all planted areas;
- F. A master plan for all related facilities, either existing or proposed, within the city limits of Pinole and within one-quarter mile therefrom;
- G. Computer enhanced photo image of the site where the facility would be located showing before and after images or acceptable alternative as determined by the city planner;
- H. For sites where antennas will be located on or mounted to a building a mock-up of the proposed antenna must be installed at least ten days before the hearing at which the application will be reviewed;

I. A preliminary report quantifying the project's radio frequency emissions and potential human exposure, the cumulative emissions of other facilities located on the same site and compare them to current standards recommended by the Institute of Electrical and Electronic Engineers. Analysis must be based on the current FCC rules, regulations and standards;

J. Provide alternative site analysis prepared by or on the behalf of the applicant, subject to the approval of the planning commission, which identifies all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed wireless communication facility service. The intention of the alternative analysis is to present alternative strategies which could minimize the number, size and adverse environmental impacts of the facilities necessary to provide the needed service to the city. The analysis shall address the potential for co-location and the potential to locate a facility as close to the intended service area. It shall also explain the rationale for the selection of the proposed site in view of the relative merits of any feasible alternative. The city may require independent verification of this analysis at the applicant's expense;

K. A USGS topographic map or survey with existing topographic contours showing the proposed antennas, accessory structures, new roads and the surrounding area extending at least one hundred fifty feet beyond any proposed towers and at least fifty feet beyond other proposed wireless telecommunications facilities;

L. The number, type and dimensions of antennas and equipment cabinets and structures proposed for use by the applicant and a map identifying all existing wireless telecommunication facilities within a three-thousand-foot radius of the proposed facility;

M. If determined necessary by the community development department, a description indicating whether the proposed telecommunications facility is intended to increase capacity within an existing covered area or extend service to an unserved area, describing the extent or degree of each proposed increased or extended service;

N. For applications to extend service to an unserved area, if determined necessary by the community development department, a map based on either radio frequency propagation maps (or similar engineering data) or drive tests at the proposed site and its vicinity showing the estimated coverage area of the proposed telecommunications facility;

O. A map showing how the proposed antennas fit within the network of the applicant's existing and proposed antenna sites within three thousand feet of the project vicinity;

P. A statement of intent to design the facility to allow for co-location;

Q. A statement to the planning commission, including:

1. The power rating for all antennas and back-up equipment proposed with the first application, and

2. A description of the system, including the number of antennas, and associated equipment cabinets and structures which conforms to the radio-frequency exposure standards adopted by the FCC, and VARI that will operate within the frequency assigned by the FCC, and

3. Assurance that operation of the facility, in addition to ambient radio-frequency exposure levels, will not exceed adopted FCC standards with regard to human exposure in “uncontrolled areas” (i.e., areas subject to general public exposure, as defined by the National Council on Radiation Exposure Prevention) or the then applicable FCC standard;

R. The applicant's proposal to establish and maintain maximum visual screening of unsightly public views of the facilities, including landscape and irrigation plans, sample exterior materials and colors of towers, antennas, and accessory structures, including equipment structures and cabinets and security fences; and

S. Visual impact demonstrations, including before and after photo-simulation, showing height and location of the proposed facility as viewed from public places;

T. A list of the names, addresses, and types of business users who will occupy the site;

U. All applications and reviews shall include a list and photo documentation of transmission, reception and other equipment initially proposed, justifying the need for the range of equipment. At each two-year permit reviews,

these lists and photo documentation shall be updated. Additional equipment will only be allowed where the cumulative visual impacts are decreased through replacement with smaller equipment or additional mitigation to decrease visibility. (Ord. 99-110 § 1(part), 1999).

### **17.33.070 LENGTH OF PERMIT--DISCONTINUANCE OF USE-FINANCIAL GUARANTEE.**

A. All structures and equipment associated with a wireless telecommunication facilities shall be removed within one hundred eighty days of the discontinuation of the use and the site shall be restored by the permittee to its original predevelopment condition. In addition, the permittee shall provide the community development department with a notice of intent to vacate the site a minimum of thirty days prior to vacation. For facilities located on city-owned or leased property, this removal requirement shall be included within the terms of the lease.

B. Prior to constructing a wireless telecommunications tower, or prior to renewing a use permit for an existing tower, the applicant or permittee shall provide a financial guarantee, which shall be indexed annually for inflation in an amount, satisfactory to the planning commission, for the removal of the facility, based on the estimated cost to remove the facility, in the event the use is abandoned or the use permit expires, or is revoked, or otherwise terminated. The amount of the guarantee per freestanding tower may be reduced or eliminated if the applicant has more than one freestanding tower in the city. If the owner or lessee does not remove any obsolete or unused facilities, as described above, the financial guarantee shall be used by the city to remove any obsolete or unused facilities and to return the site to its predevelopment conditions. Any unused financial guarantee shall be returned to the applicant upon removal of facility or transfer of the lease accompanied by a financial guarantee from the new lessee or owner. (Ord. 99-110 § 1(part), 1999).

## Chapter 17.34 RECYCLING FACILITIES AND AREAS

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Sections:

- [17.34.010](#) Purpose.
- [17.34.020](#) Definitions.
- [17.34.030](#) Recycling facilities standards.
- [17.34.040](#) Permits for multiple sites.
- [17.34.050](#) General requirements--Recycling areas.
- [17.34.060](#) Design standards--Recycling areas.
- [17.34.070](#) Severability.

### **17.34.010 PURPOSE.**

The purpose of this chapter is to regulate the placement of recycling facilities so that the public health, safety and general welfare will not be adversely affected and to insure that the future placement of such facilities will be effective and efficient. In addition, the city must divert fifty percent of its solid waste by January 1, 2000, through source reduction, recycling, composting activities and other mechanisms. To accomplish this goal, commercial, residential and industrial projects shall be required to provide designated recycling areas for the collecting, storing and loading of recyclable materials. (Ord. 571 § 2(part), 1994).

### **17.34.020 DEFINITIONS.**

For the purposes of this chapter, the following words have the following meanings, unless the context clearly indicates otherwise:

- A. **COLLECTION FACILITY.** A place for the acceptance by donation, redemption or purchase of recyclable materials from the public. Such a facility does not use power-driven processing equipment.
- B. **COLLECTION FACILITY, LARGE.** A collection facility which may occupy an area of more than five hundred square feet and may include permanent structures in addition to those items allowed in small collection facilities.
- C. **COLLECTION FACILITY, SMALL.** A collection facility which occupies an area of not more than five hundred square feet and may include the following:
  - 1. A properly licensed automobile, truck, trailer or van used for the collection of recyclable materials; and

2. Bulk reverse vending machines, kiosk-type units, unattended containers or receptacles.

D. **EXISTING DEVELOPMENT PROJECT.** Any commercial, industrial or institutional building which was constructed or began construction before December 1, 1994.

E. **EXISTING RESIDENTIAL PROJECT.** Any residential project of five or more units which was constructed or began construction before December 1, 1994.

F. **NEW DEVELOPMENT PROJECT.** Any newly constructed commercial, industrial or institutional building, or cluster of buildings for which an application for a building permit or other discretionary approval is granted on or after December 1, 1994.

G. **NEW PUBLIC FACILITY.** Any new facility where solid waste is collected and loaded or any improvements for areas of a public facility used for collecting and loading solid waste which is constructed on or after December 1, 1994.

H. **NEW RESIDENTIAL PROJECT.** Any newly constructed residential project of five or more units for which an application for a building permit or other discretionary approval is granted on or after December 1, 1994.

I. **PROCESSING FACILITY.** A building or enclosed space used for the collection and processing of recyclable materials. Processing. 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.

J. **PROCESSING FACILITY, HEAVY.** Any processing facility other than a light processing facility.

K. **PROCESSING FACILITY, LIGHT.** An area of under forty-five thousand square feet of gross collection, processing and storage area and has up to an average of two outbound truck shipments per day. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers.

L. **RECYCLABLE MATERIAL.** Reusable material including but not limited to metals, glass, plastic, paper and styrofoam, which are intended for reuse, remanufacture or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse or hazardous materials. Recyclable material may include used motor oil collected and transported in accordance with Sections 25250.11 and 25143.2(b)(4) of the California Health and Safety Code.

M. **RECYCLING AREA.** The interior or exterior space allocated for collecting, storing and loading recyclable material.

N. **RECYCLING FACILITY.** A place for the collection and/or processing of recyclable materials. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer.

O. **REVERSE VENDING MACHINES.** An automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to aluminum cans, glass and plastic bottles. A reverse vending machine may sort and process containers mechanically provided that the entire process is enclosed within the machine. A bulk reverse vending machine is a reverse vending machine that is larger than fifty square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container. (Ord. 571 § 2 (part), 1994).

### **17.34.030 RECYCLING FACILITIES STANDARDS.**

Those recycling facilities permitted with an administrative use permit shall meet all of the applicable criteria and standards listed. Those recycling facilities permitted with a minor use permit, or design review permit shall meet the applicable criteria and standards, provided that the director of planning, planning commission or City Council, as the case may be, may relax such standards or impose stricter standards as an exercise of discretion upon finding that such modifications are reasonably necessary in order to implement the general intent of this section and the purpose of this title.

A. Reverse Vending Machine(s). Reverse vending machine(s) located within a commercial structure do not require discretionary permits. Reverse vending machines do not require additional parking spaces for recycling customers and may be permitted in all commercial and industrial zones by right provided that they comply with the following standards:

1. Shall be located within thirty feet of the entrance to the commercial structure and shall not obstruct pedestrian or vehicular circulation;
2. Shall not occupy parking spaces required by the primary use;
3. Shall occupy no more than fifty square feet of floor space per installation, including any protective enclosure and shall be no more than eight feet in height;
4. Shall be constructed and maintained with durable waterproof and rustproof material;
5. 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;
6. Shall have a sign area of a maximum of four square feet per machine, exclusive of operating instructions;
7. Shall be maintained in a clean, litter-free condition on a daily basis.

B. Collection Facilities.

1. Shall use containers that are constructed and maintained with durable waterproof and rustproof material, covered when site is not attended, secured from unauthorized entry or removal of material, and shall be of a capacity sufficient to accommodate materials collected and collection schedule;

2. Shall store all recyclable material in containers or in the mobile unit vehicle, and shall not leave materials outside of containers when attendant is not present;

3. Shall be maintained free of litter and any other undesirable materials, and mobile facilities, at which truck or containers are removed at the end of each collection day, shall be swept at the end of each collection day;

4. Shall not exceed noise levels of sixty dBA as measured at the property line of residentially zoned or occupied property, otherwise shall not exceed seventy dBA;

5. Attended facilities located within one hundred feet of a property zoned or occupied for residential use shall operate only during the hours of seven a.m. to nine p.m.;

6. Containers for the twenty-four hour donation of materials shall be at least thirty feet from any property zoned or occupied for residential use unless there is a recognized service corridor and acoustical shielding between the containers and the residential use;

7. Containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside of the recycling enclosure or containers;

8. Signs may be provided as follows:

a. Recycling facilities may have identification signs with a maximum of eight square feet in addition to informational signs.

b. Directional signs, bearing no advertising message, may be installed with the approval of the city planner if necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way;

9. The facility shall not impair the landscaping required by local ordinances for any concurrent use by this title or any permit issued pursuant thereto;

10. 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;

11. Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use unless all of the following conditions exist:

a. A parking study shows that existing parking capacities are not already fully utilized during the time the recycling facility will be on the site.

b. The permit will be reconsidered at the end of eighteen months. A reduction in available parking spaces in an established parking facility may then be allowed as follows:

For a commercial host use:

<u>Number of Available Parking Spaces</u>	<u>Maximum Reduction</u>

0 – 25	0
26 – 35	2
36 – 49	3
50 – 99	4
100+	5

For a community facility host use:

A maximum five spaces reduction will be allowed when not in conflict with parking needs of the host use;

12. If the permit expires without renewal, the collection facility shall be removed from the site on the day following permit expiration;

13. Setbacks and landscape requirements shall be those provided for the zoning district in which the facility is located. From any side street line the setback shall be at least ten feet and shall not obstruct pedestrian or vehicular circulation.

C. Small Collection Facilities. A small collection facility is one that is no larger than five hundred square feet and occupies no more than five parking spaces not including space which will be periodically needed for removal of materials or exchange of containers:

1. Shall accept only glass, metals, plastic containers, papers and reusable items;
2. Shall use no power-driven processing equipment except for reverse vending machines;
3. 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 will be provided for the attendant, if needed.

D. Large Collection Facilities. A large collection facility is one that is larger than five hundred square feet, or is on a separate property not appurtenant to a host use and which may have a permanent building.

1. Shall not abut a property zoned or planned for residential use;
2. Shall be screened from the public right-of-way by operating within an enclosed building or:
  - a. Within an area enclosed by an opaque fence at least six feet in height with landscaping,
  - b. At least one hundred fifty feet from property zoned or planned for residential use;

3. All exterior storage of material shall be in sturdy containers which are covered, secured and maintained in good condition. Storage containers for flammable material shall be constructed of nonflammable material. Oil storage must be in containers approved by the fire department. No storage, excluding truck trailers and overseas containers, will be visible above the height of the fencing;

4. Space will be provided on site for six vehicles or the anticipated peak customer load, whichever is higher, to circulate and to deposit recyclable materials, except where the city planner determines that allowing overflow traffic above six vehicles is compatible with surrounding businesses and public safety;

5. Shall be provided with one parking space for each commercial vehicle operated by the recycling facility. Parking requirements will be as provided for in the zone, except that parking requirements for employees may be reduced when it can be shown that parking spaces are not necessary such as when employees are transported in a company vehicle to a work facility;

6. 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 approved through a use permit process if noise and other conditions are met.

E. Processing Facilities.

1. Facility does not abut a property zoned or planned for residential use.

2. In a commercial or light industrial zone, processors will operate in a wholly enclosed building except for incidental storage, or:

a. 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;

b. Located at least one hundred fifty feet from property zoned or planned for residential use.

3. Power-driven processing shall be permitted, provided all noise level requirements are met. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials.

4. A light processing facility shall be no larger than forty-five thousand square feet and shall have no more than an average of two outbound truck shipments of material per day and may not shred, compact or bale ferrous metals other than food and beverage containers.

5. A 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.

6. Setbacks and landscaping requirements shall be those provided for the zoning district in which the facility is located.

7. All exterior storage of material shall be in sturdy containers or enclosures which are covered, secured and maintained in good condition. Storage containers for flammable material shall be constructed of nonflammable material. Oil storage must be in containers approved by the fire department. No storage, excluding truck trailers and overseas containers, will be visible above the height of the fencing.

8. Site shall be maintained free of litter and any other undesirable materials, and will be cleaned of loose debris on a daily basis, and will be secured from unauthorized entry and removal of materials when attendants are not present.

9. Space shall be provided on site for the anticipated peak load of customers to circulate, park and deposit recyclable materials. If the facility is open to the public, space will be provided for a minimum of ten customers or the peak load, whichever is higher, except where the city planner determines that allowing overflow traffic is compatible with surrounding businesses and public safety.

10. One parking space will be provided for each commercial vehicle operated by the processing center. Parking requirements will otherwise be mandated by the zone in which the facility is located.

11. Noise levels shall not exceed sixty dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed seventy dBA.

12. If the facility is located within five hundred feet of property zoned or planned for residential use, it shall not be in operation between seven p.m. and nine a.m. The facility will be administered by on-site personnel during the hours the facility is open.

13. Any containers provided for after-hours donation of recyclable materials will be at least fifty feet from any property zoned or occupied for residential use; shall be of sturdy, rustproof construction; shall have sufficient capacity to accommodate materials collected; and shall be secure from unauthorized entry or removal of materials.

14. Donation areas shall be kept free of litter and any other undesirable material. The containers shall be clearly marked to identify the type of material that may be deposited. Facility shall display a notice stating that no material shall be left outside the recycling containers.

15. Sign requirements shall be those provided for the zoning district in which the facility is located. In addition, facility will be clearly marked with the name and phone number of the facility operator and the hours of operation.

16. No dust, fumes, smoke, vibration or odor above ambient level may be detectable on neighboring properties. (Ord. 571 § 2(part), 1994).

#### **17.34.040 PERMITS FOR MULTIPLE SITES.**

A single administrative use permit as subject to the provisions of Chapter 17.36 may be granted to allow more than one reverse vending machine(s) 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 by the city planner to be similar in nature, size and intensity of activity; and
- C. All of the applicable regulations as set forth in Section 17.34.030 are met for each such proposed facility. (Ord. 571 § 2(part), 1994).

**17.34.050 GENERAL REQUIREMENTS--RECYCLING AREAS.**

- A. Any new residential or development project for which an application for a building permit is submitted shall include adequate, accessible and convenient areas for collecting and loading recyclable materials.
- B. Any new public facility for which an application for a building permit is submitted shall include adequate, accessible and convenient areas for collecting, storing and loading recyclable materials.
- C. Any existing residential or development project for which an application for a building permit is submitted for modifications which add thirty percent or more to the existing floor area or the cost of the modification exceeds ten percent of the current assessed improved value of the subject parcel shall include adequate, accessible and convenient areas for collecting and loading recyclable materials.
- D. No building permit shall be issued for any new or existing residential or development project until the recycling area is approved by the city planner or planning commission for projects subject to review as required by Chapter 17.35. A decision of the city planner may be appealed to the planning commission in accordance with Section 17.35.040D of this code. (Ord. 571 § 2(part), 1994).

**17.34.060 DESIGN STANDARDS--RECYCLING AREAS.**

The following standards shall apply to the review of plans for a recycling area:

- A. The recycling area shall be designed to be architecturally compatible with the surrounding land uses.
- B. The design, construction and location of the recycling area shall not be in conflict with any applicable federal, state or local regulations relating to fire, building, access, transportation, circulation or safety.
- C. The minimum size of recycling areas shall be as follows:

Minimum Size Requirements for Recycling Areas

<u>Land Use</u>	Recycling Area Size Requirements
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Multifamily residential (5 or more units)	25 additional square feet for the first 5 units. 25 square feet for each additional 20 units.
Office and general commercial Restaurants, retail, service, motels and offices	25 square feet for the first 5,000 square feet. 10 square feet for each additional 10,000 square feet.
Industrial warehousing, manufacturing and auto repair	25 square feet for the first 10,000 square feet. 10 square feet for each additional 10,000 square feet.
Public and institutional facilities Schools, libraries, hospitals, community buildings and civic groups	25 square feet for the first 2,500 square feet. 10 square feet for each additional 10,000 square feet.
Other land uses Mini-storage, nurseries and theaters	25 square feet for the first 10,000 square feet. 10 square feet for each additional 20,000 square feet.

D. Driveways and travel aisles should provide unobstructed access for collection, storage and loading of recyclable materials.

E. Signs shall be posted identifying recycling collection and loading areas and the materials accepted therein. Signs shall be posted immediately adjacent to the recycling area and shall not exceed four square feet.

F. Recycling areas shall be designed to prevent the theft of recyclable materials, while allowing authorized persons access for disposal of materials.

G. Recycling areas or the bins or containers placed therein shall provide protection from environmental conditions which would render the collected materials unmarketable.

H. Recycling areas shall be placed in a location and manner which best serves the convenience of the intended users of the recycling area. (Ord. 571 § 2(part), 1994).

#### **17.34.070 SEVERABILITY.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase. (Ord. 571 § 2(part), 1994).

## **Chapter 17.35 DESIGN REVIEW AND SIGN PERMITS**

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Sections:

- [17.35.010](#) Design review and sign permit regulations.
- [17.35.020](#) Applicability.
- [17.35.030](#) Application and fee.
- [17.35.040](#) Review procedure.
- [17.35.050](#) Revocation.
- [17.35.060](#) New application.

### **17.35.010 DESIGN REVIEW AND SIGN PERMIT REGULATIONS.**

Purpose and Intent. The purpose of this chapter is to ensure that construction of new buildings and signs, or alterations of existing ones are visually compatible and harmonious with the surrounding development. (Ord. 545 § 2(part), 1991).

### **17.35.020 APPLICABILITY.**

A. In any district a design review or sign permit shall be required to construct or move a structure on any building site, to enlarge, remodel, or otherwise alter on the exterior any existing structure, with the exception of changing the exterior color of any single-family residential structure, to alter any landscaping or site plan previously required pursuant to any permit, to alter or create any parking layout of ten spaces or more and to erect or enlarge any sign.

B. The city planner shall waive review of the design of any addition or repair to any existing single-family residential structure, detached garage, carport, shed and agricultural building if the same exterior materials are used. The City Council may by resolution direct that design review shall be conducted of such additions or repairs within specified areas of the city. (Ord. 545 § 2 (part), 1991).

### **17.35.030 APPLICATION AND FEE.**

Each application for a design review or sign permit shall be accompanied by drawings, plans and such written matter as may be necessary to show the front, side and rear elevations and the colors and materials to be used, and to show any other information that may be required by the planning commission and/or design review board in order that it may adequately evaluate the proposed structure. Fees shall be as established by resolution adopted by the City Council. (Ord. 545 § 2 (part), 1991).

### **17.35.040 REVIEW PROCEDURE.**

A. The design review board shall consider the proposed building in conjunction with the appearance and design of other structures in the surrounding area in an endeavor to provide that the proposed building or sign will not be unsightly, obnoxious or undesirable in appearance to the extent it will hinder the harmonious development of the area, impair the desirability of the area for the uses permitted therein, limit the opportunity to attain optimum use and value of the land and improvements, or otherwise adversely affect the general property and welfare. The design review board shall suggest any changes or alterations in the proposed structure as it may deem necessary to accomplish the purpose of this section.

B. Upon the approval of any proposal, the planning commission shall issue a design review or sign permit, of which the approved proposal shall become a part. Any construction of the structure shall be in accordance with such approved proposal.

C. A copy of each approved design review or sign permit shall be transmitted to the building division and the provisions of any such permit related thereto.

D. A design or sign permit shall become effective ten days following the planning commission's final action on an application, unless an appeal has been made to the planning commission or City Council as provided in Chapter 17.40.030C. (Ord. 545 § 2(part), 1991).

#### **17.35.050 REVOCATION.**

A. A design review or sign permit granted subject to a condition or conditions shall be revoked by the planning commission if the condition or conditions are not complied with, provided that the planning commission shall hold a public hearing on the revocation.

B. A design review or sign permit shall lapse and become null and void one year following the date on which the approval became effective unless, prior to the expiration of one year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the application. The provisions of this subsection shall apply to all design review and sign permit approvals granted prior to the date of the enactment of this chapter.

C. A design review or sign permit may be renewed for an additional period of one year, provided that, prior to the expiration of one year from the date when the original approval became effective, an application for renewal is filed with the community development department. The planning commission may grant an extension of the approval for a period of one year where no change in conditions or requirements has occurred, but an application involving any change shall be treated as a new application, subject to all the provisions of this chapter. (Ord. 545 § 2 (part), 1991).

#### **17.35.060 NEW APPLICATION.**

Following the denial or revocation of a design review or sign permit, no application for the same or substantially the same design or sign shall be filed within one year of the date of denial

or revocation of the design review permit unless the denial or revocation is made without prejudice. (Ord. 545 § 2 (part), 1991).

## **Chapter 17.36 USE PERMITS**

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Sections:

- [17.36.010](#) Use permits.
- [17.36.020](#) Special uses.
- [17.36.030](#) Application and fee.
- [17.36.040](#) Public hearing and procedure.
- [17.36.050](#) Revocation.
- [17.36.060](#) Administrative Use Permits

### **17.36.010 USE PERMITS.**

Use permits which may be revocable, conditional or valid for a time period may be issued by the planning commission for any of the uses or purposes for which such permits are required or permitted by the terms of this chapter. Guarantees to insure compliance with terms and conditions may be required by the planning commission. (Ord. 590 § 4(part), 1996: Ord. 440 § 2(part), 1982).

### **17.36.020 SPECIAL USES.**

A. Application for uses not specified in any land use district shall be made to the planning commission in the regular manner. These special uses include, but are not limited to:

1. Development of natural resources (dams, canals, quarries, etc.);
2. Drill sites for exploration of natural resources;
3. Drill sites for the production of oil, gas or hydrocarbons;
4. Refuse disposal by incineration or other process (as a public or private disposal service);
5. Amusement parks;
6. Ham radio transmitting and receiving antenna towers, radar transmitters and receivers, commercial television transmitting and receiving towers, and other similar electronic towers and accessory equipment;

7. Towers, spires, chimneys, machinery penthouses, scenery lofts, cupolas, water tanks, radio aerials, television antennae, solar collectors and similar architectural and utility structures and necessary mechanical appurtenances may be built and used to a height of not more than twenty-five feet above the height limit established for the district in which the structures are located; provided, however, that no such architectural or utility structure in excess of the allowable building height shall be used for sleeping or eating quarters or for any commercial advertising purposes, and providing such use is permitted by use permit approved by the planning commission;

8. Other uses presently known or unknown which by nature of such operation cannot be classified as being permitted in specific land use districts.

B. Public hearing and procedure on special uses shall be as stated in Section 17.36.040. (Ord. 590 § 4(part), 1996: Ord. 445 § 2, 1982; Ord. 440 § 2(part), 1982).

### **17.36.030 APPLICATION AND FEE.**

Application for a use permit shall be made in writing on a form provided by the planning commission and shall be accompanied by plans, elevations and details showing the proposed use of the building or structure. Such application shall be accompanied by a fee prescribed by resolution of the City Council, no part of which is refundable. (Ord. 590 § 4(part), 1996: Ord. 440 § 2(part), 1982).

### **17.36.040 PUBLIC HEARING AND PROCEDURE.**

A. A public hearing shall be held on each use permit application, modification or revocation within sixty days after filing such application, modification or intention to revoke, and on an appeal related thereto. Notice of the hearing shall be given not less than ten days prior to the hearing date by either prepaid written notice through the United States mail using addresses from official sources considered most recent and accurate by the planning commission or by publication in a local newspaper of general circulation and/or by posting the notice in a conspicuous place close to the property affected.

B. Within thirty days after the public hearing, the planning commission shall make written findings of fact granting, conditionally granting or denying such use permit request.

C. Appeal from any findings and action by the planning commission may be made in writing to the City Council within ten days of such finding and action. Following a public hearing, notice of which shall be given in the manner provided in this section, the City Council may act to confirm, modify or reverse the action of the planning commission. (Ord. 590 § 4(part), 1996: Ord. 440 § 2(part), 1982).

### **17.36.050 REVOCATION.**

A. In any case where the conditions of granting of a use permit have not been or are not complied with, the City Council shall give notice to the permittee of intention to revoke such variance at least ten days prior to the hearing thereon. The City Council may revoke such use permit.

B. In any case where a use permit has not been used within one year after the date of granting thereof, without further action by the City Council, the use permit shall be null and void. (Ord. 590 § 4(part), 1996: Ord. 440 § 2(part), 1982).

### **17.36.060 ADMINISTRATIVE USE PERMITS.**

A. *Definition.* For the purposes of this section, the following word has the following meaning, unless the context clearly indicates otherwise:

***ADMINISTRATIVE USE PERMIT.*** A permit issued by the community development director or city planner as provided in this section.

B. *Grounds.* Whenever authorized by ordinance, the community development director or city planner may issue an administrative use permit when he/she finds as follows:

1. The proposed use is consistent with the general plan;
2. All applicable conditions prescribed by ordinance or Council resolution have been satisfied;
3. All conditions prescribed by ordinance or Council resolution have been satisfied;
4. Whenever there are unique circumstances pertaining to an application which circumstances are not satisfied by existing ordinances or resolutions and the community development director or city planner determines that the permit process should include a public hearing and commission determination.

C. *Application.* The applicant shall apply in writing to the community development department describing the proposed use together with adequate maps and drawing showing where such use shall be conducted, including all structures, parking and landscaping on property under application. The applicant shall submit nine copies of drawing and a fee prescribed by City Council resolution to cover the cost of investigation and processing.

D. *Conditions of approval.* Whenever any administrative use permit is granted, the community development director or city planner shall impose such conditions as may be necessary to safeguard the public safety and the intent of this chapter. An administrative use permit shall become null and void if the privileges granted thereunder have not been utilized within one year from the effective date thereof.

E. *Notice of the decision.* The decision of the community development director or city planner shall be mailed to the applicant within five working days.

F. *Notification to planning commission.* After approving an application for administrative use permit, the community development director or city planner shall advise the planning commission of his or her decision at their next regular meeting.

G. *Appeals.* Any person may appeal the actions of the community development director or city planner to the planning commission by filing a ppeal with the City Clerk pursuant, to the procedures set forth for a public hearing as provided in Section 17.40.030 A. and B. and thereafter appeal to the City Council as provided in Section 17.40.030C. (Ord. 590 § 4(part), 1996)

## **Chapter 17.38**

# **LANDSCAPE REQUIREMENTS FOR NEW CONSTRUCTION**

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Sections:

- [17.38.010](#) Purpose and intent.
- [17.38.020](#) Applicability.
- [17.38.030](#) General requirements.
- [17.38.040](#) Additional requirements.

### **17.38.010 PURPOSE AND INTENT.**

The purpose of the landscape requirements for new construction is to encourage the conservation of water, which has been identified as a limited resource, through the appropriate use of plant materials, efficient irrigation systems and good landscape management practices. (Ord. 547 § 1(part), 1991).

### **17.38.020 APPLICABILITY.**

A. The landscape requirements for new construction shall apply to all new singlefamily residential developments (exclusive of additions) having common areas, including landscaped front yards or model homes and to all other new developments. At least one or more of the model homes within a single-family subdivision shall be planted with landscaping using drought tolerant plant materials and irrigation.

B. The landscape requirements for new construction shall not apply to sites using reclaimed water. (Ord. 547 § 1 (part), 1991).

### **17.38.030 GENERAL REQUIREMENTS.**

A. Landscape Plans. Landscape plans shall be submitted for review to the design review board as to conformance with these requirements prior to issuance of a building permit. Landscaping shall not be installed until the applicant receives approval of the landscape plans.

B. Ornamental Uses of Water. All ornamental uses of water in the common areas of a development project, such as ponds, lakes and fountains, shall be supplied, operated and maintained with alternative sources of water, such as reclaimed or well water, if they are available.

C. Plant Selection. At least ninety percent of the plants selected in nonturf areas shall be well-suited to the climate of the region and require minimal water once established. Up to ten percent of the plants may be of a nondrought tolerant variety as long as they are grouped together and can be irrigated separately.

D. Turf Limitations. The combined turf and/or water area (i.e., pools, ponds and fountains) shall be limited to twenty-five percent of the irrigated areas. Exceptions may be granted when using drought tolerant turfgrasses. Turf and/or water area limitation is excluded for public parks, golf courses, cemeteries and school recreation areas. No turf shall be allowed in median strips or areas less than eight feet wide.

E. Soil Conditioning and Mulching.

1. A minimum of six cubic yards of nitrified soil conditioner per one thousand square feet shall be incorporated into the top six inches of soil.

2. A minimum of two inches of mulch shall be added in nonturf areas to the soil surface after planting. Nonporous material shall not be placed under the mulch.

3. Grading shall be minimized to avoid disturbance. Top soil shall be stockpiled and shall be reapplied during final grading.

F. Irrigation. These irrigation requirements apply to all non-single-family residential landscapes and to those single-family residences, except for additions and in-fill lots, where automatic irrigation systems will be installed:

1. Sprinklers and sprays shall not be used in areas less than eight feet wide.

2. Sprinkler heads with a precipitation rate of .85 inches per hour or less shall be used on slopes exceeding fifteen percent or on slopes exceeding ten percent within ten feet of hardscapes to minimize runoff.

3. Valves and circuits shall be separated based on water use.

4. Drip or bubbler irrigation systems are required for trees. Bubblers shall be used that do not exceed one and one-half gallons per minute per device.

5. Sprinkler heads must have matched precipitation rates within each control valve circuit.

6. Check valves are required where elevation differences may cause low head drainage.

7. Sprinkler head spacing shall be designed for head to head coverage. The system should be designed for minimum runoff and overspray onto nonirrigated areas.

8. All irrigation systems shall be equipped with a controller capable of dual or multiple programming. Controllers must have multiple cycle start capacity and a flexible calendar program.

9. All irrigation systems shall be equipped with rain shut-off devices. (Ord. 547 § 1(part), 1991).

#### **17.38.040 ADDITIONAL REQUIREMENTS.**

These additional requirements apply to landscaping for all new construction except single-family residences:

A. Soil Conditioning and Mulching. Preparation of a soils report to include soil tests showing soil type, soil depth, uniformity and pH shall be required and submitted with landscape plans. Soil will be amended according to report recommendations.

B. Irrigation. Plans shall include a water budget that includes:

1. Estimated annual water use (in gallons);
2. Irrigated area (in square feet);
3. A monthly irrigation schedule for the plant establishment period (minimum of two years) and the following year. This irrigation schedule will include the following information for each valve:
  - a. Plant type,
  - b. Precipitation rate,
  - c. Flow rate in gallons per minute,
  - d. Run times in minutes per day,
  - e. Number of watering days per week;
4. Turfgrasses should be irrigated a maximum of once every three days. (Ord. 547 § 1 (part), 1991).

## **Chapter 17.40 VARIANCES**

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Sections:

[17.40.010](#) Variances.

- [17.40.020](#) Application and fee.
- [17.40.030](#) Public hearings and procedure.
- [17.40.040](#) Revocation.
- [17.40.050](#) Administrative variance.

#### **17.40.010 VARIANCES.**

A. Variances from the terms of the zoning code shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location of surroundings, the strict application of the zoning code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

B. Any variance granted is subject to such condition as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and zone in which property is situated. (Ord. 590 § 5(part), 1996; Ord. 440 § 2(part), 1982).

#### **17.40.020 APPLICATION AND FEE.**

Application for a variance shall be made in writing on a form provided by the planning commission together with statements, plans and details showing the nature, extent and reason for the requested variance and accompanied by a fee as prescribed by resolution of the City Council, no part of which is refundable. (Ord. 590 § 5(part), 1996; Ord. 440 § 2(part), 1982).

#### **17.40.030 PUBLIC HEARING AND PROCEDURE.**

A. A public hearing shall be held on each variance application, on a proposed modification or revocation within sixty days after filing such application for variance or revocation and on an appeal related thereto. Notice of such hearing shall be given not less than ten days prior to such hearing date by either prepaid written notice through the United States mail using addresses from official sources considered most recent and accurate by the planning commission, or by publication in a local newspaper of general circulation and/or by posting the notice in a conspicuous place close to the property affected.

B. Within thirty days after the public hearing, the planning commission shall make written findings of facts showing whether the qualifications under Section 17.40.010 apply to the land and buildings for which the variance is requested. Such written findings of facts shall be the basis for the granting, conditional granting or denial of the variance request.

C. Appeal from any findings and action by the planning commission may be made in writing to the City Council within ten days of such finding and action. Following a public hearing, notice of which shall be given in the manner provided in this section, the City Council

may act to confirm, modify or reverse the action of the planning commission. (Ord. 590 § 5(part), 1996: Ord. 440 § 2(part), 1982).

#### **17.40.040 REVOCATION.**

A. In any case where the conditions of granting of a variance have not, or are not complied with, the City Council shall give notice to the permittee of intention to revoke such variance at least ten days prior to the hearing thereon. The City Council may revoke such variance.

B. In any case where a variance has not been used within one year after the date of granting thereof, without further action by the City Council, the variance granted shall be null and void. (Ord. 590 § 5(part), 1996: Ord. 440 § 2(part), 1982).

#### **17.40.050 ADMINISTRATIVE VARIANCE.**

A. Administrative Variance--Grounds. Whenever a strict interpretation of any numerical requirement of this chapter or its application to any specific case or situation would result in the unreasonable deprivation of the use or enjoyment of property, the community development director or city planner may grant administrative variance to such provision subject to the following restrictions and in the manner provided in this section:

1. That the proposed administrative variance is necessary in order that the applicant may not be unreasonably deprived of the use or enjoyment of his or her property; and

2. That the proposed administrative variance is consistent with the legislative intent of this chapter; and

3. No such administrative variance shall exceed forty percent of the numerical requirement or pertain to a sign or a number of required off-street parking spaces; and

4. There is written consent from owners of:

a. Properties abutting the property under application, and

b. Other properties which might reasonably be affected by the proposed administrative variance; and

5. That the proposed administrative variance would not be detrimental to the neighborhood or district in which the property is located; and

6. That the subject property is in a residential zoning district.

B. Application. The applicant shall apply in writing to the community development director or city planner stating the administrative variance desired and explaining wherein the strict interpretation of this title would result in the unreasonable deprivation of the use or enjoyment of property. The applicant shall submit with the application a fee prescribed by City Council resolution to cover the cost of investigation and processing.

C. Conditions of Approval. Whenever any administrative variance is granted, the community development director or city planner shall impose such conditions as may be necessary to safeguard the public safety and the intent of this chapter. An administrative variance shall become null and void if the privileges granted thereunder have not been utilized within one year from the effective date thereof.

D. Notice of the Decision. The decision of the community development director or city planner shall be mailed to the applicant within five working days.

E. Notification to Planning Commission. After approving an application for administrative variance, the community development director or city planner shall advise the planning commission of his/her decision at their next regular meeting.

F. Appeals. Any person may appeal the actions of the community development director or city planner to the planning commission by filing an appeal with the City Clerk pursuant to the procedures set forth for a public hearing as provided in Section 17.40.030A and B, and thereafter appeal to the City Council as provided in Section 17.40.030C. (Ord. 590 § 5(part), 1996; Ord. 545 § 5, 1991; Ord. 440 § 2(part), 1982).

## **Chapter 17.44 NONCONFORMING USES**

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### Sections:

- [17.44.010](#) General conditions.
- [17.44.020](#) Structural alterations.
- [17.44.030](#) Enlargements, extensions and reconstruction.
- [17.44.040](#) Repair of destroyed buildings.
- [17.44.050](#) Applicability.

### **17.44.010 GENERAL CONDITIONS.**

A. The lawful use of land existing at the time of the passage of this title, although such use does not conform to the provisions of this title may be continued; provided, however, that nonconforming commercial and industrial uses operated on open land not accessory to a permanent building on the site may be continued for a period not longer than five years after such uses become nonconforming.

B. In all R districts, every nonconforming building or structure which was designed, arranged or intended for a use permitted only in districts other than R districts, shall be completely removed, or altered and converted to a conforming building, structure and use when such buildings or structures have reached, or may hereafter reach, the ages specified in this subsection, computed from the date the building was erected. In the case of buildings defined in

the building code effective in the city at the effective date of the ordinance codified in this table as: Class I and II, forty years; Class III and IV, thirty years; Class V, twenty years; provided however, that this regulation shall not become operative until twenty years from the effective date of the ordinance codified in this title.

C. If any nonconforming use is abandoned or discontinued for any reason, subsequent use of such land shall be in conformity with the provisions of this title. The discontinuance of a nonconforming use for a period of six months or more is, in itself, prima facie evidence of abandonment. (Ord. 440 § 2 (part), 1982).

#### **17.44.020 STRUCTURAL ALTERATIONS.**

If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. (Ord. 440 § 2(part), 1982).

#### **17.44.030 ENLARGEMENTS, EXTENSIONS AND RECONSTRUCTION.**

A. No existing building designed, arranged or intended for or devoted to a use not permitted under the regulations of this district in which the building or premises is located shall be enlarged, extended, reconstructed or structurally altered unless the use is changed to a use permitted within the district in which the building or premises is located.

B. Normal maintenance of the building shall be permitted subject to building code requirements in effect at the time of such maintenance work. (Ord. 440 § 2(part), 1982).

#### **17.44.040 REPAIR OF DESTROYED BUILDINGS.**

A. If at any time any building in existence or use maintained on May 19, 1971 which does not conform to the regulations for the district in which it is located is destroyed by fire, explosion, act of God or act of the enemy to the extent of more than one-half the value thereof, then without further action by the City Council the building and use of land shall from and after the date of such destruction be subject to all of the regulations of the district in which such building or premises is located.

B. For purposes of this title, the value of any building is the estimated cost of replacement of the building, in conformance with building codes in effect at the time of destruction, as determined by the building official of the city. (Ord. 440 § 2 (part), 1982).

#### **17.44.050 APPLICABILITY.**

The provisions of Sections 17.44.010 through 17.44.040 also apply to nonconforming uses in districts hereafter changed or established and any time limit for the suspension of a

nonconforming use of land shall date from May 19, 1971 or any amendment of district boundaries which first creates a nonconforming use or uses. (Ord. 440 § 2 (part), 1982).

## **Chapter 17.48**

### **AMENDMENTS, ALTERATIONS AND CHANGES IN DISTRICTS**

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Sections:

[17.48.010](#) Amendments.

#### **17.48.010 AMENDMENTS.**

This title may be amended by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and the general welfare require such amendment by procedure prescribed by law. (Ord. 440 § 2(part), 1982).

## **Chapter 17.52**

### **ENFORCEMENT, LEGAL PROCEDURE AND PENALTIES**

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Sections:

[17.52.010](#) Authorization.

[17.52.020](#) Duties.

[17.52.030](#) Penalties.

[17.52.040](#) Abatement.

[17.52.050](#) Remedies.

[17.52.060](#) Other regulations.

[17.52.070](#) Validity.

[17.52.080](#) Reference.

#### **17.52.010 AUTHORIZATION.**

All departments, officials and public employees of the city which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no such permit or license for uses, buildings, purposes where they would be in conflict with the provisions of this title. (Ord. 440 §2 (part), 1982).

### **17.52.020 DUTIES.**

It shall be the duty of the officers of the city herein and/or otherwise charged by law with the enforcement of ordinances of the city to enforce this title and all its provisions. (Ord. 440 § 2(part), 1982).

### **17.52.030 PENALTIES.**

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any of the provisions of this title, shall be deemed guilty of an infraction, punishable on the first offense by a fine not exceeding fifty dollars, and on the second or subsequent offense by a fine not exceeding two hundred fifty dollars and shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this title is committed, continued or permitted by such person, firm or corporation. (Ord. 440 § 2(part), 1982).

### **17.52.040 ABATEMENT.**

Any building set up, erected, built, moved or maintained and/or any use of property contrary to the provisions of this title shall be, and is, unlawful and a public nuisance, and the City Attorney shall within thirty days from date of notice commence proceedings for the abatement, removal and enjoinder thereof in the manner provided by law and shall take such

other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate and remove such building or use and restrain and enjoin any persons, firm or corporation from setting up, erecting, building, moving or maintaining any such building or using any property contrary to the provisions of this title. (Ord. 440 § 2 (part), 1982).

### **17.52.050 REMEDIES.**

All remedies provided for in this chapter are cumulative and not exclusive. (Ord. 440 § 2 (part), 1982).

### **17.52.060 OTHER REGULATIONS.**

Wherever conflict occurs between the provisions of this title and any other provision of law, the more restrictive of any such provisions shall apply. (Ord. 440 § 2(part), 1982).

### **17.52.070 VALIDITY.**

If any section, subsection, sentence, clause or phrase of this title is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this title and each section, subsection, sentence, clause and phrase thereof

irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases is declared invalid. (Ord. 440 § 2(part), 1982).

### **17.52.080 REFERENCE.**

This title shall be known and cited as the Pinole zoning code. (Ord. 440 § 2(part), 1982).

## **Chapter 17.56 ADULT ENTERTAINMENT BUSINESSES**

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Sections:

- [17.56.010](#) Purpose and intent.
- [17.56.020](#) Definitions.
- [17.56.030](#) Location.
- [17.56.040](#) Special regulations.
- [17.56.050](#) Nudity at adult entertainment businesses.
- [17.56.060](#) Discontinuance of nonconforming activities.

### **17.56.010 PURPOSE AND INTENT.**

It is the purpose and intent of this chapter to provide for the orderly regulation of adult entertainment businesses. It is recognized that these establishments by their very nature have serious objectionable operational characteristics and, when adult entertainment businesses are allowed to concentrate, these characteristics can contribute to the blighting or downgrading of the surrounding neighborhood. In order to protect and preserve public health, safety and welfare special regulation of these uses is necessary. (Ord. 578 § 1(part), 1995).

### **17.56.020 DEFINITIONS.**

The following words and phrases used in this chapter shall be defined, as follows:

- A. **ADULT.** Any person over eighteen years of age.
- B. **ADULT ENTERTAINMENT BUSINESSES.** Those businesses defined as follows:
  - 1. **ADULT BOOKSTORE** or **ADULT VIDEO STORE.** a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior

business or advertising to the sale, rental for any form of consideration, of any one or more of the following:

a. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassette tapes, slides, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;

b. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

2. **ADULT CABARET.** A nightclub, theater, concert hall, auditorium, bar or other similar establishment which regularly features live or media presentations of performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

3. **ADULT MOTEL.** A motel, hotel or similar commercial establishment which:

a. Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, 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 which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;

b. Offers a sleeping room for rent for a period of time less than ten hours; or

c. Allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

4. **ADULT THEATER.** An enclosed or unenclosed building, to which the public is permitted or invited, used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

5. **ADULT NEWSRACK.** Any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

6. **ADULT VIEWING AREA.** An area in any adult book and/or novelty store, cabaret, theater, motion picture arcade or other adult entertainment business, where a patron or customer would ordinarily be positioned for the purpose of viewing or watching a performance, picture show or film.

7. **BATHHOUSE.** An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy during which specified anatomical areas are displayed or specified sexual activity occurs.

8. **MASSAGE ESTABLISHMENT.** Any establishment licensed as a massage parlor where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments or any other treatment or manipulation of the human body occurs, during which specified anatomical areas are displayed or specified sexual activity occurs. The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any semiprofessional or professional athlete or athletic team or school athletic program.

9. **SEXUAL ENCOUNTER CENTER.** Any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical areas, excluding psychosexual workshops, operated by professional persons, licensed by the state, to engage in sexual therapy.

C. **ESTABLISHMENT.** Includes any of the following:

1. The opening or commencement of any such business as a new business;
2. The conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined in this chapter;
3. The addition of any of the adult entertainment businesses defined in this chapter to any other existing adult entertainment businesses; or
4. The relocation of any such adult entertainment business.

D. **NUDITY.**

1. The appearance of human bare buttocks, anus, male genitals, female genitals, or the areola or nipple of the female breast; or
2. A state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

E. **RESIDENTIAL ZONE.** For purposes of this chapter, shall include the R1, R2, R3, R3-6, R3-8, R4, R4-S, SR, PD, and the cottage industry zoning districts.

F. **SPECIFIED ANATOMICAL AREAS.** As used in this chapter, includes the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola;
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

G. **SPECIFIED SEXUAL ACTIVITIES.** As used in this chapter, includes the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral/anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism or zooerasty;
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
3. Use of human or animal masturbation, sodomy, oral copulation, coitus or ejaculation;
4. Fondling or touching of nude human genitals, pubic region, buttocks or female breasts;
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
6. Erotic or lewd touching, fondling or other contact with an animal by a human being;
7. Human excretion, urination, menstruation, vaginal or anal irrigation. (Ord. 578 § 1(part), 1995).

#### **17.56.030 LOCATION.**

Adult entertainment businesses regulated by this chapter shall only be permitted in the C3, M-1 or M-2 zoning districts within the city, subject to the special regulations outlined in Section 17.56.040 of this chapter and subject to the issuance of a use permit pursuant to the provisions of Chapter 17.36 of this title. This requirement is in addition to other permits or certificates required by law. (Ord. 578 § 1(part), 1995).

#### **17.56.040 SPECIAL REGULATIONS.**

A. In the C-3, M-1 and M-2 zoning districts, where adult entertainment businesses regulated by this chapter would otherwise be permitted, it is unlawful to establish any such adult entertainment business if the location is:

1. Within four hundred feet of any area zoned for residential use;
2. Within one thousand feet of any other adult entertainment business;
3. Within five hundred feet of any public or private school, day care, park, playground, public building, church, or any noncommercial establishment operated by a bona fide religious organization.

B. The establishment of any adult entertainment business shall include the opening of such a business as a new business, the relocation of such a business or the conversion of an existing business location to any adult entertainment business use.

C. In any adult theater the entire interior of the premises where the pictures are to be viewed shall be visible upon entrance to such premises; in addition, no viewing booths or areas shall be partially or fully enclosed or concealed.

D. No person shall place, maintain, display or exhibit any material in a manner which exposes to public view photographs or illustrations of specified sexual activities or of poses which emphasize or direct the viewer's attention to specified anatomical areas. As used herein, exposes to public view means exposes to the view of persons outside the building on which said material is placed, maintained or displayed.

E. For the purposes of this chapter, all distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point of the building or structure used as a part of the premises where said adult entertainment business is conducted to the nearest property line of any lot or premises of a residence, church, educational institution, utilized by minors, or to the nearest point of any building or structure used as a part of the premises of any other adult entertainment business. (Ord. 578 § 1(part), 1995).

#### **17.56.050 NUDITY AT ADULT ENTERTAINMENT BUSINESSES.**

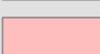
A. The United States Supreme Court decision in *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 111 (1991) which upheld the rights of cities to prohibit live public exposure of a person's private parts, specifically applies to adult entertainment businesses (regardless of whether or not a permit has been issued to said businesses under this ordinance), including said businesses where no alcoholic beverages are sold, served, or consumed at the premises.

B. Public nudity is prohibited within the city, including any adult entertainment business. Any adult entertainment business which is found in violation of this section shall have its permit suspended pursuant to the provisions of Chapter 5.28 of this code. (Ord. 578 § 1(part), 1995).

#### **17.56.060 DISCONTINUANCE OF NONCONFORMING ACTIVITIES.**

Within two years after the effective date of the ordinance codified in this chapter, all adult entertainment business activities made nonconforming by reason of the provisions hereof, shall be discontinued. An adult entertainment business activity may be allowed to continue for an additional period upon the granting of a variance, upon finding that the activity is obligated by written lease entered into before the effective date of the ordinance codified in this chapter or upon finding that the activity involves investment of money in leasehold or improvements of such that a longer period is necessary to prevent undue financial hardship. (Ord. 578 § 1(part), 1995).

# City of Pinole Zoning Districts

-  R1 Single Family Residential
-  R2 Two Family Residential
-  R3 Neighborhood Apartment (4 Family)
-  R4 General Apartment
-  C1 Neighborhood Business
-  C2 Central Business
-  C3 General Commercial
-  M1 Light Industrial
-  M2 General Industrial
-  MU Mixed Use
-  PA Professional and Administrative
-  PD Planned Development
-  PF Public Facilities
-  OS Open Space
-  SR Suburban Rural

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