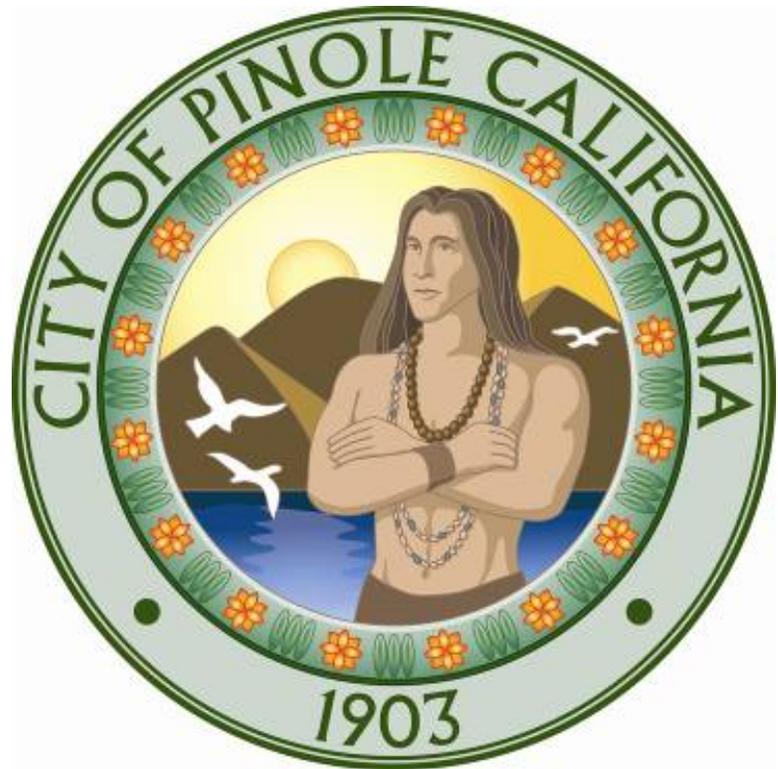


CITY OF PINOLE COMPREHENSIVE ZONING CODE UPDATE

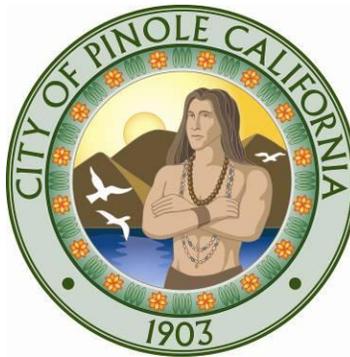
PUBLIC HEARING DRAFT



Prepared By:



JULY 2010



City of Pinole Municipal Code

Title 17 – Zoning

Table of Contents

Article I.	Zoning Code Establishment, Administration, and Entitlements	Page
Chapter 17.04	Zoning Ordinance Authority and Purpose	17.04-1
17.04.010	Title and Authority	17.04-1
17.04.020	Purpose and Intent of the Zoning Ordinance.....	17.04-1
17.04.030	Applicability.....	17.04-2
Chapter 17.06	Interpretation	17.06-1
17.06.010	Purpose.....	17.06-1
17.06.020	Applicability and Authority for Interpretations	17.06-1
17.06.030	Rules of Interpretation	17.06-1
17.06.040	Record of Interpretation	17.06-3
17.06.050	Appeals	17.06-3
Chapter 17.08	Zoning Ordinance Administration.....	17.08-1
17.08.010	Purpose.....	17.08-1
17.08.020	Responsibility for Administration	17.08-1
17.08.030	Responsibilities of the City Council	17.08-2
17.08.040	Responsibilities of the Planning Commission	17.08-2
17.08.050	Responsibilities of the City Manager	17.08-2
17.08.060	Responsibilities of the Zoning Administrator	17.08-2
17.08.070	Responsibilities of the Community Development Director.....	17.08-2
17.08.080	Use of Discretion	17.08-3

Chapter 17.10 General Application Processing Procedures..... 17.10-1

- 17.10.010 Purpose..... 17.10-2
- 17.10.020 Application and Fee..... 17.10-2
- 17.10.030 Determination of Completeness 17.10-2
- 17.10.040 Application Review and Report 17.10-3
- 17.10.050 Public Hearing and Public Notice 17.10-3
- 17.10.060 Approving Authority..... 17.10-4
- 17.10.070 Appeals 17.10-5
- 17.10.080 Effective Date 17.10-6
- 17.10.090 Permit to Run with Land 17.10-6
- 17.10.100 Permit Time Limits, Extensions, and Expiration 17.10-6
- 17.10.110 Modification 17.10-7
- 17.10.120 Revocation 17.10-7
- 17.10.130 Reapplications 17.10-7

Chapter 17.12 Entitlements 17.12-1

- 17.12.010 Purpose..... 17.12-2
- 17.12.020 Applicability..... 17.12-2
- 17.12.030 Plan Check 17.12-2
- 17.12.040 Similar Use Determination 17.12-3
- 17.12.050 Reasonable Accommodation..... 17.12-4
- 17.12.060 Administrative Use Permit..... 17.12-6
- 17.12.070 Temporary Use Permit..... 17.12-6
- 17.12.080 Administrative Design Review 17.12-7
- 17.12.090 Sign Permit 17.12-9
- 17.12.100 Creative Sign Program 17.12-10
- 17.12.110 Sign Program 17.12-13
- 17.12.120 Minor Deviation..... 17.12-15
- 17.12.130 Variance 17.12-15
- 17.12.140 Conditional Use Permit 17.12-17
- 17.12.150 Comprehensive Design Review 17.12-18
- 17.12.160 Development Agreements..... 17.12-21
- 17.12.170 Specific Plans 17.12-22
- 17.12.180 Rezoning 17.12-24
- 17.12.190 Zoning Ordinance (Text and Map) Amendment..... 17.12-24
- 17.12.200 General Plan Amendment 17.12-25

Chapter 17.14 Nonconforming Uses and Structures 17.14-1

- 17.14.010 Purpose..... 17.14-1
- 17.14.020 Applicability and General Regulations..... 17.14-1
- 17.14.030 Continuation 17.14-2
- 17.14.040 Maintenance 17.14-3
- 17.14.050 Modification, Expansion, and Reconstruction..... 17.14-3

17.14.060	Structural Alterations.....	17.14-3
17.14.070	Repair and Replacement of Destroyed Buildings	17.14-3
17.14.080	Loss of Nonconforming Status.....	17.16-4
Chapter 17.16	Enforcement, Legal Procedure, and Penalties	17.16-1
17.16.010	Purpose.....	17.16-1
17.16.020	Official Duty to Enforce	17.16-1
17.16.030	Authorization	17.16-1
17.16.040	Violations, Abatement, Penalties, and Remedies	17.16-2
17.16.050	Property Management and Maintenance	17.16-2
17.16.060	Inspections	17.16-3
17.16.070	Enforcement Action.....	17.16-4
17.16.080	Recovery of Costs and Additional Fees.....	17.16-4

Article II. Zoning Districts, Allowed Uses, and Development Standards Page

Chapter 17.18	Establishment of Zoning Districts and Land Use Classification System	17.18-1
17.18.010	Purpose.....	17.18-1
17.18.020	Zoning Districts.....	17.18-1
17.18.030	Conformance with Zoning District Regulations	17.18-4
17.18.040	Zoning Map	17.18-4
17.18.050	Classification of Land Uses	17.18-6
17.18.060	Allowed Land Uses	17.18-6
17.18.070	Similar Use Determination	17.18-7
Chapter 17.20	Allowed Land Uses and Requirements	17.20-1
17.20.010	Purpose.....	17.20-1
17.20.020	Allowed Uses and Required Entitlements	17.20-1
Chapter 17.22	Allowed Use Definitions	17.22-1
17.22.010	Purpose.....	17.22-1
17.22.020	Allowed Use Definitions	17.22-1
Chapter 17.24	Development Standards by Zoning District	17.24-1
17.24.010	Purpose.....	17.24-1
17.24.020	Development Standards.....	17.24-1
17.24.030	Additional Standards for Multi-Family Zoning Districts	17.24-3
Chapter 17.26	Special Purpose Zoning Districts	17.26-1
17.26.010	Purpose.....	17.26-1
17.26.020	Specific Plan (SP) Zoning District.....	17.26-1
17.26.030	Planned Development (PD) Zoning Districts	17.26-2

Article III	Site Planning Standards	Page
Chapter 17.30	Accessory Structures.....	17.30-1
17.30.010	Purpose.....	17.30-1
17.30.020	Applicability.....	17.30-1
17.30.030	Permit Requirements and Exemptions	17.30-1
17.30.040	Development Standards.....	17.30-2
Chapter 17.32	Affordable Housing Requirements.....	17.32-1
17.32.010	Purpose.....	17.32-1
17.32.020	General Requirements for Affordable Housing	17.32-1
17.32.030	Exemptions.....	17.32-2
17.32.040	Incentives for On-Site Housing	17.32-3
17.32.050	Affordable Housing Development Requirements.....	17.32-4
17.32.060	Alternative Methods of Compliance	17.32-4
17.32.070	Affordable Housing Plan Processing.....	17.32-5
17.32.080	Eligibility	17.32-6
17.32.090	Adjustments.....	17.32-7
17.32.100	Severability.....	17.32-7
Chapter 17.34	Automobile Service Stations	17.34-1
17.34.010	Purpose.....	17.34-1
17.34.020	Applicability.....	17.34-1
17.34.030	Permit Requirements and Conditions of Approval.....	17.34-1
17.34.040	Location Requirements	17.34-2
17.34.050	Development and Design Standards.....	17.34-2
17.34.060	Alternative Fuel and Charging Stations for Electric Vehicles	17.34-4
Chapter 17.36	Building Height Measurement and Projections	17.36-1
17.36.010	Purpose.....	17.36-1
17.36.020	Height Regulations	17.36-1
17.36.030	Height Measurement	17.36-1
17.36.040	Height Exceptions.....	17.36-2
Chapter 17.38	Density Bonus	17.38-1
17.38.010	Purpose.....	17.38-1
17.38.020	Eligibility for Density Bonus and Incentives and Concessions	17.38-1
17.38.030	General Requirements	17.38-2
17.38.040	Number and Types of Density Bonuses and Incentives and Concessions Allowed	17.38-3
17.38.050	Location of Density Bonus Units	17.38-7
17.38.060	Continued Availability	17.38-8
17.38.070	Process for Approval or Denial	17.38-8
17.38.080	Administrative Fee.....	17.38-9

Chapter 17.40 Drive-In and Drive-Through Facilities **17.40-1**

 17.40.010 Purpose..... 17.40-1

 17.40.020 Applicability..... 17.40-1

 17.40.030 Permit Requirements..... 17.40-1

 17.40.040 Development and Design Standards..... 17.40-2

Chapter 17.42 Fences, Walls and Screening **17.42-1**

 17.42.010 Purpose..... 17.42-1

 17.42.020 Permit Requirements and Exemptions 17.42-1

 17.42.030 Location and Height Restrictions 17.42-1

 17.42.040 Fence, Wall and Screen Design and Maintenance Standards 17.42-3

 17.42.050 Special Fence, Wall and Screening Requirements 17.42-3

Chapter 17.44 Landscaping **17.44-1**

 17.44.010 Purpose..... 17.44-1

 17.44.020 Applicability..... 17.44-1

 17.44.030 Landscape and Irrigation Plans..... 17.44-2

 17.44.040 Landscape Plan Review Process..... 17.44-2

 17.44.050 General Landscape Development Standards..... 17.44-3

 17.44.060 Special Landscape Requirements 17.44-5

 17.44.070 Removal and Replacement of Landscaping and Trees from Approved
Plans 17.44-7

 17.44.080 Landscape Care and Maintenance..... 17.44-7

Chapter 17.46 Lighting **17.46-1**

 17.46.010 Purpose..... 17.46-1

 17.46.020 Applicability..... 17.46-1

 17.46.030 Exempt Lighting 17.46-1

 17.46.040 Prohibited Lighting 17.46-2

 17.46.050 General Lighting Requirements..... 17.46-2

Chapter 17.48 Parking and Loading Requirements 17.48-1

 17.48.010 Purpose..... 17.48-1

 17.48.020 Applicability..... 17.48-1

 17.48.030 Permit and Plan Check Requirements and Exemptions..... 17.48-2

 17.48.040 General Parking and Loading Berth Requirements..... 17.48-3

 17.48.050 Number of Parking Spaces Required 17.48-5

 17.48.060 Reductions in Parking Requirements 17.48-7

 17.48.070 Parking Requirements for the Disabled..... 17.48-9

 17.48.080 Compact Car Requirements 17.48-9

 17.48.090 Parking and Driveway Design and Development Requirements 17.48-9

 17.48.100 Loading Area Requirements 17.48-10

 17.48.110 Bicycle Parking Requirements..... 17.48-11

 17.48.120 Maintenance 17.48-13

Chapter 17.50 Property and Utility Improvement **17.50-1**

 17.50.010 Purpose..... 17.50-1

 17.50.020 Curbs, Gutters, and Sidewalks 17.50-1

 17.50.030 Underground Utilities 17.50-2

Chapter 17.52 Signs 17.52-1

 17.52.010 Purpose..... 17.52-2

 17.52.020 General Sign Policies 17.52-2

 17.52.030 Permit Requirements and Review Procedures 17.52-3

 17.52.040 Exempt Signs..... 17.52-4

 17.52.050 Prohibited Signs..... 17.52-9

 17.52.060 Permanent On-Site Sign Requirements 17.52-11

 17.52.070 Temporary On-Site Sign Requirements 17.52-13

 17.52.080 Temporary Subdivision Signs..... 17.52-14

 17.52.090 Sign Construction, Maintenance, and Removal Requirements 17.52-15

 17.52.100 General Sign Design Requirements 17.52-19

 17.52.110 Special Sign Requirements 17.52-20

 17.52.120 Nonconforming Signs and Abandoned Signs 17.52-24

Chapter 17.54 Signs on City Property 17.54-1

 17.54.010 Purpose and Proprietary Capacity 17.54-1

 17.54.020 Intent as to Public Forum 17.54-1

 17.54.030 General Prohibition 17.54-1

 17.54.040 Signs Allowed on City Property 17.54-1

 17.54.050 Temporary Signs Displaying Noncommercial Messages 17.54-2

 17.54.060 Street Banner Program 17.54-2

Chapter 17.56 Yard and Setback Regulations..... 17.56-1

 17.56.010 Purpose..... 17.56-1

 17.56.020 Applicability..... 17.56-1

 17.56.030 General Yard and Setback Regulations..... 17.56-1

 17.56.040 Residential Yard and Setback Regulations 17.56-4

 17.56.050 Allowed Encroachments or Projections into Required Yards 17.56-4

Article IV. Standards for Specific Land Uses		Page
Chapter 17.58	Adult Businesses Entertainment Businesses	17.58-1
17.58.010	Purpose	17.58-1
17.58.020	Location Requirements	17.58-1
17.58.030	Design Requirements	17.58-2
17.58.040	Violations	17.58-3
17.58.050	Design Requirements	17.58-3
Chapter 17.60	Condominium New Projects and Conversions.....	17.60-1
17.60.010	Purpose	17.60-1
17.60.020	Permit Requirements	17.60-2
17.60.030	Condominium Development Policy, Standards, and Criteria	17.60-3
17.60.040	Declaration of Covenants, Conditions, and Restrictions and Projects Elements .	17.60-7
17.60.050	Additional Requirements	17.60-9
17.60.060	Effect of Proposed Apartment Conversion on the City's Housing Stock .	17.60-10
17.60.070	Advertising	17.60-11
17.60.080	Findings.....	17.60-11
Chapter 17.62	Emergency Shelters and Transitional Housing Facilities	17.62-1
17.62.010	Purpose	17.62-1
17.62.020	Permit Requirements and Exceptions.....	17.62-1
17.62.030	Development Requirements	17.62-1
17.62.040	Operational Requirements	17.62-2
Chapter 17.64	Home Occupations	17.64-1
17.64.010	Purpose	17.64-1
17.64.020	Applicability.....	17.64-1
17.64.030	Permit Requirements and Procedures	17.64-1
17.64.040	Allowed Uses	17.64-2
17.64.050	Performance Standards	17.64-2
17.64.060	Revocation	17.64-4
Chapter 17.66	Massage Therapy	17.66-1
17.66.010	Purpose and Intent.....	17.66-1
17.66.020	Applicability.....	17.66-1
17.66.030	Permit Requirements.....	17.66-1
17.66.040	Special Standards	17.66-1
Chapter 17.67	Medical Marijuana Dispensaries	17.67-1
17.67.010	Medical Marijuana.....	17.67-1
17.67.020	Medical Marijuana Dispensary	17.67-1
17.67.030	Medical Marijuana Cooperative	17.67-1
17.67.040	Zoning Requirements	17.67-1

Chapter 17.68 Outdoor Sales, Display, Storage, and Outdoor Seating..... 17.68-1
 17.68.010 Purpose..... 17.68-1
 17.68.020 Permit Requirements, Exemptions and Liabilities 17.68-1
 17.68.030 Development, Operation and Maintenance Requirements 17.68-2
 Chapter 17.70 Second Dwelling Units 17.70-1
 17.70.010 Purpose..... 17.70-1
 17.70.020 Applicability..... 17.70-1
 17.70.030 Permit Requirements..... 17.70-1
 17.70.040 Performance Standards..... 17.70-2
 17.70.050 Owner Occupancy Compliance 17.70-3
 Chapter 17.72 Solar Energy Systems..... 17.72-1
 17.72.010 Purpose..... 17.72-1
 17.72.020 Applicability..... 17.72-1
 17.72.030 Development Guidelines 17.72-1
 Chapter 17.74 Temporary Uses..... 17.74-1
 17.74.010 Purpose..... 17.74-1
 17.74.020 Permit Requirements and Exemptions 17.74-1
 17.74.030 Temporary Use Regulations 17.74-2
 17.74.040 Similar Uses 17.74-3
 Chapter 17.76 Wireless Communication Facilities 17.76-1
 17.76.010 Purpose..... 17.76-1
 17.76.020 Applicability..... 17.76-1
 17.76.030 Permit Requirements..... 17.76-2
 17.76.040 Exemptions..... 17.76-3
 17.76.050 Application Requirements..... 17.76-5
 17.76.060 Development Standards..... 17.76-8
 17.76.070 Operation and Maintenance Standards 17.76-13
 17.76.080 Removal Requirements and Discontinuance of Use 17.76-13

Article V. Resource Conservation Page

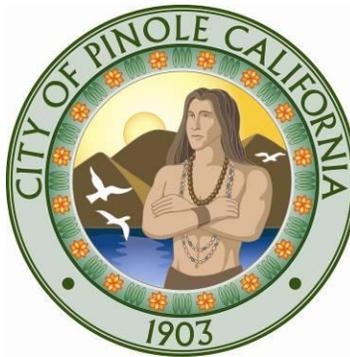
Chapter 17.94 Wind Energy Conversion Systems 17.94-1
 17.94.010 Purpose..... 17.94-1
 17.94.020 Regulations 17.94-1
 17.94.030 Revocation 17.94-3
 Chapter 17.96 Tree Removal 17.96-1
 17.96.010 Purpose and Intent..... 17.96-1
 17.96.020 Applicability..... 17.96-1
 17.96.030 Pruning of a Protected Tree 17.96-1
 17.96.040 Protected Tree Removal Permit Application 17.96-2
 17.96.050 Removal of Protected Tree(s) Due to the Health of the Tree 17.96-2

17.96.060	Protected Tree(s) Removal Permit – As Part of a Development	17.96-3
17.96.070	Preservation of Existing Protected Trees During Development	17.96-5
17.96.080	Guarantees for Protected Trees Remaining Within Development Area.....	17.96-5
17.96.090	Penalties	17.96-6

Article VI. Glossary

Page

Chapter 17.98	Glossary of Terms	17.98-1
17.98.010	Purpose	17.98-1
17.98.020	General Definitions.....	17.98-1



Title 17 – Zoning

Article I

Zoning Code Establishment, Administration, and Entitlements

Chapter 17.04	Zoning Code Authority and Purpose	17.04-1
Chapter 17.06	Interpretation	17.06-1
Chapter 17.08	Zoning Code Administration	17.08-1
Chapter 17.10	General Application Processing Procedures	17.10-1
Chapter 17.12	Entitlements	17.12-1
Chapter 17.14	Nonconforming Uses and Structures	17.14-1
Chapter 17.16	Enforcement, Legal Procedure, and Penalties	17.16-1

Revisions:

The following revisions have been made to Article I of Title 17:

Date of Adoption	Ordinance Number	Subject	Section	Page Number

Chapter 17.04 Zoning Code Authority and Purpose

Sections:

17.04.010	Title and Authority	17.04-1
17.04.020	Purpose and Intent of the Zoning Code	17.04-1
17.04.030	Applicability	17.04-2

Draft Zoning Code Changes:

This chapter reorganizes and clarifies zoning authority and purpose.

Text explaining the applicability of the Zoning Code is expanded. Specifically, the following changes have been made:

- *Added a new Authority section;*
- *Expanded the Purpose and Intent section;*
- *Added an explanation of relationship to the prior Ordinance;*
- *Added new rules about impact to existing uses and structures, pending applications;*
- *Added legal reference to other permit requirements; and*
- *Established rules for conflicting requirements.*

17.04.010 Title and Authority

- A. **Title.** This Title shall be known as the Pinole Zoning Code, hereafter referred to as the Zoning Code.
- B. **Authority.** This Zoning Code is enacted based on the authority vested in the City of Pinole by the State of California, including, but not limited to, the Constitution of the State of California; the Planning and Zoning Law (California Government Code Section 65000 et seq.); the Subdivision Map Act (California Government Code Section 66410 et seq.); and the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.).

17.04.020 Purpose and Intent of the Zoning Code

- A. **Purpose.** The purpose of this Zoning Code is to set forth and coordinate City regulations governing the development and use of land in accordance with the City of Pinole General Plan. The Zoning Code is intended to accomplish the following:
 - 1. Serve as the principal tool for implementing the City's General Plan in a manner that protects the public health, safety, comfort and convenience and welfare of the residents and businesses of Pinole.

2. Facilitate prompt review of development proposals and provide for public information, review, and comment on development proposals that influence the community's quality of life..
3. Create a comprehensive and stable pattern of land uses to help ensure the provision of adequate water, sewerage, transportation, drainage, parks, open space, and other public facilities and services.
4. Protect the established character and the social and economic stability of urban residential, commercial, industrial, and other types of improved areas.
5. Provide a guide for the rezoning of properties within the Pinole Sphere of Influence in conjunction with the potential annexation proceedings, as provided by law.
6. Conserve and protect the city's natural resources and features such as creeks, significant trees view corridors, scenic vistas, and historic and environmental resources.
7. Require that permitted uses and development designs provide reasonable protection from fire, flood, landslide, erosion, or other man-made or natural hazards.
8. Ensure compatibility between residential and non-residential development and land uses.

B. **Intent.** This Zoning Code is intended to:

1. 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 as allowed by law; and
2. Establish future zoning of lands beyond the city limits in the City's Sphere of Influence.

17.04.030 Applicability

- A. **Relationship to Prior Code.** The provisions of this Title, as it existed prior to the effective date of the Ordinance enacting this Title, are repealed and superseded as provided in Ordinance No. _____. No provision of this Title shall validate or legalize any land use or structure established, constructed, or maintained in violation of the Title as it existed prior to its repeal by Ordinance No. _____.
- B. **Prior Rights and Violations.** The enactment of this Title shall not terminate or otherwise affect vested land use development permits, approvals, or agreements authorized under the provisions of any ordinance, nor shall violation of prior ordinance be excused by the adoption of this Title.
- C. **New Land Uses or Structures.** It shall be unlawful and a violation of the Pinole Municipal Ordinance for any person to establish, construct, reconstruct, alter, or replace any use of land or structure, except in compliance with the requirements of this Title.

- D. **Continuation of an Existing Land Use or Structure.** It is unlawful and a violation of the Pinole Municipal Code for anyone to use a parcel or structure or build a structure in a manner that violates any provision of this Title. However, a land use or structure that was lawfully established before this Title was enacted, or before enactment of any applicable amendment to this Title, may continue except as provided in Chapter 17.14 (Nonconforming Uses and Structures). No expansion or modification to a pre-existing legal nonconforming use or structure shall be permitted except as allowed by Chapter 17.14 (Nonconforming Uses and Structures).
- E. **Subdivisions.** Any subdivision of land proposed within the city after the effective date of this Zoning Code shall be consistent with the minimum lot area requirements of Article II (Zoning Districts, Allowed Uses and Development Standards), the subdivision requirements of the City of Pinole Subdivision Ordinance (Title 16 of this Municipal Code), and all other applicable requirements of this Zoning Code.
- F. **Effect of Zoning Code Changes on Projects in Process.** The enactment of this Ordinance or amendments to its requirements may have the effect of imposing different standards on new land uses, development and/or structures than those that applied to existing land uses, development and/or structures. Following the effective date of this Ordinance, or any amendments to this Ordinance, the following provisions shall apply:
1. Pending Applications. All land use permit applications that have been determined by the Department to be complete before the effective date of this Ordinance or any amendment, will be processed according to the regulations in effect when the application was accepted as complete.
 2. Approved Projects Not Yet Under Construction. Any structure authorized by a Conditional Use Permit, Site Development Review, Temporary Use Permit, or Variance, for which construction has not begun as of the effective date of this Ordinance or any amendment, may still be constructed in compliance with the approved permit, as long as construction is completed and the approved land use is established before the expiration of the permit or, where applicable, before the expiration of any approved time extension.
 3. Projects Under Construction. A structure that is under construction pursuant to a valid Building Permit on the effective date of this Ordinance or any amendment, may be completed and need not be changed to satisfy any new or different requirements of this Ordinance as long as construction is beyond the approval of the first inspection on the effective date of this Ordinance or any amendment, and provided that construction is diligently prosecuted to completion. Such a structure shall be deemed to be a lawfully existing building.
- G. **Conflicting Requirements.** Wherever conflict occurs between the provisions of this Title and any other provision of law, the more restrictive of any such provisions shall apply.
1. Zoning Code and Municipal Code provisions. If conflicts occur between requirements of this Zoning Code, or between this Zoning Code, the Municipal Code, or other plans and policies adopted by the City, the most restrictive shall apply.
 2. General Plan. If conflict occurs between the requirements of this Zoning Code and the adopted City General Plan, the requirements of the General Plan shall govern.

3. Specific Plan. If conflicts occur between the requirements of this Zoning Code and any adopted City Specific Plan, the requirements of the Specific Plan shall govern.
 4. Development Agreements. If conflicts occur between the requirements of this Zoning Code and standards adopted as part of any Development Agreement, the requirements of the Development Agreement shall govern.
 5. Private agreements. This Zoning Code applies to all land uses and development regardless of whether it imposes a greater or lesser restriction on the development or use of structures or land than a private agreement or restriction (for example, CC&Rs) without affecting the applicability of any agreement or restriction. The City shall not enforce any private covenant or agreement unless it is a party to the covenant or agreement.
- H. **Other Requirements/Permits.** Nothing in this Zoning Code eliminates the need for obtaining any other permits required by the City, or any permit, approval, or entitlement required by the regulations of any regional, state, or federal agency.
- I. **Public Nuisance.** Neither the provisions of this Title nor any permit or other approval authorized by this Title shall authorize the maintenance of any public nuisance as defined in this Municipal Code.
- J. **Severability, Partial Invalidation of Zoning Code.** If any portion of this Title is for any reason held by a court of competent jurisdiction to be invalid, unconstitutional, or unenforceable, such decision shall not affect the validity of the remaining portions of this Title. The City Council hereby declares that this Title and each article, chapter, section, subsection, paragraph, subparagraph, sentence, clause, phrase, and portion thereof is adopted, irrespective of the fact that one or more portions of this Title may be declared invalid, unconstitutional, or unenforceable.

Chapter 17.06 Interpretation

Sections:

17.06.010	Purpose	17.06-1
17.06.020	Applicability and Authority for Interpretations	17.06-1
17.06.030	Rules of Interpretation	17.06-1
17.06.040	Record of Interpretation	17.06-3
17.06.050	Appeals	17.06-3

Draft Zoning Code Changes:

This new chapter provides mechanisms to ensure the consistent interpretation of provisions of the Zoning Code and establishes a Record of Interpretation. Specifically, this Chapter does the following:

- *Identifies the authority for interpretations;*
- *Explains the rules for interpretations; and*
- *Outlines the process for interpretations, including the opportunity to appeal an interpretation decision.*

17.06.010 Purpose

The purpose of this Chapter is to specify the authority and procedures for clarification of ambiguity in the regulations of this Title in order to ensure consistent interpretation and application.

17.06.020 Applicability and Authority for Interpretations

If questions arise concerning the meaning or applicability of the provisions of this Title, it shall be the responsibility of the Community Development Director to review pertinent facts, determine the intent of the provision, and issue an administrative interpretation of said provision(s) as specified in this Chapter:

17.06.030 Rules of Interpretation

The Community Development Director shall interpret terms, provisions, and requirements of this Ordinance according to the following:

- A. **Zoning District Boundaries.** Where uncertainty exists with respect to the boundaries of the various zoning districts as shown on the Zoning Map, the provisions of Chapter 17.18.040F (Zoning Map Interpretation) shall apply.
- B. **Zoning Regulations.** Any list of any item, including zoning districts or uses, is exclusive. If a use or other item is not listed, it is not permitted unless, per the provisions of Section 17.12.040 (Similar Use Determination), the use is determined to be similar to a listed use or use category.

- C. **General Terminology.** When used in this Title, the following rules apply to all provisions of this Title.
1. Language and conjunctions
 - i. The word “City” refers to the City of Pinole.
 - ii. The phrase “Community Development Director” refers to the City of Pinole Community Development Director and his or her designee.
 - iii. The words “shall,” “must,” “will,” “is to,” and “are to” are always mandatory. “Should” is not mandatory but strongly recommended and “may” is permissive.
 - iv. The word “building” encompasses the word “structure.”
 - v. Conjunctions. “And” indicates that all connected items or provisions shall apply. “Or” indicates that the connected items or provisions may apply singly or in any combination. “Either...or” indicates that the connected items and provisions shall apply singly but not in combination. “Includes” and “including” shall mean “including but not limited to...”
 2. Gender. Each gender encompasses the masculine, feminine, and neuter genders.
 3. Tense and number. Words used in the present tense include past and future and vice versa, unless manifestly inapplicable. Words in the singular include the plural, and words in the plural include the singular.
 4. Number of days. Whenever the number of days is specified in this Title, or in any permit, condition of approval or notice issued or given as provided in this Title, the number of days shall be construed as calendar days. When the last of the specified number of days falls on a weekend or City holiday, time limits shall extend to the end of the next working day. The term “holiday” or “City holiday” shall mean any day other than the weekend when the City offices are closed for the entire day.
- D. **Minimum Requirements.** When interpreting and applying the regulations of this Title, all provisions shall be considered to be minimum requirements, unless specifically stated otherwise.
- E. **Calculations – Rounding.** Where any provision of this Ordinance requires calculation to determine applicable requirements, any fractional/decimal results of the calculation shall be rounded to the nearest whole number (0.5 or more is rounded up, less than 0.5 is rounded down).

17.06.040 Record of Interpretation

- A. **Official Interpretation.** Whenever the Community Development Director determines that an ambiguity in a zoning regulation exists or upon the request of an applicant, property owner or interested party, the Community Development Director shall issue an official interpretation. Official interpretations shall be in writing and shall cite the provisions being interpreted together with an explanation of the meaning or applicability of the provision(s) in the particular or general circumstances that caused the need for interpretation. All official interpretations shall be provided to the requestor, Planning Commission, City Manager, City Attorney and City Council. The official interpretation shall also include information regarding the City's appeal procedures, as appropriate. The Community Development Director shall make an interpretation based on his or her judgment and understanding of the current Zoning Code and pertinent sections of the Municipal Code.
- B. **Amendment.** Any provision determined by the Community Development Director to be ambiguous pursuant to this Chapter shall be clarified by amendment to the Zoning Code as soon as is practical.
- C. **Record.** The Community Development Director shall maintain a record of all official interpretations available for public review.

17.06.050 Appeals

Appeal of the Community Development Director for official interpretations shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).

Chapter 17.08 Zoning Code Administration

Sections:

17.08.010	Purpose	17.08-1
17.08.020	Responsibility for Administration	17.08-1
17.08.030	Responsibilities of the City Council	17.08-1
17.08.040	Responsibilities of the Planning Commission.....	17.08-2
17.08.050	Responsibilities of the City Manager	17.08-2
17.08.060	Responsibilities of the Zoning Administrator	17.08-2
17.08.070	Responsibilities of the Community Development Director	17.08-2
17.08.080	Use of Discretion	17.08-3

Draft Zoning Code Changes:

This chapter codifies existing practice and responsibilities for the City's designated planning agencies.

Removed references of Community Development Director and Zoning Administrator and replaced with Community Development Director or his/her designee.

17.08.010 Purpose

The purpose of this chapter is to establish the authority and responsibilities of the officials and bodies charged with administration of this Zoning Code.

17.08.020 Responsibility for Administration

This Zoning Code shall be administered by the Pinole City Council, the Planning Commission, City Manager, Zoning Administrator and the Community Development Director.

17.08.030 Responsibilities of the City Council

- A. Appoint members of the Planning Commission.
- B. Review appeals of Planning Commission decisions.
- C. Make final decisions on applications for entitlements as listed in Table 17.10.060-1.
- D. Initiate plans, plan amendments and studies related to City land use policy and processes.
- E. Exercise such other powers and duties as prescribed by state law or local ordinance.

17.08.040 Responsibilities of the Planning Commission

- F. Review appeals of Zoning Administrator and Community Development Director decisions.
- G. Make final decisions on applications for entitlements as listed in Table 17.10.060-1.

- H. Make recommendations to the City Council on land use decisions as listed in Table 17.10.060-1.
- I. Initiate amendments to the General Plan or this Zoning Code.
- J. Exercise such other powers and duties as prescribed by state law or local ordinance, or as directed by the City Council.

17.08.050 Responsibilities of the City Manager

- A. Oversee the work of the Community Development Director.
- B. Exercise such other powers and duties as are prescribed by state law or local ordinance, or as directed by the City Council.

17.08.060 Responsibilities of the Zoning Administrator

- A. The office of Zoning Administrator is established pursuant to Government Code section 65900. The Community Development Director or his/her designee shall serve as the Zoning Administrator. If there is no Community Development Director, the Planning Manager or as otherwise designated by the City Manager, shall serve as the Zoning Administrator.
- B. Make final decisions on applications for entitlements as listed in Table 17.10.060-1.

17.08.070 Responsibilities of the Community Development Director

- A. The Community Development Director or his/her designee shall oversee the comprehensive application of this Zoning Code and shall conduct administrative functions authorized herein, including but not limited to processing land use applications, providing public notice as required, and preparing staff reports .
- B. Make final decisions on applications for entitlements as listed in Table 17.10.060-1.
- C. Advise the City Council, Planning Commission, and City Manager on planning matters.
- D. Provide staff at meetings and provide administrative services for the Planning Commission.
- E. Conduct studies on planning matters as necessary or desired.
- F. Provide information to the public and facilitate public participation in planning matters.
- G. Exercise such other powers and duties as prescribed by state law or local ordinance, or as directed by the City Council, Planning Commission or City Manager.

17.08.080 Use of Discretion

If a provision of the Zoning Code allows for the use of discretion in the application of a specific standard, but does not identify specific criteria, the following criteria shall be used in exercising discretion:

- A. The proposed project complies with all applicable provisions of the Zoning Code.
- B. The exercise of discretion will ensure compatibility of the proposed project with its site, the surrounding area, and the community, and
- C. The project is consistent with the Pinole General Plan, and any applicable specific plan.

Chapter 17.10 General Application Processing Procedures

Sections:

17.10.010	Purpose	17.10-2
17.10.020	Application and Fee	17.10-2
17.10.030	Determination of Completeness.....	17.10-2
17.10.040	Application Review and Report.....	17.10-3
17.10.050	Public Hearing and Public Notice	17.10-3
17.10.060	Approving Authority	17.10-4
17.10.070	Appeals.....	17.10-5
17.10.080	Effective Date	17.10-6
17.10.090	Permit to Run with Land	17.10-6
17.10.100	Permit Time Limits, Extensions, and Expiration.....	17.10-6
17.10.110	Modification	17.10-7
17.10.120	Revocation.....	17.10-7
17.10.130	Reapplications.....	17.10-7

Draft Zoning Code Changes:

This chapter reorganizes and regroups existing text regarding the City's application process. New text is provided to codify application review procedures currently in place.

The following sections of the Zoning Code have been clarified and expanded:

- *Public Notices*
- *Appeals*
- *Revocation*

The Zoning Code provides a more comprehensive outline of review and permit procedures, using new text and tables. New sections are listed below.

- *Determination of Completion*
- *Application Review and Report*
- *Approving Authority*
- *Effective Date*
- *Permit to Run with Land*
- *Permit Time Limits and Extensions*
- *Modification*

17.10.010 Purpose

The purpose of this Chapter is to establish procedures necessary for the efficient processing of planning and development applications and requests.

17.10.020 Application and Fee

Applications pertaining to this Title shall be submitted in writing to the Community Development Director on a completed City application form designated for the particular request. Every application shall include applicant and property owner signature(s), agent authorization as appropriate, and the fee prescribed by City Council resolution to cover the cost of investigation and processing. Applications shall be submitted together with all plans, maps, and data about the proposed project development or landuse entitlements requested, project site, and vicinity deemed necessary by the Community Development Director to provide the Approving Authority with adequate information on which to base decisions. Each permit application form lists the minimum necessary submittal materials for that particular type of permit.

17.10.030 Determination of Completeness

- A. **Application Completeness.** Within 30 days of application submittal, the Community Development Director shall determine whether or not the application is complete. The Community Development Director shall notify the applicant of the determination that either:
1. All the submittal requirements have been satisfied and the application has been accepted as complete.
 2. Specific information is still necessary to complete the application. The letter may also identify preliminary information regarding the areas in which the submitted plans are not in compliance with City standards and requirements.
- B. **Application Completeness without Notification.** If the written determination is not made within 30 days after receipt, the application shall be deemed complete for purposes of this Chapter.
- C. **Resubmittal.** Upon receipt and resubmittal of any incomplete application, a new 30-day period shall begin during which the Community Development Director shall determine the completeness of the application. Application completeness shall be determined as specified in Sub Section A of this section (Application Completeness).
- D. **Incomplete Application.** If additional information or submittals are required and the application is not made complete within six months of the completeness determination letter, the application shall be deemed by the City to have been withdrawn and no action will be taken on the application. Unexpended fees, as determined by the Community Development Director, will be returned to the applicant. If the applicant subsequently wishes to pursue the project, a new application, including fees, plans, exhibits, and other materials, must then be filed in compliance with this Article.
- E. **Right to Appeal.** The applicant may appeal the determination in accordance with Section 17.10.070 (Appeals) and the Permit Streamlining Act (California Government Code Section 65943).

17.10.040 Application Review and Report

After acceptance of a complete application, the project shall be reviewed in accordance with the environmental review procedures of the California Environmental Quality Act (CEQA). The Community Development Director will consult with other departments as appropriate to ensure compliance with all provisions of the Municipal Code and other adopted policies and plans. The Community Development Director will prepare a report (the staff report) to the designated Approving Authority describing the project, along with a recommendation to approve, conditionally approve, or deny the application. The report shall be provided to the applicant prior to consideration of the entitlement request. The report may be amended as necessary or supplemented with additional information at any time prior to the hearing to address issues or information not reasonably known at the time the report is prepared.

17.10.050 Public Hearing and Public Notice

- A. **Public Hearing Required.** The following procedures shall govern the notice and public hearing, where required pursuant to this Title. A public hearing shall be held for the consideration of all Sign Programs, Variances, Conditional Use Permits, Comprehensive Design Reviews, Development Agreements, Specific Plans and subsequent Specific Plan amendments, Prezonings, Zoning Code Amendments (Text and Map), and General Plan Amendments considered by the Planning Commission or City Council. The hearing shall be held before the designated Approving Authority as identified in this Title
- B. **Notice of Hearing.** Pursuant to California Government Code Section 65090 to 65094, not less than ten days before the scheduled date of a hearing, public notice shall be given of such hearing in the manner listed below. The notice shall state the date, time, and place of hearing, identify the hearing body, and provide a general explanation of the matter to be considered and a general description of the real property (text or diagram), if any, which is the subject of the hearing.
1. Notice of public hearing shall be published in at least one newspaper of general circulation in the city.
 2. Except as otherwise provided herein, notice of the public hearing shall be mailed, postage prepaid, to the owners of property within a radius of 300 feet of the exterior boundaries of the property involved in the application, using for this purpose the last known name and address of such owners as shown upon the current tax assessors records. If the number of owners exceeds 1,000, the City may, in lieu of mailed notice, provide notice by placing notice of at least 1/8 page in one newspaper of general circulation within the city.
 3. Notice of the public hearing shall be mailed, postage prepaid, to the owner of the subject real property or the owner's authorized agent and to each local agency expected to provide water, sewerage, streets, roads, schools, or other essential facilities or services to the proposed project.
 4. Notice of the public hearing shall be posted at City Hall.
 5. Notice of the public hearing shall be mailed to any person who has filed a written request for notice.

- C. **Requests for Notification.** Any person who requests to be on a mailing list for notice of hearing shall submit such request in writing to the City Clerk. The City may impose a reasonable fee for the purpose of recovering the cost of such notification.
- D. **Receipt of Notice.** Failure of any person or entity to receive any properly issued notice required by law for any hearing required by this Title shall not constitute grounds for any court to invalidate the actions of a designated Approving Authority for which the notice was given.
- E. **Hearing Procedure.** Hearings as provided for in this Chapter shall be held at the date, time, and place for which notice has been given as required in this Chapter. The Approving Authority shall conduct the public hearing and hear testimony from interested persons. The summary minutes shall be prepared and made part of the permanent file of the case. Any hearing may be continued to a date certain. If the hearing is not continued to a specific date/time, then the hearing shall be re-noticed.

17.10.060 Approving Authority

- A. **Approving Authority.** The Approving Authority as designated in Table 17.10.060-1 (Approving Authority for Land Use Entitlements) shall approve, conditionally approve, or deny the proposed land use or development permit in accordance with the requirements of this Title. Table 17.10.060-1 (Approving Authority for Land Use Entitlements) identifies both recommending (R) and final (F) authorities for each permit. In acting on a permit, the Approving Authority shall make the applicable findings as established in Chapter 17.12 (Entitlements) and as may be required by other laws and regulations. An action of the Approving Authority may be appealed pursuant to procedures set forth in Section 17.10.070 (Appeals).
 - 1. Multiple entitlements. When a proposed project requires more than one permit with more than one Approving Authority, all project permits shall be processed concurrently and final action shall be taken by the highest-level designated Approving Authority for all such requested permits.

**TABLE 17.10.060-1
APPROVING AUTHORITY FOR LAND USE ENTITLEMENTS**

Type of Permit or Decision	Designated Approving Authority “R” symbolizes the “Recommending Body” “F” symbolizes the “Final Decision-Making Body”		
	Community Development Director	Planning Commission	City Council
Plan Check	F		
Similar Use Determination	F		
Reasonable Accommodations	F		
Administrative Use Permit (1)	ZA/F		
Temporary Use Permit (1)	ZA/F		
Administrative Design Review (1)	ZA/F		

Type of Permit or Decision	Designated Approving Authority "R" symbolizes the "Recommending Body" "F" symbolizes the "Final Decision-Making Body"		
	Community Development Director	Planning Commission	City Council
Sign Permit	F		
Creative Sign Program	F		
Sign Program	R	F	
Minor Deviation	F		
Variance	R	F	
Conditional Use Permit	R	F	
Comprehensive Design Review	R	F	
Development Agreement	R	R	F
Specific Plan or Specific Plan Amendment	R	R	F
Prezoning	R	R	F
Zoning Amendment (Text and Map)	R	R	F
General Plan Amendment	R	R	F

Notes:

(1) As specified in Chapter 17.12, the Zoning Administrator is the final decision maker for these permit applications..

B. Referral.

1. **Referral to Planning Commission.** At any point in the application review process, the Community Development Director or Zoning Administrator may transfer decision making authority to the Planning Commission at his/her discretion because of policy implications, unique or unusual circumstances, or the magnitude of the project.
2. **Public hearing.** A referred application shall be considered at a noticed public hearing.
3. **Referral is not an appeal.** A referral to another decision-maker is not an appeal and requires no appeal application or fee.
4. **Subsequent applications.** The decision-maker on the referral may consider subsequent amendments, time extensions or revocations of the referred application.

17.10.070 Appeals

- A. **Purpose and Applicability.** The purpose of these provisions is to prescribe the procedure through which an appeal may be made in case an interested person is dissatisfied with

any order, requirement, permit, decision, determination, approval or disapproval, made in the administration, interpretation or enforcement of this title.

- B. **Appeal Authority.** Any person dissatisfied with a determination or action of the Community Development Director, Zoning Administrator, or Planning Commission made pursuant to this Article may appeal such action to the designated Appeal Authority listed in Table 17.10.070-2 (Appeal Authority) below, within ten days from the date of the action. Actions by the City Council are final and no further administrative appeals are available.

**TABLE 17.10.070-1
APPEAL AUTHORITY**

Approving Authority for Action Being Appealed	Appeal Authority	
	Planning Commission	City Council
Community Development Director	X	
Zoning Administrator	X	
Planning Commission		X

- C. **Filing an Appeal.** All appeals shall be submitted in writing, identifying the determination or action being appealed and specifically stating the basis or grounds of the appeal. Appeals shall be filed within ten days following the date of determination or action for which an appeal is made, accompanied by a filing fee established by City Council resolution, and submitted to the City Clerk.
- D. **City Councilmember Appeal.** A City Councilmember may appeal an action of the Planning Commission. If an appeal is made by a councilmember, there shall be a presumption applied that the reason for the appeal is that the appealed action has significant and material effects on the quality of life within the City. Notwithstanding Section 17.10.070.C, no other reason need be or shall be stated by the councilmember in his/her written appeal and no appeal fee shall be required. No inference of bias shall be made because of such an appeal.
- E. **Notice and Schedule of Appeal Hearings.** Unless otherwise agreed upon by the person filing the appeal and the applicant, appeal hearings should be conducted within 45 days from the date of appeal submittal. Notice of hearing for the appeal shall be provided pursuant to noticing requirements of Section 17.10.050 (Public Hearing and Public Notice).
- F. **Appeal Hearing and Action.** Each appeal shall be considered a de novo (new) hearing. In taking its action on an appeal, the Appeal Authority shall state the basis for its action. The Appeal Authority may act to confirm, modify, reverse the action of the Approving Authority, in whole or in part, or add or amend such conditions as it deems necessary. The action of the Appeal Authority is final on the date of decision and, unless expressly provided by this Chapter, may not be further appealed.

17.10.080 Effective Date

Generally, the action to approve, conditionally approve, or deny a permit or entitlement authorized by this Title shall be effective on the 11th day after the date of action, immediately following expiration of the ten-day appeal period. Legislative actions by the City Council (e.g., Zoning Amendment, General Plan Amendment, Specific Plans, Development Agreements) become effective 30 days from the date of final action and may not be appealed. In accordance with Section 17.06.030 (Rules of Interpretation), where the last of the specified number of days falls on a weekend or City holiday, the time limit of the appeal shall extend to the end of the next working day. Permit(s) shall not be issued until the effective date of required permit.

17.10.090 Permit to Run with Land

Unless otherwise conditioned, land use and development permits and approvals granted pursuant to the provisions of this Chapter shall run with the land through any change of ownership of the site, business, service, use, or structures, provided that such use is compliant with this Title or as specified in the permit or approval, and the permit or approval does not expire. All applicable conditions of approval shall continue to apply after a change in property ownership.

17.10.100 Permit Time Limits, Extensions, and Expiration

- A. **Time Limits.** Unless a condition of approval or other provision of this Title establishes a different time limit, any permit not exercised within one year of approval shall expire and become void, except where an extension of time is approved in compliance with Subsection C below..
- B. **Exercising Permits.** The exercise of a permit occurs when the property owner has performed substantial work and incurred substantial liabilities in good faith reliance upon such permit(s). A permit may be otherwise exercised pursuant to a condition of the permit or corresponding legal agreement that specifies that other substantial efforts or expenditures constitutes exercise of the permit. Unless otherwise provided, permits that have not been exercised prior to a Zoning Amendment, which would make the permitted use or structure nonconforming, shall automatically be deemed invalid on the effective date of the Zoning Amendment.
- C. **Permit Extensions.** The approval of an extension extends the expiration date for two years from the original permit date. After this initial permit extension, a final one-year extension of time may be granted pursuant to the same process as set forth in this Section.
1. **Process.** The same Approving Authority that granted the original permit may extend the period within which the exercise of a permit must occur. Notice and/or public hearing shall be provided in the same manner as for the original permit. An application for extension shall be filed not less than 30 days prior to the expiration date of the permit, along with appropriate fees and application submittal materials.
 2. **Conditions.** The permit, as extended, may be conditioned to comply with any development standards that may have been enacted since the permit was initially approved.

3. **Permit extension findings.** The extension may be granted only when the designated Approving Authority finds that the original permit findings can be made and there are changed circumstances or there has been diligent pursuit to exercise the permit that warrants such extension.
- D. **Expiration.** If the time limits are reached with no extension requested, or a requested extension is denied or expires, the permit expires and is subject to revocation in compliance with Section 17.16.070 (Permit Revocation or Modification).

17.10.110 Modification

Any person holding a permit granted under this Title may request a modification or amendment to that permit. For the purpose of this Section, the modification of a permit may include modification of the terms of the permit itself, project design, or the waiver or alteration of conditions imposed in the granting of the permit.

If the Community Development Director determines that a proposed project action is not in substantial conformance with the original approval, the Community Development Director shall notify the property owner of the requirement to submit a permit modification application for consideration and action by the same Approving Authority as the original permit. A permit modification may be granted only when the Approving Authority makes all findings required for the original approval and the additional finding that there are changed circumstances sufficient to justify the modification of the approval

17.10.120 Revocation

This Section provides procedures for the revocation previously approved land use entitlements or permit.

- A. **Consideration.** The Approving Authority for the original entitlement or permit shall consider the revocation of same entitlement or permit.
- B. **Noticed Public Hearing.** The decision to revoke an entitlement or permit granted pursuant to the provisions of this Title shall be considered at a noticed public hearing . Public notice shall be provided and public hearing conducted pursuant to Section 17.10.050 (Public Hearing and Public Notice).
- C. **Findings.** A decision to revoke an entitlement or permit may be make if any one of the following findings can be made:
 1. Circumstances under which the entitlement or permit was granted have been changed by the applicant to a degree that one or more of the findings contained in the original entitlement or permit can no longer be met.
 2. The entitlement or permit was issued, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the entitlement or permit.
 3. One or more of the conditions of the entitlement or permit have not been substantially fulfilled or have been violated.

4. The use or structure for which the entitlement or permit was granted has ceased to exist or has lost its legal nonconforming use status.
5. The improvement authorized in compliance with the entitlement or permit is in violation of any code, law, ordinance, regulation, or statute.
6. The improvement/use allowed by the entitlement or permit has become detrimental to the public health, safety, or welfare or the manner of operation constitutes or is creating a public nuisance.

17.10.130 Reapplications

An application shall not be accepted or acted upon if within the past 12 months an application, which covers substantially the same real property and requests approval of substantially the same project, has been made and denied by the City unless the review authority allows the reapplication because of an express finding that one or more of the following factors applies:

- A. New evidence. New evidence potentially material to a revised decision is presented which was unavailable or unknown to the applicant at the previous hearing and which could not have been discovered in the exercise of reasonable diligence by the applicant.
- B. Substantial and permanent change of circumstances. There has been a substantial and permanent change of circumstances since the previous hearing which materially affects the applicant's real property.
- C. Mistake made at the previous hearing. A mistake was made at the previous hearing which was a material factor in the denial of the previous application.

Chapter 17.12 Entitlements

Sections:

17.12.010	Purpose	17.12-2
17.12.020	Applicability	17.12-2
17.12.030	Plan Check.....	17.12-2
17.12.040	Similar Use Determination.....	17.12-3
17.12.050	Reasonable Accommodation	17.12-4
17.12.060	Administrative Use Permit	17.12-6
17.12.070	Temporary Use Permit	17.12-6
17.12.080	Administrative Design Review	17.12-7
17.12.090	Sign Permit	17.12-9
17.12.100	Creative Sign Program.....	17.12-10
17.12.110	Sign Program.....	17.12-13
17.12.120	Minor Deviation	17.12-15
17.12.130	Variance.....	17.12-15
17.12.140	Conditional Use Permit.....	17.12-17
17.12.150	Comprehensive Design Review	17.12-18
17.12.160	Development Agreements	17.12-21
17.12.170	Specific Plans	17.12-22
17.12.180	Prezoning	17.12-24
17.12.190	Zoning Code (Text and Map) Amendment	17.12-24
17.12.200	General Plan Amendment.....	17.12-25

Draft Zoning Code Changes:

Existing entitlements are simplified, clarified, and in some cases, expanded, to ensure consistency in description, applicability, process, and criteria for determination/action.

The Zoning Code proposed modifications to several entitlements as follows:

- *Design Review has been revised as a two-tier approach with separate entitlements for Administrative Design Review and Comprehensive Design Review.*
- *The Variance section has been simplified and clarified with provisions that are applicable to all deviations from the Zoning Code.*
- *The Conditional Use Permit section has been expanded and clarified.*

The Zoning Code proposes several new entitlements as follows:

- *Similar Use Determination was added as a new entitlement to consolidate the procedures for determination by the Approving Authority of a similar use. Authority to grant Similar Use Determinations was located in various places throughout the existing Ordinance. This new section ensures consistency in the application and process.*
- *Minor Deviation*
- *To ensure consistency with the Fair Housing Act, Reasonable Accommodations, was*

added.

- Provisions for Specific Plans, rezoning, Zoning Code Amendments, and General Plan Amendments were added.

The existing Sign Permit process has been expanded and revised. The Approving Authority has been amended from the Planning Commission to the Community Development Director for increased efficiency. Applicability of the Sign Permit has been clarified and review procedures, submittal requirements, and required approval findings more clearly established.

The existing Ordinance provides Design Criteria in the Sign Permit section. This text has been moved to a new section titled Design Standards in Chapter 17.52 (Signs).

The existing Ordinance requires Planning Commission review and approval of all Sign Permits for business identification signs. This provision has been removed.

A Creative Sign Program has been added to allow for imaginative signs that fulfill the intent of the Ordinance. A Creative Sign Program allows for deviations from development standards provided that specified criteria and approval findings are satisfied. The Community Development Director is the designated Approving Authority, but the Creative Sign Program requires public noticing for each application and allows for Planning Commission review if requested in writing.

Planned Sign Programs have been revised and renamed as Sign Programs. These are required for all sites with permanent signing that exceeds either five signs or 200 square feet of aggregate sign area and for all multi-tenant shopping centers of three or more separate tenants/uses.

17.12.010 Purpose

The purpose of this Chapter is to establish procedures for administering all planning and zoning related permits and entitlements required and regulated by the City in accordance with this Title.

17.12.020 Applicability

Each permit and entitlement type is described in this Chapter in terms of purpose and applicability, Approving Authority, and unique processing provisions. Exemptions to permit requirements are listed throughout this Title. General processing procedures are established in Chapter 17.10 (General Application Processing Procedures). Provisions for Tentative Maps, Parcel Maps, and Final Maps are identified in Title 16 of this Municipal Code.

17.12.030 Plan Check

- A. **Purpose.** The purpose of the Plan Check is to ensure that all new and modified uses and structures comply with applicable provisions of this Title, using simple administrative plan check procedures.

- B. **Applicability.** Plan Check is required for the following actions:
1. All structures that require a Building Permit;
 2. All planning entitlement and permit approvals to ensure compliance with applicable conditions of approval; and
 3. Other City applications that may be subject to the provisions of this Title, including, but not limited to, tree removal, business license, encroachment, and grading and improvement plans.
- C. **Approving Authority and Procedure.** The Community Development Director shall be the designated Approving Authority for Plan Check.
- D. **Application Contents.** No separate application form is necessary for Plan Check. This process will be conducted by the Community Development Director as part of the Building Permit or other City application review.
- E. **Public Hearing/Notice.** Public hearing is not required for Plan Check.
- F. **Approval Findings.** Plan Check clearance shall be granted only when the Community Development Director finds the proposal to be in conformance with all applicable provisions of this Title. Any permit or application listed in Section A shall not be issued without approval of Plan Check.
- G. **Appeals.** Any appeal of the decision for a Plan Check shall be pursuant to Section 17.10.070 (Appeals).
- H. **Expiration.** All approved Plan Checks are subject to the provisions set forth in Section 17.10.100 (Revocation Permit Time Limits, Extensions, and Expirations).

17.12.040 Similar Use Determination

- A. **Purpose and Applicability.** All possible uses may not be listed within the provisions of this Title, and new uses may evolve over time. When a particular use is not specifically listed in this Zoning Code and it is unclear whether the use is permitted, the provisions established in this Chapter allow the Approving Authority, by formal action, to determine whether or not a proposed use is similar to a permitted or conditionally permitted use and whether such proposed use may be permitted in a particular Zoning District.
- B. **Approving Authority.** The Community Development Director shall be the designated Approving Authority for Similar Use Determinations.
- C. **Application Contents.** The application for a Similar Use Determination shall be on a form prepared as prescribed by the Community Development Director.
- D. **Public Hearing/Notice.** Public hearing is not required for a Similar Use Determination.
- E. **Approval Findings.** In determining "substantial similarity," the Approving Authority shall make all of the following findings:

1. The characteristics of and activities associated with the proposed use are equivalent to one or more of the listed uses and will not involve a higher level of activity or population density than the uses listed in the Zoning District;
 2. The proposed use will be consistent with the purposes of the applicable Zoning District; and
 3. The proposed use will be consistent with the General Plan, any applicable Specific Plan, and the Zoning Code.
- F. **Notification of Determinations.** Determinations shall be made in writing and shall contain the facts that support the determination. The city shall maintain all such determinations on record for review by the general public upon request. The decision shall be provided, in writing, to the applicant and interested parties. The notice shall include:
1. A brief statement explaining the criteria and standards considered relevant to the decision;
 2. A statement of the standards and facts relied upon in rendering the decision; and
 3. Statement of appeal rights and appeal deadlines.
- G. **Appeals.** Any appeal of the decision for a Similar Use Determination shall be pursuant to Section 17.10.070 (Appeals).
- H. **Expiration.** All approved Similar Use Determinations are subject to the provisions set forth in Section 17.10.100 (Revocation Permit Time Limits, Extensions, and Expirations).

17.12.050 Reasonable Accommodation

- A. **Purpose.** The purpose of allowing reasonable accommodation is to provide a process for individuals with disabilities to make requests for reasonable accommodation for relief from the various land use, zoning, or rules, policies, practices, and/or procedures of the City. It is the policy of the City, pursuant to the Federal Fair Housing Act (as amended) and the California Fair Employment and Housing Act, to provide persons with disabilities reasonable accommodation in rules, policies, and procedures that may be necessary to ensure equal access to housing.
- B. **Applicability.**
1. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation relating to the various land use, zoning, or rules, policies, practices, and/or procedures of the City.
 2. If an individual needs assistance in making the request for reasonable accommodation or appealing a determination regarding reasonable accommodation, the Community Development Director will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative.
 3. A request for reasonable accommodation with regard to City regulations, rules, policies, practices, and/or procedures may be filed on an application form

provided by the Community Development Director at the time that the accommodation may be necessary to ensure equal access to housing.

- C. **Approving Authority.** The Community Development Director shall be the designated Approving Authority for reasonable accommodation.
- D. **Application Contents.** The applicant shall provide the following information when requesting reasonable accommodation:
1. A completed City application indicating, among other things, the applicant name, address, and telephone number;
 2. Address of the property for which the request is being made;
 3. The current actual use of the property;
 4. The Zoning Code provision, regulation, or policy from which reasonable accommodation is being requested;
 5. The basis for the claim that the person(s) for whom the reasonable accommodation is sought is/are considered disabled under the Fair Housing Act and why the accommodation is reasonably necessary to make specific housing available to the person(s); and
 6. Such other relevant information as may be requested by the Community Development Director.
- E. **Procedure.**
1. When a request for reasonable accommodation is filed with the Community Development Director, it will be reviewed and considered as a ministerial action unless determined otherwise by the Community Development Director. A request for reasonable accommodation shall be considered ministerial in nature when it is related to a physical improvement that cannot be constructed to conform to the City's setbacks or design standards. Typical improvements considered to be "ministerial" in nature would include ramps, walls, handrails, or other physical improvements necessary to accommodate a person's disability. The Community Development Director shall issue a written determination of his or her action within 30 days of the date of receipt of a completed application and may:
 - i. Grant or deny the accommodation request; or
 - ii. Grant the accommodation request subject to specified nondiscriminatory conditions(s); or
 - iii. Determine that the request for reasonable accommodation is non-ministerial in nature and forward the request to the Planning Commission for consideration at a noticed public hearing. The Planning Commission may grant or deny the request, or grant subject to specified nondiscriminatory conditions. Any approval shall be subject to the findings stated in Subsection 17.12.050.F (Approval Findings).

2. All written determinations of actions of the Community Development Director shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process (e.g., requesting that City staff attempt to schedule an appeal hearing as soon as legally and practically possible), if necessary. The notice of action shall be sent to the applicant by mail.
 3. If necessary to reach a determination or action on the request for reasonable accommodation, the Community Development Director may request further information from the applicant specifying in detail what information is required. In the event a request for further information is made, the 30-day period to issue a written determination shall be stayed until the applicant fully and sufficiently responds to the request.
- F. **Approval Findings.** In making a determination regarding the reasonableness of a requested accommodation, the Approving Authority must make all of the following findings:
1. The housing which is the subject of the request for reasonable accommodation will be used for an individual protected under the Fair Housing Act.
 2. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Fair Housing Act.
 3. The requested reasonable accommodation does not impose an undue financial or administrative burden on the City and does not fundamentally alter City zoning, development standards, policies, or procedures.
- G. **Appeals.** Appeal of the Approving Authority's action on the request for reasonable accommodation shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- H. **Expiration.** All approved Reasonable Accommodations are subject to the provisions set forth in Section 17.10.100 (Revocation Permit Time Limits, Extensions, and Expirations).

17.12.060 Administrative Use Permit

- A. **Purpose.** Administrative Use Permits provide a mechanism for administrative review and approval of uses and activities to ensure compatibility with the project site and surrounding uses. The Administrative Use Permit allows expedited review for situations that do not warrant consideration for a Conditional Use Permit due to minimal impacts and effects on surrounding uses.
- B. **Approving Authority.** The Community Development Director shall be the designated Approving Authority for Administrative Use Permits.
- C. **Application Contents.** The application for an Administrative Use Permit shall be on a form prepared as prescribed by the Community Development Director.
- D. **Public Hearing/Notice.** Administrative Use Permits shall all be considered at a public hearing with notice pursuant to Section 17.10.050 (Public Hearing and Public Notice).
- E. **Approval Findings.** Whenever authorized by ordinance, the Approving Authority may issue an Administrative Use Permit when he/she finds as follows:

1. The proposed use is consistent with the General Plan and the provisions of this Title; and
 2. All applicable conditions prescribed by ordinance or City Council resolution have been satisfied.
- F. **Conditions of Approval.** Whenever any Administrative Use Permit is granted, the designated Approving Authority may impose such conditions as may be necessary to safeguard the public safety and the intent of this Title.
- G. **Notification**
1. Notice of the decision. The decision of the Approving Authority shall be mailed to the applicant within five working days.
 2. Notification to Planning Commission. After approving an application for an Administrative Use Permit, the Approving Authority shall advise the Planning Commission of his or her decision at their next regular meeting.
- H. **Appeals.** Appeal of the Approving Authority's action on the request for an Administrative Use Permit shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- I. **Expiration.** All approved Administrative Use Permits are subject to the provisions set forth in Section 17.10.100 (Permit Time Limits, Extensions, and Expirations).

17.12.070 Temporary Use Permit

- A. **Purpose.** The purpose of a Temporary Use Permits (TUP) is to provide a mechanism for administrative review and determinations for proposed short-term activities and to ensure that entitlements are consistent with the General Plan and provisions of the Zoning Code.
- B. **Applicability. Temporary Use Permits (TUP) are required for short-term activities listed in Chapter 17.74 (Temporary Uses).**
- C. **Approving Authority.** The Community Development Director shall be the designated Approving Authority for Temporary Use Permits.
- D. **Application Contents.** The application for a Temporary Use Permit shall be on a form prepared as prescribed by the Community Development Director.
- E. **Public Hearing/Notice.** No public hearing is required for a Temporary Use Permit.
- F. **Approval Findings.** The Approving Authority shall make the following findings to approve or conditionally approve a Temporary Use Permit application:
1. The proposed use is a temporary use and will be limited to a specific duration of time, as established in the Temporary Use Permit.
 2. The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity of the proposed use.

3. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
 4. The use, as described and conditionally approved, will not function or be located in a manner that restricts access to any required parking spaces.
 5. Approved measures for the removal of the use and site restoration have been required to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this Zoning Code.
 6. The approval includes provisions to ensure that each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the provisions of this Zoning Code. The Approving Authority may require appropriate security before initiation of the use to ensure proper cleanup after the use is terminated.
 7. The proposed temporary use is consistent with the general plan, applicable specific plans and the provisions of this Title.
- G. **Conditions of Approval.** In approving a Temporary Use Permit, the Approving Authority may impose conditions (e.g., buffers, hours of operation, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, time limits, traffic circulation) deemed reasonable and necessary to ensure that the approval would be in compliance with the required findings.
- H. **Appeals.** Appeal of the Approving Authority's action on the request for a Temporary Use Permit shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- I. **Expiration.** All approved Temporary Use Permits are subject to the provisions set forth in Section 17.10.100 (Revocation Permit Time Limits, Extensions, and Expirations).

17.12.080 Administrative Design Review

- A. **Purpose.** The purpose of Administrative Design Review is to provide an efficient process for promoting the orderly and harmonious growth of the city, to encourage development in keeping with the desired character of the city, and to ensure physical and functional compatibility between uses. Administrative Design Review is intended to provide a process for consideration of minor development proposals to ensure that additions and alterations to the design and layout of existing development will constitute suitable development and will not result in a detriment to the City of Pinole or to the environment.
- B. **Applicability.** Administrative Design Review is required for all structural additions to multi-family and non-residential structures up to 500 square feet in size. Additions that are 500 feet or larger require Comprehensive Design Review.. Issues related to Fire and Public Works compliance are addressed during the Plan Check process. Issues related to Building Code compliance are addressed at time of Building Permit issuance. X

- C. **Approving Authority.** The designated Approving Authority for Administrative Design Review is the Community Development Director. Administrative Design Review approval is required prior to issuance of any building permits or site improvement plans.
- D. **Application Contents.** The application for a Administrative Design Review shall be on a form prepared as prescribed by the Community Development Director.
- E. **Procedure.** The procedures for Administrative Design Review shall be as provided in Chapter 17.10 (General Application Processing Procedures) except as provided below:
1. No public hearing shall be required unless required below.
 2. The City shall provide mailed notice pursuant to Section 17.10.050B.2 that the City is considering an application for Administrative Design Review. In addition to the content required under Section 17.10.050B, the mailed notice shall advise persons that plans for the project are available for public review at City Hall and that the application will be decided unless a written request for hearing is received by the City Community Development Department on or before a date specified in the notice, which shall be at least ten working days after the date of mailing.
 3. If no timely written request for hearing is filed, the application shall be administratively approved by the Community Development Director if it is deemed to be consistent with the provisions of this Title.
 4. If a timely written request for hearing is filed, the application shall no longer be administratively processed and shall instead be processed in accordance with the procedures for Comprehensive Design Review.
 5. The Community Development Director may elevate any project to the Comprehensive Design Review process if in the opinion of the Community Development Director, such project, because of location, size, design, or other aspect of the project, warrants a hearing before the Planning Commission.
- F. **Approval Findings.** The Approving Authority shall make the following findings to approve or conditionally approve an Administrative Design Review application:
1. Compliance with the General Plan and any applicable Specific Plans.
 2. Compliance with applicable provisions of the Zoning Code.
 3. Compatibility with the surrounding neighborhood.
- G. **Appeals.** Appeal of the Approving Authority's action on the request for Administrative Design Review Permit shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- H. **Expiration.** All approved Administrative Design Review Permits are subject to the provisions set forth in Section 17.10.120 (Revocation).

17.12.090 Sign Permit

- A. **Purpose.** Sign Permits provide a mechanism for administrative review and determinations to ensure that new or replacement signs are consistent with the General Plan and provisions of the Zoning Code, including a previously approved Sign Program.
- B. **Applicability.** A Sign Permit shall be required for all permanent signs, as defined by this Title, as follows. Where a sign is proposed, no building permit may be issued until a Sign Permit has first been approved and issued.
1. Prior to the establishment or erection of a new sign or the replacement, alteration, or relocation of an existing permanent sign, as specified in Section 17.52.030 (Permit Requirements and Review Procedures).
 2. 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.
 3. Signs proposed for locations where a sign program has been previously approved by an Approving Authority.
- C. **Approving Authority.** The designated Approving Authority for a Sign Permit is the Community Development Director. The Community Development Director approves, conditionally approves, or denies Sign Permits in accordance with the requirements of this Title.
- D. **Application Contents.** The application for a sign permit shall be on a form prepared as prescribed by the Community Development Director and shall be accompanied by the information required by such form. The information shall include, but is not limited to, the following:
1. The name, address, contact information, and signature of the applicant, as well as the name, address, and contact information for the contractor or installer and property owner. If the applicant is someone other than the sign owner, then the sign owner's signature is also required on the application form.
 2. Proof of consent of the property owner or other person(s) having the immediate right to possession and control of the property.
 3. All required materials for issuance of a Building Permit.
 4. Location, size, colors, shape, type of illumination, copy design, and manner of installation of the proposed sign and affected building elevation or the frontage of the premises. Information shall also disclose all existing signs on the premises, including exempt signs, giving the size and location of each.
 5. Such other information on site or environmental conditions as the Community Development Director may reasonably request to determine that the proposed sign is in full compliance with the provisions of this Title, the Municipal Code, and other applicable law. The message proposed to be displayed on the sign is not required but may be shown at the option of the applicant.

- E. **Procedures.** The procedures for Sign Permit shall be as provided in Chapter 17.10 (General Application Processing Procedures) except as provided below:
1. Multiple sign applications. When an application proposes two or more signs on the same property and/or as part of the same tenant, the applications may be granted in whole or in part, with separate decisions as to each proposed sign. When an application is denied in whole or in part, a written notice shall specify the ground(s) for such denial.
 2. Public Hearing. The City shall provide notice and a public hearing for continuation of the approval, modification, revocation or appeal for an application for a Sign Permit, or an equivalent development permit, in accordance with Section 17.10.050.
 3. Revocation or cancellation. The Community Development Director shall revoke any approval or permit upon refusal by the permit holder to comply with the provisions of the permit after written notice of noncompliance and at least 30 days opportunity to correct. The opportunity to correct does not apply in the event that the sign, by nature of its physical condition, poses an imminent or significant threat to public safety.
 4. Timing. An application for a Sign Permit for a permanent sign shall be submitted to the Community Development Director at the time the Building Permit application is submitted.
 5. Appeals. Appeal of the Approving Authority's action on the request for a Sign Permit shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- F. **Approval Findings.** The Approving Authority may approve a Sign Permit when the sign permit application and the sign itself complies with the standards and requirements of this Title. A sign permit application may be approved subject to conditions, so long as those conditions are not in conflict with this Title or some other applicable law, rule, or regulation. Permits which do not clearly meet such requirements shall be referred to the Planning Commission.
- G. **Appeals.** Appeal of the Approving Authority's action on the request for a Sign Permit shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- H. **Expiration.** All approved Sign Permits are subject to the provisions set forth in Section 17.10.100 (Revocation Permit Time Limits, Extensions, and Expirations).

17.12.100 Creative Sign Program

- A. **Purpose.** The purpose of a Creative Sign Program is to provide a process for property owners and businesses to propose special deviations from the regulations for on-site permanent signs provided in this Title under certain limited circumstances. The Creative Sign Program also provides a process for the City to review special signage types prior to issuance of a Sign Permit. The intent of the Creative Sign Program is to:

1. Encourage signs of unique design that exhibit a high degree of imagination, inventiveness, spirit, and thoughtfulness; and
 2. Provide a process for the application of sign regulations in ways that will allow creatively designed signs that make a positive visual contribution to the overall image of the city, while mitigating the impacts of large or unusually designed signs.
- B. **Applicability.** An applicant may request approval of a Creative Sign Program in order to allow a sign that may require standards that differ from the signage provisions of this Title, but comply with the purpose and findings for a Creative Sign Program. Establishments that are eligible for Creative Sign Programs include any commercial, office, or industrial use in the city.
- C. **Approving Authority.** The Community Development Director shall be the designated Approving Authority for Creative Sign Programs.
- D. **Application Contents.** The application for Creative Sign Program shall be made on a form as prescribed by the Community Development Director and shall be accompanied by the information identified on the form. The information shall include the following:
1. The name, address, contact information, and signature of the applicant, as well as the name, address, and contact information for the contractor or installer and property owner. If the applicant is someone other than the sign owner, then the sign owner's signature is also required on the application form.
 2. Proof of consent of the property owner or other person(s) having the immediate right to possession and control of the property.
 3. Preliminary information indicating how the sign will be constructed and/or mounted to a building or structure.
 4. Location, size, structure, and other descriptive information required by the Community Development Director.
 5. Such other on site or environmental conditions as the Community Development Director may reasonably request to determine that the proposed application is in full compliance with the provisions of this Title, the City Municipal Code, and other applicable law. The message proposed to be displayed on the sign is not required but may be shown at the option of the applicant.
- E. **Procedures.** The procedures for Creative Sign Program shall be as provided in Chapter 17.10 (General Application Processing Procedures) except as provided below:
1. Multiple signs. One Creative Sign Program may be submitted for multiple signs, provided all signs are on the same property or contiguous parcels within the same zoning district and/or as part of the same tenant. In such instances, the application may be granted in whole or in part, with separate decisions as to each proposed sign. When an application is denied in whole or in part, a written notice or the action shall be provided to the applicant and shall specify the ground(s) for such denial.

2. Public hearing. No public hearing shall be required for a Creative Sign Program, except as set forth below:
 - i. Notice of the filing of an application for a Creative Sign Program shall be mailed to persons owning property within 300 feet of the project site and posted on the property where the sign or signs are proposed to be located. The mailed notice of application shall advise persons that plans for the project are available for public review at City Hall. The notice shall also indicate that the Approving Authority will take final action on the application unless a written request for hearing is received by the Community Development Director on or before the date specified in the notice, which shall be at least ten working days from the date of mailing.
 - ii. If no timely written request for hearing is filed, the application shall be decided by the designated Approving Authority.
 - iii. If a timely written request for hearing is filed, the application shall no longer be administratively processed and shall instead be decided at a public hearing of the Planning Commission.
 - iv. Notwithstanding the foregoing, the Approving Authority may elevate any project to a Planning Commission decision if, in the opinion of the Approving Authority, such project is not in substantial conformance with the intent of the Creative Sign Permit or if the Approving Authority determines that the location, size, or design of the project warrants a hearing before the Planning Commission.
 3. Revocation or cancellation. The Community Development Director shall revoke any Creative Sign Program upon refusal by the permit holder to comply with the provisions of the Creative Sign Program after written notice of noncompliance and at least 30 days opportunity to correct. In the event that the sign, by nature of its physical condition, poses an imminent or significant threat to public safety, the Community Development Director shall revoke the Creative Sign Program and order immediate correction of the safety hazard.
 4. Timing. An application for a Creative Sign Program shall be submitted to the Community Development Director prior to submittal of an application for a Sign Permit.
- F. **Deviations.** The following types of deviations from the signage standards of this Title may be requested by the applicant for a Creative Sign Program and may, upon written findings, be approved by the Approving Authority:
1. Increases in maximum allowed area for permanent signs on the subject site;
 2. Allowances for types of lighting not otherwise permitted by this Title;
 3. Allowances for types of signs not specifically permitted by this Title; and
 4. Allowances for signs to exceed the maximum height requirement(s).

- G. **Criteria for Deviations.** In approving an application for a Creative Sign Permit and any deviations from the signage standards of this Title, the designated Approving Authority shall ensure that the proposed sign meets the following criteria:
1. Design quality. The sign shall:
 - i. Have a positive visual impact on the surrounding area;
 - ii. Be of unique design and exhibit a high degree of imagination, inventiveness, spirit, and thoughtfulness; and
 - iii. Provide strong graphic character through the imaginative use of color, graphics, proportion, quality materials, scale, and texture.
 - iv. Complement and enhance architectural elements.
 2. Contextual criteria. The sign shall contain at least one of the following elements:
 - i. Creative image reflecting current or historic character of the city; or
 - ii. Inventive representation of the logo, name, or use of the structure or business.
 3. Architectural criteria. The sign shall:
 - i. Utilize or enhance the architectural elements of the building; and
 - ii. Be placed in a logical location in relation to the overall composition of the building's facade and not cover any key architectural features and details of the facade.
 4. Impacts on surrounding uses. The sign shall be located and designed so as not to cause light and glare impacts on surrounding uses, especially residential uses.
- H. **Approval Findings.** A Creative Sign Program shall be granted only when the designated Approving Authority makes all of the following findings:
1. The proposed Creative Sign Permit is consistent with the objectives of the General Plan;
 2. The proposed signage is consistent with the purposes of the Creative Sign Program; and
 3. The proposed deviations from the signage standards of this Section are consistent with the deviations allowed and the considerations and basis for deviations listed in this Section.
- I. **Appeal.** Appeal of the Approving Authority's action on the request for a Creative Sign Program shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- J. **Expiration.** All approved Creative Sign Programs are subject to the provisions set forth in Section 17.10.100 (Revocation Permit Time Limits, Extensions, and Expirations).

17.12.110 Sign Program

- A. **Purpose.** The Sign Program provides a process for the City's review of and decisions related to requests for signs for multi-tenant projects. The intent of the Sign Program is to allow the integration of a project's signs with the design of the structures involved to achieve a unified architectural statement and to approve common sign regulations for multi-tenant projects, as well as to encourage design flexibility while meeting the intent of this Title.
- B. **Applicability.** A Sign Program shall be required whenever the site meets any of the following conditions:
1. For all sites that will have permanent signing requirements which exceed either five signs or 200 square feet total aggregate sign area; or
 2. The site to be considered is a multi-tenant shopping center, office park, or other multi-tenant or mixed-use development of three or more separate tenants/uses that share either the same parcel or structure and use common access and parking facilities as specified in Section 17.52.040 (Permit Requirements and Review Procedures).
 3. Optional. Application for a 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 a lot or parcel, or a series of lots or parcels combined, which front on two or more public streets.
 - ii. The site to be considered shall consist of five or more separate business activities.
 - iii. The area to be included for consideration shall consist of a lot or parcel, or a series of lots or parcels combined, to total a minimum of two acres.
- C. **Approving Authority.** Review and approval of a Sign Program is the responsibility of the Planning Commission. The Community Development Director may make a recommendation on the program to the Commission, and the Commission may approve, approve with conditions, or deny the Sign Program. Additionally, the Planning Commission shall be the Approving Authority for modifications and amendments to a Sign Program, except as provided in this Title.
- D. **Application Contents.** The Sign Program shall include criteria for building-attached and freestanding signs for business activities within the site, and the integrated development itself to establish complementary signage, consistency of sign type, location, logo and/or letter height, lines of copy, illumination, and construction details of signs for the project. All signs within the development shall be consistent with the Sign Program adopted for the development. The message substitution policy of Chapter 17.54 (Signs on City Property) shall be deemed incorporated in every Sign Program, even if the Sign Program documents do not explicitly so state. Maximum size, location, height, setback, and other development standards for signs in the Sign Program shall be consistent with the standards of this Title.

- E. **Deviations Allowed.** The following types of deviations from the signage standards of this Title may be requested by the applicant in conjunction with a Sign Program and may, upon written findings, be approved by the Approving Authority:
1. Increases in maximum allowed area for permanent signs on the subject site;
 2. Increases in maximum allowed number of signs on the subject site;
 3. Allowances for signs to deviate from allowed locations as established by this Title; and
 4. Allowances for signs to exceed the maximum height requirement(s).
- F. **Considerations.** In approving an application for a Sign Program, the designated Approving Authority shall ensure that the proposed signs meet the following criteria:
1. All proposed signs are in harmony and visually related to other signs included in the Sign Program, by incorporating several common design elements such as materials, letter style, colors, illumination method, sign type, or sign shape and placement.
 2. The proposed signs are in harmony and visually related to the buildings they identify by utilizing materials, colors, or design motifs included in the building being identified.
 3. The proposed signs are in harmony and visually related to the surrounding development and would not adversely affect surrounding land uses or obscure adjacent conforming signs.
- G. **Addition, Replacement, or Modification of Signs within a Previously Approved Sign Program.** Application for the addition, modification, or replacement of signs requiring permits within the boundaries of an area having a previously approved Sign Program shall be made in the following manner:
1. Whenever the number of signs to be added, modified, or replaced totals less than 25 percent of the number of permitted signs presently on the site, application shall be made under the provisions of a standard Sign Permit application.
 2. When the number of signs to be added, modified, or replaced totals 25 percent or more of the number of permitted signs presently on the site, application shall be made under the provisions of a Sign Program.
- H. **Approval Findings.** A Sign Program, or revisions thereto, shall be granted only when the designated Approving Authority makes all of the following findings:
1. The proposed Sign Program is consistent with the objectives of the General Plan;
 2. The proposed additions, replacements, or modifications to the Sign Program are consistent with the purposes of the previously approved Sign Program; and
 3. The proposed deviations from the signage requirements of this Title are consistent with the considerations and other provisions listed in this Section.

- I. **Appeal.** Appeal of the Approving Authority's action on the request for a Sign Program shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- J. **Expiration.** All approved Sign Programs are subject to the provisions set forth in Section 17.10.100 (Revocation Permit Time Limits, Extensions, and Expirations).

17.12.120 Minor Deviations

- A. **Purpose.** The purpose of the Minor Deviation is to provide a mechanism for administrative review to allow some limited flexibility with regards to specific development standards through design solutions where specific findings can be made. Minor deviations do not apply to the use of property.
- B. **Applicability.** Minor Deviations may be granted by the Approving Authority for new construction and modifications to existing single-family residential structures as follows:
 - 1. Maximum five percent of required building setback.
 - 2. Maximum ten percent of required building height.
- C. **Approving Authority.** The Community Development Director is the designated Approving Authority for Minor Deviations. The Community Development Director approves, conditionally approves, or denies the Minor Deviation in accordance with the requirements of this Title.
- D. **Application Contents.** The application for a Minor Deviation shall be on a form prepared as prescribed by the Community Development Director.
- E. **Approval Findings.** The Approving Authority may approve an Minor Deviations when he/she finds as follows:
 - 1. The deviation(s) improve the site, architectural, and/or overall project design;
 - 2. The deviation(s) are materially consistent with the project and are compatible with surrounding uses and structures; and
 - 3. The proposed structure complies with all applicable building and fire codes.
- F. **Public Hearing/Notice.** The City shall provide notice and a public hearing for consideration of the approval or modification of an application for a Minor Deviation in accordance with Section 17.10.050 (Public Hearing and Public Notice).
- G. **Procedures.**
 - 1. Notice of the decision. The decision of the Approving Authority shall be provided to the applicant within ten working days of the decision.
 - 2. Notification to Planning Commission. After approving an application for an Minor Deviation, the Approving Authority shall advise the Planning Commission of his or her decision at their next regular meeting.

- H. **Appeals.** Appeal of the Community Development Director action on the request for a Minor Deviation shall be made to the Planning Commission in accordance with the procedures specified in Section 17.10.070 (Appeals).
- I. **Expiration.** All approved Minor Deviation are subject to the provisions set forth in Section 17.10.100 (Revocation Permit Time Limits, Extensions, and Expirations).

17.12.130 Variance

- A. **Purpose and Applicability.** In accordance with California Government Code Section 65906, variances provide relief from the strict application of development standards and provisions of this Title if specified findings can be made.

A variance from the Zoning Code may not be granted to:

1. Allow a land use not otherwise permitted in the zoning district;
 2. Increase the maximum allowed residential density except as allowed by State law;
 3. Waive or reduce parking requirements by more than 30%; or
 4. Waive or modify a procedural requirement.
- B. **Approving Authority.** The designated Approving Authority for a Variance shall be the Planning Commission. The Community Development Director provides a recommendation and the Planning Commission approves, conditionally approves, or denies the Variance in accordance with the requirements of this Title.
- C. **Application Contents.** The application for a Variance shall be on a form prepared as prescribed by the Community Development Director.
- D. **Public Hearing/Notice.** Public hearing and notice are required for a Variance pursuant to Section 17.10.050 (Public Hearing and Notice).
- E. **Approval Findings.** The Approving Authority may approve and/or modify any variance application in whole or in part, with or without conditions, only if the applicant can demonstrate that the circumstances of their particular case can justify making all of the following findings:
1. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of this Zoning Code denies the property owner privileges enjoyed by other property owners in the vicinity and within the same Zoning District.
 2. Granting the Variance is necessary for the preservation and enjoyment of substantial property rights enjoyed by other property owners in the same vicinity and Zoning District and denied to the property owner for which the Variance is sought.
 3. Granting the Variance will not adversely affect the interests of the public or the interests of residents and property owners in the vicinity of the premises in question.

4. The Variance is consistent with the General Plan, any applicable Specific Plan or Development Agreement, and the intent of this Title.
- F. **Conditions of Approval.** In approving a Variance, the Approving Authority:
1. Shall impose conditions to ensure that the Variance does not grant special privileges inconsistent with the limitation on other properties in the vicinity and the Zoning District in which the property is located;
 2. May impose any reasonable conditions (e.g., the placement, height of structures, buffers, landscaping and maintenance, off-site improvements, performance guarantees, screening, surfacing, hours of operation) to ensure that the approval complies with the findings required by this Section.
- G. **Permit Issuance.** The final action on the Variance by the Approving Authority shall constitute approval of the Variance. The Variance shall only become valid after the designated appeal period has been completed, per the provisions as set forth in Section 17.10.080 (Effective Date).
- H. **Appeals.** Appeal of the Approving Authority's action on the request for Variance shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- I. **Expiration.** All approved Variance are subject to the provisions set forth in Section 17.10.100 (Revocation Permit Time Limits, Extensions, and Expirations).

17.12.140 Conditional Use Permit

- A. **Purpose.** The purpose of the Conditional Use Permit is for the individual review of uses, typically having unique or unusual site development features or operating characteristics. Conditional Use Permits are intended to ensure compatibility with surrounding areas and uses where such uses are deemed essential or desirable to the various elements or objectives of the General Plan.
- B. **Applicability.** A Conditional Use Permit is required for all uses specifically identified as requiring a Conditional Use Permit in Article II. Zoning Districts, Allowable Land Uses, and Development Standards, and Article IV. Standards for Specific Land Uses, of this Title. A Conditional Use Permit is also required for the expansion or modification of existing nonconforming structures of uses. Applicable provisions for nonconforming uses and structures are in Chapter 17.14 (Nonconforming Uses and Structures) of this Title.
- C. **Approving Authority.** The designated Approving Authority for a Conditional Use Permit is the Planning Commission. The Community Development Director provides a recommendation and the Planning Commission approves, conditionally approves, or denies the Conditional Use Permit in accordance with the requirements of this Title.
- D. **Application Contents.** The application for a Conditional Use Permit shall be on a form prepared as prescribed by the Community Development Director.
- E. **Public Hearing.** The City shall provide notice and a public hearing for consideration of the approval, modification, revocation or appeal of an application for a Conditional Use Permit in accordance with Section 17.10.050 (Public Hearing and Public Notice).
- F. **Approval Findings.**

1. General. Conditional Use Permits shall be granted only when the Planning Commission determines that the proposed use or activity complies with all of the following findings:
 - i. The proposed use is consistent with the General Plan, any applicable specific plans, and all applicable provisions of this Title.
 - ii. The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use or to the general welfare of the City.
 - iii. The site of the proposed use is physically suitable for the type, density and intensity of the use and related structures being proposed.
 - iv. It will not be contrary to the specific intent clauses, development regulations, or performance standards established for the zoning district in which it is located. The proposed use and related structures are compatible with other land uses, transportation and service facilities in the vicinity.
 2. Non-Conforming Uses. A Conditional Use Permit shall be granted only when the designated Approving Authority determines that the proposed use or activity complies with all of the following findings:
 - i. The proposed use is consistent with the General Plan, any applicable specific plans, and all applicable provisions of this Title.
 - ii. The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use or to the general welfare of the city.
 - iii. The site of the proposed use is physically suitable for the type, density and intensity to the use and related structures being proposed.
 - iv. It will not be contrary to the specific intent clauses, development regulations, or performance standards established for the zoning district in which it is located. The proposed use and related structures is compatible with other land uses, transportation and service facilities in the vicinity.
 3. The modified or expanded nonconforming structure or uses is not incompatible with reasonably foreseeable uses as allowed under the applicable zoning regulations.
- G. **Conditions/Guarantees.** The Approving Authority may impose conditions and/or require guarantees for the Conditional Use Permit to ensure compliance with this Section and other applicable provisions of this Title and to prevent adverse or detrimental impact to the surrounding neighborhood.

- H. **Permit Issuance.** The final action on the Conditional Use Permit by the Approving Authority shall constitute approval of the permit. Such permit shall only become valid after the designated appeal period has been completed, per the provisions as set forth in Section 17.10.080 (Effective Date).
- I. **Appeals.** Appeal of the Approving Authority's action on the request for Conditional Use Permit shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- J. **Expiration.** All approved Conditional Use Permits are subject to the provisions set forth in Section 17.10.100 (Permit Time Limits, Extensions, and Expiration).

17.12.150 Comprehensive Design Review

- A. **Purpose.** The purpose of Comprehensive Design Review is to provide a process for promoting the orderly and harmonious growth of the city, to encourage development in keeping with the desired character of the city, and to ensure physical and functional compatibility between uses. This Comprehensive Design Review is intended to provide a process for consideration of development proposals to ensure that the design and layout of commercial, retail, industrial or institutional uses, or multi-family residential development will constitute suitable development and will not result in a detriment to the City of Pinole or to the environment.
- B. **Applicability.** A Comprehensive Design Review Permit is required for the following items:
 - 1. New multi-family residential development;
 - 2. New non-residential development (e.g., commercial, office, industrial, public/quasi-public);
 - 3. Additions to existing multi-family and non-residential structures equal to or greater than 500 square feet; and
 - 4. Any item not listed in Section 17.12.140.C, for which the Community Development Director determines that a Comprehensive Design Review Permit is required.
- C. **Exemptions.** The following structures and activities are exempt from Comprehensive Design Review. However, such structures may require additional permits, such as a building permit, and Plan Check to ensure compliance with adopted Building Code standards and applicable Zoning Code provisions and Public Works Encroachment Permits.
 - 1. Single-family homes consistent with the Design Guidelines.
 - 2. Additions to single-family residential homes.
 - 3. Additions to non-residential structures less than 500 square feet in size.
 - 4. Accessory structures consistent with the provisions of this Title.
 - 5. Installation of signs.

6. Repairs and maintenance to the site or an existing structure that do not add to, enlarge, or expand the area occupied by the structure or the gross floor area of the structure.
 7. Interior alterations that do not increase the gross floor area within the structure or change/expand the permitted use of the structure (e.g., tenant improvements).
 8. Construction, alteration, or maintenance by a public utility or public agency of underground or overhead utilities intended to service existing or nearby approved developments (e.g., water, gas, electric or telecommunication supply or disposal systems, including wires, mains, drains, sewers, pipes, conduits, cables, fire-alarm boxes, police call boxes, traffic signals, hydrants, and similar facilities and equipment).
 9. Alteration or maintenance of public park and recreation facilities.
- D. **Approving Authority.** The designated Approving Authority for Comprehensive Design Review is the Planning Commission. Comprehensive Design Review approval is required prior to issuance of any ministerial building permits or site improvement plans and prior to or in conjunction with discretionary action of corresponding development applications (e.g., Conditional Use Permit, Variance). Comprehensive actions include, but are not limited to, new construction and wholesale redevelopment of existing sites.
- E. **Application Content.** The application for a Comprehensive Design Review shall be on a form prepared as prescribed by the Community Development Director.
- F. **Public Hearing/Notice.** The City shall provide notice and a public hearing for continuation of the approval, modification, revocation or appeal of an application for a Comprehensive Design Review in accordance with Section 17.10.050 (Public Hearing and Public Notice).
- G. **Approval Findings.** A Comprehensive Design Review Permit or any modification thereto shall be granted only when the designated Approving Authority makes all of the following findings:
1. The proposed project is consistent with the objectives of the General Plan and complies with applicable zoning regulations, Planned Development, Master Plan or Specific Plan provisions, improvement standards, and other applicable standards and regulations adopted by the City;
 2. The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation; and
 3. The site layout (orientation and placement of buildings and parking areas), as well as the landscaping, lighting, and other development features, are compatible with and complement the existing surrounding environment and ultimate character of the area under the General Plan and applicable specific plans.
- H. **Considerations.** In conducting Comprehensive Design Review, the designated Approving Authority shall consider the following:

1. Considerations relating to site layout, the orientation and location of building, signs, other structures, open spaces, landscaping, and other development features in relation to the physical characteristics, zoning, and land use of the site and surrounding properties.
 2. Considerations relating to traffic, safety, and traffic congestion, including the effect of the development plan on traffic conditions on abutting streets, the layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, driveways, and walkways, the adequacy of off-street parking facilities to prevent traffic congestion, and the circulation patterns within the boundaries of the development.
 3. Considerations necessary to ensure that the proposed development is consistent with the General Plan and all applicable Specific Plans or other City plans, including, but not limited to, the density of residential units.
 4. Considerations relating to the availability of City services, including, but not limited to, water, sewer, drainage, police and fire, and whether such services are adequate based upon city standards.
- I. **Conditions/Guarantees.** The Approving Authority may impose conditions and/or require guarantees for Comprehensive Design Review to ensure compliance with this Section and other applicable provisions of this Title and to prevent adverse or detrimental impact to the surrounding neighborhood.
- J. **Permit Issuance.** The final action on Comprehensive Design Review by the Approving Authority shall constitute approval of the permit. Such permit shall only become valid after the designated appeal period has been completed, per the provisions as set forth in Section 17.10.080 (Effective Date).
- K. **Appeals.** Appeal of the Approving Authority's action on the request for a Comprehensive Design Review Permit shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).
- L. **Expiration.** All approved Comprehensive Design Review Permits are subject to the provisions set forth in Section 17.10.100 (Permit Time Limits, Extensions and Expiration).

17.12.160 Development Agreements

- A. **Purpose.** This Section establishes procedures and requirements for the review and approval of Development Agreements when applied for as part of a land use entitlement in compliance with the provisions of California Government Code Sections 65864 through 65869.5. The City Council finds and declares the use of Development Agreements is beneficial to the public, in that:
1. Development Agreements increase the certainty in the approval of development projects, thereby preventing the waste of resources, reducing the cost of development to the consumer, and encouraging investment in and commitment to comprehensive planning, all leading to the maximum efficient utilization of resources at the least economic cost to the public.
 2. Development Agreements provide assurance to the applicant for a development project that upon approval of the project, the applicant may

proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, thereby strengthening the public planning process, encouraging private participation in comprehensive planning, and reducing the economic costs of development.

3. Development Agreements enable the City to plan for and finance public facilities, including, but not limited to, streets, sewerage, transportation, drinking water, school, and utility facilities, thereby removing a serious impediment to the development of new housing.
- B. **Qualified Applicant.** Only a qualified applicant, a person who has legal or equitable interest in the real property which is the subject of the Development Agreement (or his or her authorized agent), may submit an application for a Development Agreement.
- C. **Approving Authority.** The designated Approving Authority for Development Agreements is the City Council which shall hold a public hearing prior to taking action. The Planning Commission shall hold a public hearing on the proposed Development Agreement and make a recommendation to the City Council.
- D. **Flexibility of Development Regulations.** To the extent permitted by law, any Development Agreement if adopted by the City may modify development rules, regulations, and policies governing permitted uses of land and density, and governing design, improvements, construction standards and specifications, and phasing applicable to development of the property involved in the agreement.

Nothing contained in these regulations shall prevent the developer or the City from proceeding with normal Tentative Map or Final Map processes on any phase of a development which is the subject of a Development Agreement at any time during its term.

- E. **Application Contents.** The contents of a Development Agreement shall be as set forth in Government Code Sections 65865.2, 65867.5(c) if applicable, and 65868.5.
- F. **Public Hearing/Notice.** The City shall provide notice and a public hearing for consideration of the approval or modification of an application for a Development Agreement in accordance with Section 17.10.050 (Public Hearing and Public Notice).
- G. **Approval Findings.** A Development Agreement may only be granted when the City Council makes all of the following findings specifying that the Development Agreement:
1. Is consistent with the objectives, policies, and general land uses specified in the General Plan and any applicable Specific Plans;
 2. Is compatible and in conformity with public convenience, general welfare, and good land use and zoning practice;
 3. Will not be detrimental to health, safety, and general welfare of the City;
 4. Will not adversely affect the orderly development of property or the preservation of property values.
- H. **Amendment and Cancellation of Agreement.** Any party to the agreement may propose an amendment to or cancellation in whole or part of the Development Agreement, the

procedure for which is the same as the procedure for entering into the agreement initially. Notice of intention to amend or cancel any portion of the Development Agreement shall be given as provided in Section 17.10.050 (Public Hearing and Public Notice).

- I. **Recordation.** Within ten days after the City enters into the Development Agreement or any amendment thereof, the City Clerk shall cause the agreement or amendment to be recorded with the County Recorder. Additionally, the City Clerk shall be the official custodian of the Development Agreement file. Said file shall include an executed copy of the agreement and the originals of all exhibits, reports of periodic review, amendments, and/or cancellations to the Development Agreement.
- J. **Periodic Review.** The Community Development Director shall review the Development Agreement every 12 months from the date the Development Agreement is entered into and provide a written report to the City Council. The burden of proof is on the applicant to provide necessary information verifying good faith compliance with the terms of the Development Agreement. The applicant shall also bear the cost of such review in accordance with the fee established by City Council resolution. If the Community Development Director finds that any aspect of the development project is not in good faith compliance with the terms of the Development Agreement, the Community Development Director may schedule the matter before the appropriate Approving Authority(ies) for review for possible amendment or revocation.

17.12.170 Specific Plans

- A. **Purpose.** The purpose of a Specific Plan is to provide a vehicle for implementing the City's General Plan on an area-specific basis. The Specific Plan is intended to serve as a regulatory document, consistent with the General Plan. In the event there is an inconsistency or conflict between an adopted Specific Plan and comparable provisions of this Title, the Specific Plan shall prevail. This Section is consistent with California Government Code Section 65450 et seq. This Section describes the process for adopting and amending Specific Plans, and approving subsequent development under a Specific Plan. Chapter 17.26 (Special Purpose Zoning Districts) describes the individual Specific Plan Districts and adopts them by reference.
- B. **Applicability.** The City's General Plan encourages preparation of Specific Plans and identifies certain areas of the city which require Specific Plans for development. Specific Plan zoning may be considered for other areas of the city.
- C. **Approving Authority.** The designated Approving Authority for Specific Plans is the City Council which shall hold a public hearing prior to taking action. The Planning Commission shall review Specific Plans, hold a public hearing, and make recommendations regarding the content of the Plan, or any amendments. The City Council shall approve, conditionally approve or deny any Specific Plan or amendment thereto.
- D. **Application Contents.** In addition to the minimum content requirements of California Government Code Section 65451, the Specific Plan application shall include following items:
 1. Statement of the relationship of the Specific Plan to the General Plan;

2. Policies for development and standards for regulating development within the plan area;
 3. The proposed land uses for all areas covered by the plan;
 4. The types and configurations of buildings to be included in all developments within the plan area;
 5. The location of and types of streets;
 6. Public facilities and infrastructure required to serve developments within the Specific Plan area;
 7. A parking and circulation plan for off-street parking areas showing the location of parking lots, the approximate number of spaces, and the approximate location of entrances and exits;
 8. Proposed conservation, open space, and/or recreation areas, if any; and
 9. Any other programs, guidelines, or standards appropriate for the area covered by the plan.
- E. **Environmental Review.** It is anticipated, under the California Environmental Quality Act (CEQA) and Guidelines, that most Specific Plans will require preparation of an environmental impact report (EIR). Once certified, the EIR for a Specific Plan may be relied upon for further entitlements sought subsequent to adoption of the Specific Plan to the extent allowed by CEQA. Unless otherwise exempt, an initial study shall be prepared for all subsequent applications to determine whether additional CEQA review is required.
- F. **Public Hearing/Notice.** The City shall provide notice and a public hearing for consideration of the approval or modification of an application for a Specific Plan in accordance with Section 17.10.050 (Public Hearing and Public Notice).
- G. **Approval Findings.** Specific Plans and any amendment thereto shall be approved only when the City Council makes the following findings:
1. The proposed Specific Plan is consistent with the General Plan goals, policies, and implementation programs.
 2. The land use and development regulations within the Specific Plan are comparable in breadth and depth to similar zoning regulations contained in this Title.
 3. The administration and permit processes within the Specific Plan are consistent with the administration and permit processes of the Zoning Code.
- H. **Adoption.** Adoption of the Specific Plan shall be by ordinance of the City Council shall constitute final action and approval of the Specific Plan. Authorization for construction in accordance with the Specific Plan may only be granted after the effective date of the adoption.
- I. **Delineation of Specific Plan Areas.** On the Zoning Map, a Specific Plan Zoning District shall be delineated in a manner similar to that of any other Zoning District except that

each Specific Plan-zoned area shall also bear a number, text, or other symbol which distinguishes it from other Specific Plan areas. See Section 17.26 (Special Purpose Districts/Specific Plan Districts).

- J. **Application of Specific Plan Development Requirements.** Where conditions of the Specific Plan are more restrictive than the Zoning Code development standards, the conditions of the Specific Plan shall apply. Where a standard is not addressed in the Specific Plan, the Zoning Code shall apply.

17.12.180 Prezoning

- A. **Purpose.** The purpose of prezoning is to establish the Zoning District for unincorporated property as part of an annexation proposal. This Section is consistent with California Government Code Section 65859.
- B. **Procedure.** The procedure, review, and action for prezoning are the same as that established for a Zoning Code Amendment pursuant to Section 17.12.180 (Zoning Code (Text and Map) Amendment).

17.12.190 Zoning Code (Text and Map) Amendment

- A. **Purpose.** The purpose of a Zoning Code Amendment is to allow modification to any provisions of this Title (including the adoption of new regulations or deletion of existing regulations) or to rezone or change the zoning designation on the Zoning Map for any parcel(s). This Section is consistent with California Government Code Section 65853.
- B. **Approving Authority.** The designated Approving Authority for Zoning Amendments is the City Council which shall hold a public hearing on the Planning Commission recommendation prior to taking action. The Planning Commission shall hold a public hearing and then shall provide a recommendation, which recommendation shall include the reasons for the recommendation and the relationship of the proposal to the General Plan and the Specific Plans. The City Council approves, conditionally approves, or denies the Zoning Amendment in accordance with the requirements of this Title.
- C. **Initiation of Amendment.** A Zoning Amendment to this Title may be initiated by motion of the Planning Commission or City Council, by application by property owner(s) of parcel(s) to be affected by Zoning Amendment, or by recommendation of the Community Development Director to clarify text, address changes mandated by state law, maintain General Plan consistency, address boundary adjustments affecting land use designation(s), or for any other reason beneficial to the City.
- D. **Approval Findings.** Zoning Amendments shall be granted only when the City Council makes the following findings:
1. The proposed Zoning Amendment (text or map) is consistent with the General Plan goals, policies, and implementation programs.
- E. **Adoption.** Adoption of the Zoning Amendment by ordinance of the City Council shall constitute final action and approval of the amendment. Authorization for construction or occupancy in accordance with the amendment may only be granted upon or after the effective date of the action.

17.12.200 General Plan Amendment

- A. **Purpose.** The purpose of a General Plan Amendment is to allow for modifications to the General Plan text (e.g., goals, policies, or implementation programs) or to change the General Plan land use designation on any parcel(s).
- B. **Approving Authority.** The designated Approving Authority for General Plan Amendments is the City Council which shall hold a public hearing prior to taking action. The Planning Commission shall hold a public hearing and provide a recommendation. The City Council approves, conditionally approves, or denies the General Plan Amendment in accordance with the requirements of this Title.
- C. **Frequency of Amendment.** Pursuant to Government Code Section 65358, no mandatory element of the General Plan may be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time and may include more than one change to the General Plan.
- D. **Initiation of Amendment.** A General Plan Amendment may be initiated by the Planning Commission or City Council, by application by property owner(s) of parcel(s) to be affected by the General Plan Amendment, or by recommendation of the Community Development Director to clarify text, address changes mandated by state law, maintain internal General Plan consistency, address boundary adjustments affecting land use designation(s), or for any other reason beneficial to the City.
- E. **Procedures.** The procedures for General Plan Amendment shall be as provided in Chapter 17.10 (General Application Processing Procedures).
- F. **Public Hearing/Notice.** The City shall provide notice and a public hearing for the approval, modification, revocation or appeal of an application for a General Plan Amendment in accordance with Section 17.10.050 (Public Hearing and Public Notice).
- G. **Approval Findings.** The City Council may approve a General Plan Amendment upon finding that the amendment is in the public interest and that the General Plan as amended will remain internally consistent. In the event that a General Plan Amendment is requested by a private property owner, the applicant shall demonstrate to the City Council that there is a substantial public benefit to be derived from such amendment and how the proposed amendment furthers the goals of the General Plan.
- H. **Adoption.** Adoption of the General Plan Amendment by the City Council shall constitute final action and approval of the amendment.

Chapter 17.14 Nonconforming Uses and Structures

Sections:

17.14.010	Purpose	17.14-1
17.14.020	Applicability and General Regulations	17.14-1
17.14.030	Continuation	17.14-2
17.14.040	Maintenance	17.14-3
17.14.050	Modification, Expansion, and Reconstruction	17.14-3
17.14.060	Structural Alterations	17.14-3
17.14.070	Repair and Replacement of Destroyed Buildings	17.14-3
17.14.080	Loss of Nonconforming Status	17.16-4

Draft Zoning Code Changes:
This chapter establishes expanded provisions that allow for maintenance, modification, expansion, and reconstruction of nonconforming uses.

17.14.010 Purpose

This Chapter establishes special regulations for nonconforming land uses and structures that were lawful before the adoption or amendment of this Zoning Code, but which would be prohibited, regulated, or restricted differently under the current terms of this Zoning Code or future amendments. It is the intent of these regulations to allow the continuation of nonconformities under the limited conditions outlined herein and reconstruction in the event of natural disaster.

17.14.020 Applicability and General Regulations

- A. **Legal Nonconforming Uses.** The provisions of this Chapter apply to legal 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.
- B. **Exemption: Legal Building Site and Time Limitation.** A nonconforming parcel that does not comply with the applicable area or width requirements of this Zoning Code shall be considered a legal building site if it meets at least one of the following criteria, as documented to the satisfaction of the Community Development Director through evidence furnished by the applicant. On nonconforming parcels where the below criteria is not met, the nonconforming use of land (where no main building is involved) existing at the time this Title becomes effective shall be discontinued within one year from the effective date of this Title or within one year from any amendments to this Title that cause a land use to be nonconforming.
 - 1. Approved subdivision. The parcel was created by a recorded subdivision.
 - 2. Individual parcel legally created by deed. The parcel is under one ownership and of record, and was legally created by a recorded deed before the effective date of the Zoning Amendment that made the parcel nonconforming.

3. Variance or lot line adjustment. The parcel was approved through the Variance procedure or resulted from a lot line adjustment.
 4. Partial government acquisition. The parcel was created in compliance with the provisions of this Zoning Code, but was made nonconforming when a portion was acquired by a governmental entity so that the parcel size is decreased not more than 20 percent and the yard facing a public right-of-way was decreased not more than 50 percent.
- C. **Exemption: Public Utilities.** The provisions of this Chapter shall not apply so as to prevent the modernization or replacement of public utility buildings, structures, equipment, and facilities where there is no change of use or increase in area of property so used.
- D. **Nonexempt: Subdivision of a Nonconforming Parcel.** No subdivision shall be approved that would increase the nonconformity of an existing parcel or any nonconforming use on the parcel; existence of a legal nonconforming use or parcel shall not be interpreted to allow the increase of the nonconformity of such parcel or any nonconforming use on the parcel.

17.14.030 Continuation

- A. **Continuation.** A nonconforming use may continue to operate in perpetuity, be transferred, or be sold, provided that the use shall not be enlarged or intensified nor be expanded to occupy a greater area than it lawfully occupied before becoming nonconforming.
- B. **Approved Plans, Effective Date, and Extension.** Plans for any use approved as of the effective date of this Chapter may be carried out as approved. Any extension of such approval for which the applicant was entitled to apply as of the effective date may be granted according to the regulations in effect prior to the effective date; if granted, such extension will be considered the same as an approval granted before the effective date.
- C. **Prohibited Use.** Any person asserting that a nonconforming use is legal must present evidence that the use existed before the enactment of the Zoning Code provision prohibited the use. The Community Development Director shall have Approval Authority over this determination.

17.14.040 Maintenance

Normal maintenance of a nonconforming structure shall be permitted subject to Building Code requirements in effect at the time of such maintenance work and as provided below. (Ord. 440 § 2 (part), 1982)

- A. **Repair.** Maintenance may include repair work necessary to keep the structure in sound condition, but maintenance shall not include the expansion or replacement of a nonconforming structure.
- B. **Seismic Retrofitting and Building Code Compliance.** Repairs, alterations, or reconstruction to reinforce unreinforced masonry structures or to comply with Building Code requirements shall be allowed, provided that the work is exclusively to comply with applicable earthquake safety standards and the Building Code.

- C. **Structural Alteration.** Maintenance and repair may include structural alteration of a nonconforming structure to improve safety or to reduce fire hazard.

17.14.050 Modification, Expansion, and Reconstruction

Notwithstanding the provisions of Section 17.14.030 (Continuation), and subject to the provisions of Section 17.12.130 (Conditional Use Permit), a nonconforming structure or use may be modified or expanded as listed below:

- A. **Structural Modification.** Addition, enlargement, extension, or relocation of a nonconforming structure may be allowed if the changes to the structure conform to all applicable provisions of this Zoning Code. Such modifications may not expand the extent of the nonconforming aspect of the structure or result in any new nonconforming conditions for the subject property.
- B. **Expansion of Use.** The designated Approving Authority may consider expansion or modification of a nonconforming use up to a maximum of ten percent of the area that the structure lawfully occupied before becoming nonconforming.
- C. **Design Review.** Exterior improvements or expansion of structures shall also require Design Review approval pursuant to Section 17.12.080 (Administrative Design Review).

17.14.060 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)

17.14.070 Repair and Replacement of Destroyed Buildings

- A. **Ministerial Building Permit Required.** If a nonconforming structure 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 involuntarily damaged or destroyed by fire, collapse, flood, wind, earthquake, explosion, act of God, or act of the enemy, subsequent to the effective date of this Title and the expense of such reconstruction is less than or equal to 50 percent of the assessed value of the structure at such time just prior to the damage occurring, then without further action by the City Council, such structure and use of land may be repaired, restored, replaced, or reconstructed and reoccupied in the same manner in which it originally existed upon issuance of a ministerial building permit and subject to the following terms:
1. All such reconstruction shall be performed under one building permit;
 2. All such reconstruction shall be initiated within a period of one year from date of damage; and
 3. All such reconstruction shall be diligently pursued to completion.
- B. **Conditional Use Permit Required.** If the repair, restoration, replacement, or reconstruction expands from the original state of the nonconforming structure, at such time just prior to the damage occurring, issuance of a Conditional Use Permit, pursuant to the provisions set forth in Section 17.12.130 (Conditional Use Permit) is required. The Approving Authority

may consider up to a maximum ten percent expansion of the square footage from the original state of the nonconforming structure at such time just prior to the damage occurring.

17.14.080 Loss of Nonconforming Status

If any nonconforming use is abandoned or discontinued for any reason for a continuous period of six months or more, rights to nonconforming status shall terminate. Without further action by the City, any subsequent use of such land or structure shall be in conformity with all of the regulations of the applicable Zoning District and all other applicable provisions of this Title.

A determination that a use has been abandoned requires both (1) evidence of an intention to abandon, and (2) an act or failure to act which shows or implies that the owner does not continue to claim or retain an interest in the nonconforming use. Evidence may include, but is not limited to, removal of equipment, furniture, machinery, structures, or other components of the nonconforming use, disconnected or discontinued utilities, or no business records to document continued operation. Maintenance of a valid business license shall in itself not be considered a continuation of the use. 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).

Chapter 17.16 Enforcement, Legal Procedure, and Penalties

Sections:

17.16.010	Purpose	17.16-1
17.16.020	Official Duty to Enforce.....	17.16-1
17.16.030	Authorization.....	17.16-1
17.16.040	Violations, Abatement, Penalties, and Remedies	17.16-2
17.16.050	Property Management and Maintenance	17.16-2
17.16.060	Inspections.....	17.16-3
17.16.070	Enforcement Action	17.16-4
17.16.080	Recovery of Costs and Additional Fees	17.16-4

Draft Zoning Code Changes:
This chapter clarifies and expands upon provisions to ensure adequate and consistent enforcement within the City of Pinole.

17.16.010 Purpose

This Chapter identifies enforcement authority and establishes provisions which are intended to ensure compliance with the requirements of this Zoning Code and any conditions of land use entitlements to promote the City's planning efforts and for the protection of the public health, safety, and welfare of the city.

17.16.020 Official Duty to Enforce

- A. **Enforcement Authority.** Enforcement of this Title shall be the Community Development Director. Other officials of the City charged by the law with the general duty of enforcing city ordinances shall also enforce the provisions of this Zoning Code.
- B. **Duties.** It shall be the duty of the Community Development Director to enforce this Title and all its provisions. The Community Development Director shall investigate all matters of Zoning Code violations and, if a violation exists, the City shall take enforcement action, including the issuance of citations for any violations of the Zoning Code pertaining to the use of any land and the addition, alteration, construction, conversion, erection, relocation, reconstruction, or use of any structure pursuant to Chapter 8.25 (Administrative Citations and Penalties) of the Municipal Code.

17.16.030 Authorization

All departments, officials, and public employees of the City which are vested with the duty or authority to issue planning entitlements, ministerial permits, or licenses shall conform to the provisions of this Title and shall issue no such entitlement, permit or license for uses, buildings, or purposes where they would be in conflict with the provisions of this Title. Any action taken by an official or public employee of the City in conflict with the provisions of this Zoning Code shall be deemed void.

17.16.040 Violations, Abatement, Penalties, and Remedies

- A. **Public Nuisance.** Any building set up, erected, built, moved, or maintained and/or any use, division, or transfer of property contrary to the provisions of this Title, or any amendment thereto, shall be, and is, unlawful and a public nuisance and shall be subject to the remedies and penalties identified in this Chapter, the Municipal Code, and other remedies available to the City.
- B. **Infractions.** 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 as specified in Chapter 8.25 (Administrative Citations and Penalties) of the Pinole Municipal Code.
- C. **Stop work order.** Any action in violation of this Zoning Code or any conditions imposed on an entitlement or permit shall be subject to the issuance of a Stop Work Order.
- D. **Injunctive Relief.** Whenever, in the judgment of the Community Development Director, any corporation, firm or person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of this Title or any permit, order, regulation, or rule issued in compliance with this Title, at the request of the Community Development Director, the City Attorney may within thirty days make an application to the appropriate court for an order directing compliance.
- E. **Abatement.** All nuisance abatement, removal and enjoinder proceedings shall be conducted in accordance with this Title, this Chapter 17.16 (Enforcement, Legal Procedure, and Penalties), and relevant provisions of state law.
- F. **Remedies.** 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 a separate offense for each and every day during any portion of which any violation of this Title is committed, continued, or permitted. All remedies provided for in this Chapter shall be cumulative and not exclusive.

17.16.050 Property Management and Maintenance

All development standards shall be continuously met for every building, structure or use. If complaints are received regarding lack of property management and maintenance as it relates to the provisions of this Chapter, the following process shall be followed:

- A. **Buildings and Structures.** Each exterior of a building or other structure must be kept in a good state of repair, and the exterior finish must be clean and well maintained.
- B. **Site.** The entire site, including paved, unpaved, and landscaped areas, must be kept in a neat and orderly manner, free of junk, graffiti, debris, abandoned vehicles, weeds, loose trash, and other litter.

17.16.060 Inspections

- A. **Pre-approval Inspections.** Every applicant seeking an entitlement or permit or any other action in compliance with the Zoning Code shall allow the City officials handling the application access to any premises or property which is the subject of the application.

- B. **Post-approval Inspections.** If the entitlement, permit or other action in compliance with this Zoning Code is approved, the owner or applicant shall allow appropriate City officials access to the premises from time to time in order to determine continued compliance with this Title and any permit, entitlement or approval issued under this Title

17.16.070 Enforcement Action

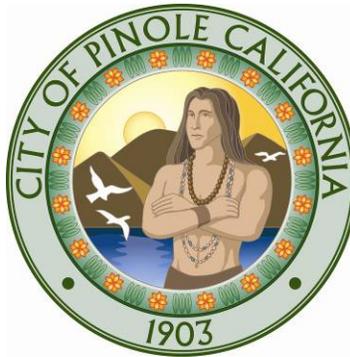
This Section describes the procedures for initiating enforcement action in cases where the Community Development Director has determined that real property within the city is being used in violation of Zoning Code provisions.

- A. **Notice of Violation to Responsible Parties.** The Community Development Director shall provide the record owner of the real property and any person in possession or control of the real property, by certified and first-class mail, a written notice of violation, that shall include the following information:
1. The address of the property in violation;
 2. A description of the violation and citations of applicable Zoning Code provisions being violated;
 3. An explanation of the action(s) required to abate the violation;
 4. A time limit for correcting the violation;
 5. A scheduled date for reinspection;
 6. A statement that the City intends to charge the property owner for all administrative costs associated with the abatement of the violation and the current hourly rate in effect;
 7. A statement that the property owner may request and be provided a meeting with the Community Development Director to discuss possible methods and time limits for the correction of the violations; and
 8. A statement that there is a right of appeal for the summary of costs as provided in Section 17.16.090 within ten days of service of such summary of costs.
- B. **Time Limit for Correction.**
1. The notice of violation shall state that the violations shall be corrected within 30 days from the date of the notice to avoid further enforcement action by the City.
 2. The 30-day time limit may be extended by the Community Development Director upon determining that the responsible party will likely correct the violations within a reasonable time period.
 3. The Community Development Director may also require through the notice of violation that the correction occur within less than 30 days if the violation constitutes a hazard to public health or safety.
- C. **Appeals.** Decisions of the community Development Director may be appealed pursuant to Section 17.10.070 (Appeals).

- D. **Use of Other Enforcement Procedures.** Additional enforcement remedies available to the City may be employed by the Community Development Director after or instead of the provisions of this Section where the Community Development Director determines that this Section would be ineffective in securing the correction of the violation within a reasonable time.

17.16.080 Recovery of Costs and Additional Fees

- A. **Cost Recovery.** The City shall be reimbursed for administrative costs, including, but not limited to, inspection fees for each inspection, staff and City Attorney time expended on the enforcement of the provisions of this Zoning Code.
1. Record of cost. The Community Development Director shall maintain records of all administrative costs incurred by responsible City departments and associated with the processing of violations and enforcement of this Zoning Code and shall recover costs from the property owner.
 2. Summary of costs. At the conclusion of an enforcement case, the Community Development Director shall send a summary of costs associated with enforcement, and a statement that there is the right to appeal within ten days of the date of this summary statement, but that failure to appeal will eliminate the right to object to such costs to the owner and persons having possession or control of the property by certified and first class mail, postage prepaid and return receipt requested.
- B. **Actions that Require a Permit or Entitlement.** Any person who alters or establishes any land use or structure without first obtaining any permit or entitlement required by this Zoning Code shall pay for the additional permit or entitlement processing fees as established by the City that result from the action.
- C. **Public Hearing.** Any property owner, or other person having control of the subject property, who receives a summary of costs pursuant to Section 17.16.080 (Recovery of Costs and Additional Fees), shall have the right to request a public hearing on objections to the summary of costs before the Community Development Director, within ten days of receiving such summary of costs.
1. The hearing shall be held within thirty days of receipt of the request for hearing and the Community Development Director shall provide the requesting owner or person having control of the property with ten days notice prior to the hearing.
 2. The Community Development Director's final decision is subject to appeal pursuant to Section 17.10.070 (Appeals) within ten days of the conclusion of the hearing.
 3. In the event that no hearing is timely filed, the property owner or other person having control of the subject property shall be liable to the City for the amount stated in the summary of costs.
 4. If the costs have not been paid within forty-five days of notice, the costs shall be recoverable in a civil action in the name of the City, in any court of competent jurisdiction, or by recording a lien against the property.



Title 17 – Zoning

Article II

Zoning Districts, Allowed Uses, and Development Standards

Chapter 17.18	Establishment of Zoning Districts and Land Use Classification System	17.18-1
Chapter 17.20	Allowed Land Uses and Requirements	17.20-1
Chapter 17.22	Allowed Use Definitions.....	17.22-1
Chapter 17.24	Development Standards by Zoning District	17.24-1
Chapter 17.26	Special Purpose Zoning Districts	17.26-1

Revisions:

The following revisions have been made to Article II of Title 17:

Date of Adoption	Ordinance Number	Subject	Section	Page Number

Chapter 17.18 Establishment of Zoning Districts and Land Use Classification System

Sections:

17.18.010	Purpose.....	17.18-1
17.18.020	Zoning Districts.....	17.18-1
17.18.030	Conformance with Zoning District Regulations.....	17.18-4
17.18.040	Zoning Map.....	17.18-4
17.18.050	Classification of Land Uses	17.18-6
17.18.060	Allowed Land Uses.....	17.18-6
17.18.070	Similar Use Determination	17.18-7

Draft Zoning Code Changes:

This chapter includes comprehensive reorganization of land use classification system.

Zoning Districts have been updated and clarified consistent with new General Plan and the Three Corridor Specific Plan.

Allowed land uses were modified and updated using the land use classification system.

17.18.010 Purpose

This Chapter establishes the framework of Zoning Districts within the City of Pinole and their relationships to the City’s General Plan Land Use Categories. This Chapter also establishes the Zoning Map as the official designation of Zoning District boundaries.

17.18.020 Zoning Districts

Zoning Districts are established in order to classify, regulate, restrict and segregate the uses of land and buildings; to regulate and restrict the height and bulk of buildings; to regulate the area of yards and other open spaces about buildings; and to regulate the density of population, classes of land use zoning districts are established.

The City of Pinole is divided into Zoning Districts that are generally grouped into two categories: A) Base Zoning Districts, and B) Special Purpose Zoning Districts. These districts conform to and implement the City’s General Plan Land Use Categories as described in Table 17.18.020-1. Subsequent Chapters in this Article identify allowed uses and requirements for planning entitlements, as well as development standards unique to each zoning district.

- A. **Base Zoning Districts.** The Base Zoning District is the primary Zoning District that applies to a property. Every parcel located outside of the Specific Plan area throughout the City has a Base Zoning District that establishes the primary type and intensity of land use for the parcel, along with development regulations for that particular type and intensity of land use for the parcel, along with development regulations for that particular type and intensity of land use. Base districts are grouped into five categories as follows:
 - 1. Residential Zoning Districts
 - 2. Rural Zoning Districts

3. Commercial Zoning Districts
4. Mixed Use Zoning Districts
5. Public, Quasi-Public, and Recreational Zoning Districts

B. **Special Purpose Zoning Districts.** The Special Purpose Zoning District either functions as the Base Zoning District or supplements the Base Zoning District and requires special project entitlement, which allows for flexibility from traditional development standards. There are two Special Purpose Zoning Districts:

1. Specific Plan Zoning Districts that require submittal for a Specific Plan document for proposed development that will replace the City’s zoning regulations for the subject parcel(s). This designation is typically applied to larger land areas that warrant master planning.
2. Planned Development Zoning Districts are limited to property zoned PD-Planned Development as of the effective date of Ordinance ____ adopting this Title. .

In the event of a conflict between the regulations of the Base Zoning District and the Special Purpose Zoning District, the provisions of the Special Purpose Zoning District shall apply.

**TABLE 17.18.020-1:
ZONING DISTRICTS**

Zoning District Symbol	Zoning District Name/Description	General Plan Land Use Designation Implemented by Zoning District
Residential Zoning Districts		
R-1	Low Density Residential Zoning District. This zoning district provides for larger lot single-family dwellings and includes sites located adjacent to open space areas or near environmental resources where a development transition from suburban to rural land use is desirable.	Low Density Residential
SR	Suburban Residential Zoning District. This zoning district provides for single-family development that is typical of most residential areas of the city. This is the single largest residential category.	Suburban Residential
R-2	Medium Density Zoning District. This zoning district provides for detached or attached dwellings, townhomes, apartments with on-site usable open space. Dwellings in this district are typically two or three stories	Medium Density Residential
R-3	High Density Zoning District. This zoning district provides for higher-density multi-family units, townhomes, and apartments usually located near transit corridors or arterial roadway and in close proximity to commercial services. Dwellings in this zoning district are typically two and three stories.	High Density Residential
R-4	Very High Density Zoning District. This zoning district provides for multi-family units at the highest residential densities allowed, including townhomes, condominiums, and apartment complexes found along arterial roadways, near transit and/or commercial services. Dwellings in this zoning district are typically three or more stories.	Very High Density Residential

Zoning District Symbol	Zoning District Name/Description	General Plan Land Use Designation Implemented by Zoning District
Rural Zoning District		
R	Rural Zoning District. This zoning district includes sites characterized by steep slopes, which have geologic constraints, visual significance in the community, sensitive environmental resources, or which have been identified as having limited development due to service delivery constraints.	Rural
Commercial Zoning District		
RC	Regional Commercial Zoning District. This zoning district provides for large regional commercial shopping center area along Interstate 80. This designation would apply to areas along Interstate 80 that are not within the Corridor Specific Plan Area.	Regional Commercial
Mixed Use Zoning Districts		
RMU	Residential Mixed Use Zoning District. The predominant use of this zoning district is residential. It also encourages the vertical and/or horizontal integration of commercial and/or office uses that are compatible with the residential development. This zoning district does not preclude development that is solely residential, but rather encourages a mix of uses.	RMU
CMU	Commercial Mixed Use Zoning District. The predominant use of this zoning district is commercial. This category is designed to provide for the integration of retail and service commercial uses with office and/or residential uses.	CMU
OPMU	Office Professional Mixed Use Zoning District. The predominant use of this zoning district is office, but commercial uses may be integrated into office buildings or located horizontally in freestanding buildings.	OPMU
OIMU	Office Industrial Mixed Use Zoning District. This zoning district allows a wide range of office and light industrial development as well as emergency housing. It is intended for office and light industrial uses with supporting retail and service uses. Retail must be ancillary to the principal industrial activity of the property.	OIMU
Public, Quasi Public, and Recreational Zoning Districts		
SPBCD	San Pablo Bay Conservation District. This zoning district is reserved for the portion of the Pinole Planning Area that extends into San Pablo Bay and the land immediately adjacent to San Pablo Bay. This is primarily an open space designation with a few other possible uses such as for expansion of the Pinole-Hercules Water Pollution Control Plant; railroad corridors; passenger rail stations, recreation facilities such as the Bay Trail; or flood protection improvements. In addition, very limited commercial development which is directly related to, and enhances the public use of, the waterfront may also be allowed.	San Pablo Bay Conservation Area
PQI	Public/Quasi-Public/Institutional Zoning District. This zoning district provides for uses which are primarily public-serving in nature, including City and other government offices public school facilities, publicly owned recreation facilities, and fire and police facilities. This district also allows for quasi-public and institutional uses such as places of worship.	Public Facilities

Zoning District Symbol	Zoning District Name/Description	General Plan Land Use Designation Implemented by Zoning District
PR	Parks and Recreation Zoning District. This zoning district includes public parks, City-owned or East Bay Regional Park District owned conservation lands, and private open space or recreation facilities for active sport use.	Parks and Recreation
OS	Open Space Zoning District. This zoning district includes undeveloped lands which are vacant of structures and improvements and which are primarily maintained in their natural condition and designated as open space.	Open Space
Special Purpose Zoning Districts		
SP	Specific Plan Zoning District. This zoning district designates areas for master planning with unique zoning and design standards through adoption of a Specific Plan to govern development of land within the plan area.	All
PD	Planned Development Zoning District. This zoning district recognizes Planned Development zoning adopted prior to the effective date of the 2010 comprehensive Zoning Code update..	All

17.18.030 Conformance with Zoning District Regulations

Except as otherwise provided in this Title:

- A. No building shall be erected, and no existing building shall be moved, altered, added to or enlarged, nor shall any land, building or premises be used, designed or intended to be used for any purpose or in any manner other than listed in this title, or amendments thereto, as permitted in the zoning districts in which such land, building or premises is located.
- B. No building shall be erected nor any existing building be moved, reconstructed or structurally altered to exceed in height the limit established by this title, or amendments thereto, for the zoning district in which such building is located.
- C. No building shall be erected nor shall any existing building be moved, altered or enlarged nor shall any open spaces surrounding any building be encroached upon or reduced in any manner except in conformity with the building-site requirements and the area and yard regulations established by this title, or amendments thereto, for the zoning district in which such building is located.

17.18.040 Zoning Map

The City Council hereby adopts the City of Pinole Zoning Map (hereafter referred to as the "Zoning Map") as the official designation of Zoning District boundaries on real property within the City. The Zoning Map shall be regulated as set forth:

- A. **Incorporated by Reference.** The Zoning Map is hereby incorporated into this Zoning Code by reference.

- B. **Relationship to the General Plan.** The Zoning Map shall implement and shall be consistent with the City's adopted General Plan. Specifically, the Zoning Map shall be consistent with the General Plan Land Use Plan.
- C. **Relationship to Specific Plans.** The Specific Plans adopted in the City of Pinole establish special zoning regulations and other design and development provisions in designated portions of the City. As such, the Specific Plans essentially replace the citywide zoning regulations in those areas and are shown on the Zoning Map with the adopted Specific Plan name and/or number, referring the reader to the adopted Specific Plan document to govern subsequent land development within the plan area. The Zoning Code shall be relied upon for development topics not included within the Specific Plan. In the event of a conflict between the Specific Plan and the Zoning Code, the Specific Plan shall prevail.
- D. **Planned Developments.** In addition to the Zoning District Symbol for the PD district, a reference to the PD-Planned Development ordinance for the site shall be included on the Zoning Map whenever possible.
- E. **Zoning District Symbol.** Zoning Districts shall be illustrated on the Zoning Map as follows:
1. Each Base Zoning District shall be described on the Zoning Map by use of its identified Zoning District Symbol, as listed in Table 17.18.020-1.
 2. Special Purpose Zoning Districts shall be delineated with a name, number, symbol, or other delineation, as determined by the Community Development Director, which distinguishes it from other Special Purpose Zoning Districts or Base Zoning Districts. The assignment of the Special Purpose designation serves to provide a reference to the corresponding Special Purpose Zoning document (e.g. Specific Plan, Planned Development) adopted by ordinance of the City Council.
- F. **Zoning Map Interpretation.** If there is uncertainty about the location of any Zoning District Boundary shown on the Zoning Map, the precise location of the boundary shall be determined by the Community Development Director as follows:
1. Where such boundaries are indicated as approximately following street and alley lines or lot lines, such lines shall be construed to be such boundaries.
 2. In unsubdivided property or where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map.
 3. In case any uncertainty exists, the Planning Commission shall determine the location of boundaries.
 4. Where any public street or alley is officially vacated or abandoned, the regulations applicable to abutting property shall apply to such vacated or abandoned street or alley.
 5. Where any private right-of-way or easement of any railroad, railway, canal, transportation or public utility company is vacated or abandoned, the regulations applicable to abutting property shall apply to such vacated or abandoned property.

17.18.050 Classification of Land Uses

In order to simplify land use regulations, land uses listed in this Article and throughout this Title have been grouped into general categories on the basis of common function, product, or compatibility characteristics. These allowed use categories are called “Use Classifications.” Use classifications describe one or more uses having similar characteristics but do not list every use or activity that may appropriately be within the classification. Each land use is described in Chapter 17.22 (Allowed Use Definitions). For example, “personal service use” includes a wide range of individual personal service uses (beauty parlor, dry cleaning, tanning salons, tailors). Rather than listing all such uses individually throughout this Title, “personal service use” is listed once and is further defined in Chapter 17.22 (Allowed Use Definitions).

The following rules apply to use classifications:

- A. **Special Use Regulations.** Additional use regulations for special land uses are listed in Article IV. (Standards for Specific Land Uses).
- B. **Uses Not Listed.** Land uses that are not listed in the Zoning District tables are not allowed, except as otherwise provided for in this Title.
- C. **Illegal Uses.** No use that is illegal under local, state, or federal law shall be allowed in any Zoning District within the City.
- D. **Special Purpose Zoning District.** When a property is located within a Special Purpose Zoning District, the allowed use provisions of that Special Purpose Zoning District shall prevail. When a Special Purpose Zoning District is silent (Planned Developments) on allowed use provisions, it defers the allowed use provisions to the Base Zoning District. Only where there is a conflict do the Special Purpose Zoning District provisions prevail.
- E. **Similar Uses.** When a use is not specifically listed in this Code, it shall be understood that the use may be permitted if the Community Development Director determines that the use is substantially similar to other uses listed based on established criteria and required findings outlined in Section 17.18.070 (Similar Use Determination). It is further recognized that every conceivable use cannot be identified in this Title and, anticipating that new uses will evolve over time, the City Planner may make a Similar Use Determination to compare a proposed use and measure it against those uses listed.

17.18.060 Allowed Land Uses

Zoning District allowed uses and corresponding requirements for entitlements are listed in Table 17.20.030-1 (Allowed Uses and Required Entitlements) for all of the City’s Base Zoning Districts. Generally, a use is either allowed by right, allowed through issuance of a conditional use permit, or not permitted. In addition to the requirements for planning entitlements of this Title, other permits may be required prior to establishment of the use (e.g., Building Permit or permits required by other agencies). The requirements for planning entitlements identified in Table 17.20.030-1 include:

- A. **Permitted (P).** A land use shown with a “P” indicates that the land use is permitted by right in the designated Zoning District, subject to compliance with all applicable provisions of this Zoning Code (e.g., development standards) as well state and federal law.

- B. **Conditional (C).** A land use shown with a “C” indicates that the land use is permitted in the designated Zoning District upon issuance of a Conditional Use Permit from the designated Approving Authority, subject to compliance with all applicable provisions of this Zoning Code (e.g., development standards) as well state and federal law.
- C. **Not Permitted (N).** A land use shown with an “N” in the table is not allowed in the applicable Zoning District. Additionally, uses not shown in the table are not permitted, except as otherwise provided for in this Title.

17.18.070 Similar Use Determination

When a use is not specifically listed in this Title, it shall be understood that the use may be permitted if the Community Development Director determines that the use is substantially similar to other uses listed. It is further recognized that every use cannot be identified in this Title and, anticipating that new uses will evolve over time, this Section establishes the Community Development Director’s authority to compare a proposed use and measure it against those uses listed in this Title for determining similarity. In determining “similarity” the Community Development Director shall make all of the following findings:

- A. The characteristics of, and activities associated with the proposed use are equivalent to one or more of the listed uses, and will not involve a higher level of activity or population density than the uses listed in the district;
- B. The proposed use will be consistent with the purposes of the applicable zoning district; and
- C. The proposed use will be consistent with the General Plan.

Determinations shall be made in writing and shall contain the facts that support the determination. The Department shall maintain all such determinations on record at the public counter for review by the general public. All recorded determinations shall be provided to the Planning Commission, City Council, City Manager, City Attorney, and City Clerk. The Community Development Director’s decision may be appealed as provided in Section 17.10.070 (Appeals). Interpretations shall be made consistent with the provisions outlined in Chapter 17.06 (Interpretations).

Chapter 17.20 Allowed Land Uses and Requirements

Sections:

17.20.010	Purpose.....	17.20-1
17.20.020	Allowed Uses and Required Entitlements.....	17.20-1

Draft Zoning Code Changes:

Allowed use regulations have been consolidated to a single table and updated to reflect current laws, best practices, and consistency with the General Plan and Specific Plans.

17.20.010 Purpose

The purpose of this Chapter is to establish allowed land uses and requirements for planning entitlements for each of the City’s base zoning districts. Allowed uses herein are consistent with and implement the City’s General Plan corresponding land use designations as shown in Table 17.18.020-1 (Zoning Districts).

17.20.020 Allowed Uses and Required Entitlements

Table 17.20.030-1 below identifies allowed uses and corresponding requirements for planning entitlements for all base zoning districts within the City of Pinole. Definitions for the land uses listed herein (use classifications) are provided in Chapter 17.22 (Allowed Use Definitions). See additional use requirements in Article IV (Special Use Standards). In the table below, any land use shown with a “P” indicates that the land use is permitted by right, a “C” indicates that the land use is permitted in the designated zoning district upon issuance of a Conditional Use Permit (pursuant to Section 17.12.140 (Conditional Use Permit), and an “N” indicates that the use is not allowed. Except as otherwise provided for in this Title, uses not shown in the table are not permitted. Zoning district names for the zoning district symbols used in the table are as follows:

- | | |
|---|---|
| R-1 = Low Density Residential Zoning District | OPMU = Office Professional Mixed Use Zoning District |
| SR = Suburban Residential Zoning District | OIMU = Office Industrial Mixed Use Zoning District |
| R-2 = Medium Density Zoning District | OS = Open Space Zoning District |
| R-3 = High Density Zoning District | PR = Parks and Recreation Zoning District |
| R-4 = Very High Density Zoning District | PQI = Public Quasi-Public Institutional Zoning District |
| R = Rural Zoning District | SPBCA = San Pablo Bay Conservation Zoning District |
| RC = Regional Commercial Zoning District | |
| RMU= Residential Mixed Use Zoning District | |
| CMU = Commercial Mixed Use Zoning District | |

**TABLE 17.20.030-1:
ALLOWED USES AND REQUIRED ENTITLEMENTS FOR CITY OF PINOLE BASE ZONING DISTRICTS**

Land Use \ Zoning District	R-1	SR	R-2	R-3	R-4	R	RC	RMU	CMU	OPMU	OIMU	OS	PR	PF	SPBCA
Residential Uses															
Adult Day Care Home	P	P	P	P	P	N	N	P	P	P	P	N	N	N	N
Caretaker Housing	N	N	N	N	N	N	P	N	N	N	N	N	N	N	N
Dwelling, Multifamily	N	N	P	P	P	N	N	P	P	N	N	N	N	N	N
Dwelling, Second Unit (1)	P	P	P	N	N	N	N	P	N	N	N	N	N	N	N
Dwelling, Single Family	P	P	P	P	N	P	N	N	N	N	N	N	N	N	N
Dwelling, Two-Family	N	N	P	P	N	N	N	N	N	P	P	N	N	N	N
Dwelling, Three- and Four-Family	N	N	P	P	P	N	N	P	P	N	N	N	N	N	N
Emergency Shelter (2)	N	N	C	C	C	N	N	C	C	N	N	N	N	N	N
Family Day Care Home, Large	C	C	C	C	C	C	N	C	C	N	N	N	N	N	N
Family Day Care Home, Small	P	P	P	P	P	P	N	P	P	N	N	N	N	N	N
Group Residential	P	P	P	P	P	N	N	C	C	N	N	N	N	N	N
Home Occupations (3)	P	P	P	P	P	P	N	P	P	P	P	N	N	N	N
Manufactured Home	P	P	P	P	P	P	N	N	N	N	N	N	N	N	N
Mobile Home Park	C	C	C	C	C	C	N	N	N	N	N	N	N	N	N
Residential Care Facilities	P	P	P	P	P	P	N	P	P	N	N	N	N	N	N
Single Room Occupancy Facilities	N	N	C	C	C	N	N	C	C	N	N	N	N	N	N
Transitional Housing (2)	N	P	C	C	P	N	N	C	C	N	N	N	N	N	N
Agriculture, Resource, and Open Space Uses															
Animal Keeping, Domestic Pets (4)	P	P	P	P	P	P	N	P	P	N	N	N	N	N	N
Animal Keeping, Exotic Animals (4)	P	P	P	P	P	P	N	P	P	N	N	N	N	N	N
Animal Keeping, Livestock (4)	N	N	N	N	N	P	N	N	C	N	N	N	N	N	N
Animal Keeping, Poultry, Rabbits (4)	P	P	C	C	C	P	N	N	N	N	N	N	N	N	N
Equestrian Facility, Commercial	N	N	N	N	N	C	N	N	N	N	N	N	C	N	N
Equestrian Facility, Hobby	N	N	N	N	N	P	N	N	N	N	N	N	C	N	N
Kennels, Hobby	N	N	N	N	N	C	N	N	N	N	N	N	N	N	N
Recreation, Education, and Public Assembly Uses															
Cemeteries, Mausoleums	C	C	C	C	C	C	N	N	N	N	N	N	N	N	N
Clubs, Lodges, and Private Meeting Halls	C	C	C	C	N	N	N	N	C	C	C	N	N	C	C
Community Centers/Civic Uses	C	C	C	C	C	N	N	C	C	C	N	N	P	P	C
Community Garden	P	P	P	P	P	N	N	P	P	P	P	P	P	P	N
Indoor Amusement/Entertainment Facility	N	N	N	N	N	N	C	N	C	N	N	N	N	N	N
Indoor Fitness and Sports Facility	N	N	N	N	N	P	P	C	N	C	C	N	N	P	N
Libraries and Museums	C	C	C	C	N	N	N	C	C	C	C	N	N	C	C
Outdoor Commercial Recreation	C	C	C	C	N	N	N	N	N	N	N	N	P	P	N
Parks and Public Plazas	P	P	P	P	P	P	N	P	P	P	P	N	P	P	N
Public Safety Facility	P	P	P	P	P	P	P	C	C	C	C	N	C	P	C

Land Use \ Zoning District	R-1	SR	R-2	R-3	R-4	R	RC	RMU	CMU	OPMU	OIMU	OS	PR	PF	SPBCA
Recreational Vehicle Parks	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Religious Institutions	C	C	C	C	C	N	N	N	C	C	C	N	N	N	N
Resource Protection and Restoration	P	P	P	P	P	P	C	N	N	N	N	P	P	P	P
Resource-Related Recreation	P	P	P	P	P	P	N	N	N	N	N	P	P	P	P
Schools, Private and Special/Studios	N	N	N	N	N	N	P	N	C	C	C	N	N	N	N
Schools, Public	P	P	P	P	P	N	N	P	P	P	P	N	N	C	N
Theaters and Auditoriums	N	N	N	N	N	N	P	N	N	N	N	N	N	N	N
Utility, Transportation, and Communication Uses															
Broadcasting and Recording Studios	N	N	N	N	N	N	P	N	N	N	N	N	N	N	N
Bus and Transit Shelters	N	P	P	P	P	N	P	P	P	P	P	N	P	P	P
Heliports	N	N	N	N	N	N	N		N	N	N	N	N	N	N
Park and Ride Facility	N	N	C	C	N	C	P	C	C	C	C	N	N	N	N
Parking Facility	N	N	P	P	P	N	P	P	P	P	P	N	N	N	N
Wireless Communication Facility, Freestanding Tower (5)	N	N	C	C	C	C	C	C	C	C	C	C	C	C	C
Wireless Communication Facility, co-location, antenna, satellite (5)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Transit Facilities	N	N	N	N	N	N	P	N	N	C	C	N	N	N	C
Utility Facility and Infrastructure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Retail, Service, and Office Uses															
Adult Oriented Business (6)	N	N	N	N	N	N	N	N	N	N	C	N	N	N	N
Adult Day Care Facility	C	C	C	C	P	N	N	P	C	N	N	N	N	N	N
Alcoholic Beverage Sales	N	N	N	N	N	N	P	C	C	C	C	N	N	N	N
Ambulance Service	N	N	N	N	N	N	N	C	N	N	P	N	N	N	N
Animal Sales and Grooming	N	N	N	N	N	N	P	C	C	P	P	N	N	N	N
Art, antique, collectable.	N	N	N	N	N	N	P	P	P	C	C	N	N	N	N
Artisan Shops	N	N	N	N	N	N	P	P	P	P	C	N	N	N	N
Artist Studio	N	N	P	P	P	P	N	C	C	C	P	N	N	N	N
Banks and Financial Services	N	N	N	N	N	N	P	P	P	P	C	N	N	N	N
Bars and Nightclubs	N	N	N	N	N	N	C	C	C	C	N	N	N	N	N
Bed and Breakfast Inns	N	N	N	N	N	C	N	P	C	N	N	N	N	N	N
Building Materials Store and Yard	N	N	N	N	N	N	P	N	C	N	C	N	N	N	N
Business Support Services	N	N	N	N	N	N	P	P	P	P	P	N	N	N	N
Call Centers	N	N	N	N	N	N	N	C	C	P	P	N	N	N	N
Card Room	N	N	N	N	N	N	C	C	C	N	N	N	N	N	N
Check Cashing Business	N	N	N	N	N	N	N	N	C	C	C	N	N	N	N
Child Day Care Facility	C	C	C	C	C	N	C	P	P	P	C	N	N	N	N
Convenience Stores	N	N	N	N	N	C	P	P	P	P	P	N	N	N	N
Drive-in and Drive-through Sales and Service (7)	N	N	N	N	N	C	P	N	C	C	C	N	N	N	N
Equipment Sales and Rental	N	N	N	N	N	C	C	N	P	C	P	N	N	N	N

Land Use \ Zoning District	R-1	SR	R-2	R-3	R-4	R	RC	RMU	CMU	OPMU	OIMU	OS	PR	PF	SPBCA
Furniture, Furnishings, and Appliance Stores	N	N	N	N	N	N	P	C	P	C	C	N	N	N	N
Garden Center/Plant Nursery	N	N	N	N	N	N	C	N	C	C	P	N	N	N	N
Grocery Stores/Supermarket	N	N	N	N	N	P	P	P	P	C	N	N	N	N	N
Home Improvement Supplies	N	N	N	N	N	P	P	C	C	C	C	N	N	N	N
Hotels and Motels	N	N	N	N	N	P	P	C	C	C	N	N	N	N	N
Hotels and Motels, Extended Stay	N	N	N	N	N	N	P	C	C	C	N	N	N	N	N
Kennels, Commercial	N	N	N	N	N	C	N	N	C	N	C	N	N	N	N
Maintenance and Repair, Small Equipment	N	N	N	N	N	N	P	C	C	C	P	N	N	N	N
Massage Therapy Establishment (8)	N	N	N	N	N	N	C	P	P	P	C	N	N	N	N
Medical Services, General	N	N	N	N	N	N	P	C	C	P	P	N	N	N	N
Medical Services, Extended Care	N	N	N	N	N	N	N	C	C	C	N	N	N	N	N
Medical Services, Hospitals	N	N	N	N	N	N	N	N	C	P	N	N	N	N	N
Mortuaries and Funeral Homes	N	N	N	N	N	N	N	N	C	C	P	N	N	N	N
Neighborhood Market	N	N	N	N	N	N	N	P	P	C	C	N	N	N	N
Office, Temporary	N	N	N	N	N	N	N	N	C	P	P	N	N	N	N
Offices, Business and Professional	N	N	N	N	N	C	P	P	P	P	P	N	N	N	N
Offices, Accessory	N	N	N	N	N	P	P	P	P	C	P	N	N	N	N
Pawn Shop	N	N	N	N	N	N	C	N	C	C	C	N	N	N	N
Personal Services	N	N	N	N	N	P	P	P	P	C	N	N	N	N	N
Restaurants	N	N	N	N	N	P	P	C	P	P	P	N	N	N	N
Retail, Accessory	N	N	N	N	N	P	P	P	P	P	P	N	N	N	N
Retail, General	N	N	N	N	N	P	P	P	P	P	C	N	N	N	N
Retail, Warehouse Club	N	N	N	N	N	N	P	N	C	N	N	N	N	N	N
Temporary Real Estate	C	C	C	C	C	C	C	C	C	C	C	N	N	N	N
Thrift Store	N	N	N	N	N	N	C	C	C	C	N	N	N	N	N
Veterinary Facility	N	N	N	N	N	N	C	C	C	C	C	N	N	N	N
Automobile and Vehicle Uses															
Auto and Vehicle Sales and Rental	N	N	N	N	N	N	C	N	C	C	C	N	N	N	N
Auto and Vehicle Sales, Wholesale	N	N	N	N	N	N	N	N	N	N	C	N	N	N	N
Auto and Vehicle Storage	N	N	N	N	N	N	N	N	N	N	C	N	N	N	N
Auto Parts Sales	N	N	N	N	N	N	P	N	N	N	P	N	N	N	N
Car Washing and Detailing	N	N	N	N	N	N	C	N	C	C	C	N	N	N	N
Service Stations	N	N	N	N	N	N	C	N	C	C	C	N	N	N	N
Vehicle Services, Major	N	N	N	N	N	N	C	N	C	N	C	N	N	N	N
Vehicle Services, Minor	N	N	N	N	N	N	C	N	C	N	C	N	N	N	N
Industrial, Manufacturing, and Processing Uses															
Manufacturing, Major	N	N	N	N	N	N	N	N	N	C	C	N	N	N	N
Manufacturing, Minor	N	N	N	N	N	N	N	N	C	C	P	N	N	N	N

Land Use \ Zoning District	R-1	SR	R-2	R-3	R-4	R	RC	RMU	CMU	OPMU	OIMU	OS	PR	PF	SPBCA
Manufacturing, Small Scale	N	N	N	N	N	N	N	C	C	P	P	N	N	N	N
Printing and Publishing	N	N	N	N	N	N	N	N	C	C	P	N	N	N	N
Recycling Facility, Collection	N	N	N	N	N	C	C	C	C	C	C	N	N	N	N
Recycling Facility, Processing	N	N	N	N	N	N	N	N	N	C	C	N	N	N	N
Recycling Facility, Scrap and Dismantling Facility	N	N	N	N	N	N	N	N	N	N	C	N	N	N	N
Research and Development	N	N	N	N	N	N	N	C	P	P	P	N	N	N	N
Storage, Personal Storage Facility	N	N	N	N	N	N	C	N	C	N	P	N	N	N	N
Storage, Warehouse	N	N	N	N	N	N	N	N	N	C	P	N	N	N	N
Storage, Yards	N	N	N	N	N	N	N	N	N	N	C	N	N	N	N
Wholesaling and Distribution	N	N	N	N	N	N	N	N	N	N	C	N	N	N	N

Notes:

- (1) See additional regulations for Second Dwelling Units in Chapter 17.70.
- (2) See additional regulations for Emergency Shelters and Transitional Housing in Chapter 17.62.
- (3) See additional regulations for Home Occupations in Chapter 17.64
- (4) Additional regulations applicable to animal keeping where permitted are as follows:
 - a. Domestic Pets. Keeping of any combination of five or more cats and dogs is considered a kennel for the purposes of this Title.
 - b. Exotic Animals. All exotic animals shall be kept and maintained a minimum distance of 40 feet from any property line, unless contained within the dwelling.
 - c. Livestock. Two livestock animals may be permitted for each half-acre of land. All livestock animals shall be kept and maintained a minimum distance of 40 feet from any property line and a minimum distance of 75 feet from any residential dwelling.
 - d. Poultry and Rabbits. All poultry animals shall be kept and maintained a minimum distance of 40 feet from any property line.
- (5) See additional regulations for Wireless Communication Facilities in Chapter 17.76.
- (6) See additional regulations for Adult Entertainment Businesses in Chapter 17.58
- (7) See additional regulations for Drive-In and Drive-Through Facilities in Chapter 17.40.
- (8) See additional regulations for Massage Therapy in Chapter 17.66.

Chapter 17.22 Allowed Use Definitions

Sections:

17.22.010	Purpose.....	17.22-1
17.22.020	Allowed Use Definitions.....	17.22-1

Draft Zoning Code Changes:

The allowed use definitions were relocated from the glossary to improve organization and user friendliness of the consolidated allowed use table in Chapter 17.20.

17.22.010 Purpose

The purpose of this Chapter is to define use classifications listed in Chapter 17.20 (Allowed Land Uses and Required entitlements) and throughout this Title. Use classifications are land uses that have been grouped into general categories on the basis of common function, product, or compatibility characteristics. This chapter should be used as a reference to Additional definitions for specialized terms used in the Zoning Code can be found in Article VI (Glossary).

17.22.020 Allowed Use Definitions

The following list represents the complete list of allowed uses and corresponding definitions as used in Table 17.20.030-1 and throughout this Title. Individual use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. Additional definitions are found in Article VI (Glossary). Allowed uses are organized into the following seven use categories as follows:

- Residential Uses
- Agriculture, Resource, and Open Space Uses
- Recreation, Education, and Public Assembly Uses
- Utility, Transportation, and Communication Uses
- Retail, Service, and Office Uses
- Automobile and Vehicle Uses
- Industrial, Manufacturing, and Processing Uses

A. Residential Uses

1. **Adult Day Care Home.** Defined by state law as the provision of non-medical care to six or fewer adults, including seniors, in the provider’s own home, for a period of less than 24 hours at a time. Homes serving more than six adults are included in “Adult Day Care Facility.”

2. **Caretaker Housing.** A residence that is accessory to a site with a non-residential primary use and that is needed for security, 24-hour care or supervision, or monitoring of facilities, equipment, or other conditions on the site.
3. **Dwelling, Multi-Family.** A building designed and intended for occupancy by three or more households living independently of each other, each in a separate dwelling unit, which may be owned individually or by a single landlord (e.g., apartment, apartment house, townhouse, condominium).
4. **Dwelling, Second Unit.** An attached or detached dwelling unit which provides complete independent living facilities for one or more persons, with permanent provisions for living, sleeping, eating, cooking, and sanitation sited on the same parcel as the primary dwelling unit. This definition includes granny flats.
5. **Dwelling, Single-Family.** A building designed exclusively for occupancy by one household on a single lot. This classification includes manufactured homes (defined in California Health and Safety Code Section 18007) and model homes for the first sale of homes within the subdivision.
6. **Dwelling, Two-Family.** An attached building (e.g., duplex) designed for occupancy by two households living independently of each other, where both dwellings are located on a single lot. For the purposes of this Title, this definition also includes half-plexes (two attached units, each with a separate lot). Does not include second dwelling units (see “Dwelling, Second Unit”).
7. **Dwelling, Three- and Four-Family.** An attached building (e.g., triplex) designed for occupancy by three or four households living independently of each other, where each dwelling is located on a single lot. Does not include second dwelling units (see “Dwelling, Second Unit”).
8. **Emergency Shelter.** A facility for the temporary shelter and feeding of indigents or disaster victims and operated by a public or nonprofit agency.
9. **Family Day Care Home.** Facilities that provide care, protection, and supervision of children, in the caregiver’s home, for periods of less than 24 hours per day, while the parents or authorized representatives are away. These facilities include the following, all of which are required to be licensed by the State of California Department of Social Services. These capacities include children under age 10 who live in the licensee’s home.
 - i. Large family. A home that provides family child care for up to 12 children, or for up to 14 children. These capacities include children under age 10 who live in the licensee’s home and the assistant provider’s children under age 10. A large family day care home is required to comply with the requirements of Section 7.060.
 - ii. Small family. A home that provides family child care for up to six children, or for up to eight children.
10. **Home Occupation.** The conduct of a business within a dwelling unit or residential site, employing occupants of the dwelling, with the business activity being subordinate to the residential use of the property. Examples include, but are not limited to, accountants and financial advisors, architects, artists, attorneys, offices

for construction businesses (no equipment or material storage), and real estate sales.

11. **Manufactured Home.** The California Health and Safety Code, Section 18007, defines a manufactured home as a structure that meets the following criteria:
 - i. Transportable in one or more sections;
 - ii. When in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet;
 - iii. Built on a permanent chassis;
 - iv. Designed to be used as a residential dwelling;
 - v. Erected with or without a permanent foundation when connected to the required utilities;
 - vi. Includes the plumbing, heating, air conditioning, and electrical systems contained therein.
 - vii. This term shall include any structure which meets all the requirements of this paragraph except the size requirements so long as the manufacturer voluntarily files a certification and complies with the standards established under this part. Manufactured home includes a mobile home subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401 et seq.).
12. **Mobile Home Park.** Consistent with definitions of state law (Welfare and Institution Code Section 18214), a mobile home park is any site that is planned and improved to accommodate two or more mobile homes used for residential purposes, or on which two or more mobile home lots are rented, leased, or held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate mobile homes used for residential purposes.
13. **Residential Care Facilities.** Consistent with the definitions of state law, residential care facilities provide 24-hour non-medical care for six or fewer persons 18 years of age or older, or emancipated minors, with chronic, life-threatening illness in need of personal services, protection, supervision, assistance, guidance, or training essential for sustaining the activities of daily living or for the protection of the individual. This classification includes, but is not limited to, rest homes, residential care facilities for the elderly, adult residential facilities, wards of the juvenile court, and other facilities licensed by the State of California. Convalescent homes, nursing homes, and similar facilities providing medical care are included under the definition of "Medical Services, Extended Care."
14. **Single Room Occupancy (SRO) Facilities.** Multi-unit housing for very low-income persons that typically consists of a single room and shared bath and also may include a shared common kitchen and common activity area. SROs may be restricted to seniors or be available to persons of all ages. Subsidized versions may be supervised by a government housing agency.

15. **Transitional Housing.** Consistent with Health and Safety Code Section 50675.2, transitional housing is defined as buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

B. Agriculture, Resource, and Open Space Uses

1. **Animal Keeping.** Care and maintenance of animals on private property. The listing below provides a distinction between various types of animals related to allowed use provisions in Article II. (Zoning Districts, Allowed Uses, and Development Standards). This classification is distinct from “Animal Sales and Grooming,” and “Equestrian Facility” (commercial or hobby). Also see “Kennels, Commercial,” which provides for the boarding of animals (e.g., “doggie day-care”).
 - i. Domestic pets. Small animals (no larger than the largest breed of dogs) customarily kept as pets within a dwelling unit. This classification includes dogs, cats, fish, and birds (excluding large tropical birds and poultry).
 - ii. Exotic animals. Wild animals not customarily confined or cultivated by man for domestic or commercial purposes, but kept as a pet or for display, including potbelly pigs, snakes, reptiles, and large tropical birds (including peacocks).
 - iii. Livestock animals. Domesticated animals that may be kept or raised in pens, barns, houses, and pastures whether for commercial or private use. Livestock includes, but is not limited to, cattle, sheep, swine, goats, equine, and fowl.
 - iv. Poultry. Domesticated birds (fowl) customarily kept for eggs or meat. This classification includes chickens, roosters, ducks, geese, turkeys, guinea fowl, and Cornish game hens.
2. **Equestrian Facility, Commercial.** Commercial horse, donkey, and mule facilities including horse ranches, boarding stables, riding schools and academies, horse exhibition facilities (for shows or other competitive events), pack stations, and barns, stables, corrals, and paddocks accessory and incidental to these uses.
3. **Equestrian Facility, Hobby.** Stables, corrals, and paddocks used by the individual homeowners of corresponding property and their animals.
4. **Kennels, Hobby.** Facility for the keeping, boarding, or maintaining of five or more dogs (four months of age or older) or five or more cats. Excludes dogs or cats for sale in pet shops or patients in animal hospitals. Includes a kennel where the animals are owned or kept by the owner or occupant for personal, non-commercial purposes, including hunting, tracking, exhibiting at shows, exhibitions, field trials or other competitions, or for enhancing or perpetuating a given breed, other than dogs or cats used in conjunction with an agricultural operation on the lot or premises.

5. **Resource Protection and Restoration.** Activities and management of an area to preserve, recreate, and enhance natural resource values such as fish and wildlife habitat, rare and endangered plants, vernal pools, erosion control, and floodwater conveyance.
6. **Resource-Related Recreation.** Facility related to passive recreation in open space areas including bicycle and pedestrian trails, picnic areas, parking areas, and interpretive centers.

C. **Recreation, Education, and Public Assembly Uses**

1. **Cemetery, Mausoleum.** Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, columbariums, and mausoleums. Also see “Mortuaries and Funeral Homes.”
2. **Clubs, Lodges, and Private Meeting Halls.** Permanent, headquarters-type, and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for business associations; civic, social and fraternal organizations; labor unions and similar organizations; political organizations; professional membership organizations; and other membership organizations.
3. **Community Centers/Civic Uses.** Multipurpose meeting and recreational facilities typically consisting of one or more meeting or multipurpose rooms, kitchen, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.
4. **Community Garden.** A site used for growing plants for food, fiber, herbs, or flowers, which is shared and maintained by city residents.
5. **Indoor Amusement/Entertainment Facility.** Establishment providing indoor amusement and entertainment services for a fee or admission charge, including dance halls and ballrooms and electronic game arcades, as primary uses. Four or more electronic games or coin-operated amusements in any establishment, or premises where 50 percent or more of the floor area is occupied by amusement devices, are considered an amusement device arcade as described above; three or less machines are not considered a land use separate from the primary use of the site.
6. **Indoor Fitness and Sports Facilities.** Predominantly participant sports and health activities conducted entirely within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice/roller skating rinks, indoor racquetball courts, indoor climbing facilities, soccer areas, athletic clubs, and health clubs. This use does not include special studios not a part of an athletic or health club (e.g., karate studio, dance studio, etc.). Also see “Schools, Private and Special/Studio.”
7. **Libraries and Museums.** Public or quasi-public facilities including aquariums, arboretums, art exhibitions, botanical gardens, historic sites and exhibits, libraries, museums, and planetariums, which are generally non-commercial in nature.
8. **Outdoor Commercial Recreation.** Facility for various outdoor participant sports and types of recreation where a fee is charged for use (e.g., amphitheaters, amusement and theme parks, golf driving ranges, health and athletic club with

outdoor facilities, miniature golf courses, skateboard parks, stadiums and coliseums, swim and tennis clubs, water slides, zoos).

9. **Parks and Public Plazas.** Public parks include playgrounds and athletic fields/courts and public plazas and outdoor gathering places for community use. If privately owned and restricted to the public (e.g., require payment of fee), the same facilities are included under the definition of "Outdoor Commercial Recreation."
10. **Public Safety Facility.** Facility operated by public agencies including fire stations, other fire prevention and firefighting facilities, and police and sheriff substations and headquarters, including interim incarceration facilities.
11. **Recreational Vehicle Park.** A site where one or more lots are used, or are intended to be used, by campers with recreational vehicles or tents. Recreational vehicle parks may include public restrooms, water, sewer, and electric hookups to each lot and are intended as a higher density, more intensively developed use than campgrounds. May include accessory retail uses where they are clearly incidental and intended to serve RV park patrons only.
12. **Religious Institution.** A building or space primarily used for an assembly of persons to conduct worship or other religious ceremonies, including, but not limited to, churches, synagogues, temples, mosques, or shrines.
13. **Schools, Private and Special/Studio.** Private educational institutions (e.g., boarding schools, business, secretarial and vocational schools, colleges and universities, establishments providing for courses by mail or on-line) and special schools/studios (e.g., art, ballet and other dance, computers and electronics, drama, driver education, language, music, photography). Also includes facilities, institutions, and conference centers that offer specialized programs in personal growth and development (e.g., fitness training studios, gymnastics instruction, and aerobics and gymnastics studios, environmental awareness, arts, communications, management). Also see "Indoor Fitness and Sports Facilities."
14. **Schools, Public.** Public educational institutions such as community colleges, universities, elementary, middle/junior high schools, and high schools.
15. **Theaters and Auditoriums.** Indoor facilities for public assembly and group entertainment, other than sporting events (e.g., civic theaters, facilities for "live" theater and concerts, exhibition and convention halls, motion picture theaters, auditoriums). Does not include outdoor theaters, concert and similar entertainment facilities, and indoor and outdoor facilities for sporting events; see "Outdoor Commercial Recreation."

D. **Utility, Transportation, and Communication Uses**

1. **Broadcasting and Recording Studio.** Commercial and public communications uses including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings. Does not include transmission and receiving apparatus such as antennas and towers, which are under the definition of "Telecommunication Facility."

2. **Bus and Transit Shelter.** A small structure designed for the protection and convenience of waiting transit passengers and that has a roof and usually two or three sides.
 3. **Heliport.** A designated, marked area on the ground or the top of a structure where helicopters may land at any time.
 4. **Park and Ride Facility.** A designated area where a vehicle may be left in order for the driver to carpool with other commuters or to ride public transit.
 5. **Parking Facility.** A parking lot or parking structure used for parking motor vehicles where the facility is the primary use of the site. Parking structures and lots that are developed in conjunction with another primary use of the site to satisfy the on-site parking requirements for the development are not included in this definition.
 6. **Transit Facilities.** Maintenance and service centers for the vehicles operated in a mass transportation system. Includes buses, taxis, railways, monorail, etc.
 7. **Utility Facility and Infrastructure.** Includes the following:
 - i. Fixed-base structures and facilities serving as junction points for transferring utility services from one transmission voltage to another or to local distribution and service voltages. These uses include any of the following facilities that are not exempted from land use entitlements by Government Code Section 53091: electrical substations and switching stations, natural gas regulating and distribution facilities, public water system wells, treatment plants and storage, telephone switching facilities, wastewater treatment plants, settling ponds and disposal fields. These uses do not include office or customer service centers (classified in "Offices") or equipment and material storage yards.
 - ii. Pipelines for potable water, reclaimed water, natural gas, and sewage collection and disposal, and facilities for the transmission of electrical energy for sale, including transmission lines for a public utility company. Also includes telephone, telegraph, cable television, and other communications transmission facilities utilizing direct physical conduits.
 8. **Wireless Communication Facility.** Facility designed and/or used for the purpose of transmitting, receiving, or relaying voice and/or data signals from various wireless communication devices, including transmission tower, antenna, and/or other facility designed or used for that purpose. Amateur radio transmission facilities, facilities operated exclusively as part of a public safety network, and facilities used exclusively for the transmission of television and/or radio broadcasts are not telecommunication facilities.
- E. **Retail, Service, and Office Uses**
1. **Adult Day Care Facility.** State-licensed facility that provides non-medical care and supervision for more than six adults for periods of less than 24 hours, with no overnight stays.
 2. **Adult Oriented Business.** Those businesses defined as follows:

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.
- v. Adult Newsrack. Any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

- vi. **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.
 - vii. **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.
3. **Alcoholic Beverage Sales.** The retail sale of beverages containing alcohol for off-site consumption subject to regulation by the State Department of Alcoholic Beverage Control (ABC) as an off-sale establishment.
 4. **Ambulance Service.** Emergency medical care and transportation, including incidental storage and maintenance of vehicles.
 5. **Animal Sales and Grooming.** Retail sales of domestic and exotic animals, bathing and trimming services, and boarding of said animals for a maximum period of 72 hours conducted entirely within an enclosed building with no outdoor use.
 6. **Art, Antique, Collectable.** Retail sales uses including antique shops, art galleries, curio, gift, and souvenir shops, and the sales of collectible items including sports cards and comic books. Stores selling handcrafted items that are produced on the site are defined separately as "Artisan Shops."
 7. **Artisan Shop.** A retail store selling art glass, ceramics, jewelry, and other handcrafted items, where the facility includes an area for the crafting of the items being sold.
 8. **Artist Studio.** A detached accessory building, used by residents of a main dwelling unit on the same lot, to create original works of art and crafts products, but not for living quarters or sleeping purposes.
 9. **Banks and Financial Services.** Financial institutions such as banks and trust companies, credit agencies, holding (but not primarily operating) companies, lending and thrift institutions, and investment companies. Does not include exterior automated teller machines (ATM).
 10. **Bar and Nightclub.** Any bar, cocktail lounge, discotheque, or similar establishment, which may also provide live entertainment (e.g., music and/or dancing, comedy) in conjunction with alcoholic beverage sales. These facilities do not include bars that are part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include the brewing of beer as part of a brew pub or microbrewery. Bars and nightclubs may include outdoor food and beverage areas.
 11. **Bed and Breakfast Inn.** A residential structure with one family in permanent residence with up to five bedrooms rented for overnight lodging, where meals may be provided subject to applicable Health Department regulations. A bed and breakfast inn with more than five guest rooms is considered a hotel or motel and is included under the definition of "Hotels and Motels."

12. **Building Materials Store and Yard.** A retail establishment selling lumber and other large building materials, where most display and sales occur indoors. Includes stores selling to the general public, even if contractor sales account for a major proportion of total sales. Includes incidental retail ready-mix concrete operations, except where excluded by a specific Zoning District. Establishments primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in "Wholesaling and Distribution." Hardware stores are listed in the definition of "Retail, General," even if they sell some building materials. Also see "Home Improvement Supplies" for smaller specialty stores.
13. **Business Support Services.** Establishments primarily within buildings, providing other businesses with services such as maintenance, repair and service, testing, rental, etc. Support services include, but are not limited to:
 - i. Equipment repair services (except vehicle repair, see "Vehicle Services");
 - ii. Commercial art and design (production);
 - iii. Computer-related services (rental, repair);
 - iv. Copying, quick printing, and blueprinting services (other than those defined as "Printing and Publishing");
 - v. Equipment rental businesses within buildings (rental yards are "Storage Yards");
 - vi. Film processing laboratories;
 - vii. Heavy equipment repair services where repair occurs on the client site;
 - viii. Janitorial services;
 - ix. Mail advertising services (reproduction and shipping);
 - x. Mail box services and other "heavy service" business services;
 - xi. Outdoor advertising services; and
 - xii. Photocopying and photofinishing.
14. **Call Center.** An office equipped to handle a large volume of calls, especially for taking orders or servicing customers.
15. **Card Room.** A gambling establishment that offers card games for play by the public.
16. **Check Cashing Business.** An establishment that, for compensation, engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving a similar purpose. Also includes establishments primarily engaged in cashing payroll or personal checks for a fee or advancing funds on future checks. This classification does not include a state or federally chartered bank, savings association, credit union, or similar financial institution (see "Banks and Financial Services").

17. **Child Care Facility.** A facility installed, operated, and maintained for the nonresidential care of children as defined under applicable state licensing requirements for the facility. Such facilities include, but are not limited to, infant centers, preschools, extended day care facilities, or school-age child care centers as defined in this Title.
18. **Convenience Store.** An easy access retail store of 5,000 square feet or less in gross floor area, which carry a range of merchandise oriented to convenience and travelers' shopping needs. These stores may be part of a service station or an independent facility. Also see "Neighborhood Market" and "Grocery Store/Supermarket" for larger stores or stores oriented toward the daily shopping needs of residents.
19. **Drive-In/Drive-Through Use.** A use where a customer is permitted or encouraged, either by the design of physical facilities or by the service and/or packaging procedures offered, to be served while remaining seated within an automobile including, but not limited to, drive-through food, financial services, and automatic car washes.
20. **Equipment Sales and Rental.** Service establishments with outdoor storage/rental yards, which may offer a wide variety of materials and equipment for rental (e.g., construction equipment).
21. **Furniture, Furnishings, and Appliance Stores.** Stores engaged primarily in selling the following products and related services, including incidental repair services: draperies, floor coverings, furniture, glass and chinaware, home appliances, home furnishings, home sound systems, interior decorating materials and services, large musical instruments, lawn furniture, movable spas and hot tubs, office furniture, other household electrical and gas appliances, outdoor furniture, refrigerators, stoves, and televisions.
22. **Garden Center/Plant Nursery.** Establishments providing for the cultivation and sale of ornamental trees, shrubs, and plants, including the sale of garden and landscape materials (packaged and/or bulk sale of unpackaged materials) and equipment.
23. **Grocery Store/Supermarket.** A retail business where the majority of the floor area open to the public is occupied by food products packaged for preparation and consumption away from the site of the store. These full-service businesses do not typically have limited hours of operation. See separate but related listings for "Neighborhood Market" and "Convenience Store."
24. **Home Improvement Supplies.** Establishments (retail or wholesale) that sell kitchen, bath, furnishings, carpeting, and other home-oriented supplies. Other retail uses are permitted if accessory to the primary use. These uses may include an expansive showroom. This category does not include the sale of lumber and does not permit the outdoor display of merchandise. This use classification is a subcategory of the larger building materials stores and yards use classification and may be combined with or separate from such uses.
25. **Hotels and Motels.** Facilities with guest rooms or suites, provided without kitchen facilities, rented to the general public for transient lodging (less than 30 days). Hotels provide access to most guest rooms from an interior walkway and typically

include a variety of services in addition to lodging, for example, restaurants, meeting facilities, personal services, etc. Motels provide access to most guest rooms from an exterior walkway. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail use, etc.

26. **Hotels and Motels, Extended Stay.** Facilities with guest rooms or suites, provided with kitchen facilities, rented to the general public for transient lodging (less than 30 days) or for longer periods of time. Hotels provide access to most guest rooms from an interior walkway and typically include a variety of services in addition to lodging, for example, restaurants, meeting facilities, personal services, etc. Motels provide access to most guest rooms from an exterior walkway. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, etc.
27. **Kennels, Commercial.** These facilities provide boarding of animals as the primary use of the facility. May also include day-time boarding and activity for animals (e.g., "doggie day-care") and ancillary grooming facilities. Also see "Animal Sales and Grooming."
28. **Maintenance and Repair, Small Equipment.** Establishments providing on-site repair and accessory sales of supplies for appliances, office machines, home electronic/mechanical equipment, bicycles, tools, or garden equipment, conducted entirely within an enclosed building. Does not include maintenance and repair of vehicles.
29. **Massage Parlor.** Establishment where customers can receive a massage either as a primary or secondary function.
30. **Medical Services, Extended Care.** Residential facilities providing nursing and health-related care as a primary use with inpatient beds, such as board and care homes, convalescent and rest homes, extended care facilities, and skilled nursing facilities. Long-term personal care facilities that do not emphasize medical treatment are included under "Residential Care Home."
31. **Medical Services, General.** Facility primarily engaged in providing outpatient medical, mental health, surgical, and other personal health services, but which is separate from hospitals, including medical and dental laboratories, medical, dental and psychiatric offices, outpatient care facilities, and other allied health services. Counseling services by other than medical doctors or psychiatrists are included under "Offices, Business and Professional."
32. **Medical Services, Hospitals.** Hospitals and similar facilities engaged primarily in providing diagnostic services and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, accessory retail uses (see the separate definition of "Retail, Accessory"), and emergency heliports.
33. **Mortuaries and Funeral Homes.** Funeral homes and parlors, where the deceased are prepared for burial or cremation and funeral services may be conducted.
34. **Neighborhood Market.** A pedestrian-oriented grocery/specialty market store offering food products packaged for preparation and consumption away from

the site of the store and oriented to the daily shopping needs of surrounding residential areas. Neighborhood markets are less than 15,000 square feet in size and operate less than 18 hours per day. For larger stores, see “Grocery Store/Supermarket.” Neighborhood markets may include deli or beverage tasting facilities that are ancillary to the market/grocery portion of the use.

35. **Offices, Accessory.** Offices that are incidental and accessory to another business or sales activity that is the primary use (part of the same tenant space or integrated development). The qualification criteria for this definition is that the floor area of the accessory office use shall not exceed 50 percent of the total net habitable or leasable floor area of the tenant space for a single use development or the combined floor area of an integrated development for a mixed-use project.
36. **Offices, Business and Professional.** This use listing includes offices of administrative businesses providing direct services to consumers (e.g., insurance companies, utility companies, management consulting), government agency and service facilities (e.g., post office, civic center), professional offices (e.g., accounting, attorneys, employment, public relations), and offices engaged in the production of intellectual property (e.g., advertising, architectural, computer programming, photography studios). This use does not include medical offices (see “Medical Services, General”), temporary offices, or offices that are incidental and accessory to another business or sales activity that is the primary use (see “Offices, Accessory”). Outdoor storage of materials is prohibited.
37. **Pawn Shop.** Any room, store, building, or other place in which the business of pawn brokering, or the business of lending money upon personal property, pawns or pledges, or the business of purchasing articles from vendors or their assignees at prices agreed upon at or before the time of such purchase, is engaged in, carried on, or conducted.
38. **Personal Services.** Establishments providing non-medical services as a primary use, including, but not limited to, barber and beauty shops, clothing rental, dry cleaning pickup stores with limited equipment, home electronics and small appliance repair, laundromats (self-service laundries), shoe repair shops, and tailors. These uses may also include accessory retail sales of products related to the services provided, spas and hot tubs for rent, and tanning salons.
39. **Restaurant.** A retail business selling food and beverages prepared and/or served on the site, for on- or off-premise consumption. Includes eating establishments where customers are served from a walk-up ordering counter for either on- or off-premise consumption and establishments where most customers are served food at tables for on-premise consumption, but may include providing food for take-out. Also includes coffee houses and accessory cafeterias as part of office and industrial uses.
40. **Retail, Accessory.** The retail sales of various products (including food service) in a store or similar facility that is located within a health care, hotel, office, or industrial complex. These uses include but are not limited to pharmacies, gift shops, and food service establishments within hospitals, and convenience stores and food service establishments within hotel, office, and industrial complexes. This use category also includes retail associated with industrial uses for the products

sold, distributed, or manufactured on-site. Such retail area shall not exceed 25 percent of the total square footage of the tenant space of a single use development or the combined floor area of an integrated development in a mixed-use project.

41. **Retail, General.** Stores and shops selling multiple lines of merchandise. These stores and lines of merchandise include, but are not limited to, art galleries, bakeries (all production in support of on-site sales), clothing and accessories, collectibles, department stores, drug and discount stores, dry goods, fabrics and sewing supplies, florists and houseplant stores (indoor sales, only; outdoor sales are plant nurseries and included in the definition of "Garden Center/Plant Nursery"), furniture, home furnishings and equipment, general stores, gift shops, hardware, hobby materials, musical instruments, parts and accessories, newsstands, pet supplies specialty shops, sporting goods and equipment, stationery, and variety stores.
42. **Retail, Warehouse Club.** Retail stores that emphasize the packaging and sale of products in large quantities or volumes, some at discounted prices. Sites and buildings are usually large and industrial in character. Patrons may be required to pay membership fees.
43. **Temporary Real Estate.** The temporary use of a dwelling unit within a residential development project as a sales office for the units on the same site, which is converted to residential use at the conclusion of its office use.
44. **Thrift Store.** A retail establishment selling secondhand goods donated by members of the public.
45. **Veterinary Facility.** Veterinary facility that is primarily enclosed, containing only enough cage arrangements as necessary to provide services for domestic and exotic animals requiring acute medical or surgical care with accessory outdoor use that provides long-term medical care. Grooming and boarding of animals is allowed only if accessory to the facility use.

F. **Automobile and Vehicle uses**

1. **Auto and Vehicle Sales and Rental.** Retail establishments selling and/or renting automobiles, trucks, and vans. Includes the sales and rental of mobile homes, recreation vehicles, and boats. May also include repair shops and the sales of parts and accessories, incidental to vehicle dealerships. Does not include the sale of auto parts/accessories separate from a vehicle dealership (see "Auto Parts Sales"), bicycle and moped sales (see "Retail, General"), tire recapping establishments (see "Vehicle Services – Major"), businesses dealing exclusively in used parts (see "Recycling Facility - Scrap and Dismantling"), or "Service Station," all of which are separately defined.
2. **Auto and Vehicle Sales, Wholesale.** Wholesale establishments selling new and used vehicles and used vehicle parts. This use is normally developed as part of an auto wrecking, junkyard, or salvage yard. Conventional automobile dealerships are listed under "Auto and Vehicle Sales and Rental."
3. **Auto and Vehicle Storage.** Facilities for the storage of operative and inoperative vehicles for limited periods of time. Includes, but is not limited to, storage of

parking tow-aways, impound yards, and storage lots for automobiles, trucks, buses, and recreation vehicles. Does not include retail sales (see "Auto and Vehicle Sales, Wholesale").

4. **Auto Parts Sales.** Stores that sell new automobile parts, tires, and accessories. May also include minor parts installation (see "Vehicle Services"). Does not include tire recapping establishments, which are found under "Vehicle Services – Major" or businesses dealing exclusively in used parts, which are included under "Auto and Vehicle Sales, Wholesale."
5. **Car Washing and Detailing.** Permanent, drive-through, self-service, and/or attended car washing establishments, including fully mechanized facilities. May include detailing services. Temporary car washes (e.g., fundraising activities generally conducted at a service station or other automotive-related business, where volunteers wash vehicles by hand, and the duration of the event is limited to one day) are not part of this use classification.
6. **Service Station.** A retail business selling gasoline or other motor vehicle fuels. Vehicle services which are incidental to fuel services are included under "Vehicle Services – Minor."
7. **Vehicle Services – Major.** The repair, alteration, restoration, towing, painting, cleaning (e.g., self-service and attended car washes), or finishing of automobiles, trucks, recreational vehicles, boats, and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This use includes major repair and body work-repair facilities dealing with entire vehicles; such establishments typically provide towing, collision repair, other body work, and painting services and may also include tire recapping establishments.
8. **Vehicle Services – Minor.** Minor facilities specialize in limited aspects of repair and maintenance (e.g., muffler and radiator shops, quick-lube, smog check). Does not include repair shops that are part of a vehicle dealership on the same site (see "Auto and Vehicle Sales") or automobile dismantling yards, which are included under "Recycling Facility – Scrap and Dismantling."

G. **Industrial, Manufacturing, and Processing Uses**

1. **Manufacturing, Major.** Manufacturing, fabrication, processing, and assembly of materials in a raw form. Uses in this category typically create greater than usual amounts of smoke, gas, odor, dust, sound, or other objectionable influences that might be obnoxious to persons conducting business on-site or on an adjacent site. Uses include, but are not limited to, batch plants, rendering plants, aggregate processing facilities, and plastics and rubber products manufacturing. Also see "Manufacturing, Minor" and "Manufacturing, Small Scale."
2. **Manufacturing, Minor.** Manufacturing, fabrication, processing, and assembly of materials from parts that are already in processed form and that, in their maintenance, assembly, manufacture, or plant operation, do not create excessive amounts of smoke, gas, odor, dust, sound, or other objectionable influences that might be obnoxious to persons conducting business on-site or on an adjacent site. Uses include, but are not limited to, furniture manufacturing and cabinet shops, laundry and dry cleaning plants, metal products fabrication, and

food and beverage manufacturing. Also see “Manufacturing, Major” and “Manufacturing, Small Scale.”

3. **Manufacturing, Small Scale.** Establishments manufacturing and/or assembling small products primarily by hand, including, but not limited to, jewelry, pottery and other ceramics, as well as small glass and metal art and craft products. Also see “Manufacturing, Major” and “Manufacturing, Minor.”
4. **Printing and Publishing.** Establishments engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying, and other establishments serving the printing trade including bookbinding, typesetting, engraving, photoengraving, and electrotyping. This use also includes establishments that publish newspapers, books, and periodicals, and establishments manufacturing business forms and binding devices. Does not include “quick printing” services or desktop publishing which are included in “Business Support Services.”
5. **Recycling Facility – Collection.** A recycling facility used for the acceptance by donation, redemption, or purchase of recyclable materials from the public that does not occupy more than 500 square feet. This classification may include a mobile unit, kiosk-type units that may include permanent structures, and unattended containers placed for the donation of recyclable materials. Also includes so-called “reverse vending machines,” an automated mechanical device that accepts one or more types of empty beverage containers including, but not limited to, aluminum cans, glass bottles and plastic bottles, and issues a cash refund or a redeemable credit slip with value of not less than the container’s redemption value as determined by the state.
6. **Recycling Facility – Processing.** A recycling facility located in a building or enclosed space and used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment or to an end-user’s specifications by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. Collection of recycling materials as the sole activity is included in the definition of “Recycling Facility – Collection.”
7. **Recycling Facility – Scrap and Dismantling.** Uses engaged in the assembling, breaking up, sorting, temporary storage, and distribution of recyclable or reusable scrap and waste materials. This use does not include landfills or other terminal waste disposal sites. Also see “Auto Vehicle Dismantling” for related use for automobiles. Collection of recycling materials as the sole activity is included in the definition of “Recycling Facility – Collection.”
8. **Recycling Redemption Center.** A facility, use, or structure for the collection of recyclable goods, including, but not limited to, beverage containers and newspapers.
9. **Research and Development.** Indoor facilities for scientific research, and the design, development, and testing of electrical, electronic, magnetic, optical, and mechanical components in advance of product manufacturing, that are not associated with a manufacturing facility on the same site. Includes, but is not limited to, chemical and biotechnology research and development. Does not include computer software companies (see “Offices, Business and Professional”),

soils and other materials testing laboratories (see "Business Support Services"), or medical laboratories (see "Medical Services, General").

10. **Storage, Personal Storage Facility.** A structure or group of structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces and characterized by low parking demand.
11. **Storage, Warehouse.** Facility for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include warehouse, storage, or mini-storage facilities offered for rent or lease to the general public (see "Storage, Personal Storage Facility") or warehouse facilities in which the primary purpose of storage is for wholesaling and distribution (see "Wholesaling and Distribution").
12. **Storage, Yards.** The storage of various materials outside of a structure other than fencing, either as an accessory or principal use.
13. **Wholesaling and Distribution.** Establishments engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes such establishments as agents, merchandise or commodity brokers, and commission merchants, assemblers, buyers and associations engaged in the cooperative marketing of farm products, merchant wholesalers, and stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

Chapter 17.24 Development Standards by Zoning District

Sections:

17.24.010 Purpose..... 17.24-1
 17.24.020 Development Standards 17.24-1
 17.24.030 Additional Standards for Multi-Family Zoning Districts..... 17.24-3

Draft Zoning Code Changes:
Development standards were consolidated into a single table and updated to reflect consistency with the General Plan, Specific Plans, and best practices.

17.24.010 Purpose

The purpose of this chapter is to establish development standards for lot area, allowed density, building setbacks, height, and lot coverage as appropriate for each of the City’s base zoning districts as listed in Table 17.18.020-1 (Zoning Districts). These standards, along with other development standards (e.g., fences and walls, parking, sign standards) listed in Article III (Site Planning Standards) are intended to assist property owners and project designers in understanding the City’s minimum requirements and expectations for high quality development.

17.24.020 Development Standards

Table 17.24.020-1 (Development Standards for City of Pinole Base Zoning Districts) includes lot area, allowed density, building setbacks, height, and lot coverage requirements for each of the City’s base zoning districts. Additional site planning requirements (e.g., landscaping, lighting) are listed in Article III (Site Planning Standards). Development within the City of Pinole is also subject to compliance with all adopted Uniform Building and Fire Codes. Zoning district names for the zoning district symbols used in the table are as follows:

- | | |
|---|---|
| R-1 = Low Density Residential Zoning District | OPMU = Office Professional Mixed Use Zoning District |
| SR= Suburban Residential Zoning District | |
| R-2 = Medium Density Zoning District | OIMU = Office Industrial Mixed Use Zoning District |
| R-3 = High Density Zoning District | OS = Open Space Zoning District |
| R-4 = Very High Density Zoning District | PR = Parks and Recreation Zoning District |
| R = Rural Zoning District | PQI = Public Quasi-Public Institutional Zoning District |
| RC = Regional Commercial Zoning District | |
| RMU= Residential Mixed Use Zoning District | SPBCA = San Pablo Bay Conservation Zoning District |
| CMU = Commercial Mixed Use Zoning District | |

**TABLE 17.24.020-1:
DEVELOPMENT STANDARDS FOR CITY OF PINOLE BASE ZONING DISTRICTS**

Development Standard\ Zoning District	R-1	SR	R-2	R-3	R-4	R	RC	RMU	CMU	OPMU	OIMU	OS	PR	PF	SPBCA				
Lot Area (minimum square footage/unit)	43,560	6,000	3,000	1,500	N/A	5 ac. (1)	5,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A				
Allowed Density (units per acre)																			
• Minimum Density	0.21	1.1	7.1	15.1	30.1	N/A	N/A	10.1	10.1	N/A	N/A	N/A	N/A	N/A	N/A				
• Maximum Density	1.0	7.0	15	30	50	0.2	N/A	35	30	N/A	N/A	N/A	N/A	N/A	N/A				
Setback (minimum distance between structure and property line in feet)																			
• Front Yard	20	20	0	0	0	30	0	0	0	0	0	0	10	0	10				
• Side Yard	5 (2)	8 (3)	5	5	0	15	0	0	0	10	0	0	10	10	10				
• Side Yard for Second Story	15	12	10	0	0	15	0						0	10	0	0	10	10	10
• Street Side Yard	15 (4)	12 (4)	10	0	0	20	0						0	10	0	0	10	0	10
• Rear Yard	20 (4)	20 (4)	15	15 (5)	15 (5)	30	0	15 (5)	15 (5)	15 (5)	15 (5)	0	10	10	10				
Distance Between Buildings (minimum feet)																			
• For Dwelling Purposes	6	6	6	6	0	6	0	0	0	0	0								
• Accessory Buildings	6	6	3	3	3	6													
Building Height (maximum feet)																			
• Primary Buildings	35	35	35	35	50	35	50	35	35	50	50	0	35	40	35				
• Accessory Buildings	35	35	35	35	35	35													
Floor Area Ratio (maximum ratio of building to lot square footage)	N/A	N/A	N/A	N/A	N/A	N/A	0.40	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A				

Notes:

- (1) The Approving Authority may approve lots less than 5 acres in size for clustering of units to preserve open space or other resources as part of Comprehensive Design Review.
- (2) The combined side yard setbacks shall not be less than 15 feet.
- (3) Within required side yards, at least one side shall provide 4 feet of unobstructed surface to allow unobstructed access between the front and rear yards.
- (4) Listed setback distance or 20% of lot width in side yard and 20% of lot depth in rear yard, whichever is less.
- (5) If abutting non-residential property, there is no minimum rear yard setback.

17.24.030 Additional Standards for Multi-Family Zoning Districts

In addition to the development standards listed in Table 17.24.040-1, the following development standards apply to multi-family residential development in the Medium Density Residential (R-2), High Density Residential (R-3), Very High Density Residential (R-4), and mixed use zoning districts including residential uses.

A. Open Space Requirements for Multi-Family Residential.

1. Multi-family, attached dwelling units that are all or partially located at ground level shall have not less than 80 square feet of private open space.
2. Not less than 20 percent of the total lot area of multiple-family residential projects shall be provided as improved, private or semi-private useable open space and not less than 300 square feet of improved useable open space per dwelling unit shall be provided in each multi-family development project.
3. Not less than 30 percent of the total lot area of multiple-family residential projects shall be provided as improved, landscaped open space.

B. Screening and Vegetation for Multi-Family Residential. Projects within Multi-Family Residential zoning districts shall include vegetative screening at the project perimeter to ensure the privacy of existing and future homeowners. The City shall determine the location and extent of vegetative screening required based on site conditions and surrounding existing and planned land uses. Where required, such vegetative screening shall be maintained in a healthy and vigorous condition. Areas used as vegetative screening shall not be counted as open space.

Chapter 17.26 Special Purpose Zoning Districts

Sections:

17.26.010	Purpose.....	17.26-1
17.26.020	Specific Plan (SP) Zoning District.....	17.26-1
17.26.030	Planned Development (PD) Zoning Districts.....	17.26-2

Draft Zoning Code Changes:

This chapter establishes the Specific Plan as a Zoning District to allow for zoning flexibility and master planning of larger areas of the City consistent with Government Code Section 65450.

This chapter clarifies the Planned Development regulations to allow flexibility in development standards in exchange for public benefit.

17.26.010 Purpose

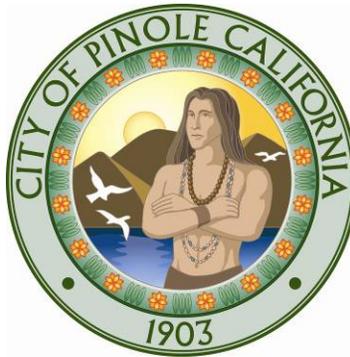
The purpose of this Chapter is to identify all Special Purpose Districts within the City. Special Purpose Districts require special project entitlement, which allows for flexibility from traditional development standards. These districts are consistent with and implement the City’s General Plan Special Planning land use designation as shown in Table 17.24.020-1 (Zoning Districts).

17.26.020 Specific Plan (SP) Zoning District

- A. **Purpose of the Specific Plan Zoning District.** The purpose of the Specific Plan Zoning District is to designate unique planning areas within the City for which the City Council has adopted or requires adoption of a separate planning document (a Specific Plan) consistent with the General Plan and State law. The contents, requirements, and adoption and amendment procedures for Specific Plans are listed in Section 17.12.160 (Specific Plans).
- B. **Designation.** Specific Plan Zoning Districts shall be delineated on the Zoning Map in a manner similar to that of any other Zoning District except that each Specific Plan-zoned area shall also bear a name, number, symbol, or other delineation, as determined by the Zoning Administrator, which distinguishes it from other Specific Plan Zoning Districts, Base Zoning Districts, or Overlay Zoning Districts. The assignment of the Specific Plan Zoning District serves to provide a reference to the corresponding Specific Plan Zoning document adopted by Ordinance of the City Council. Applicable zoning regulations and standards applicable to the land area shall be provided in the Specific Plan document, and shall be adopted by reference in this Title.
- C. **Allowed Uses.** Allowed uses within the Specific Plan area are those listed uses in the adopted Specific Plan document as permitted, conditionally permitted, or not permitted.
- D. **Development Standards.** Development standards within the Specific Plan area are those standards listed in the adopted Specific Plan.

17.26.030 Planned Development (PD) Zoning Districts

- A. **Purpose.** 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 allows 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. By enacting the 2010 comprehensive zoning code update, it is the intent of the City to recognize PD-Planned Development zoning districts adopted before the update, but after the update, to use other mechanisms instead of PD zoning to implement flexible zoning standards.
- B. **Applicability.** The provisions of this Section apply to property zoned PD-Planned Development as of the effective date of Ordinance ____ adopting this Title. Existing PD zoning may be amended but no new PD-Planned Development zoning shall be approved after the effective date of Ordinance _____.
- C. **Relation to Existing PD Zoned Sites.**
1. Continued effect. The ordinances applying PD zoning to affected sites shall continue in effect until amended or the site is rezoned to another district.
 2. Other zoning regulations. Except as specifically provided in the applicable PD ordinance, all development in the PD-Planned Development district site shall be subject to the regulations of the closest comparable zoning district as determined by the Community Development Director, and of this Title.
- D. **Amendments to Existing PD Zoning.** The Community Development Director by administrative action may approve minor amendments to an adopted PD-Planned Development zoning upon a finding that the amendment substantially complies with and does not otherwise materially change the provisions or intent of the PD ordinance for the site. All other amendments to the adopted PD ordinance for a site shall be pursuant to the procedures in Section 17.12.180 (Zoning Code (Text and Map) Amendment).
- E. **Findings for approval of PD Zoning Amendments.** In addition to any findings required in Section 17.12.180 (Zoning Code (Text and Map) Amendment), amendments to a PD ordinance shall require any findings that were required for the original PD ordinance.



Title 17 – Zoning

Article III

Site Planning Standards

Chapter 17.30	Accessory Structures	17.30-1
Chapter 17.32	Affordable Housing Requirements.....	17.32-1
Chapter 17.34	Automobile Service Stations	17.34-1
Chapter 17.36	Building Height Measurement and Projections.....	17.36-1
Chapter 17.38	Density Bonus	17.38-1
Chapter 17.40	Drive-In and Drive-Through Facilities.....	17.40-1
Chapter 17.42	Fences, Walls and Screening.....	17.42-1
Chapter 17.44	Landscaping	17.44-1
Chapter 17.46	Lighting	17.46-1
Chapter 17.48	Parking.....	17.48-1
Chapter 17.50	Property and Utility Improvement	17.50-1
Chapter 17.52	Signs	17.52-1
Chapter 17.54	Signs on City Property	17.54-1
Chapter 17.56	Yard and Setback Regulations	17.56-1

Revisions:

The following revisions have been made to Article III of Title 17:

Date of Adoption	Ordinance Number	Subject	Section	Page Number

Chapter 17.30 Accessory Structures

Sections:

17.30.010	Purpose.....	17.30-1
17.30.020	Applicability.....	17.30-1
17.30.030	Permit Requirements and Exemptions.....	17.30-1
17.30.040	Development Standards	17.30-2

Draft Zoning Code Changes:

This new chapter combines new development requirements and definitions for accessory structures with existing requirements from Section 17.32.060.

Maximum number limitations are established by type of accessory structure.

17.30.010 Purpose

This chapter defines detached accessory structures on private property and establishes development standards for nonexempt structures. The purpose of this chapter is to protect public health, safety and welfare by maintaining safe distances between structures, establishing architectural compatibility between primary structures and certain types of accessory structures, and minimizing potential impacts associated with lot coverage, privacy, and maintenance of light and air space.

17.30.020 Applicability

The requirements contained in this chapter shall apply to accessory structures on private property and shall be in addition to any other development standards contained elsewhere within the Zoning Code (e.g., lighting). Generally, this chapter regulates detached accessory structures that are larger than 120 square feet in size and/or taller than 8 feet in height. For the purposes of this Title, second dwelling units are not considered accessory structures; second dwelling units are governed by the requirements of Chapter 17.70 (Second Dwelling Units) and are exempt from the requirements of this chapter. Accessory structures shall not contain cooking facilities or bathrooms or be used as a dwelling unit or accessory dwelling unit. Guest houses and pool houses that conform to the requirements of this chapter are considered accessory structures and not second dwelling units.

17.30.030 Permit Requirements and Exemptions

- A. **Permit Requirements.** Except as otherwise exempt in Section 17.70.030B, accessory structures located in single-family and two-family zoning districts require Plan Check as described in Section 17.12.030 (Plan Check). When located in multi-family, mixed-use, and non-residential zoning districts, non-exempt accessory structures require Comprehensive Design Review as described in Section 17.12.140 (Comprehensive Design Review)
- B. **Exemptions.** The following accessory structures are exempt from planning entitlements provided they comply with listed requirements. Exempt accessory structures may require ministerial building permits in keeping with the Uniform Building Codes adopted by the City of Pinole.

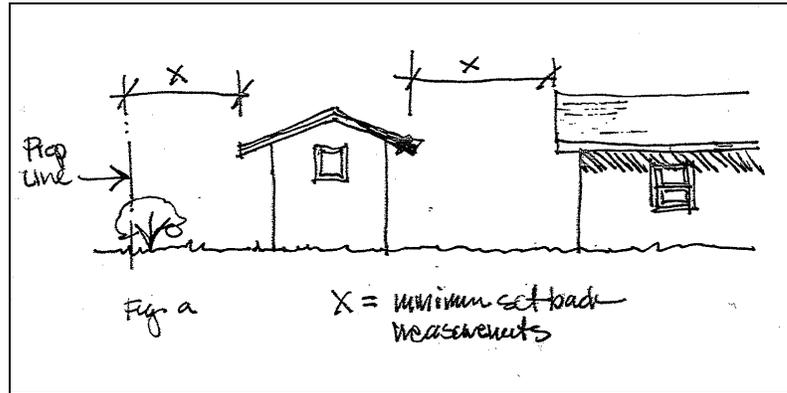
1. Enclosed and/or solid-roofed accessory structures that are less than 120 square feet in size with no portion of the structure equal to or greater than eight feet in height and subject to compliance with the following requirements.
 - a. Accessory structures shall not be located in a required front yard.
 - b. In order to maintain necessary fire breaks, all combustible accessory structures shall be set back a minimum of three feet from side and rear property lines with a minimum six-foot separation between any structures.
2. Landscape features that are less than 120 square feet in size with no portion of the feature equal to or greater than eight feet in height and subject to compliance with the following requirement.
 - a. In order to maintain necessary fire breaks, combustible landscape features shall be set back a minimum of three feet from all interior property lines with a minimum six-foot separation between any structures.
3. Play equipment. Structures and surfaces used for recreational purposes including play structures, jungle gyms, and non-illuminated sports courts such as tennis and basketball courts.
4. Deck/patio. A detached porch or platform that is generally constructed with wood, concrete, or stone that is above the grade or located over a basement or story below.
5. Pool/spa. Any structure intended for swimming or recreational bathing. Swimming pool includes in-ground and above-ground structures and includes, but is not limited to, hot tubs, spas, portable spas, and non-portable wading pools.
6. Consistent with Chapter 17.72, solar facilities are exempt from regulations such as setback, size, and location unless the Building Official has determined that the placement therein will have a specific adverse impact upon the public health or safety, as defined in state law.

17.30.040 Development Standards

- A. **Development Standards for All Accessory Structures.** The development standards listed in Table 17.30.040-1 (Development Standards for Accessory Structures) are intended to supplement the requirements in the applicable Zoning District for types of accessory structures as defined in Article VI (Glossary) of this Title. Figure 17.30.040-1 shows minimum setback measurements for a typical detached accessory structure. In the event of a conflict between these requirements and the underlying zoning district regulations, the requirements of this Section shall apply. The following requirements shall apply to all accessory structures, both exempt and nonexempt under Section 17.20.030.
 1. Setback measurement. Minimum setback distances for accessory structures from property lines and between all structures shall include all portions of the structure(s) (e.g., overhangs, projections, railings) for the purpose of compliance with minimum structural fire breaks. See Figure 17.30.040-1 (Setback Measurements for Accessory Structures)

- 2. Construction phasing. Accessory structures may be constructed in conjunction with or subsequent to (but not in advance of) construction of the primary building(s) on the site. Exceptions may be granted in agricultural and residential Zoning Districts where accessory structures may be constructed prior to the primary residential dwelling.

Insert Figure 17.30.040-1 Setback Measurements for Accessory Structures



**TABLE 17.30.040-1
DEVELOPMENT STANDARDS FOR ACCESSORY STRUCTURES**

Accessory Structure (Type)	Minimum Setback Distance from Property Line or Other Structures					Maximum Cumulative Lot Coverage	Maximum Height	Maximum Number or Yard Area Ratio
	Front	Rear	Side	Other Accessory Structures	Primary Building			
Enclosed Solid Roof Building	Not permitted	5 ft.(1)	10 ft.(1), (2)	6 ft.	(1),(3)	50% required yard area	20 ft.	1 or 1 per 1200 sq. ft. yard area, whichever is greater
Landscape Features	No minimum	3 ft.	10 ft.	6 ft.	No minimum	Not applicable	16 ft.	1 or 1 per 400 sq. ft. yard area, whichever is greater
Pools/spas	Not permitted	5 ft.(4)	5 ft.(4)	5 ft.	No minimum	50% required yard area	5 ft.	2 or 1 per 900 sq. ft. rear yard area, whichever is greater

- (1) Accessory buildings not exceeding 15 feet in height at the highest point may be built to the side and/or rear property line, provided that the accessory structure is not less than six feet in distance from the primary building.
- (2) For reverse corner lots, the street side yard setback shall be the same as the front yard setback for the adjacent key lot. See Figure 17.42.030-1
- (3) No minimum setback required. 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 to the main building by a breezeway.
- (4) Measurement from water’s edge. Related equipment shall be set back a minimum of three feet from all side and rear property lines.

Chapter 17.32 Affordable Housing Requirements

Sections:

17.32.010	Purpose.....	17.32-1
17.32.020	General Requirements for Affordable Housing.....	17.32-1
17.32.030	Exemptions.....	17.32-2
17.32.040	Incentives for On-Site Housing	17.32-3
17.32.050	Affordable Housing Development Requirements	17.32-4
17.32.060	Alternative Methods of Compliance.....	17.32-4
17.32.070	Affordable Housing Plan Processing.....	17.32-5
17.32.080	Eligibility	17.32-6
17.32.090	Adjustments	17.32-7
17.32.100	Severability.....	17.32-7

Draft Zoning Code Changes:
This new chapter was established consistent with state law to implement the City's new Housing Element.

17.32.010 Purpose

This chapter establishes policies, incentives, design standards, and alternative methods of compliance for meeting the City’s affordable housing needs. The purpose of this chapter is to promote achievement of the City’s General Plan Housing Element goals for affordable housing. The policies outlined in this chapter regulate the method of determining the minimum requirements. Further, this chapter identifies the administrative procedures related to affordable housing requests.

17.32.020 General Requirements for Affordable Housing

Consistent with the City of Pinole General Plan Housing Element, the City requires the designation of land for affordable housing to meet the City’s future housing needs. The requirements of this chapter shall be governed by the requirements of the Community Redevelopment Law (California Health & Safety Code Section 33000 et.seq.), as that statute is amended from time-to-time. Where conflict occurs between the requirements of this chapter and State law, State law shall govern. General requirements are listed below:

- A. **General Requirement.** For all rental or ownership residential developments of four or more dwelling units located in the City’s Redevelopment Area, at least 15 percent of the total units must be constructed and offered for sale or rent as an affordable housing unit. Of those units, 40 percent must be affordable to very low income households. For example, a proposed residential development within the City’s Redevelopment Area for 20 single-family homes must provide three affordable housing units, two of which are affordable to very low income households. Existing units that are to be retained shall be included in the number of units in the residential development for purpose of calculating the number of affordable housing units required by this chapter.
- B. **Residential Parcel Maps and Subdivisions.** For all residential subdivisions within or outside of the City’s Redevelopment Area where the lots to be approved would permit the eventual development of four or more dwelling units, the applicant shall propose an

alternative method of compliance to meet the affordable housing requirements, pursuant to the requirements as established in Section 17.32.060 (Alternative Methods of Compliance).

- C. **Density Bonus Units.** Any additional units approved as a density bonus under chapter 17.38 (Density Bonus) will not be counted in determining the required number of affordable housing units. For example, a proposed project with 20 units that receives a 25 percent density bonus of five units will calculate the affordable housing requirements based on 20 units and must provide three affordable housing units, two of which are affordable to very low income households.
- D. **Rounding.** In determining the number of affordable housing units required by this chapter, any decimal fraction shall be rounded up to the nearest whole number.
- E. **Price Limits for Affordable Housing Units.** Affordable housing units must be restricted for sale at affordable prices as identified in Table 17.32.020-1 below:

**TABLE 17.32.020-1
PRICE LIMITS FOR AFFORDABLE HOUSING UNITS**

15% of the units in any residential development must be affordable housing units and reserved for:	Affordable Housing Units (%)	Percentage of Area Median Income Used to Determine Housing Costs	Income Used to Determine Affordable Housing Costs (%)
Rental Developments			
Very Low Income Occupants	40%	below 80%	30%
Low Income Occupants	60%	80%-120%	30%
Ownership Developments			
Middle Income Occupants	100%	120%-160%	30%

17.32.030 Exemptions

The requirements of this chapter shall not apply to the following types of development projects:

- F. Manufactured Homes.
- G. Pending Complete Applications. A project which has submitted an application for approval, which application was deemed complete by the Community Development Director prior to the effective date of this Ordinance (*insert date*).
- H. Casualty Reconstruction Projects. The reconstruction of any residential units or structures which have been destroyed by fire, flood, earthquake, or other act of nature, which are being reconstructed in a manner consistent with the requirements of Chapter 17.14 (Nonconforming Uses and Structures).

17.32.040 Incentives for On-Site Housing

In the Affordable Housing Plan that is prepared and approved in accordance with Section 17.32.070 (Affordable Housing Plan Processing), the applicant shall identify the incentives or modifications requested and describe the exceptional circumstances that necessitate assistance from the City, as well as provide documentation of how such incentives increase the feasibility of providing affordable housing. Incentives will be offered only to the extent resources for this purpose are available and approved for such use by the City Council, as defined below, and to the extent that the project, with the use of incentives, assists in achieving the City's housing goals. Nothing in this chapter establishes, directly or through implication, a right of an applicant to receive any incentive from the City.

The following incentives may be approved for applicants who construct affordable housing units on-site:

- A. **Density Bonus.** Consistent with California Government Code Sections 65915 through 65918, qualifying projects can receive a density bonus by right. Density bonus requirements are outlined in Chapter 17.38 (Density Bonus) of this Code.
- B. **Fee Subsidy or Deferral.** The City Council, by resolution, may subsidize or defer payment of City development impact fees and/or building permit fees applicable to the affordable housing units or the project of which they are a part. The affordability control covenant shall include the terms of the fee subsidy or deferral.
- C. **Design Modifications.** The granting of design modifications relative to affordable housing requirements shall require approval of the City Council and shall meet all applicable zoning requirements of the City of Pinole. Modifications to typical development standards may include the following:
 - 1. Reduced minimum setbacks;
 - 2. Reduced minimum building separation requirements;
 - 3. Reduced square footage requirements;
 - 4. Reduced parking requirements;
 - 5. Reduced minimum lot sizes and/or dimensions;
 - 6. Reduced street standards (e.g., reduced minimum street widths);
 - 7. Reduced on-site open space requirements;
 - 8. Increased height limitations;
 - 9. Increased maximum lot coverage;
 - 10. Increased floor area ratio;
 - 11. Allowance for live-work units within multi-family residential Zoning Districts;
 - 12. In lieu of reduced setbacks, allowance for attached dwelling units, if shown to be necessary to make the project feasible; or

13. Other regulatory incentives or concessions proposed by the developer or the City that result in identifiable, financially sufficient, and actual cost reductions.
- D. **Priority Processing.** After receiving the required discretionary approvals, the residential development that provides affordable housing units may be entitled to priority processing of building and engineering approvals, subject to the approval of the City Manager.

17.32.050 Affordable Housing Development Requirements

Affordable housing units constructed pursuant to this chapter must conform to the following requirements:

- A. **Design.** Except as otherwise provided in this chapter, affordable housing units shall be integrated within and reasonably dispersed throughout the project and shall be comparable in infrastructure (including sewer, water, and other utilities), construction quality, exterior design, and materials to the market-rate units. Affordable housing units may have different interior finishes and features than market-rate units so long as the interior features are durable, of good quality, and consistent with contemporary standards for new housing as determined by the Community Development Director.
- B. **Size.** All affordable housing units shall reflect the range and numbers of bedrooms provided in the project as a whole, except that affordable housing units need not provide more than four bedrooms.
- C. **Availability.** All affordable housing units shall be constructed concurrently with and be made available for qualified occupants at the same time as the market-rate units within the same project unless the City and developer agree in the Affordable Housing Agreement to an alternative schedule for development.
- D. **Affordable Housing Agreement.** An Affordable Housing Agreement shall be made a condition of the discretionary planning entitlements for all qualifying projects granted a density bonus, fee subsidy, fee deferral, or design modifications. The Affordable Housing Agreement shall include an affordable housing plan and shall be reviewed and approved by the City Council.
- E. **Duration of Affordability Requirement.** Affordable housing units produced under this chapter must be legally restricted to occupancy by households of the income levels for which the units were designated pursuant to and in conformance with the requirements of this Title, any other applicable City regulation, and state law.

17.32.060 Alternative Methods of Compliance

- A. **Applicant Proposals.** If it is not practical to construct on-site affordable housing units, the City will consider alternatives of equal value. Accordingly, the applicant may propose an alternative means of compliance with this chapter by submitting to the City an affordable housing plan. One alternative the applicant may consider is the construction of affordable housing units, subject to the requirements listed below:
 1. Off-site construction. All or some of the required affordable housing units may be constructed off-site if the Planning Commission (or City Council on appeal) finds that the combination of location, unit size, unit type, pricing, and timing of

availability of the proposed off-site affordable housing units would provide equivalent or greater benefit than would result from providing those affordable housing units on-site as might otherwise be required by this chapter. Prior to the recordation of the Final Subdivision Map for the proposed residential development, the applicant shall post a bond, bank letter of credit, or other security acceptable to the Community Development Director, in the amount equivalent to the cost of land and improvements for the affordable housing units, as determined by the Community Development Director, to be used by the City to meet the goals of providing affordable housing in the City in the event that the off-site affordable housing units are not completed (as evidenced by the issuance of a certificate of occupancy for such units) according to the schedule stated in the affordable housing plan submitted by the applicant.

- B. **Discretion and Required Finding.** The Planning Commission (or City Council on appeal) may approve, conditionally approve, or reject any alternative proposed by an applicant as part of an affordable housing plan. Any approval or conditional approval must be based on a finding that the purpose of this chapter would be better served by implementation of the proposed alternative, in which the Planning Commission or City Council should consider the extent to which other factors affect the feasibility of prompt construction of the affordable housing units, such as site design, zoning, infrastructure, clear title, grading, and environmental review.

17.32.070 Affordable Housing Plan Processing

- A. **General.** The submittal of an affordable housing plan and recordation of an approved City affordable control covenant shall be a precondition on the City approval of any Final Subdivision Map, and no building permit shall be issued for any development to which this chapter applies without full compliance with the requirement of this Section. This Section shall not apply to exempt projects.
- B. **Affordable Housing Plan.** Every residential development to which this chapter applies shall include an affordable housing plan as part of the application submittal for either development plan approval or subdivision approval. No application for a tentative map, subdivision map, or building permit for a development to which this chapter applies may be deemed completed until an affordable housing plan is submitted to and approved by the Community Development Director as being complete. At any time during the formal development review process, the Community Development Director may require from the applicant additional information reasonably necessary to clarify and supplement the application or determine the consistency of the project's proposed affordable housing plan with the requirements of this chapter.
- C. **Required Plan Elements.** An affordable housing plan must include the following elements or submittal requirements:
1. The number, location, structure (attached, semi-attached, or detached), and size (bedrooms, bathrooms, and square footage) of the proposed market-rate and affordable housing units and the basis for calculating the number of affordable housing units.
 2. A floor or site plan depicting the location of the affordable housing units and the market-rate units.

3. The income levels to which each affordable housing unit will be made affordable.
 4. The term of affordability for the affordable housing units.
 5. The methods to be used to advertise the availability of the affordable housing units and the procedures for qualifying and selecting the eligible purchasers and/or tenants, including preference to be given, if any, to applicants who live or work in the city.
 6. A schedule for completion and occupancy of the affordable housing units. For phased development, a phasing plan that provides for the timely development of the number of affordable housing units proportionate to each proposed phase of development.
 7. A description of any incentives or modifications as listed in Section 17.32.040 (Incentives for On-Site Housing) including a description of exceptional circumstances that necessitate assistance from the City, as well as documentation of how such incentives increase the feasibility of providing affordable housing.
 8. Any alternative means, as designated in Section 17.32.060.A, proposed for the development along with information necessary to support the findings required by Section 17.32.060.B for approval of such alternatives.
 9. Any other information reasonably requested by the Community Development Director to assist with evaluation of the affordable housing plan under the requirements of this chapter.
- D. **Affordability Control Covenants.** Prior to issuance of a grading permit or building permit, whichever is requested first, a standard City affordability control covenant must be approved and executed by the Community Development Director, executed by the applicant/owners, and recorded against the title of each affordable housing unit. If subdivision into individual property parcels has not been finalized at the time of issuance of a grading permit or building permit, an overall interim affordability control covenant shall be recorded against the residential development and shall be replaced by separate recorded affordability control covenants for each unit prior to issuance of a certificate of occupancy by the City for such units. The affordability control covenants must identify any incentives, modifications, or terms of any fee waiver, as permitted pursuant to Chapter 17.38 (Density Bonus), approved by the City.

17.32.080 Eligibility

- A. **General Eligibility for Affordable Housing Units.** No household may purchase, rent, or occupy an affordable housing unit unless the City has approved the household's eligibility, and the household and City have executed and recorded an affordability control covenant in the chain of title of the affordable housing unit. Such affordability control covenant is in addition to the covenant required in Section 17.32.070.D.
- B. **Owner Occupancy.** A household which purchases an affordable housing unit must occupy that unit as a principal residence, as that term is defined for federal tax purposes by the United States Internal Revenue Code.

17.32.090 Adjustments

- A. **Adjustments.** The requirements of this chapter may be adjusted to propose an alternative method of compliance with the chapter in accordance with Section 17.32.060 (Alternative Methods of Compliance) by the City if the applicant demonstrates to the Planning Commission (or the City Council on appeal) that applying the requirement of this chapter would be contrary to the requirements of the laws or the constitutions of the United States or California.
- B. **Timing of Waiver Request.** To receive an adjustment or waiver, the applicant must make an initial request of the Planning Commission for such an adjustment or waiver and provide an appropriate demonstration of the appropriateness of the adjustment or waiver when first applying to the Planning Commission for the review and approval of the proposed development plan or subdivision review as such review and approval is required by the City of Pinole Municipal Code.
- C. **Waiver and Adjustment Considerations.** In making a determination on an application to adjust or waive the requirements of this chapter, the Planning Commission (or City Council on appeal) may assume each of the following when applicable: (1) that the applicant is subject to the affordable housing requirements of Chapter 17.32 (Affordable Housing Requirements); (2) the extent to which the applicant will benefit from affordable housing incentives under Section 17.32.040 (Incentives for On-Site Housing); and (3) that the applicant will be obligated to provide the most economical affordable housing units feasible in terms of construction, design, location, and tenure, and subject to the requirements of Chapter 17.32 (Affordable Housing Requirements).

17.32.100 Severability

If any provision of this Section or its application to any property is held to be invalid by any court of competent jurisdiction, invalidity shall not affect other provisions in this Section that may be implemented without the invalid sections. To this end, the provisions and clauses of this Section are declared severable.

Chapter 17.34 Automobile Service Stations

Sections:

17.34.010 Purpose..... 17.34-1
 17.34.020 Applicability..... 17.34-1
 17.34.030 Permit Requirements and Conditions of Approval..... 17.34-1
 17.34.040 Location Requirements..... 17.34-2
 17.34.050 Development and Design Standards..... 17.34-2
 17.34.060 Alternative Fuel and Charging Stations for Electric Vehicles..... 17.34-4

Draft Zoning Code Changes:

This new chapter provides unique development standards governing the design of service stations, including location, design, aisle width, and setbacks.

Requirements are applicable to all new service stations.

17.34.010 Purpose

The purpose of this chapter is to regulate service station development to ensure that the design and operation of such uses are compatible with surrounding uses and activities relative to hazardous materials, noise, circulation, runoff, lighting, and litter. This chapter is also intended to allow for expansion of existing service stations to allow for biodiesel and other alternative fuels and the incorporation of charging stations for electric vehicles.

17.34.020 Applicability

The regulations contained in this chapter shall apply to new service stations. Service stations subject to this chapter shall only be authorized through entitlement requirements of Article II. (Zoning Districts, Allowed Uses, and Development Standards). These regulations shall be in addition to any other development standards and regulations contained elsewhere within the Zoning Code (e.g., lighting). Existing service stations and modification to existing service stations are exempt from the regulations contained in this chapter.

17.34.030 Permit Requirements and Conditions of Approval

- A. **Permit Requirement.** Service stations require a Conditional Use Permit or are allowed by right as established in Article II (Zoning Districts, Allowed Uses, and Development Standards). Comprehensive Design Review pursuant to Section 17.12.140 (Comprehensive Design Review) shall be required for all new service stations. Consistent with Article II. (Zoning Districts, Allowed Uses, and Development Services), the Planning Commission is the designated Approving Authority for service station Conditional Use Permit applications.
- B. **Conditions of Approval.** In addition to any other conditions which may be imposed by the Approving Authority, any Conditional Use Permit issued pursuant to this chapter shall include the following conditions:
 - 1. If the operation of the service station is discontinued for any reason for a continuous period in excess of 180 days, such discontinuance of operation shall be

grounds for revocation or modification of the Conditional Use Permit, consistent with Section 17.16.070 (Permit Revocation or Modification).

2. Upon revocation of the Conditional Use Permit, the applicant shall remove all buildings, pumps, pump islands, signs, underground storage tanks, fences, walls, and all other structures and instruments related to the service station and shall return the property to substantially the condition it was in prior to the construction of the service station.
3. The applicant to whom a Conditional Use Permit has been granted shall keep on the premises the Conditional Use Permit or a copy thereof.

17.34.040 Location Requirements

- A. **Abutting Residential Zoning Districts or Uses.** No new service stations shall be permitted or located on lots abutting property in any residential Zoning District or residential use, unless the designated Approving Authority can make the finding that the design and operation of the service station, along with the conditions placed upon the Conditional Use Permit or Design Review, will ensure compatibility with the abutting property or use. In the event that the property adjacent to an existing service station is subsequently rezoned to a residential Zoning District or to allow residential uses, such rezoning shall not cause the service station to be nonconforming in regard to this location requirement.
- B. **Proximity to Other Service Stations.** In the City of Pinole, a maximum of two service stations are permitted at any single intersection; otherwise, service stations shall be separated by a minimum of 500 feet. However, the City may grant exceptions for stations that are required to relocate due to roadway expansion projects. Separation distance shall be measured in a straight line from the property line of said service stations. Where two service stations are located at a single intersection, the City encourages stations to be sited in such a manner as to service different flows of traffic. The City may waive the spacing requirements for infill sites or locations affected by roadway widening or other infrastructure improvements.

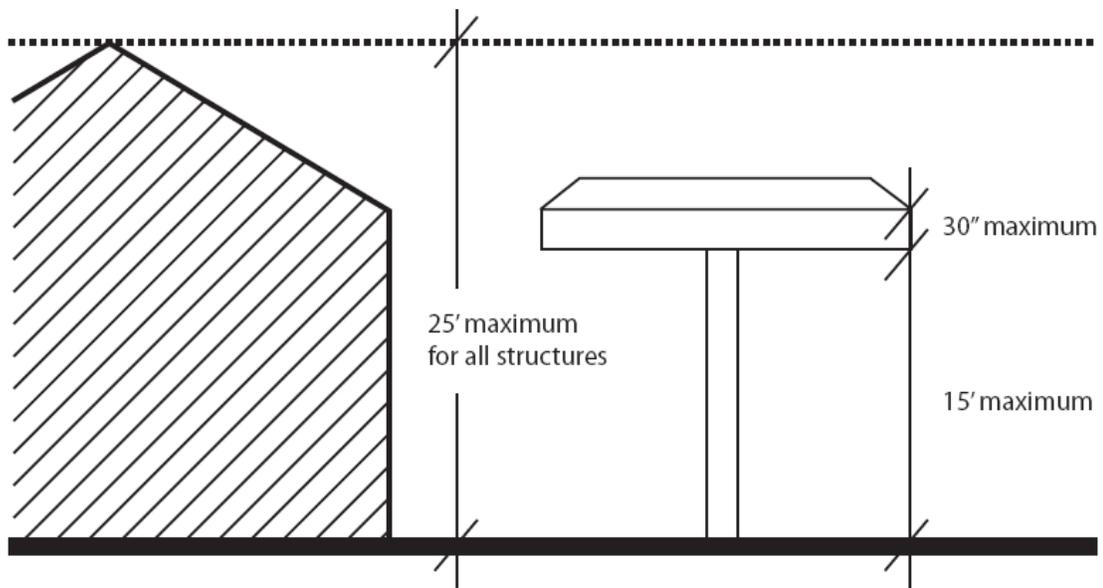
17.34.050 Development and Design Standards

The following requirements apply to all new service stations and qualifying expansions/improvements to existing service stations. Service station uses shall also comply with all applicable state and federal regulations regarding site design, pricing signs, containment, maintenance, and operations.

- A. **Frontage.** The minimum public street frontage shall be 135 feet on each public street for all new service stations.
- B. **Pump Islands.** Service station pump islands may be placed in required yards provided they are no closer than 15 feet to the street right-of-way.
- C. **Setbacks.** Generally, no building shall be located within 30 feet of any public right-of-way or within 15 feet of any interior parcel line. However, to encourage a more pedestrian streetscape, a primary building with direct access from the street may be located a minimum of 15 feet from the right-of-way (and outside required landscape corridors).

- D. **Building Placement and Orientation.** Buildings shall be placed outside the required setback areas, but close to the street and oriented to the public view.
- E. **Building and Canopy Design.** The service station building and/or canopy shall be designed for architectural compatibility with the surrounding area. Notwithstanding any other requirements in the Zoning Code, the maximum height for all service station buildings (including canopy) shall be 25 feet. Pitched roofs are preferred, but not required. In order to reduce the visual impact of the canopy structure and corresponding lighting, the maximum height of the canopy clearance shall be 15 feet and the maximum width of the canopy fascia shall be 30 inches. A lighting study shall be required in conjunction with the design review process to examine light pollution issues, including but not limited to safety and glare pursuant to Chapter 17.46 (Lighting). The canopy fascia shall match the color and texture of the primary building. See Figure 17.34.050-1 (Service Station Building and Canopy Design). Deviations from these requirements may be allowed in conjunction with Administrative Design Review (Section 17.12.080) or Comprehensive Design Review (Section 17.12.140).

FIGURE 17.34.050-1
SERVICE STATION BUILDING AND CANOPY DESIGN



F. **Access Driveways**

1. Driveway dimensions. Driveway design shall be consistent with the City of Pinole Public Works Improvement Standards, except that the minimum width for driveways shall be 35 feet. The width shall be expanded to 45 feet whenever the driveway accesses a street with a width of, or with a planned ultimate width of, 84 feet or greater. The throat depth for driveways shall be 50 feet.
2. Driveway location. Driveways shall be no closer than 40 feet from the nearest intersecting point of street right-of-way lines, or as otherwise determined by the Public Works Director for traffic safety.

3. Number of driveways. No more than two exterior points of access (driveways along abutting streets) shall be provided for each service station, regardless of the length or number of street frontages. No more than 35 percent of the street frontage shall be devoted to curb cuts. Within integrated developments, shared access driveways are preferred.
 4. Accommodation of vehicle stacking. The internal circulation system shall allow for vehicle stacking without blocking ingress and egress on and off the site. The pump island shall be situated to provide stacking space for a minimum of two vehicles behind the vehicle parked at the pump closest to the entrance and/or exit driveway. Sites shall be designed so that the space intended for vehicle stacking shall not block or interfere with the general circulation of traffic within integrated developments.
- G. **Accommodation of Refueling Trucks.** The internal circulation system shall allow for safe and efficient fuel delivery. Turning radius information for all fuel delivery trucks accessing the service station shall be provided in conjunction with Conditional Use Permit or Design Review for review and approval to the satisfaction of the Public Works Director.
- H. **Landscaping.** Landscaping shall be provided consistent with the requirements of Section 17.44.060 (Special Landscape Requirements) for service stations.
- I. **Signs.** Signs shall be consistent with the requirements of Chapter 17.52 (Signs), including exempt gasoline pricing signs.
- J. **Fences and Walls.** A wall shall be provided between service stations abutting property in any agricultural or residential Zoning District or residential use consistent with the requirements of Section 17.42.050 (Special Fence, Wall and Screening Requirements).
- K. **Lighting.** In addition to the lighting requirements of Chapter 17.46 (Lighting), canopy lighting shall be recessed so that the luminaire does not extend below the surface of the underside of the canopy.
- L. **Noise.** All outdoor noise generators associated with operation of the service station shall be identified by the applicant during the Conditional Use Permit and/or Comprehensive Design Review process and may require the submittal of a professional noise analysis to quantify noise sources and attenuate noise levels consistent with City noise standards. All outdoor speakers and video/audio pump stations and sound signals associated with the service stations shall be turned off daily between the hours of 10:00 p.m. and 7:00 a.m.

17.34.060 Alternative Fuel and Charging Stations for Electric Vehicles

Plan Check is required pursuant to Section 17.12.030 (Plan Check) for the expansion, modification or retrofit of an existing service station where the expansion, modification or retrofit incorporates biodiesel or other alternative fuels, or charging stations for electric vehicles. The designated Approving Authority may grant the expansion, modification or retrofit even if specified improvements result in a reduction of existing on-site parking.

Chapter 17.36 Building Height Measurement and Projections

Sections:

17.36.010	Purpose.....	17.36-1
17.36.020	Height Regulations.....	17.36-1
17.36.030	Height Measurement.....	17.36-1
17.36.040	Height Exceptions	17.36-2

Draft Zoning Code Changes:

This new chapter provides directions on the calculation of building height, accounting for considerations of sloped lots.

Expanded definitions are provided to clarify the building height measurement process.

Exceptions for building height are provided, including exceptions for adjustments through design review, architectural projections for residential zoning districts, and architectural features for non-residential zoning districts.

17.36.010 Purpose

The purpose of this chapter is to establish the regulation for building height and rules for measuring building height. Additionally, the Chapter includes exceptions to the height requirements of the underlying Zoning District based on use type and features.

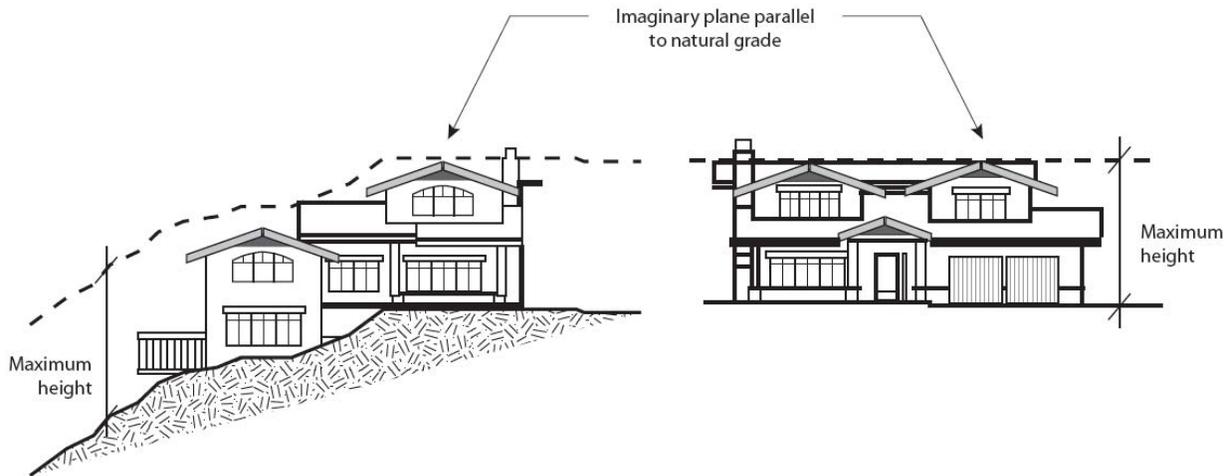
17.36.020 Height Regulations

The regulations provided in this chapter establish the methodology that shall be used for measuring the height of all structures regulated by the Zoning Code. The maximum allowed height for all structures varies by type of structure and Zoning District, and is identified in multiple locations in the Zoning Code, including Article II (Zoning Districts, Allowed Uses, and Development Standards), Chapter 17.30 (Accessory Structures), and Chapter 17.42 (Fences, Walls and Screening). The height requirements for buildings or structures shall be interpreted so that the limitation as to the number of stories and the limitation of the height in feet shall apply when both requirements are listed.

17.36.030 Height Measurement

The height of a structure shall be measured as the vertical distance from the finish grade of the site to an imaginary plane located the allowed number of feet above and parallel to the grade. See Figure 17.36.030-1 (Measurement of Height).

FIGURE 17.36.030-1
MEASUREMENT OF HEIGHT



17.36.040 Height Exceptions

Exceptions to the height regulations provided elsewhere in the Zoning Code are identified below.

- A. **General Building Height Exceptions Allowed Through Design Review.** As part of Administrative Design Review (Section 17.12.080) or Comprehensive Design Review (Section 17.12.140), the designated Approving Authority may allow multi-family dwellings, schools, religious facilities, public buildings, and other similar buildings or structures to be erected to a height not to exceed 75 feet, provided that the required yards are increased one foot for each one foot of height increase of said building over the maximum height limit allowed by the Zoning District that applies to said building.
- B. **Solar Facilities.** Solar facilities are allowed to exceed the height limits of the applicable Zoning District, unless the Building Official, in the approval of the building permit, has determined that the placement therein will have a specific adverse impact upon the public health or safety, as defined by state law.
- C. **Residential Zoning Districts.** Chimneys, cupolas, towers, and other similar architectural projections not exceeding a dimension of six feet at their base may exceed the height limits of the applicable Zoning District by a maximum of five feet.
- D. **Non-Residential Zoning Districts.**
 1. **Minor projections.** Minor projections for the purpose of shelter for mechanical equipment, elevator and mechanical equipment enclosures, radio or television antennas, and similar structures and necessary mechanical appurtenances may be erected on a building to exceed the height limits of the applicable Zoning District, or of that use, by a maximum of 15 feet, provided the projections are screened by a parapet or pitched roof or other method acceptable to the Community Development Director.

2. Architectural features. Clock towers, cupolas, towers, and similar structures may exceed the height limit as listed below. Signs shall not be included within the additional height allowed.
 - a. Up to 20 feet, if located at a street intersection.
 - b. Up to 12 feet, if located midblock. These features shall not exceed a width of 25 feet or one-third of the length of the building façade, whichever is less.
3. Mixed-use and industrial zoning districts. As part of Administrative Design Review (Section 17.12.080) or Comprehensive Design Review (Section 17.12.140), the designated Approving Authority may permit the maximum height for buildings in the mixed-use and industrial zoning districts to be increased to a maximum of 100 feet, provided that all portions of the building exceeding the otherwise applicable height maximum are set back from the ultimate right-of-way line of all abutting streets and freeways a distance at least equal to the height of that portion of the building. For any residential portion of a hotel or a residential portion of a mixed-use development, all required yards and courts shall be increased one square foot for each foot that such building exceeds the otherwise applicable maximum height of the Zoning District. In any case, the floor area to lot area ratio shall not exceed that allowed in the applicable Zoning District or 2.5:1 when no maximum is specified.

Chapter 17.38 Density Bonus

Sections:

17.38.010	Purpose.....	17.38-1
17.38.020	Eligibility for Density Bonus and Incentives and Concessions	17.38-1
17.38.030	General Requirements	17.38-2
17.38.040	Number and Types of Density Bonuses and Incentives and Concessions Allowed.....	17.38-3
17.38.050	Location of Density Bonus Units	17.38-7
17.38.060	Continued Availability.....	17.38-8
17.38.070	Process for Approval or Denial	17.38-8
17.38.080	Administrative Fee	17.38-9

Draft Zoning Code Changes:

The Density Bonus requirements are a new addition to the Pinole Zoning Code. The requirements are consistent with current state Law.

17.38.010 Purpose

The purpose of this chapter is to provide incentives for the production of housing for very low income, lower income, moderate income, special needs, and senior households in the City of Pinole and to establish procedures for carrying out the legislative requirements and complying with California Government Code Section 65915, et seq. In enacting this chapter, it is the intent of the City to facilitate the development of affordable housing by positively impacting the economic feasibility of providing lower income housing and implementing the goals, objectives, and policies of the City’s Housing Element.

17.38.020 Eligibility for Density Bonus and Incentives and Concessions

The City shall grant one density bonus, with concessions or incentives, as specified in Section 17.38.040 (Number and Types of Density Bonuses and Incentives and Concessions Allowed), when the applicant for the residential development seeks and agrees to construct a residential development, excluding any units permitted by the density bonus awarded pursuant to this chapter, that will contain at least one of the following:

- A. Ten percent of the total units of a housing development for lower income households;
- B. Five percent of the total units of a housing development for very low income households;
- C. A senior citizen housing development or age-restricted mobilehome park; or

Ten percent of the total dwelling units in a common interest development as defined in California Civil Code Section 1351 for persons and families of moderate income, provided that all units in the development are offered to the public for purchase. The above units qualifying a development for a density bonus shall be referred to as “target units.” The applicant shall specify which of the above paragraphs is the basis for the density bonus. The percentage of total units proposed to qualify the development for a density bonus shall not be rounded up. Example: for a 200-unit project that proposes 21 lower income units (or 10.5%), the allowed density bonus would be based on 10% lower income units, not 11%.

17.38.030 General Requirements

The following general requirements apply to the application and determination of all incentives and bonuses:

- A. **Rounding.** All density calculations resulting in fractional units shall be rounded up to the next whole number.
- B. **Relation to General Plan, Zoning.** The granting of a density bonus, or a concession or incentive, shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.
- C. **Density Bonus Excluded in Calculation.** The density bonus shall not be included when calculating the total number of housing units that qualifies the housing development for a density bonus.
- D. **Parking.** Upon request by the applicant, the City shall not require that a housing development meeting the requirements of Section 17.38.020 (Eligibility for Density Bonus and Incentives and Concessions) provide a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following:
 1. Zero (studio) to one bedroom: one on-site parking space per unit
 2. Two to three bedrooms: two on-site parking spaces per unit
 3. Four or more bedrooms: two and one-half parking spaces per unit

If the total of parking spaces required for a housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subsection, a development may provide “on-site parking” through tandem parking or uncovered parking, but not through on-street parking.

- E. **Waived or Reduced Development Standards.** The City shall not apply any development standard that would have the effect of physically precluding the construction of a housing development meeting the requirements of Section 17.38.020 (Eligibility for Density Bonus and Incentives and Concessions) at the densities or with the incentives or concessions permitted by this chapter.

An applicant may submit to the City a proposal for the waiver or reduction of development standards, when standards would have the effect of physically precluding the proposed development, and may request a meeting with the City. Nothing in this subsection, however, shall be interpreted to require the City to waive or reduce development standards if:

1. The waiver or reduction would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code, upon health and safety or the physical environment and for which the City determines there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or
2. This would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

3. The waiver or reduction would be contrary to state or federal law.
- A proposed waiver or reduction of development standards shall neither reduce nor increase the number of allowable incentives or concessions under Section 17.38.040.
- F. this chapter **Multiple Zoning Districts**. If the site of a development proposal is located in two or more zoning districts, the number of dwelling units permitted in the development is the sum of the dwelling units permitted in each of the zoning districts based on the site acreage within each zoning district. The permitted number of dwelling units may be distributed within the development without regard to the zone boundaries.
- G. **Affordable Housing Requirements**. For projects subject to Chapter 17.32 (Affordable Housing Requirements) of this Title, the affordable housing units required by that Chapter may be counted toward the affordable units required to qualify for a density bonus per Section 17.38.020.
- H. Nothing in this chapter shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.
- I. Agreement Required.
- a. Prior to the award of a density bonus and any related incentives or concessions, the applicant shall enter into an agreement with the City to ensure the continued affordability of all target units.
- b. For all target units, the agreement shall specify the household-income classification, number, location, size and construction scheduling and shall require target units in a project and phases of a project to be constructed concurrently with the construction of non-target units. The agreement shall include such other provisions as necessary to establish compliance with the requirements of this chapter.
- J. Reports. The applicant shall submit financial or other reports along with the application for the project to establish compliance with this chapter. The City may retain a consultant to review any financial report (pro forma). The cost of the consultant shall be borne by the applicant except if the applicant is a non profit organization, the cost of the consultant may be paid by the City upon prior approval of the City Council.
- K. CEQA Review. Any residential development that qualifies for a density bonus shall not be exempt from compliance with the California Environmental Quality Act.

17.38.040 Number and Types of Density Bonuses and Incentives and Concessions Allowed

- A. **Density Bonus**. A housing development that satisfies the eligibility requirements in Section 17.38.020 of this chapter shall be entitled to the following density bonus:
1. For developments providing 10 percent lower income target units, the City shall provide a 20 percent increase above the otherwise maximum allowable residential density as of the date of application, plus a one-and-a-half percent supplemental increase over that base for every one percent increase in low income target units above ten percent. The maximum density bonus allowed including supplemental increases is 35 percent.

2. For developments providing five percent very low income target units, the City shall provide a 20 percent increase above the otherwise maximum allowable residential density as of the date of application, plus a two and a half percent supplemental increase over that base for every one percent increase in very low income target units above five percent. The maximum density bonus allowed including supplemental increases is 35 percent.
 3. For senior citizen housing developments, a flat 20 percent of the number of senior units.
 4. For common interest developments providing 10 percent moderate income target units, the City shall provide a five percent increase above the otherwise maximum allowable residential density as of the date of application, plus a one percent increase in moderate income units above ten percent. The maximum density bonus allowed including supplemental increases is 35 percent.
- B. **Number of Incentives or Concessions.** In addition to the density bonus described in this Section, an applicant may request specific incentives or concessions. The applicant shall receive the following number of incentives or concessions.
1. One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least five percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.
 2. Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least ten percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.
 3. Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.
 4. The City shall grant the concession or incentive requested by the applicant unless it makes a written finding of either of the following:
 - a. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).
 - b. The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.
 - c. The concession or incentive would be contrary to state or federal law.
- C. Available Incentives and Concessions.

1. A reduction in the site development standards or a modification of this Title requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 Section (commencing with 18901) of Division 13 of the Health and Safety Code, including but not limited to a reduction in setback and square footage requirements and in the ratio of vehicle parking spaces that would otherwise be required and that results in identifiable, financially sufficient, and actual cost reductions.
 2. Approval of mixed-use zoning in conjunction with the housing development if the non-residential land uses will reduce the cost of the housing development and the non-residential land uses are compatible with the housing development and existing or planned development in the area in which the housing development will be located.
 3. Other regulatory incentives or concessions proposed by the applicant or the City that result in identifiable, financially sufficient, and actual cost reductions.
 4. Priority processing of a housing development that qualifies for a density bonus based on income restricted units.
- D. Additional Density Bonus and Incentives and Concessions for Donation of Land to the City.
1. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City and agrees to include a minimum of ten percent of the total units before the density bonus for very low income households, the applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density, plus a one percent supplemental increase for each additional percentage of very low income units to a maximum density bonus of 35 percent for the entire development.
 2. The density bonus provided in this subsection shall be in addition to any other density bonus provided by this chapter up to a maximum combined density bonus of 35 percent.
 3. The applicant shall be eligible for the increased density bonus described in this subsection if all of the following conditions are met:
 - a. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application;
 - b. The developable acreage and zoning designation of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than ten percent of the number of residential units of the proposed development;
 - c. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate General Plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of

- subdivision (c) of Section 65583.2 of the Government Code, and is or will be served by adequate public facilities and infrastructure.
- d. The transferred land shall have all of the entitlements and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the City may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of Government Code if the design is not reviewed by the City prior to the time of transfer;
 - e. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with the requirements of this chapter which shall be recorded on the property at the time of the transfer;
 - f. The land is transferred to the City or to a housing developer approved by the City;
 - g. The transferred land shall be within the boundary of the proposed development or, if the City agrees, within ¼ mile of the boundary of the proposed development; and
 - h. A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.
4. Nothing in this subsection shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.
- E. Additional Density Bonus or Incentives and Concessions for Development of Child Care Facility.
1. Housing developments meeting the requirements of Section 17.38.020 (Eligibility for Density Bonus and Incentives and Concessions) and including a child care facility that will be located on the premises of, as part of, or adjacent to the housing development shall receive either of the following:
 - a. An additional density bonus that is an amount of square footage of residential space that is equal to or greater than the amount of square footage in the child care facility.
 - b. An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child care facility.
 2. The City shall require the following as conditions of approving the housing development.
 - a. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the target units are required to remain affordable, pursuant to Subdivision (c) of Section 65915 of the Government Code; and

- b. Of the children who attend the child care facility, the children of very low income households, lower income households, or persons or families of moderate income shall equal a percentage that is equal to or greater than the percentage of target units that are required pursuant to Section 17.38.020 (Eligibility for Density Bonus and Incentives and Concessions).
 3. Notwithstanding any other requirements of this Section, the City shall not be required to provide a density bonus or incentive or concession for a child care facility if it makes a written finding, based upon substantial evidence, that the community has adequate child care facilities.
- F. Condominium Conversion Incentives for Low Income Housing Development.
 1. An applicant for approval to convert apartments to a condominium project may submit to the City a preliminary proposal pursuant to this subsection prior to the submittal of any formal requests for subdivision map approvals. The City shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this subsection.
 2. When an applicant for approval to convert apartments to a condominium project agrees to the following, the City shall grant either a density bonus of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion, or provide other incentives of equivalent financial value.
 - a. Provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income, or provide at least 15 percent of the total units of the proposed condominium project to lower income households; and
 - b. Agree to pay for the reasonably necessary administrative costs incurred by the City.
 3. For purposes of this subsection, “other incentives of equivalent financial value” shall not be construed to require the City to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the City might otherwise apply as conditions of conversion approval.
 4. Nothing in this subsection shall be construed to require the City to approve a proposal to convert apartments to condominiums.
 5. An applicant shall be ineligible for a density bonus or other incentives under this subsection if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentive was previously provided.

17.38.050 Location of Density Bonus Units

The location of density bonus units within the housing development may be at the discretion of the developer. However, the target units shall be dispersed throughout the housing development and when feasible shall contain, on average, the same number of bedrooms as

the non-target units in the development, and shall be compatible with the design or use of the remaining units in terms of appearance, materials, and quality finish.

17.38.060 Continued Availability

- A. If a housing development provides low or very low income target units to qualify for a density bonus, the target units must remain restricted to lower or very low income households for a minimum of 30 years from the date of issuance of the certificate of occupancy by the Building Official, or longer if required by the project financing.
- B. In the case of a common interest housing development providing moderate income target units to qualify for a density bonus, the initial occupant of the target unit must be a person or family of moderate income. Upon resale, the seller of the target units shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation, and the City shall recapture any initial subsidy and its proportionate share of appreciation which shall then be used within three years for any of the purposes described in subdivision (e) of Section 33334.2 of the California Health and Safety Code that promote homeownership. The City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value. The City's "proportionate share" shall be equal to the percentage by which the initial sale price to the moderate-income household was less than the fair market value of the home at the time of the initial sale.
- C. Where there is a direct financial contribution to a housing development pursuant to Government Code Section 65915, the City shall assure continued availability for low- and moderate-income units for 30 years.

17.38.070 Process for Approval or Denial

- A. **Process for Approval.** The density bonus and incentive(s) and concession(s) request shall be considered in conjunction with any necessary development entitlements for the project. The designated Approving Authority for density bonuses, incentives, and concessions shall be the City Council. In approving the density bonus and any related incentives or concessions, the City and applicant shall enter into a density bonus agreement.
- B. **Approval of Density Bonus Required.** The City shall grant the density bonus requested by the applicant provided it is consistent with the requirements of this chapter and state law.
- C. **Approval of Incentives or Concessions Required Unless Findings Made.** The City shall grant the incentive(s) and concession(s) requested by the applicant unless the City makes a written finding, based upon substantial evidence, of any of the following:
 - 1. The incentive or concession is not required in order to provide for affordable housing costs or affordable rent for the target units.
 - 2. The incentive or concession would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code, upon public health and safety or the physical environment or on any real

property that is listed in the California Register of Historical Resources and for which the City determines there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate income households.

3. The concession or incentive would be contrary to state or federal law.

17.38.080 Administrative Fee

The City shall charge applicants an administrative fee to cover the City's cost to review all materials submitted in accordance with this chapter and for ongoing enforcement of this chapter. The amount of the administrative fee shall be established by City Council resolution and updated as required. Fees will be charged for staff time and materials associated with:

- A. Review and approval of applications for the proposed development;
- B. Project marketing and lease-up; and
- C. Long-term compliance of the applicant and successors-in-interest to the applicant, with respect to the affordable housing units.

Chapter 17.40 Drive-In and Drive-Through Facilities

Sections:

17.40.010 Purpose..... 17.40-1
 17.40.020 Applicability..... 17.40-1
 17.40.030 Permit Requirements 17.40-1
 17.40.040 Development and Design Standards..... 17.40-2

Draft Zoning Code Changes:

This new chapter provides development and design standards for drive-in and drive-through facilities, including aisle width, pedestrian access, noise, signs, and visibility.

Required findings and conditions of approval are established that must be used in the approval of all drive-in and drive-through facilities.

17.40.010 Purpose

The purpose of this chapter is to establish regulations for drive-through businesses to address vehicle and pedestrian circulation, stormwater runoff, litter, and noise.

17.40.020 Applicability

The regulations contained in this chapter shall apply to all new drive-in and drive-through sales and service facilities as defined in Chapter 17.98 (Glossary of Terms) and shall be in addition to any other development standards and regulations contained elsewhere within the Zoning Code (e.g., lighting). Where allowed by Article II. (Zoning Districts, Allowed Uses, and Development Standards), drive-through facilities shall comply with the requirements of this chapter.

17.40.030 Permit Requirements

- A. **Conditional Use Permit Required.** Pursuant to Article II. (Zoning Districts, Allowed Uses, and Development Standards), a Conditional Use Permit is required for all drive-in and drive-through sales and services. The Conditional Use Permit process is outlined in Section 17.12.130 (Conditional Use Permit).
- B. **Required Findings.** In addition to standard Conditional Use Permit findings, all of the special findings below shall be made in order for the designated Approving Authority to approve a Conditional Use Permit for drive-in or drive-through sales and service facilities.
 - 1. The design and location of the facility and lane will not contribute to increased congestion on public or private streets adjacent to the subject property.
 - 2. The design and location of the facility and lane will not impede access to or exit from the parking lot serving the facility nor impair normal circulation within the parking lot.
 - 3. The design and location of the facility will not create a nuisance for adjoining properties.

- C. **Conditions of Approval.** In addition to any other conditions which may be imposed by the Approving Authority, any Conditional Use Permit issued pursuant to this chapter shall include the following condition. If congestion attributable to the drive-in or drive-through facility is verified to occur in more than three separate incidents by a City staff person such that it negatively impacts traffic flow on public streets, such congestion shall be grounds for revocation or modification of the Conditional Use Permit, consistent with Section 17.10.120 (Revocation of Previously Approved Entitlement).

17.40.040 Development and Design Standards

The following standards shall be the minimum requirements for all drive-in and drive-through sales and service facilities. Modifications to these requirements may be considered through the issuance of the Conditional Use Permit (see Section 17.12.130 (Conditional Use Permit)).

- A. **Drive Aisles.** The minimum requirements for drive-through and remote teller aisles are as follows:
1. On curves. Aisles shall have a minimum ten-foot interior radius at curves and a minimum 12-foot width.
 2. On straight sections. Aisles shall have a minimum 11-foot minimum width on straight sections.
 3. Aisles shall provide at least 180 feet of stacking space for each facility, as measured from the service window or unit to the entry point into the drive-up lane. Nonfood and/or nonbeverage businesses may reduce the stacking space to a minimum of 60 feet. Exceptions may be granted by the designated Approving Authority when an applicant demonstrates that the required stacking space is unnecessary.
 4. Aisle entrances and exits shall be at least 25 feet from an intersection of public rights-of-way, measured at the closest intersecting curbs, and at least 25 feet from the curb-cut on an adjacent property. When an aisle encroaches into the front yard and side street setbacks, 25 feet of landscaping shall be provided with at least ten feet of landscaping between the aisle and right-of-way. Exceptions may be granted by the designated Approving Authority when aisle pull-out spaces are provided.
 5. Aisles shall be separated from the site's ingress and egress routes or access to a parking space.
 6. Landscaping of drive-through aisles. Landscaping of drive-through aisles shall be consistent with the requirements of Section 17.44.060 (Special Landscape Requirements) for screening for drive-through aisles.
- B. **Pedestrian Access and Crossings.** Pedestrian access shall be provided from each abutting street to the primary entrance with a continuous, minimum four-foot-wide sidewalk or delineated walkway. Generally, pedestrian walkways should not intersect the drive-through aisles, but where they do the walkways shall have clear visibility and shall be delineated by textured and colored paving and shall be clearly signed to alert vehicles in the drive-through aisles.

- C. **Parking.** Drive-up windows, remote tellers, and drive-through aisles shall be designed and constructed to be consistent with the requirements of Chapter 17.48 (Parking). The placement of drive-through aisles shall not be considered as justification for reducing the number of parking spaces which are otherwise required.
- D. **Noise.** Drive-up windows and their order stations with amplified sound shall be located a minimum of 300 feet from any residential property line. Drive-up windows or remote tellers without amplified sound may reduce the separation distance to a minimum of 75 feet from any residential property line.
- E. **Signs.** Signage for drive-up windows and remote tellers shall be consistent with the requirements of Chapter 17.52 (Signs).
- F. **Visibility from Public Right-of-Way.** Drive-through windows shall be visible from a public right-of-way to ensure that all activity can be viewed from an adjacent street.

Chapter 17.42 Fences, Walls and Screening

Sections:

17.42.010	Purpose.....	17.42-1
17.42.020	Permit Requirements and Exemptions.....	17.42-1
17.42.030	Location and Height Restrictions.....	17.42-1
17.42.040	Fence, Wall and Screen Design and Maintenance Standards	17.42-3
17.42.050	Special Fence, Wall and Screening Requirements	17.42-3

Draft Zoning Code Changes:

This new chapter consolidates and expands regulations for all fences and walls on private property.

Development standards for fences and walls in this section of the Article bring together some of Pinole’s existing requirements, and update and clarify some elements to comply with state law, while introducing some new concepts.

Except as specifically exempt from entitlement requirements (e.g., standard 6-foot privacy fence), Administrative Design Review is required for new fences and walls.

17.42.010 Purpose

The purpose of this chapter to regulate the height and location of fences to provide light, air, and privacy without obstructing views, to establish buffers between different land uses, and to safeguard against visual obstructions at the intersections of streets and/or driveways.

17.42.020 Permit Requirements and Exemptions

Unless otherwise exempt below, Administrative Design Review is required for new fences and walls. Fences and walls listed below are exempt from planning entitlements, but may still require building permits.

- A. **Retaining Walls.** Retaining walls less than 36 inches in height are exempt from the requirements of this chapter.
- B. **Residential Fences and Walls.** Fences and walls located on residential property constructed in compliance with the requirements Section 17.42.030 (Location and Height Restrictions).
- C. **Required Fences and Walls.** The requirements of this chapter shall not apply to a fence or wall required by any law or regulation of the City (including temporary construction site fencing), state, federal government, or any agency thereof (including the Board of Education).

17.42.030 Location and Height Restrictions

- A. **Maximum Allowed Heights and Locations.** Each fence and wall shall comply with height limits and locations shown in Table 17.42.030-1 (Maximum Height of Fences and Walls in

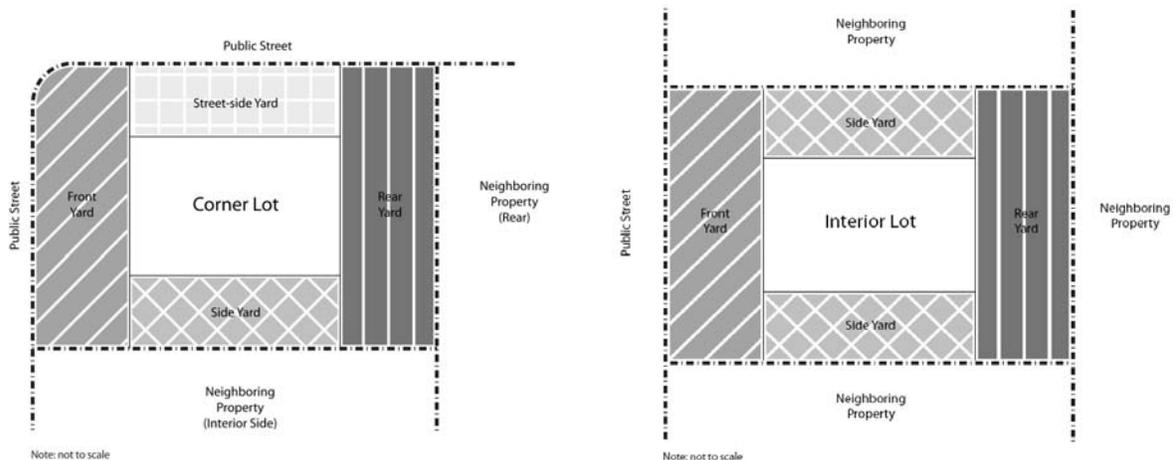
Required Yard Area) and Figure 17.42.030-1 (Maximum Height of Fences and Walls in Required Yard Area).

**TABLE 17.42.030-1
MAXIMUM HEIGHT OF FENCES AND WALLS IN REQUIRED YARD AREA**

Location of Fence/Wall	Location or Minimum Setback of Fence (1), (3)	Maximum Height (1)
Required Front Yard Area	Determined by Zoning District	3.5 ft. (2)
Required Rear and Interior Side Yard Area (Along Rear and Interior Property Lines)	0 ft.	6 ft.
Required Street Side Yard Area (Along Street Side Property Lines)	5 ft. (3)	6 ft.
At intersections of streets, alleys, and driveways within the clear vision triangle	Varies (4)	30 in.
All other areas of lot	0 ft.	6 ft.

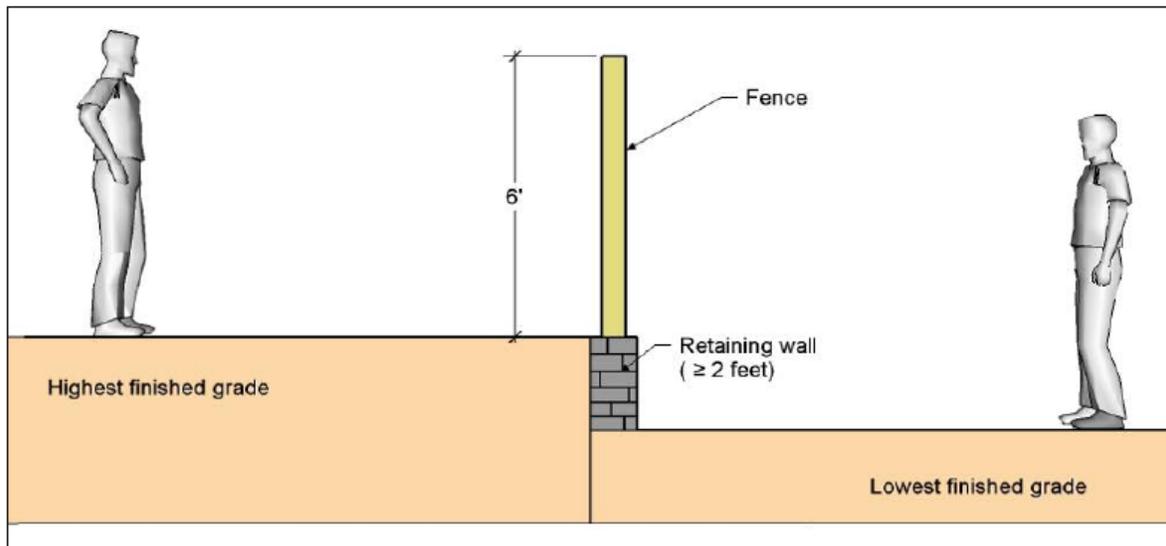
- (1) As part of Administrative Design Review or other discretionary entitlement, the designated Approving Authority may grant additional height or location requirements to enclose or screen specific areas or uses or for fences and walls designed for noise attenuation.
- (2) Height of front yard fence or wall may be increased to a maximum of five feet if set back at least 10 feet behind the front property line or sidewalk if the fence or wall remains visually open and transparent (e.g., picket fence, open wood slats, open wrought iron).
- (3) Setback area for street side yard is measured from back of sidewalk to the fence or wall. If no sidewalk exists, then street side yard is measured from the property line to the fence or wall.
- (4) See definition of clear vision triangle in Section 17.98.020 (General Definitions).

**FIGURE 17.42.030-1
FRONT AND STREET SIDE SETBACK AREAS**



B. **Height Measurement.** Fence and wall height shall be measured from the finish grade at the base of the fence or wall to the uppermost part of the fence or wall; except when there is a difference in the ground level between two adjoining parcels of two feet or more, the fence or wall shall be measured on the side with the highest finish grade. See Figure 17.42.040-2 (Measurement of Fence and Wall Height on Parcels with Different Elevations).

FIGURE 17.42.030-2
MEASUREMENT OF FENCE AND WALL HEIGHT ON PARCELS WITH DIFFERENT ELEVATIONS



17.42.040 Fence, Wall and Screen Design and Maintenance Standards

- A. **Open View Fencing.** Where fencing is proposed along public frontages of non-residential and multi-family projects, such fencing shall be open view unless otherwise required to be solid for noise attenuation. Open view fencing shall also be required when located adjacent to open space areas. However, open view fencing for side yards of corner lots abutting open space areas may be designed with solid fencing and walls.
- B. **Fencing, Wall and Screen Materials.** Fences, walls and screens shall be constructed of attractive, long-lasting materials (e.g., masonry, wood, tubular steel, or stone). Unless approved as a condition of approval or in conjunction with another entitlement, fences, walls and screens of sheet or corrugated iron, fiberglass, sheet steel, concertina wire, or sheer aluminum are prohibited. Barbed wire fencing shall not be constructed or placed on top of a fence, wall or screen except where properly used for agricultural, open space, or certain industrial uses.
- C. **Graffiti-Resistance.** Graffiti-resistant aesthetic surface treatment shall be required for all fences and walls adjacent to a public right-of-way, in a residential zone, or as determined through the Administrative Design Review process.
- D. **Maintenance.** Fences, walls and screens shall be continuously maintained in an orderly and good condition, at no more than their maximum allowed height.

17.42.050 Special Fence, Wall and Screening Requirements

- A. **Outdoor Storage and Accessory Structures.** Related requirements for outdoor storage and accessory structures shall be references in Chapters 17.30 (Accessory Structures) and 17.68 (Outdoor Sales, Display, Storage, and Seating) respectively.
- B. **Screening of Outdoor Storage in Commercial, Office, and Mixed-Use Zoning Districts.** Outdoor storage (including all dumpsters, commercial items, commercial construction, or

industrial-related materials and equipment within commercial zoning districts) shall be fenced or screened from view. Such screening shall utilize enclosures including, but not limited to, fences, walls, landscaping, or earthen berms, so that no outdoor storage is visible from any public rights-of-way, parks, public trails, and adjacent properties. Screening shall be visually compatible with the primary buildings and landscape on the property.

- C. **Fencing for Company Vehicles in Industrial Zoning Districts.** In industrial zoning districts, company vehicles of less than one ton do not require screening and may be parked behind the required landscape area with or without security fencing this chapter. Company vehicles exceeding one ton that are permitted on the public highways and used in the daily operation of the company may be parked within the buildable portion of the lot without screen fencing. All company vehicles that exceed one ton and are not permitted on the public highways shall be fenced or screened from view in a manner that is attractive and complementary to the structure it serves and architecturally compatible with other on-site development.
- D. **Fencing and Walls for Agricultural Land Uses.** All fences or walls which enclose livestock shall be constructed of an adequate height and shall be designed so as to control and contain such livestock at all times.
- E. **Fencing and Walls for Pools, Spas, and Similar Features.** Swimming pools, spas, and other similar water features shall be enclosed in compliance with City-adopted Building Code requirements.
- F. **Fences, Walls and Screening Between Different Land Uses.** Commercial and industrial uses shall be screened from adjacent residential zoning districts by plant materials and a solid, decorative masonry wall with a minimum height of six feet to screen the commercial use, as approved by the Approving Authority. Openings or pedestrian connections may be required at the discretion of the Approving Authority. A landscaping strip with a minimum width of five feet shall be installed adjacent to a screening wall on the commercial or industrial side.
- G. **Screening of Commercial Loading Docks and Refuse Areas.** Loading docks and refuse storage areas shall be screened from public view, adjoining public streets and rights-of-way, and residentially zoned areas. The method of screening shall be architecturally compatible with other on-site development in terms of colors and materials. Exceptions may be permitted through the Administrative Design Review process for sites with unique characteristics (e.g., shallow lot depth, adjacency to single-family residential).
- H. **Temporary Fences.** Nothing in this chapter shall be deemed to prohibit the erection of a temporary fence around construction projects in compliance with the Building Code and other applicable requirements of the City Municipal Code.

Chapter 17.44 Landscaping

Sections:

17.44.010 Purpose..... 17.44-1

17.44.020 Applicability 17.44-1

17.44.030 Landscape and Irrigation Plans..... 17.44-2

17.44.040 Landscape Plan Review Process..... 17.44-2

17.44.050 General Landscape Development Standards 17.44-3

17.44.060 Special Landscape Requirements 17.44-5

17.44.070 Removal and Replacement of Landscaping and Trees from Approved Plans..... 17.44-7

17.44.080 Landscape Care and Maintenance 17.44-7

Draft Zoning Code Changes:

- This chapter includes revised and expanded landscape regulations applicable to all new development.*
- Permit and review process for landscaping is clarified, in conjunction with expanded requirements for landscape plans.*
- Requirements are expanded to account for plant types and location of landscaping. Maintenance and care requirements are provided. New requirements are established to regulate the replacement and removal of landscaping.*
- Special landscape requirements are provided for unique sites, including drive-in and drive-through facilities, parking lots, and project entries.*

17.44.010 Purpose

The purpose of this chapter is to establish minimum landscape requirements to enhance the appearance of developments, reduce heat and glare, control soil erosion, conserve water, ensure ongoing maintenance of landscape areas, and ensure that landscape installations do not create hazards for motorists or pedestrians.

17.44.020 Applicability

The regulations contained in this chapter shall apply to new, existing and future development as follows, and shall be in addition to any other development standards and regulations contained elsewhere within the Zoning Code (e.g., lighting).

- A. **New projects.** New commercial, industrial, mixed-use, multi-family residential, and single-family residential subdivisions shall be reviewed by the designated Approving Authority to ensure landscaping is provided in compliance with the requirements of this chapter.
- B. **Existing development.** Where an existing non-residential, mixed-use, and/or multi-family residential project requests an amendment that increases the building square footage by ten percent or more, the designated Approving Authority shall evaluate the existing landscape to ensure compliance with applicable requirements of this chapter as deemed necessary and appropriate.

17.44.030 Landscape and Irrigation Plans

When this chapter is applicable to new projects or existing development, as identified in Section 17.44.020 (Applicability) above, preliminary and final landscape plans shall be submitted in accordance with the requirements of this chapter and review of such plans shall be conducted as part of the design review process.

- A. **Preliminary Landscape and Irrigation Plan.** A preliminary landscape plan and irrigation plan shall be submitted to the Approving Authority. This plan must show conceptual locations for trees, shrubs, ground cover, etc. and a corresponding list of planting material by species, quantity, and size.
- B. **Final Landscape and Irrigation Plan.** After a preliminary landscape and irrigation plan has been approved by the designated Approving Authority, a final landscape and irrigation plan shall be submitted to the Community Development Director in conjunction with site improvement plans. The final landscape planting and irrigation plans shall be prepared by a registered licensed landscape architect and shall be in substantial compliance with the preliminary landscape and irrigation plan approved by the designated Approving Authority. Final plans shall show the exact location of and irrigation for trees, shrubs, and ground cover. The final landscape plan shall include, at a minimum, plant name, plant quantity, plant size, location of impervious surfaces, utilities and lighting, irrigation system, and plans for tree retention and removal where applicable. The final landscape plan should also include a water budget that includes the estimate water use (in gallons), the irrigated area (in square feet), precipitation rate, and flow rate in gallons per minute.

17.44.040 Landscape Plan Review Process

- A. **Landscaping Plans Subject to Review.** When the requirements of this chapter are applicable as established in Section 17.44.020 (Applicability), the following landscape plan review process shall be conducted in conjunction with design review for the proposed action, pursuant to the requirements of either Section 17.12.080 (Administrative Design Review) or Section 17.12.140 (Comprehensive Design Review), as applicable.
 - 1. Approving Authority. The designated Approving Authority shall be the same as the designated Approving Authority of the entitlement for new projects or existing development as identified in Section 17.44.020 (Applicability) above.
 - 2. Approval of preliminary and final plans. The designated Approving Authority shall review and approve the preliminary landscape and irrigation plan. Upon approval of the preliminary landscape and irrigation plan, a final landscape and irrigation plan shall be submitted to the Approving Authority prior to issuance of building permits or planning entitlements for new projects or applicable expansions to existing development as established in Section 17.44.020 (Applicability).
 - 3. Approval required. The landscaping shall not be installed until the applicant receives approval of the final landscape and irrigation plan by the Approving Authority and any applicable permits have been issued.
 - 4. Changes to final plans. Changes to the approved final landscape and irrigation plans that affect the character or quantity of the plant material or irrigation system design are required to be resubmitted for approval before installation.

17.44.050 General Landscape Development Standards

- A. **General Location for Landscape Improvements.** Landscaping shall be provided in the following locations for all types of development as listed below, unless the designated Approving Authority determines that the required landscape is not necessary to fulfill the purposes of this chapter. Nothing in this chapter is intended to discourage landscape areas outside and beyond the minimum requirements listed herein.
1. **Setbacks.** All setback areas required by this Code shall be landscaped in compliance with this chapter except where a required setback is occupied by a sidewalk or driveway, or is enclosed and screened from abutting public rights-of-way.
 2. **Unused areas.** All areas of a project site not intended for a specific use or purpose in conjunction with a current application, including pad sites being held for future development, shall be landscaped in compliance with this chapter.
 3. **Parking areas.** Within parking lots, landscaping shall be used for shade and climate control, to enhance project design, and to screen the visual impact of vehicles and large expanses of pavement consistent with the requirements of this chapter.
- B. **Landscape Design.** Landscaping shall be designed as an integral part of the overall site plan with the purpose of enhancing building design and public views and spaces, and providing buffers, transitions, and screening. At a minimum, the following landscape design requirements shall apply:
1. Planting design shall have focal points at project entries, plaza areas, and other areas of interest using distinct planting and/or landscape features.
 2. As appropriate, building and site design shall include the use of pots, vases, wall planters, and/or raised planters, as well as flowering vines, both on walls and on arbors.
 3. Landscaping shall be designed with pedestrian paths throughout the landscape areas connecting designated on-site pedestrian circulation.
 4. Light-colored, high-albedo materials or vegetation shall be installed for at least 50 percent of all sidewalks, patios, and driveways. Acceptable strategies include white or grey concrete, open pavers, or any material with a solar reflectance index of at least 29.
 5. Amenities such as seating areas shall be incorporated. Entry plazas, bicycle parking, and transit shelters are allowed within landscape areas.
- C. **Plant Type.** Landscape planting shall emphasize drought-tolerant and native species (especially along natural, open space areas), shall complement the architectural design of structures on the site, and shall be suitable for the soil and climatic conditions specific to the site.
1. **Planting layout and plant diversity.** Plant selection shall vary in type and planting pattern. Informal planting patterns are preferred over uniform and entirely symmetrical planting patterns. Use of deciduous flowering trees and shrubs and colorful plantings is encouraged in conjunction with evergreen species. Groupings of shrubs shall contain multiple plant types, interspersed with varying heights and blooming seasons for year-round interest.

2. Street and parking lot trees. Street and parking lot trees shall be selected from the City's adopted master list of street trees and parking lot trees. A minimum of 30 percent of the street trees and parking lot trees, respectively, shall be an evergreen species.
 3. Trees planted within ten feet of a street, sidewalk, paved trail, or walkway shall be a deep-rooted species or shall be separated from hardscapes by a root barrier to prevent physical damage to public improvements.
 4. Turf limitations for residential uses. High water use turfgrasses and other similar plantings shall only be utilized in high-use areas with high visibility or functional needs. When only drought-tolerant turfgrasses are used, the turf area shall be limited to 25 percent of all irrigated, landscaped areas. The designated Approving Authority may grant an exception to this limitation when only drought-tolerant turfgrasses are used. The use of drought-tolerant turfgrasses is highly encouraged. When non-drought-tolerant turfgrasses or a combination of non-drought-tolerant and drought-tolerant turfgrasses is used, the turf area shall be limited to 15 percent of all irrigated, landscaped areas..
 5. Turf limitations for commercial, industrial, and mixed-uses. The use of drought-tolerant turfgrass shall be required for all proposed turf areas and shall be limited to a maximum of 10 percent of all irrigated, landscaped areas.
- D. **Planting Size, Spacing, and Planter Widths.** In order to achieve an immediate effect of a landscape installation and to allow sustained growth of planting materials, minimum plant material sizes, plant spacing, and minimum planter widths (inside measurements) are as follows:
1. Trees. The minimum planting size for trees shall be 15 gallon, with 25 percent of all trees on a project site planted at a minimum 24-inch box size. For commercial, office, community/civic, and industrial development, tree spacing within perimeter planters along streets and abutting residential property shall be planted no farther apart on center than the mature diameter of the proposed species. Minimum planter widths for trees shall be between five and ten feet, consistent with the City's adopted master list of street trees and parking lot trees.
 2. Shrubs. Shrub planting shall be a minimum five-gallon size, with a 15-gallon minimum size required where an immediate landscape screen is conditioned by the designated Approving Authority (e.g., screening of headlights from drive-through aisles). The minimum planter width for shrubs is four feet.
 3. Ground cover. Plants used for mass planting may be grown in flats of up to 64 plants or in individual one-gallon containers. Rooted cuttings from flats shall be planted no farther apart than 12 inches on center, and containerized woody, shrub ground cover plantings shall be planted no farther apart than three feet on center in order to achieve full coverage within one year. Minimum planter width for ground cover is two feet, with the exception of sod, which requires a minimum planter width of six feet.

17.44.060 Special Landscape Requirements

In addition to the general requirements of Section 17.44.050 (General Landscape Development Requirements), the following requirements apply to the special types of landscaping as established below.

- A. **Residential Landscape.** For single-family and two-family residential Zoning Districts, at least 25 percent of the lot area and no more than 40 percent of the front yard area shall be non-pervious surface. Additionally, at least 90 percent of the plants selected in non-turf 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 non-drought-tolerant variety, provided they are grouped together and can be irrigated separately.
- B. **Project Entry Landscaping.** Entries to multi-tenant projects (both residential and non-residential) shall be designed as a special statement reflective of the character and scale of the project to establish identity for tenants, visitors, and patrons. Flowering access plantings and specimen trees shall be used to reinforce the entry statement.
- C. **Screening of Drive-Through Aisles.** To screen vehicles and associated headlights in a drive-through lane from view of abutting street rights-of-way, a five-foot-wide planter shall include a minimum three-foot-tall (maximum four-foot-tall) landscape barrier planted with trees and other landscaping consistent with those in the parking area. At no time shall this landscape barrier be pruned in a manner that allows the vehicle headlights from the drive-through lane to be visible from abutting street rights-of-way. Plantings shall also be designed to discourage potential safety issues (e.g., persons lying in wait).
- D. **Service Stations.** For service stations, a minimum of 20 percent of the lot area shall be landscaped. A minimum of 70 percent of the landscaped area shall be covered with live landscaping, such as lawn, ground cover, trees, or shrubs, and not more than 30 percent of the landscape area shall be covered with hard surfaces, such as gravel, landscaping rock, concrete, artificial materials, or other impervious materials.
- E. **Wireless Telecommunication Facilities.** Where feasible, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage, and shrubs, whether or not utilized for screening. Additional landscaping shall be planted around the tower and related equipment to buffer abutting residential zoning districts or uses, and to buffer public trails. Specifically, landscaping around the perimeter of the facility (leased area) shall include dense tree and shrub plantings with the necessary irrigation. Trees shall be fast-growing evergreen species, a minimum of 24-inch box in size. Shrubs shall be a minimum 15-gallon size covering a minimum planter area depth of five feet around the facility. Trees and shrubs shall be planted no farther apart on center than the mature diameter of the proposed species.
- F. **On-Site Pedestrian Pathways.** Pedestrian pathway landscaping shall include shade trees placed so as to cover 60 percent of the total pathway area with tree canopies within 15 years of securing building permit.
- G. **Creeks.** To the extent that landscaping or planting is required or provided along creeks, such landscaping shall be native plants.

- H. **Public Spaces.** Pedestrian space landscaping shall include a combination of shade trees and pedestrian shading devices (e.g., canopies, awnings, and umbrellas) placed so as to cover 60 percent of the total space with a shade canopy within 15 years of securing building permit.
- I. **Signs.** Landscaping shall be provided at the base of the supporting structure of freestanding signs equal to twice the area of one face of the sign. For example, 50 square feet of sign area requires 100 square feet of landscaped area. See Chapter 17.52 (Signs).
- J. **Buffering Between Uses.** A landscape buffer shall be provided between residential and non-residential uses and between single-family uses and multi-family uses containing three or more units. Buffer areas shall include a minimum ten-foot-wide planter strip with shrubs and both deciduous and evergreen trees planted a maximum of 30 feet on center.
- K. **Sound Walls/Masonry Walls.** Where setback and open space areas are screened from public view by walls or similar approved structures, landscaping shall be provided such that 50 percent of the wall shall be covered by landscape material within five years.
- L. **Parking Lot Landscape.** Parking lot landscape includes perimeter planters, abutting parking lots and drive aisles, tree planting for parking lot shade, and a combination of continuous planting strips, planting fingers, and parking islands throughout the parking lot. Parking lot landscape requirements applicable to parking lots commercial, industrial, mixed-use, and multi-family parking lots with five or more spaces are listed below:
1. **Parking areas.** All surface parking areas shall be screened from streets and adjoining properties, and the open space areas between the property line and public street right-of-way shall be landscaped with a combination of trees, shrubs, and ground cover. Screening between residential and nonresidential uses shall not be less than five feet in height. Parking lot landscaping shall be located so that pedestrians are not required to cross unpaved areas to reach building entrances from parked cars.
 2. **Parking lot screening.** Landscaping within the perimeter planter abutting any street right-of-way shall be designed and maintained for partial screening of vehicles to a minimum height of 30 inches measured from the finished grade of the parking lot. Screening materials may include a combination of plant materials, earthen berms, solid masonry walls, raised planters, or other screening devices authorized by the designated Approving Authority which meet the intent of this screening requirement. Planting materials shall be designed to ensure that planting within the clear vision triangle at driveway and street intersections will not exceed 30 inches in height at full maturity.
 3. **Parking Lot Shade.** Parking lot landscaping shall include shade trees placed so as to cover at least 50 percent of the total parking area with tree canopies within 15 years of securing building permit and 85 percent coverage at full maturity. Shade tree selection shall be approved by the Community Development Director to ensure that shade canopy will be achieved. The percentage of the area required to be shaded shall be based on the number of above-ground and uncovered parking spaces provided. Tree coverage shall be determined by the approximate crown diameter of each tree at 15 years, as estimated on the approved tree list. Trees shall be a minimum 15-gallon size at planting.

- 4. Existing Trees. Existing mature trees on the site in good health shall be preserved whenever possible.

17.44.070 Removal and Replacement of Landscaping and Trees from Approved Plans

- A. **Replacement Sizes.** All plant material removed from a project in which the Community Development Department has approved the landscape plan shall be replaced with the following replacement sizes: shrubs – five-gallon size, ground cover – flats. Replacement of trees shall be as specified below in Table 17.44.070-1 (Tree Replacement Schedule). Trees removed or severely and improperly trimmed shall be replaced according to Table 17.44.070-1.

**TABLE 17.44.070-1
TREE REPLACEMENT SCHEDULE**

Size of Damaged/Removed Tree	Replacement Tree Required
2 inches	15-inch box
4 inches	24-inch box
6 inches or greater	36-inch box

- B. **Tree Removal Requirements.** Requirements for tree removal shall be pursuant to Chapter 17.96 (Tree Removal).

17.44.080 Landscape Care and Maintenance

- A. **Irrigation.**
 - 1. All new single-family and multi-family development, excluding additions and infill development, shall comply with the following requirements.
 - a. Sprinklers and sprays shall not be used in areas less than eight feet wide.
 - b. Sprinkler heads with a precipitation rate of .85 inches per hour or less shall be used on slopes exceeding 15 percent or on slopes exceeding ten percent within ten feet of hardscapes to minimize runoff.
 - c. Valves and circuits shall be separated based on water use.
 - d. 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.
 - e. Sprinkler heads must have matched precipitation rates within each control valve circuit.
 - f. Check valves are required where elevation differences may cause low head drainage.
 - g. Sprinkler head spacing shall be designed for head-to-head coverage. The system should be designed for minimum runoff and overspray onto nonirrigated areas.

Chapter 17.46 Lighting

Sections:

17.46.010	Purpose.....	17.46-1
17.46.020	Applicability.....	17.46-1
17.46.030	Exempt Lighting.....	17.46-1
17.46.040	Prohibited Lighting.....	17.46-2
17.46.050	General Lighting Requirements.....	17.46-2

Draft Zoning Code Changes:

This new chapter consolidates and expands existing lighting requirements that apply to all new development. No additional plans or materials are required to assess project lighting unless requested by the Community Development Director.

17.46.010 Purpose

The purpose of this chapter is to regulate lighting to balance the safety and security needs for lighting with the City’s desire to preserve dark skies and to ensure that light trespass and glare have negligible impact on surrounding property (especially residential) and roadways.

17.46.020 Applicability

The requirements of this chapter apply to all new multi-family, residential, and non-residential development. Whenever a person is required to obtain a building permit, electrical permit and/or approval of a planning entitlement, the applicant shall submit sufficient information for the Approving Authority to determine whether the proposed lighting will comply with the requirements of this chapter. No additional applications or plans are required unless the Community Development Director requires specified additional information.

17.46.030 Exempt Lighting

The following items shall be exempt from the requirements of this chapter:

- A. All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas fixtures.
- B. Temporary lights used for holiday decorations.
- C. Emergency lighting erected for official purposes by local, state, or federal agencies.
- D. Lighting for temporary uses and special events permitted consistent with this Code.

17.46.040 Prohibited Lighting

The following types of lighting are prohibited

- A. Neon tubing or band lighting along buildings and/or structures as articulation, except as approved through Administrative Design Review (Section 17.12.080) or Comprehensive Design Review (Section 17.12.140).
- B. Search lights, laser source lights, or any similar high-intensity light, except for emergency use by police or fire personnel or at their discretion, or for approved temporary lighting for a special event approved by the City.
- C. Lighting fixtures operated in such a manner as to constitute a hazard or danger to persons or to safe vehicular travel.
- D. Illumination of entire buildings.
- E. Roof-mounted lighting except for security purposes.
- F. Moving, flashing, or animated lighting.

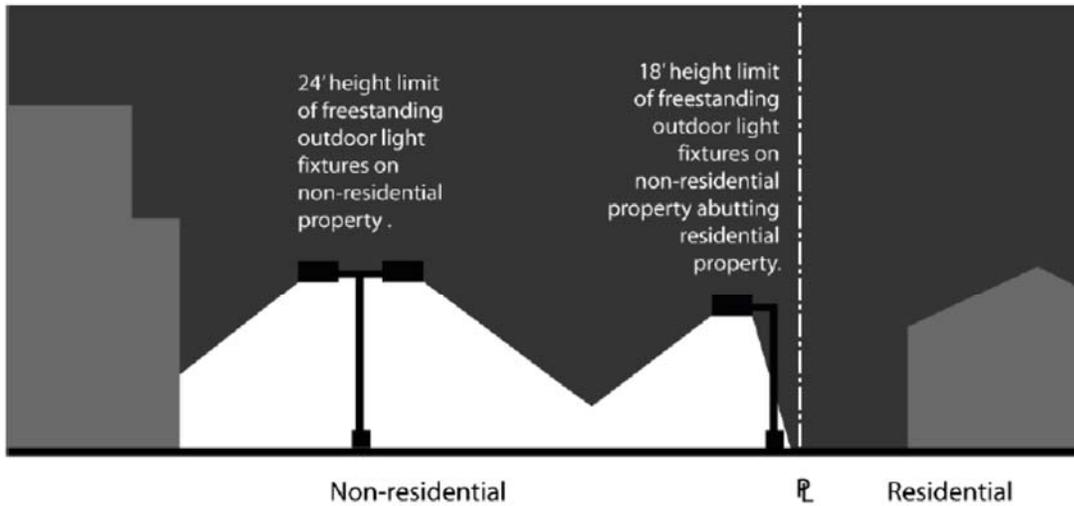
17.46.050 General Lighting Requirements

The requirements listed below shall apply to all outdoor lighting.

- A. **Nuisance Prevention.** All outdoor lighting shall be designed, located, installed, directed downward or toward structures, fully shielded, and maintained in order to prevent glare, light trespass, and light pollution.
- B. **Maintenance.** Fixtures and lighting shall be maintained in good working order and in a manner that serves the original design intent.
 - 1. Burnt out and broken light bulbs shall be replaced.
 - 2. Lighting fixtures shall remain free of graffiti and rust.
 - 3. Painted light fixtures shall be maintained to minimize chipping or peeling.
- C. **Shielding.** Except as otherwise exempt, all outdoor lighting shall be recessed and/or constructed with full downward shielding in order to reduce light and glare impacts on trespass to adjoining properties and public rights-of-way. Each fixture shall be directed downward and away from adjoining properties and public rights-of-way, so that no light fixture directly illuminates an area outside of the project site intended to be illuminated. See Figure 17.46.050-1 (Shielding and Maximum Height of Freestanding Outdoor Light Fixtures).
- D. **Level of Illumination.** Outdoor lighting shall be designed to illuminate at the minimum level necessary for safety and security and to avoid the harsh contrasts in lighting levels between the project site and adjacent properties. Illumination requirements are as follows:

1. Public, civic, and religious buildings are permitted to be fully illuminated during hours of operation. After hours of operation, lighting may be dimmed or turned off such that only lighting essential of security or safety shall be maintained.
 2. In general, parking lots, driveways, trash enclosures/areas, public phones, and group mailboxes shall be illuminated with a minimum maintained one foot-candle of light and an average not to exceed four foot-candles of light. Parking lots for banks, convenience stores, card rooms, check cashing businesses, and emergency shelters shall provide a minimum level of illumination of 1.5 foot-candles across the parking lot during operating hours.
 3. Pedestrian walkways intended for use after dark shall be illuminated with a minimum maintained one-half foot-candle of light and an average not to exceed two foot-candles of light.
 4. Entryways and exterior doors of non-residential structures shall be illuminated during the hours of darkness, with a minimum maintained one foot-candle of light, measured within a five-foot radius on each side of the door at ground level.
 5. To minimize light trespass on abutting residential property, illumination measured at the nearest residential structure or rear yard setback line shall not exceed the moon's potential ambient illumination of one-tenth foot-candle.
 6. **Signs.** Lighting of signs shall be in compliance with Chapter 17.52 (Signs) of this Code.
 7. **Sports Fields/Outdoor Activity Areas.** Where playing fields or other specialty activity areas are to be illuminated, lighting fixtures shall be mounted, aimed, and shielded so that the light falls within the primary playing area and no significant off-site light trespass is produced. Additionally, the lights shall be turned off within one hour after the end of the event.
 8. **Wireless Telecommunication Facilities.** Wireless telecommunication facilities and related equipment shall be unlit except as provided in Chapter 17.76 (Wireless Communication Facilities).
- E. **Maximum Height of Freestanding Outdoor Light Fixtures.** The maximum height of freestanding outdoor light fixtures abutting residential development shall be 18 feet. Otherwise, the maximum height for freestanding outdoor light structures shall be 24 feet. Height shall be measured from the finish grade, inclusive of the pedestal, to the top of the fixture. See Figure 17.46.050-1 (Shielding and Maximum Height of Freestanding Outdoor Light Fixtures).

FIGURE 17.46.050-1
SHIELDING AND MAXIMUM HEIGHT OF FREESTANDING OUTDOOR LIGHT FIXTURES



*Outdoor lighting shall be constructed with full shielding and/or recessed to reduce light trespass to adjoining properties.

- F. **Energy-Efficient Fixtures Required.** Outdoor lighting shall utilize energy-efficient fixtures and lamps, such as high pressure sodium, metal halide, low pressure sodium, hard-wired compact fluorescent, or other lighting technology that is of equal or greater efficiency. All new outdoor lighting fixtures shall be energy efficient with a rated average bulb life of not less than 10,000 hours.
- G. **Accent Lighting.** Architectural features may be illuminated by uplighting provided that the lamps are low intensity to produce a subtle lighting effect and no glare or light trespass is produced. Wherever feasible, solar-powered fixtures shall be used.
- H. **Alternative Designs, Materials, and Installations.** The designated Approving Authority may grant approval of alternatives to this section as part of Comprehensive Design Review (Section 17.12.140).

Chapter 17.48 Parking and Loading Requirements

Sections:

17.48.010	Purpose.....	17.48-1
17.48.020	Applicability.....	17.48-1
17.48.030	Permit and Plan Check Requirements and Exemptions.....	17.48-2
17.48.040	General Parking and Loading Berth Requirements.....	17.48-3
17.48.050	Number of Parking Spaces Required.....	17.48-5
17.48.060	Reductions in Parking Requirements.....	17.48-7
17.48.070	Parking Requirements for the Disabled.....	17.48-8
17.48.080	Compact Car Requirements.....	17.48-8
17.48.090	Parking and Driveway Design and Development Requirements.....	17.48-8
17.48.100	Loading Area Requirements.....	17.48-10
17.48.110	Bicycle Parking Requirements.....	17.48-11
17.48.120	Maintenance.....	17.48-13

Draft Zoning Code Changes:

- The parking standards listed herein reflect the general requirements found in the current Zoning Code with appropriate residential updates as approved by the City Council last March.*
- Several other parking ratios were slightly decreased in keeping with required parking ratios in the east bay.*
- A special condition has been added to allow the Planning Commission the ability to consider parking studies for special parking situations that may not be best served by established standards.*
- A maintenance section was added to regulate that a minimum number of parking spaces, parking loading and bicycle parking areas are maintained.*

17.48.010 Purpose

This chapter establishes parking, loading and bicycle parking regulations in order to provide for safe, attractive, and convenient parking and ensure that parking areas are compatible with surrounding land uses.

17.48.020 Applicability

The regulations contained in this chapter shall apply to the construction, change or expansion of a use or structure, and shall require that adequate parking spaces, loading areas, and bicycle parking areas are permanently provided and maintained for the benefit of residents, employees, customers, and visitors, within or outside of buildings or in a combination of both, in accordance with the requirements listed in this chapter. These requirements shall be in addition to any other development requirements contained elsewhere within the Zoning Code (e.g., landscaping).

Off-street parking and loading requirements of this chapter shall be recalculated as listed below.

- A. **New Uses and Structures.** For all buildings or structures erected and all uses of land established after the effective date of this Title, parking for vehicles and bicycles, and loading facilities shall be provided as required by this chapter.
- B. **Change in Use.** When the use of any building, structure, or premises is changed, resulting in the required number of parking spaces to increase more than ten percent, additional parking shall be provided consistent with Section 17.48.050 (Number of Parking Spaces Required). Previous parking modifications granted by the Approving Authority shall be null and void.
- C. **Change of Occupancy.** Where a new business license is required, additional parking spaces shall be provided if the new occupancy would result in an increase of more than ten percent in the required number of parking spaces.
- D. **Modification to Existing Structures.** Whenever an existing building or structure is modified such that it creates an increase of more than ten percent in the number of parking spaces required, additional parking spaces shall be provided in accordance with the requirements of this chapter.

17.48.030 Permit and Plan Check Requirements and Exemptions

New parking lots and modifications or expansions to existing parking lots require the following entitlements:

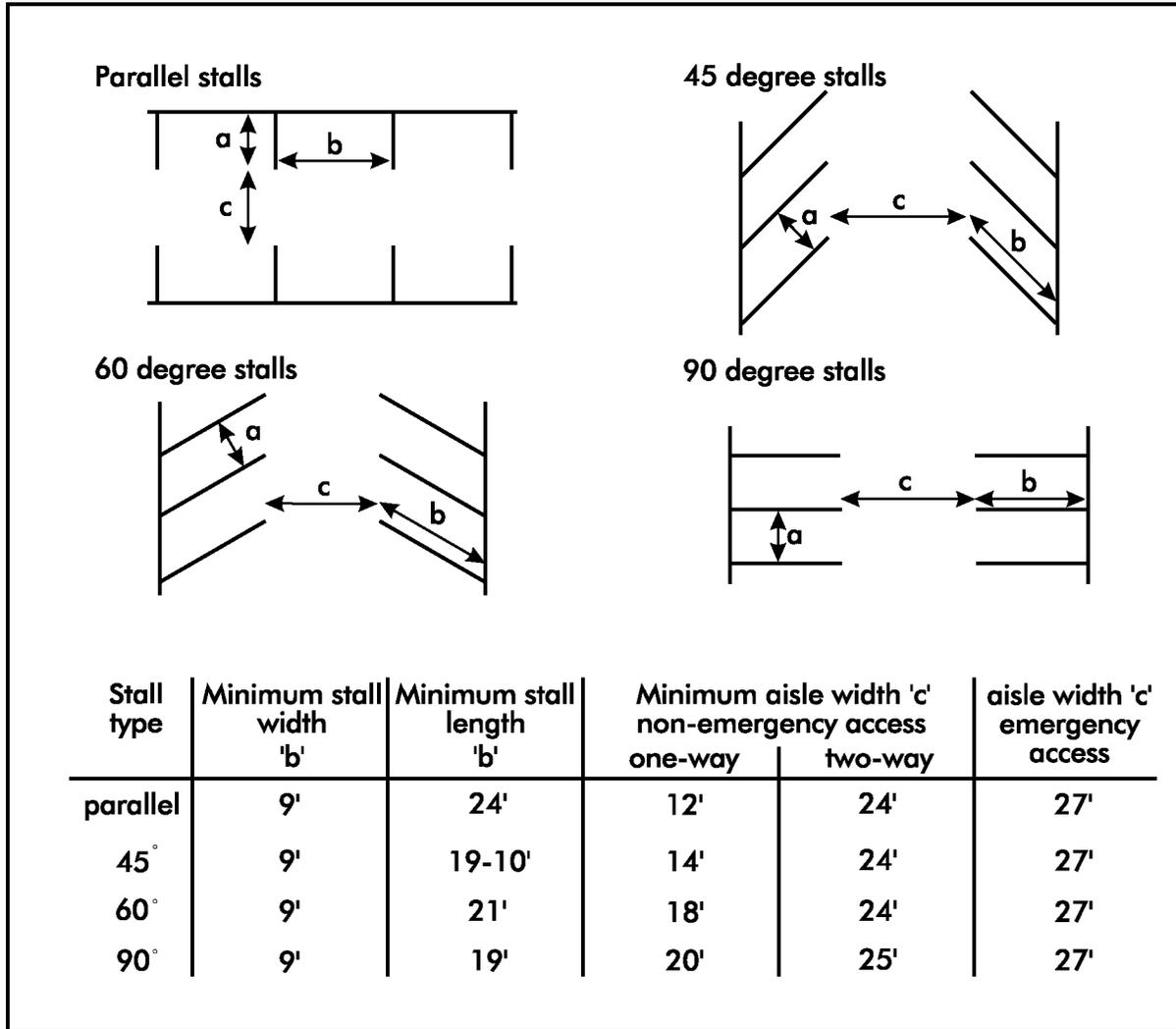
- A. **Building Permit.** New parking lot design and modifications to existing parking lots in conjunction with a substantial change in use to an existing structure shall be reviewed in conjunction with the building permit and any other land use or development permit.
- B. **Plan Check.** Modification or improvements to an existing parking lot that impact the parking space layout, configuration, vehicular or pedestrian circulation, number of stalls or landscape planters shall require a site plan, drawn to scale, to authorize the change as consistent with the Zoning Code.
- C. **Exempt Activities.** Parking lot improvements listed below shall be considered minor in nature if they do not alter the number or configuration of parking stalls and therefore exempt from Plan Check requirements located in Section 17.12.030 (Plan Check). However, exempt activities listed herein may require other ministerial permits (e.g., building permit, grading permit).
 - 1. Repair of any defects in the surface of the parking area, including repairs of holes and cracks;
 - 2. Resurfacing, slurry coating, and restriping of a parking area with identical delineation of parking spaces;
 - 3. Repair or replacement in the same location of damaged planters and curbs; and
 - 4. Work in landscape areas, including sprinkler line repair, or replacement of landscape materials.

17.48.040 General Parking and Loading Berth Requirements

The layout of parking spaces, loading berths, and parking aisles shall comply with all the requirements listed below. These parking requirements apply to both on-street and off-street parking spaces, unless specifically stated otherwise.

- A. The required parking spaces, loading berths, and parking aisles may not be located on any street right-of-way.
- B. **Parking Space and Drive Aisle Dimensions.** Each parking space shall have a minimum size of nine feet by 18 feet when outdoors and shall be free of obstructions such as columns or walls. Each parking space shall be ten feet by 20 feet when indoors or where columns or walls are located within the parking area. Each loading berth shall be a minimum size of 12 feet by 30 feet whether indoors or outdoors. Parking aisles shall have a minimum width of 12 feet when spaces are parallel to the aisle or up to an angle of 40 degrees, 17 feet when spaces are at an angle of between 40 degrees and 70 degrees, and 23 feet when spaces are at an angle between 70 degrees and 90 degrees. See Figure 17.48.040-1 (Parking Space and Drive Aisle Dimensions) below for additional requirements.

FIGURE 17.48.040-1
PARKING SPACE AND DRIVE AISLE DIMENSIONS



- C. Parking spaces and aisles shall have a maximum grade of seven percent.
- D. Each parking space and aisle shall have a minimum eight-foot vertical clearance.
- E. Each loading berth and access thereto shall have a minimum 15-foot vertical clearance.
- F. Each parking space and loading berth shall have vehicular access to the street, without passing over other parking spaces, unless as specifically allowed as tandem parking spaces.
- G. Neither a required side yard abutting a street nor a front yard shall be used for off-street parking.

17.48.050 Number of Parking Spaces Required

- A. The following number of parking spaces shall be required to serve the uses or buildings listed, as established in Table 17.48.050-1 (Parking Requirements by Land Use). Multiple property owners may apply for a use permit for shared parking pursuant to Section 17.48.060 (Reductions in Parking Requirements), otherwise all uses must provide the sum of the requirements for each individual use. Where the requirements result in a fractional space, the next larger whole number shall be the number of spaces required. In addition, the requirements listed below shall apply.
1. "Square feet" means "gross square feet" and refers to the sum gross square feet of the floor area of a building and its accessory buildings unless otherwise specified.
 2. For the purpose of calculating residential parking requirements, dens, studies, or other similar rooms that may be used as bedrooms shall be considered bedrooms.
 3. Where the number of seats is listed to determine required parking, seats shall be construed to be fixed seats. Where fixed seats provided are either benches or bleachers, such seats shall be construed to be not more than 18 linear inches for pews and 24 inches for dining, but in no case shall seating be less than determined as required by the Building Code.
 4. When the calculation of the required number of off-street parking spaces results in a fraction of a space, the total number of spaces shall be rounded up to the nearest whole number.
 5. Where private streets are proposed for residential development, resident and guest parking shall be provided as determined by the Approving Authority in conjunction with the required planning entitlement(s).

**TABLE 17.48.050-1
PARKING REQUIREMENTS BY LAND USE**

Land Use Type	Required Parking Spaces
Residential Uses	
Boarding and Rooming Houses	1 space per family (based on designed capacity) plus 0.8 spaces/employee during the peak employment shift and 0.8 spaces per full-time resident staff
Dwelling, Single-Family – studio	1 space per dwelling unit (garage enclosed or covered)
Dwelling, Single-Family – one bedroom	2 spaces per dwelling unit (garage enclosed or covered), tandem parking spaces permitted
Dwelling, Single-Family – two to four bedrooms	2 spaces per dwelling unit (1 space must be garage enclosed or covered), tandem parking spaces permitted in Old Town
Dwelling, Single-Family – five or more bedrooms	3 spaces per dwelling unit (2 spaces must be garage enclosed or covered and accessed independently; the third space may be tandem)

Land Use Type	Required Parking Spaces
Dwelling, Multiple-Family Studio units	1 space per dwelling unit (garage enclosed or covered) plus 0.3 spaces per dwelling unit for visitor parking
Dwelling, Multiple-Family One-bedroom units	1.5 spaces per dwelling unit (1 space must be garage enclosed or covered) plus 0.3 spaces per dwelling unit for visitor parking
Dwelling, Multiple-Family Three+ bedroom units	2 assigned spaces per dwelling unit (1 space must be garage enclosed or covered) plus 0.3 spaces per dwelling unit for visitor parking
Second Dwelling Unit	1 space per bedroom, with a maximum of 2 bedrooms and 2 parking spaces; tandem parking is permitted
Senior units, studio, one- and two-bedroom units	1 space per dwelling unit
Senior units, three+ bedroom units	1 space per dwelling unit plus 1 additional off-street space
Mobile Home Park	2 parking spaces per home site
Recreation, Education, and Public Assembly Uses	
Arena, Auditorium, Theater, Assembly Hall, and Religious Institutions with Fixed Seats	Lesser of the following calculations: 1 space per 4 seats of maximum seating capacity; or 1 space per 300 sq. ft. of gross floor area
Dancehall, Assembly Halls without Fixed Seats, Exhibition Halls	1 space per 50 sq. ft. of gross floor area used for dancing or assembly
Retail, Service, Medical and Office Uses	
Grocery Store, Food Market	1 space per 250 sq. ft. of gross floor area
Retail Sales, Banks	1 space per 300 sq. ft. of gross floor area
Retail (furniture, appliances)	1 space per 500 sq. ft. of gross floor area
Retail (building materials, autos, boats, RVs)	1 space per 200 sq. ft. of gross floor area used for offices and 1 space per 300 sq. ft. of gross floor area for sales and sales display; plus 1 space per 600 sq. ft. of gross floor area used for repair or service; plus 1 space per 2,000 sq. ft. of outdoor sales, sales displays and storage areas
Restaurants, Bars, and Night Clubs	1 space per 100 sq. ft. of gross floor area designated for dining
Veterinary Hospitals	1 space per 250 sq. ft. of gross floor area
Animal Boarding and Grooming	1 space per 500 sq. ft. of gross floor area
Offices, Business and Professional, including medical	1 space per 250 sq. ft. of gross floor area
Hotels and Lodging Places	1 space per unit plus 1 space/full-time resident staff and 1 space/employee during the peak employment shift
Nursing Homes	1 space per 3.5 beds

Land Use Type	Required Parking Spaces
Hospitals and Sanitariums	Parking study required to determine parking needs
Auto-Related Services	
Automobile/Vehicle Service and Repair, Minor	1 space per 300 sq. ft. of any convenience store and/or office space plus 1 space per service bay if repair occurs on-site (in addition to spaces at pumps, queuing areas for pumps, and self-service water and air areas)
Automobile/Vehicle Service and Repair, Major	1 space per service bay (not including areas for auto service or auto storage), plus parking for any towing vehicles used in the operation, and 1 space per 300 sq. ft. of office area
Auto Washing	1 space per 300 sq. ft. of any indoor sales, office, or lounge areas
Schools, Private	
Business, trade and other schools or colleges	1 space per 2 full-time equivalent students enrolled plus 1 space per employee during the peak employment shift
Elementary Schools	1.2 spaces per employee during the peak employment shift
Small Family Daycare	No additional spaces required (besides the required spaces for the residential dwelling)
Large Family Daycare	1 space per employee, with a minimum of 3 spaces provided
High Schools	1 space per 4 daytime students plus 1 space for each employee during the peak employment shift
Industrial, Manufacturing, and Processing Uses	
Warehousing, Wholesaling, Research, and Other Industrial	1 space per 1000 sq. ft. of gross floor area plus 1 space per four employees

- B. **Uses Not Listed.** Other uses not specifically listed in this section shall furnish parking as required by the Approving Authority in determining the off-street parking requirements. The Planning Commission shall be guided by the requirements in this section generally and shall determine the minimum number of spaces required to avoid interference with public use of streets and alleys.

17.48.060 Reductions in Parking Requirements

The required number of parking spaces may be reduced in accordance with the following requirements.

- A. **Shared Parking.** In order to encourage efficient use of parking spaces and good design practices, the total parking requirements for conjunctive uses shall be based on the number of spaces adequate to meet various needs of the individual uses operating during the peak parking period.

1. Use permit for shared parking. A use permit may be approved for shared parking facilities serving more than one use on a site or serving more than one property. The use permit may allow for a reduction of the total number of spaces required by this chapter if the following findings are made:
 - a. The peak hours of parking demand from all uses do not coincide so that peak demand will not be greater than the parking provided;
 - b. The efficiency of parking provided will equal or exceed the level that can be expected if parking for each use were provided separately.
 2. Shared parking agreement. A written agreement between the landowners and in some cases the City that runs with the land shall be filed, in a form satisfactory to the City Attorney, and include:
 - a. A guarantee that there will be no substantial alteration in the uses that will create a greater demand for parking without application for approval of an amended use permit;
 - b. A reciprocal grant of nonexclusive license among the business operator(s) and the landowner(s) for access to and use of the shared parking facilities; and
 - c. Evidence that the agreement has been recorded in the County Recorder's office.
- B. **Other Parking Reductions.** Required parking for any use except a single-family dwelling, second dwelling unit, or two-family dwelling may be reduced through approval of a use permit by the Planning Commission.
1. Criteria for approval. The Planning Commission will only grant a Conditional Use Permit for reduced parking if it finds that the project meets all of the Conditional Use Permit criteria in Section 17.12.130 (Conditional Use Permits) and that three or more of the circumstances listed below are true.
 - a. The use will be adequately served by the proposed parking due to the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working, or visiting the site; or because the applicant has undertaken a travel demand management program that will reduce parking demand at the site.
 - b. Parking demand generated by the project will not exceed the capacity of or have a detrimental impact on the supply of on-street parking in the surrounding area.
 - c. The site plan is consistent with the objectives of the Zoning District and incorporates features such as unobtrusive off-street parking placed below the ground level of the project with commercial uses above or enclosed parking on the ground floor.
 - d. The applicant has provided on-site parking for car share vehicles via a recorded written agreement between the landowner and the City that runs with the land. Agreement shall provide for proof of a perpetual

agreement with a car share agency to provide at least one car share vehicle on-site.

2. Application submittal requirements. In order to evaluate a proposed project's compliance with the above criteria, the Zoning Administrator may require submittal of a parking demand study that substantiates the basis for granting a reduced number of spaces.

17.48.070 Parking Requirements for the Disabled

- A. **Number of Spaces, Design Standards.** Parking spaces for the disabled shall be provided in compliance with the Building Code and state and federal law.
- B. **Reservation of Spaces Required.** The number of disabled accessible parking spaces required by this chapter shall be reserved by the property owner/tenant for use by the disabled throughout the life of the approved land use.
- C. **Upgrading of Markings Required.** If amendments to state or federal law change standards for the marking, striping, and signing of disabled access parking spaces, disabled accessible spaces shall be upgraded in the time and manner required by law.

17.48.080 Compact Car Requirements

The following requirements apply to parking provided for all uses or buildings except one-family and two-family dwellings:

- A. Up to 25 percent of the required number of parking spaces may be sized for compact cars.
- B. Compact car parking spaces shall be at least eight feet in width and 16 feet in length, and shall be clearly marked, "COMPACT CARS ONLY," "COMPACT," or "C."
- C. Compact car spaces shall be distributed throughout the parking lot.
- D. Where a section of the parking lot is restricted to compact parking with an angle of 90 degrees, the aisle width may be reduced from the standard 23 feet to 21 feet. Such compact sections should be located so as to minimize the distance from the section to the appropriate building or activity.

17.48.090 Parking and Driveway Design and Development Requirements

- A. **Surface Parking Area.** All surface parking areas shall have the following improvements:
 1. Each parking space and aisle, except those accessory to one-family and two-family dwellings, shall be graded, drained, and surfaced so as to prevent dust, mud, or standing water, and shall be identified by pavement markings, wheel stops, entrance and exit signing, and directional signs, to the satisfaction of the City Engineer.
 2. Lighting, giving a ground-level illumination of one to five foot-candles, shall be provided in the parking area during the time it is accessible to the public after daylight. Lighting shall be shielded to prevent glare on contiguous residential properties.

3. Where such parking area abuts a street, it shall be separated by an ornamental fence, wall, or compact evergreen hedge having a height of not less than two feet and maintained at a height of not more than four feet. Such fence, wall, or hedge shall be maintained in good condition.
 4. Parking spaces shall be marked and access lanes clearly defined. Bumpers and wheel stops shall be installed as necessary.
 5. Landscape materials are permitted to overhang the curb/wheel stop creating a reduction in impervious surface material.
- B. **Driveway Location Standards.** Development projects located at intersections shall be accessed as follows:
1. Driveways to access parcels located at the intersection of two streets shall be gained through driveways from the lesser street. Determination of which street is lesser shall be made based on total paving width, amount of traffic, adjacent traffic controls, and likely destinations along each street in question.
 2. Driveways serving parcels located at the intersection of two streets shall be situated at the maximum practical distance from the intersection.
 3. Where a proposed driveway is located at least 75 feet from the nearest cross street, the requirements of subsection 17.48.90.B.1 and 17.48.90.B.2 may be waived.
- C. **Driveway Size and Composition.** All residential driveways shall be a minimum of 20 feet in length and shall be constructed with a lasting, durable surface (i.e., concrete, asphalt, grasscrete, or similar material) and shall be constructed to appropriate requirements as determined by the City.

17.48.100 Loading Area Requirements

- A. **Required Loading Spaces for Delivery and Distribution.** A building, or part thereof, having a floor area of 10,000 square feet or more that is to be occupied by any use requiring the receipt or distribution by vehicles or trucks of material or merchandise must provide at least one off-street loading space, plus one additional such loading space for each additional 40,000 square feet of floor area. The off-street loading space(s) must be maintained during the existence of the building or use it is required to serve. Truck-maneuvering areas must not encroach into required parking areas, travelways, or street rights-of-way.
- B. **Required Loading Spaces for Customers.** Customer loading spaces allow bulky merchandise to be loaded into customers' vehicles. Each home improvement sales and service use shall provide at least two customer loading spaces per business establishment or one customer loading space per 40,000 square feet of floor area, whichever is greater. Customer loading spaces shall be located adjacent to the building or to an outdoor sales area where bulky merchandise is stored and shall be clearly visible from the main building entry or through directional signage visible from the main entry. Customer loading spaces shall not be located in such a way that they impede on-site traffic circulation, as determined by the Director of Public Works.

C. **Requirements for Off-street Loading Spaces.**

1. Minimum size. Each off-street loading space required by this section must be not less than 12 feet wide, 30 feet long, and 15 feet high, exclusive of driveways for ingress and egress and maneuvering areas. Loading spaces for customers may be 12 feet wide, 26 feet long, and 12 feet high.
2. Driveways for ingress and egress and maneuvering areas. Each off-street loading space required by this section must be provided with driveways for ingress and egress and maneuvering space adequate for trucks, per City standards.
3. Location of loading areas. An off-street loading space (excluding loading spaces for customers) required by this section must not be located closer than 30 feet to any lot or parcel of land in a residential district, unless such off-street loading space is wholly enclosed within a building or on all sides by a wall not less than eight feet in height. Except in industrial zoning districts, a loading door or loading dock that is visible from a public street must be screened with an eight-foot-high, solid masonry or other sound-absorbing wall, with landscaping planted between the wall and the right-of-way.

17.48.110 Bicycle Parking Requirements

- A. **Applicability.** Bicycle parking shall be provided for all new construction, additions of 10 percent or more floor area to existing buildings, and changes in land use classification. Single-family homes, duplexes, and multi-family dwellings of less than four units are exempt.
- B. **Number of Required Bicycle Parking Spaces.** The required minimum number of bicycle parking spaces for each use category is shown on Table 17.48.110-1. Uses that are not listed in the table are not required to provide bicycle parking. Required bicycle parking may be provided in floor, wall, or ceiling racks.

**TABLE 17.48.110-1
REQUIRED BICYCLE PARKING**

Use Classification	Bicycle Parking Spaces
Residential	
Multiple-Family Residential, Group Housing, or Transitional Housing	1 space per 4 units
Public, Semipublic, and Service	
Community Center, Religious Facility, or Cultural Institution	1 space per 40 seats or 1 space per 500 sq. ft. of assembly area, whichever is greater
Government Offices	1 space per 10,000 sq. ft.
Hospitals and Clinics	
Hospitals	1 space per 50 beds
Clinics	1 space per 3,000 sq. ft.
Park and Recreation Facilities	To be determined by the Zoning Administrator
Parking Facilities, Public	1 space per 20 auto spaces

Use Classification	Bicycle Parking Spaces
Schools, Public or Private	
Elementary	2 spaces per classroom
Junior High, High School	4 spaces per classroom
Commercial and Entertainment	
Animal Sales and Services (except Kennels)	1 space per 10,000 sq. ft., minimum of 2 spaces per establishment
Banks and Other Financial Institutions	1 space per 10,000 sq. ft., minimum of 2 spaces per establishment
Business Services	1 space per 10,000 sq. ft., minimum of 2 spaces per establishment
Commercial Recreation	To be determined by the Zoning Administrator
Eating and Drinking Establishments	1 space per 10,000 sq. ft., minimum of 2 spaces per establishment
Food and Beverage Sales Offices	1 space per 10,000 sq. ft., minimum of 2 spaces per establishment
Live/Work Unit	1 space per 4 units
Retail Sales	1 space per 10,000 sq. ft., minimum of 2 spaces per establishment
Theaters	1 space per 40 seats
Business and Professional Offices	
Medical and Dental	1 space per 10,000 sq. ft., minimum of 2 spaces per establishment
Personal Service	1 space per 10,000 sq. ft., minimum of 2 spaces per establishment

- C. **Location.** Bicycle parking must be located on the site of the use it serves, generally within 50 feet of an entrance to the building it serves unless otherwise approved. In the case of a multi-tenant shopping center, bike parking must be located within 50 feet of an entrance to each use it serves.
- D. **Bicycle Lockers.** Where required bicycle parking is provided in lockers, the lockers must be securely anchored.
- E. **Bicycle Racks.** Required bicycle parking may be provided in floor, wall, or ceiling racks. Where required bicycle parking is provided in racks, the racks must meet the following requirements:
 - 1. The bicycle frame and one wheel can be locked to the rack with a high-security U-shaped shackle lock if both wheels are left on the bicycle;

2. A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components; and
 3. The rack must be securely anchored.
- F. **Special Requirements for Long Term Bicycle Parking.** Mixed-use and high-density residential development have special long-term bicycle parking needs. As such, required spaces for such uses shall be designed and located to maximize security in one or more of the following locations/ways:
1. In a locked room.
 2. In an area that is enclosed by a fence with a locked gate. The fence must be either eight feet high or be floor to ceiling.
 3. Within view of an attendant, security guard or employee work area.
 4. In an area that is monitored by a security camera.
 5. Within a dwelling unit, dormitory, or other group housing unit, live/work unit, or artists studio. If provided within a unit, racks or lockers are not required.
- G. **Parking and Maneuvering Areas.** Each required bicycle parking space must be accessible without moving another bicycle. There must be an aisle at least five feet wide adjacent to all required bicycle parking to allow room for bicycle maneuvering. Where the bicycle parking is adjacent to a sidewalk, the maneuvering area may extend into the right-of-way. The area devoted to bicycle parking must be hard surfaced.
- H. **Visibility.** If required bicycle parking is not visible from the street or main building entrance, a sign must be posted at the main building entrance indicating the location of the bicycle parking.

17.48.120 Maintenance

The minimum number of parking spaces required in this chapter shall be provided and continuously maintained. A parking, loading or bicycle parking area provided for the purpose of complying with the requirements of this chapter shall not be eliminated, reduced or converted unless equivalent facilities approved by the Approving Authority are provided elsewhere in compliance with this chapter.

Chapter 17.50 Property and Utility Improvement

Sections:

17.50.010	Purpose.....	17.50-1
17.50.020	Curbs, Gutters, and Sidewalks	17.50-1
17.50.030	Underground Utilities.....	17.50-2

Draft Zoning Code Changes:

This new chapter provides the legal path for Pinole to facilitate as well as regulate the creation of city improvements like curbs as well as undergrounding essential utilities.

17.50.010 Purpose

The purpose of this chapter is to establish rules and regulations that govern the installation of curbs, gutters, and sidewalks and the undergrounding of all utilities in the city. These requirements, in conjunction with other applicable requirements of this Title, are intended to establish the applicability of said requirements of development in all new industrial, commercial, residential subdivisions, and infill projects. This section addresses the applicability of public utility improvements and is not intended to supersede the City’s construction improvement standards.

17.50.020 Curbs, Gutters, and Sidewalks

Installation of curbs, gutters, and sidewalks shall be required for all new development projects, including new industrial, commercial, residential subdivisions, and residential or mixed-use infill projects, subject to the requirements listed below.

- A. The requirement for sidewalks for an infill project may be waived by the Planning Commission during the project review process if the Planning Commission determines, based on discussions with the Public Works Director and the Zoning Administrator, that continuous sidewalks within the area in which the infill project is located are not feasible and/or necessary. Where no other Planning Commission review of the project is required, sidewalk installation requirements may be waived through a variance procedure as described under Section 17.12.120 (Variance).
- B. The requirement for curb and gutter improvements for an infill project may be waived by the Planning Commission during the project review process if the Planning Commission determines, based on discussion with the Public Works Director, that such improvements are not and will not be necessary within the project vicinity. Where no other Planning Commission review of the project is required, curb and gutter installation requirements may be waived through a variance procedure as described under Section 17.12.120 (Variance).
- C. Some City streets will not require curbs, gutters, and/or sidewalks. Specific streets where the City will not require such improvements may be designated through action of the City Council, based on discussion with the Public Works Director and Zoning Administrator and recommendation of the Planning Commission.

17.50.030 Underground Utilities

The requirements listed below govern the undergrounding of utilities, including telephone facilities, electrical (69kV or less), fire alarm conduits, street lighting wiring, cable television and other wiring conduits, and similar facilities.

- A. **New Developments.** In new development areas of the city, all on-site utilities shall be installed underground, if feasible.
- B. **Existing Developments.** In existing areas of the city where utilities have not been undergrounded, the requirements listed below shall apply.
 - 1. For an existing development that is either being comprehensively redeveloped or undergoing an addition of building square footage totaling 25 percent or more of the existing gross floor area within any five-year period, all utility on the project site having the capacity to serve the project shall be undergrounded. All existing overhead utilities that cross or abut the subject property are also required to be undergrounded. “Comprehensively redeveloped” shall mean any instance where a demolition permit has or would be issued for a minimum of 50 percent of the existing building area.
 - 2. For development with less than 500 feet of public frontage or where utilities are located within a dedicated public utility easement, the applicant may elect to pay an in-lieu fee as established by City Council resolution, provided the project has been designed to the satisfaction of the Public Works Director and the project is accessible and can be easily improved at such time as the utilities are undergrounded.
- C. **Waiver of Undergrounding Requirement.** Above-ground meters, transformers, condensers, switches and other related equipment may be allowed if approved as part of the site development review process. If the applicant demonstrates that the City’s undergrounding requirement has the effect of prohibiting the requirement of telecommunications facilities, the Approving Authority shall waive the undergrounding requirement. Conditions for approval of above-ground equipment include, but are not limited to, enclosure in a building other than the principal building of the development, screening with the use of walls, partial subsurface locations and other architectural treatment consistent with the design of the development.

Chapter 17.52 Signs

Sections:

17.52.010	Purpose.....	17.52-2
17.52.020	General Sign Policies.....	17.52-2
17.52.030	Permit Requirements and Review Procedures.....	17.52-3
17.52.040	Exempt Signs.....	17.52-4
17.52.050	Prohibited Signs.....	17.52-9
17.52.060	Permanent On-Site Sign Requirements.....	17.52-11
17.52.070	Temporary On-Site Sign Requirements.....	17.52-13
17.52.080	Temporary Subdivision Signs.....	17.52-14
17.52.090	Sign Construction, Maintenance, and Removal Requirements.....	17.52-15
17.52.100	General Sign Design Requirements.....	17.52-19
17.52.110	Special Sign Requirements.....	17.52-20
17.52.120	Nonconforming Signs and Abandoned Signs.....	17.52-24

Draft Zoning Code Changes:

This revised chapter is a significant reorganization of and expansion of existing sign requirements.

All existing exemptions and prohibitions have been incorporated and/or updated for continuity and legal adequacy.

Expanded and clarified definitions for sign types in the glossary (Chapter 17.98), with new graphics to illustrate definitions. Definition of a "sign" is modified to more clearly articulate and consolidate the existing Code's intent and scope. Other new definitions and graphics include blade sign, bracket sign, a-frame sign, and pylon sign.

New purpose and policies establish the City's legal intent, authority, scope, and commitment to satisfy and uphold all legal and constitutional requirements.

New requirements are more easily accessible, allow for a broader array of signs, and facilitate consistent application of laws.

A-frames are allowed as a type of temporary promotional sign, subject to placement, height, area, and duration requirements.

A maximum allowable sign area schedule based on square footage of an establishment, using the existing requirements from Section 17.28.030.A.3.

New regulations and graphics are provided to assist code users in understanding and applying the code, including clarified requirements and figures for the measurement of sign area, graphics depicting design standards for specific sign types, and a grouping of similar regulations into sections or tables.

A new section provides requirements for non-conforming signs, allowing for continued maintenance and repair, but ensuring their eventual removal.

Whereas the existing Code provides additional design standards for Commercial and Industrial Zoning Districts, a new organization and new requirements apply enhanced design standards to all signs and Zoning Districts. General design standards are provided that apply to all sign types, and additional design standards are provided that apply to special sign

types.

New requirements are provided for unique sign types, including maximum height, individual sign area, illumination, and location requirements. These are incorporated with existing requirements for freestanding signs and projecting signs. New graphics are used to illustrate requirements.

17.52.010 Purpose

This chapter establishes regulations for signs on private property within the City for the purposes of safeguarding and protecting public health, welfare, and safety through appropriate prohibitions and requirements. The City recognizes that signs and other graphics are an essential element of a community's visual appearance and provide a means to identify and promote businesses, provide useful information to the public, and should not become visual distractions along public roadways. Consequently, the purpose of this chapter is to provide sign regulations for signs on private property that are consistent with the goals and objectives of the City's General Plan and the community's visual and aesthetic goals. In addition, these regulations are intended to:

- A. Promote an economically stable and visually attractive community;
- B. Promote signs and graphics that are attractive, pleasing, and harmonized with the physical character of the environment and surrounding properties, while serving the identifying needs of the business community;
- C. Prevent an inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message.
- D. Promote traffic safety and the smooth and efficient flow of pedestrians and vehicles to their destinations; and
- E. Direct persons to various activities and enterprises, in order to provide for maximum public convenience.

17.52.020 General Sign Policies

- A. **Permits Required.** Permits required, application procedures, and related information is outlined in Sections 17.12.090 (Sign Permit), 17.12.100 (Creative Sign Program), and 17.12.110 (Sign Program).
- B. **Regulatory Interpretations.** The requirements of this chapter shall not be interpreted to nullify any easements, covenants, or other private agreements that provide for more restrictive sign regulations than are required by this chapter.
- C. **Enforcement.** The Community Development Director is authorized and directed to enforce the requirements of this chapter. Whenever the application of this chapter is uncertain due to ambiguity of its requirements, the issue shall be referred to the Community Development Director for an interpretation and such interpretation shall be made by the Community Development Director within ten business days according to

the requirements of Chapter 17.06 (Interpretation). Any decision made by the Community Development Director may be appealed to the Planning Commission in accordance with Section 17.10.070 (Appeals).

- D. **Message Neutrality.** It is the City's policy and intent to regulate both commercial and noncommercial signs in a viewpoint-neutral and/or content-neutral manner. The message of the sign shall not be reviewed except to the minimum extent necessary to identify the type of sign.
- E. **Message Substitution.** Subject to the property owner's consent, a noncommercial message of any type may be substituted in whole or in part for the message displayed on any sign for which the sign structure or mounting device is authorized pursuant to this Code, without consideration of message content. Such substitution of message may be made without any additional approval or permitting. The purpose of this requirement is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. In addition, any on-site commercial message may be substituted, in whole or in part, for any other on-site commercial message, provided that the sign structure or mounting device is authorized pursuant to this Code, without consideration of message content. This requirement does not create a right to increase the total amount of signage on a parcel, lot, or land; does not affect the requirement that a sign structure or mounting device be properly permitted; does not allow a change in the physical structure of a sign or its mounting device; and does not allow for the substitution of an off-site commercial message in the place of an on-site commercial or noncommercial message.
- F. **On-Site/Off-Site Distinction.** Within this chapter, the distinction between on-site and off-site signs applies only to commercial messages.
- G. **General Prohibition.** Permanent signs not expressly permitted by this chapter are prohibited.

17.52.030 Permit Requirements and Review Procedures

- A. **Permit Required.** There are three types of sign permits in the City of Pinole as listed below:
 - 1. **Sign Permit.** A Sign Permit is required for all permanent signs (building attached or freestanding) prior to erection, relocation, alteration, or replacement of a sign, unless otherwise exempted by this chapter. The process for application, review, and decision regarding a Sign Permit is established in Section 17.12.090 (Sign Permit). A Sign Permit is not required for general maintenance of existing signs or the replacement of the sign face (including message) when the area of the sign is not being changed and a building permit is not required (e.g., the replacement of a sign face on a wall sign). A Sign Permit is also not required for the establishment of temporary signs; however, such signs shall be consistent with the development standards and time duration limits established in this chapter.
 - 2. **Creative Sign Program.** A Creative Sign Program provides a mechanism that is available for the benefit of property owners and businesses, yet is not a required permit type. It provides a way for property owners and business to propose and the City to consider special deviations from the regulations for on-site permanent signs provided in this chapter under certain circumstances. The intent of this process is to (1) encourage signs of unique design that exhibit a high degree of imagination, inventiveness, spirit, and thoughtfulness; and (2) provide a process

for the application of sign regulations in ways that will allow creatively designed signs that make a positive visual contribution to the overall image of the City, while mitigating the impacts of large or unusually designed signs. The process for application, review, and decision of the Creative Sign Program shall be as established in Section 17.12.100 (Creative Sign Program). Upon approval of a Creative Sign Program, a Sign Permit is required to erect said signs.

3. Sign Program. To ensure compliance with the regulations of this chapter and except as otherwise exempted, a Sign Program shall be required for all new sites that (1) will have permanent signing requirements which exceed either five signs or 200 square feet total aggregate sign area or (2) the site is a multi-tenant shopping center, office park, or other multi-tenant or mixed-use development of three or more separate tenants/uses that share either the same parcel or structure and use common access and parking facilities. The process for application, review, and decision of the Sign Program shall be as established in Section 17.12.110 (Sign Program). In addition, a Sign Program is optional for all new sites that (1) consist of a lot or parcel, or a series of lots or parcels combined, which front on two or more publicly dedicated street rights-of-way; (2) consist of five or more separate business activities; or (3) consist of a lot or parcel, or a series of lots or parcels combined, to total a minimum of two acres.
- B. **Application Procedures.** An application for a Sign Permit, Creative Sign Program, or Sign Program shall be made on the application materials as provided by the Community Development Director. The application shall be accompanied by any fees as specified by City Council resolution. Further, the application contents, processing, and review procedures for each type of application shall be as specified in Section 17.12.090 (Sign Permit), Section 17.12.100 (Creative Sign Program), or Section 17.12.110 (Sign Program).
 - C. **Variances.** Applications for a variance from the terms of this Title shall be reviewed by the Planning Commission according to the variance procedures set forth in Section 17.12.120 (Variance).
 - D. **Appeals.** Decisions of the Community Development Director or Planning Commission may be appealed as specified in Section 17.10.070 (Appeals).

requirement 17.52.040 Exempt Signs

The City has a compelling interest in allowing signs in order to comply with State and local laws, promote public safety, protect life and private property, promote the identification of property, guide emergency response personnel, and permit minor changes to make sign maintenance a less onerous burden on property owners; therefore, the following sign types are expressly exempted from the entitlement requirements of this chapter and Zoning Code but still must satisfy any and all other applicable City of Pinole permit requirements when necessary (e.g., building, electrical, plumbing, grading, encroachment).

To qualify for any of the exemptions listed below, strict compliance with the exemption as established in this section is required.

- A. **Exempt Signs without Limitations.** The following signs are exempt from Sign Permit and City review requirements but must comply with all other requirements of this chapter unless specifically noted otherwise:

1. All devices which are excluded from the City’s definition of a “sign.”
2. Signs required by law.
3. Noncommercial utility company signs identifying underground facilities, cables, conduits, and dangerous situations.
4. Street address number signs on buildings and building identification signs consistent with the City-adopted Building Code/Fire Code or other relevant requirements of the City Municipal Code. Notwithstanding anything in this section, street address signs may be illuminated and may contain reflective paint or materials.
5. Barber pole, attached or freestanding, when previously approved by the City as to size, location, and design.
6. Change of copy that does not alter the size, location, or illumination of a sign.

- B. **Exempt Signs with Limitations.** The following signs are exempt from Sign Permits and City review requirements but must comply with all other requirements of this chapter (unless specifically noted otherwise) and the requirements as listed below:
1. Flags provided they meet the following requirements:
 - a. No flag may be placed within the clear vision triangle;
 - b. The pole may be a maximum of 25 feet tall when all on-site buildings are less than 25 feet tall; and
 - c. Standards listed in Table 17.52.040-1 (Standards for Flags).

TABLE 17.52.040-1
STANDARDS FOR FLAGS

Site	Maximum Number of Poles	Maximum Height	Maximum Number of Flags	Maximum Area of All Flags	Image Types	Illumination	Minimum Setback from ROW (1)
Commercial, Office, and Industrial Zoning Districts	2	Tallest building (2)	Not limited	24 sq. ft.	Commercial and non-commercial	(1), (2)	(3)
Residential	1	20 ft.	Not limited	15 sq. ft.	Non-commercial	(2)	10 ft.
All other properties	2	20 ft.	Not limited	15 sq. ft.	Non-commercial	(2)	10 ft.

Notes:

(1) *Illumination of commercial flags not allowed*

(2) *Non-commercial flags may be illuminated only in times of officially declared or commemorated emergency, mourning, or memorial, or as otherwise required by state or federal law.*

(3) *Pole must be setback from right-of-way a distance equal to that of the pole height. Minimum setback is 10 feet.*

2. Signs on property undergoing construction or remodeling not exceeding 24 square feet each in area and limited to one sign for each street frontage. Such signs may not be illuminated. Such signs shall be removed at the earliest of the following events: final building inspection approval, issuance of a valid certificate of occupancy, or opening for business to the public.
3. Signs on property for sale, lease or rental not exceeding 12 square feet or 12 square feet per acre of land, whichever is greater, not to exceed 40 square feet for all signs. Additionally, a maximum of three attached rider signs are permitted. All such signs shall be removed within fifteen days from the sale, lease or rental of the property. Such signs may not be illuminated. Additionally, windows on property for sale, lease, or rental may be papered over to screen construction; this screening shall not count toward the sign area limitation.
4. Signs on property where there is a one-day garage, yard, estate, or other one-day home-based sale taking place. Such signs may be posted for no more than 24 hours and must be removed at the end of the one-day sale. A maximum of four signs, each a maximum of six square feet, are allowed.
5. Exterior identification signs erected on or immediately adjacent to an entrance, exit, restroom, office door, telephone or similar property feature provided that the sign does not exceed 30 inches in height and four square feet in size for each sign (which typically contains information such as "no parking," "entrance," "service entrance," "restrooms," "manager," and "exit") so long as the number of exempt exterior signs does not exceed two per parcel for each street frontage.
6. Noncommercial signs consistent with the following requirements:
 - a. Noncommercial signs on all private property except residential property, not exceeding 16 square feet in area and not exceeding ten feet in height from finish grade.
 - b. Noncommercial signs on residential property, not exceeding 32 square feet in area, provided that they are set back at least five feet from the public right-of-way and do not project over the roofline of any structure.
 - c. Noncommercial signs on residential property, limited to one for each dwelling unit or rentable room on the property, that are no more than one-half square foot in area and which are attached to and parallel with the building. The maximum sign area for such signage shall be 12 square feet.
7. Signs on commercial property where there is a promotion or a discount in price for merchandise. Such signs only may be displayed for the duration of the specific sale or promotion, or thirty days, whichever is shorter, provided such signs are located on or immediately next to the merchandise on sale. The aggregate area of such signs visible from a public right-of-way or other premises shall not exceed 32 square feet in area.
8. Murals are allowed on facades of buildings other than the side with the main entrance. The mural may encompass the entire surface area of the wall but shall not project onto the roof.

9. Tablets and plaques, installed by the City or a historical organization, including names of buildings and date of erection, and not exceeding four square feet.
10. One board sign for each drive-in or drive-through aisle, provided that the sign does not exceed a maximum of 40 square feet in sign area and that the sign be limited in height to eight feet. The board sign does not count toward the total allowed signage for the establishment as described in Table 17.52.060-1 (Allowed Permanent On-Site Sign Standards).

17.52.050 Prohibited Signs

The signs listed in this section are inconsistent with the purposes and requirements of this chapter as described below and as such are prohibited in all Zoning Districts, unless specifically authorized by another requirement of this chapter.

- A. Any sign not specifically in accordance with the requirements of this chapter.
- B. Roof signs or signs placed above the roof line (except for mansard roofs).
- C. Animated signs or flashing signs.
- D. Pennants, banners; balloons; pinwheels; signs that utilize two or more light bulbs in a wire string; paraphernalia composed of paper unless displayed inside a window; or signs displayed outdoors that are composed of paper or other lightweight material that could not be securely anchored, would easily degrade, or could not withstand limited exposure to the elements (e.g., a paper sign whose writing would become illegible if exposed to water, or a cardboard sign taped to a building exterior that could easily blow away).
- E. Signs which are mobile, rotate, or move.
- F. Signs placed on the public right-of-way or affixed to an element or structure on the public right-of-way, or located on a publicly owned tree, fence, or utility pole or otherwise posted on public property, except where required by a governmental agency or permitted as part of a Sign Program, or as provided in Chapter 17.54 (Signs on City Property); and signs on private property affixed to a fence (except as provided in Section 17.52.060 (Permanent On-Site Sign Requirements).; or signs affixed to a tree, shrub, rock, or other natural object on private property, except where required by a governmental agency or permitted as part of a Sign Program.
- G. A-frame signs.
- H. Inflatable balloon signs, including, but not limited to, individual balloons, balloon strings, and other inflatable objects made of a flexible material and inflated so as to be lighter than air, except as provided in Section 17.52.070 (Temporary On-Site Sign Requirements).
- I. Painted signs, such as signs painted upon a fence, excluding murals as exempted pursuant to Section 17.52.040 (Exempt Signs).
- K. Signs affixed to vehicles or trailers that advertise or promote a business. This prohibition does not apply to signs permanently affixed to the side of a business or commercial vehicle or to signs required by state or federal law (e.g., contractor's license number) as exempted in the definition of a sign.

- L. Signs attached to light standards unless part of a Sign Program or Street Banner Program.
- M. Signs affixed to a structure or property not owned by the person installing the signs without the written consent of an owner.
- N. Signs that are dilapidated, abandoned, or in disrepair or dangerous condition.

17.52.060 Permanent On-Site Sign Requirements

Table 17.52.060-1 (Allowed Permanent On-Site Sign Requirements) lists the development standards for all permanent on-site signs based on use type and Zoning District, as well as allowed sign type. Table 17.52.060-2 (Allowed Permanent On-Site Sign Area) lists the allowed areas for all sign types. As identified in Sections 17.12.090 (Sign Permit), 17.12.100 (Creative Sign Permit), and 17.12.110 (Uniform Sign Permit), a sign permit is required before any of the sign types listed herein are installed, erected, or otherwise established. Only those signs that may be permitted are listed. The following general requirements apply to permanent on-site signs:

- A. **Minimal Illumination.** Where illumination of a sign is allowed under this Title, such illumination may be achieved by any method that minimizes glare onto neighboring or abutting property, such as from behind the sign (e.g., light source behind the face of the sign, such as with the opaque, non-transparent face of channel letters; silhouette halo illumination behind letters) or by a low-level spotlight. In the case of electronic message signs, this standard is not applicable and, in such instances, the illumination level shall be such that the intensity of the illumination is appropriate based upon the level of lighting of the surrounding environment (e.g., illumination by the sun or moon during day, dusk, night time, and dawn) through the use of such means as light meters and programmed illumination regulation or LEDs that are designed to limit the spread of light.
- B. **Sign Area Allowance.** Generally, there is a maximum allowed sign area for each type of sign. In some instances, there is also a maximum combined sign area for all signs in that type of development. Where this is the case, the collective maximum allowed sign area is determined based upon the overall gross square footage of the individual establishment as described in Table 17.52.060-2 (Allowed Permanent On-Site Sign Standards)

**TABLE 17.52.060-1
ALLOWED PERMANENT ON-SITE SIGN STANDARDS**

Sign Type (1)		Maximum Number Permitted	Maximum Area, Individually	Maximum Area, Total	Maximum Height	Minimum Setback from ROW (2)	Illumination Allowed
Permanent Subdivision Identification Signs							
Freestanding sign, project identification	Monument or on fence/wall not in ROW	2/entrance	24 sq. ft.	n/a	6 sq. ft.	5 ft.	Yes
Multiple-family Residential Signs							
Freestanding sign, project identification		1/entrance	25 sq. ft.	n/a	8 ft.	10 ft.	Yes
Nonresidential Signs							
Freestanding Signs	Monument sign	1/frontage	100 sq. ft.	See Table 17.52.060-2	6 ft.	10 ft.	Yes
	Pylon sign(3)	1/frontage	200 sq. ft.		35 ft. (4)	15 ft.	Yes
	Pole Sign (5)	1/frontage	60 sq. ft.		25 ft.	10 ft.	Yes
Building Attached Signs	Wall sign (6)	No Maximum	None		Roofline(7)	-	Yes
	Window sign (8)		None		-		No

Notes:

- (1) All monuments, mechanical sculptures, sculptures, service club signs, and any other unique sign type not allowed through these requirements shall only be allowed pursuant to approval of a Creative Sign Program.
- (2) Must be located outside the clear vision triangle.
- (3) Freestanding pylon signs shall only be permitted as part of a Sign Program or Creative Sign Program.
- (4) Applications for pylon signs along Highway 80 may be approved up to a maximum height of 75 feet with a maximum sign area of 750 square feet as part of a Creative Sign Program (CSP), Uniform Sign Program (USP), or application.
- (5) A pole sign shall only be permitted when the Community Development Director determines that otherwise permissible freestanding monument or pylon sign would not be sufficiently visible due to obstructions or where there is no space in which to place the sign between the sidewalk and building.
- (6) No individual wall sign shall exceed 25 percent of the building frontage; further, no individual projecting sign shall exceed 30 square feet of area per side.
- (7) 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.
- (8) Window signs may not occupy more than 20 percent of the individual window area. The void rule shall apply when calculating the area of the window sign when it is stenciled on the window pane, as established in Subsection 17.52.090.E (Determination and Measurement of Sign Area).

TABLE 17.52.060-2
ALLOWED PERMANENT ON-SITE SIGN AREA

Total Area of Establishment	Maximum Total Sign Area Permitted (1)
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.

Notes:

(1) Establishments with more than one frontage may have an additional 20% of total sign area in addition to the amount provided here.

17.52.070 Temporary On-Site Sign Requirements

This section describes requirements for temporary promotional on-site signs. These signs do not require the issuance of a Sign Permit. Temporary signs may include, but are not limited to, commercial signs for grand openings or special product, sale, or event advertising, but exclude any temporary signs pertaining to subdivisions, which are governed through the requirements of Section 17.52.080 (Temporary Subdivision Signs). The development standards for temporary signs are listed in Table 17.52.080-1 (Temporary Sign Requirements). The following general requirements apply to temporary promotional signs:

- A. **Time Duration.** Display periods for temporary promotional signs shall be limited to a maximum of 60 days per calendar year, or as provided below. Longer time periods may be permitted with issuance of a Temporary Use Permit (see Section 17.12.070 (Temporary Use Permit)).
- B. **Illumination.** Temporary signs may not be illuminated.
- C. **Message.** Temporary signs displaying a commercial message shall be limited to on-site signage only. Temporary off-site signage displaying a commercial message is prohibited.
- D. **Encroachment.** Temporary promotional signs shall not encroach on or above the public right-of-way or be attached to utility poles, except as provided below for A-frame signs. See Figure 17.52.070 (Placement of A-Frames in the Right-of-Way).
- E. **Temporary Signs Allowed.** As established in Section 17.52.050 (Prohibited Signs), pennants, balloons, and other temporary signs are prohibited; temporary signs displayed outdoors that are composed of paper or other lightweight material that could not be securely anchored, would easily degrade, or could not withstand limited exposure to the elements (e.g., a paper sign whose writing would become illegible if exposed to water, or a cardboard sign taped to a building exterior that could easily blow away) are also prohibited. Temporary signs may be constructed of non-rigid material, provided it is displayed in a window or adequately anchored and able to withstand exposure to the elements.

TABLE 17.52.070-1
TEMPORARY ON-SITE SIGN STANDARDS

Use Type	Maximum Temporary Number	Maximum Area	Maximum Height	Minimum Setback from ROW (1)
Multiple-family Residential, Apartment Rental	1 per complex	4 sq. ft.	5 ft. freestanding; Roofline wall	10 ft.
Nonresidential, Building-Attached	1 per establishment	12 sq. ft.; 20% of total window space if located in a window (3)	Roofline	n/a
Nonresidential, A-frames	3 per establishment	8 sq. ft.	4 ft.	(2)

Notes:

1. Must be located outside of the clear vision triangle.
2. See special sign standards in Section 17.52.110 (Special Sign Requirements).
3. Window includes any area of window glazing located within a glass door.

17.52.080 Temporary Subdivision Signs

- A. **Applicability.** The requirements of this section shall apply to all temporary subdivision signs. All permanent subdivision identification signs shall be as provided for in Section 17.52.060 (Permanent On-Site Sign Requirements). Temporary Subdivision Signs shall be allowed in addition to the real estate signs allowed pursuant to Section 17.52.040 (Exempt Signs).
- B. **Sign Permit Required.** Prior to the erection of any temporary subdivision signs pursuant to this section, approval of a Sign Permit is required pursuant to Section 17.12.090 (Sign Permit).
- C. **Deposit and Permission Required.** In addition to the conditions that the designated Approving Authority may impose through the Sign Permit, prior to the erection of any temporary subdivision signs, the sign applicant shall provide the following:
 - 1. A deposit as determined by the Community Development Director for each sign guaranteeing the maintenance and removal of all such signage upon expiration of the Sign Permit.
 - 2. Permission to remove and dispose of all signs should the sign not be removed as required by the Creative Sign Program, and a covenant to reimburse the City for any costs of any such removal and disposal.
- D. **Display Period and Sign Removal.** All such signs approved pursuant to this section shall be displayed for no more than six months, or as otherwise required by the Sign Permit. Upon completion of the approved display period, all such signage shall be completely removed and the sites returned to their original, pre-sign conditions.

- E. **Display within Public Right-of-Way.** All such signs are allowed in the public right-of-way provided they do not extend into the clear vision triangle, do not obstruct pedestrian and wheelchair access, and when located on a sidewalk are within six inches of the curb. Further, a-frames must remain portable and shall not be attached or anchored to trees or any public property.

**TABLE 17.52.080-1
TEMPORARY SUBDIVISION SIGNS**

Use Type	Maximum Number	Maximum Area	Maximum Height	Minimum Setback from ROW (1)
On- and Off-Site, Subdivision Identification Signs (2)	4 per subdivision (3)	32 sq. ft.	10 ft.	10 ft.
On-Site Subdivision, Directional Signs	1 per subdivision entrance, max 6	32 sq. ft.	10 ft.	
On-Site Subdivision, Flags	10 poles per subdivision	15 sq. ft. of flag per pole	20 ft.	

Notes:

- (1) *Must be located outside of the clear vision triangle.*
- (2) *Such signs shall not be located within 50 feet of an occupied residence unless the designated Approving Authority finds pursuant to approval of the Creative Sign Program that such distance is not feasible. Illumination of such signs is prohibited.*
- (3) *No more than 2 of which shall be off-site.*

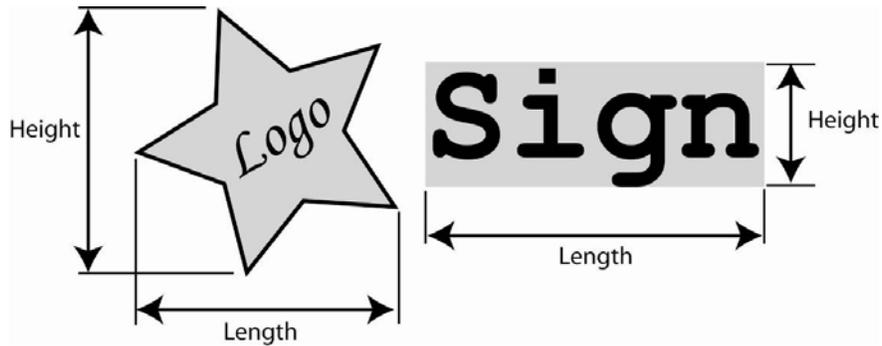
17.52.090 Sign Construction, Maintenance, and Removal Requirements

This section describes the requirements applied to the construction, maintenance, and removal of signs within the City.

- A. **Construction of Signs.** Every sign and all parts, portions, and materials thereof shall be manufactured, assembled, and erected in compliance with all applicable state, federal, and City laws and regulations, including the locally adopted Building Code. All signs shall comply with the following criteria:
 1. All transformers, equipment, programmers, and other related items shall be screened and/or painted to match the building or shall be concealed within the sign.
 2. All permanent signs shall be constructed of quality, low-maintenance materials such as metal, concrete, natural stone, glass, and acrylics. Techniques shall be incorporated during construction to reduce fading and damage caused by exposure to sunlight or degradation due to other elements.
 3. All freestanding signs that incorporate lighting shall have underground utility service.
 4. All temporary signs and banners shall be made of a material designed to maintain an attractive appearance for as long as the sign is displayed.

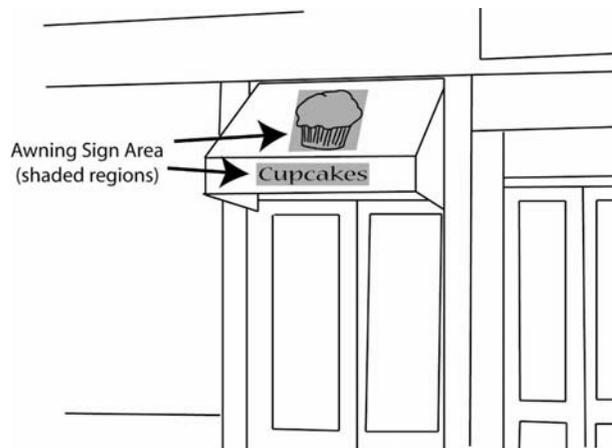
- B. **Maintenance of Signs.** Every sign and all parts, portions, and materials thereof shall be maintained and kept in proper repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion. Any cracked, broken surfaces, malfunctioning lights, missing sign copy, or other non-maintained or damaged portions of a sign shall be repaired or replaced within 30 days following notification by the City. Noncompliance with such a request will constitute a nuisance condition and zoning violation and will be enforced as such.
- C. **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 Public Works Director, 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.
 3. Signs shall not be located within the clear vision triangle.
- D. **Clearance from Public Utility Facilities.** The person erecting a sign and the owner of the premises shall maintain any legally required 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.
- E. **Determination and Measurement of Sign Area**
1. **Area Limitations.** All permanent on-site signs shall be counted towards the maximum sign area requirement as established in Section 17.52.060 (Permanent On-Site Sign Requirements), unless exempt pursuant to Section 17.52.040 (Exempt Signs).
 2. **General area calculation.** Generally, the area of a sign shall be measured as the overall length of the sign multiplied by the overall height of each segment of copy or logo exclusive of background.
 3. **Void Rule.** When the sign is composed of individual letters applied to the building without a distinctive background (e.g., channel letters), the area of the sign shall be measured as 75 percent of the area of the sign copy (height of the letters multiplied by the length of each line of letters, e.g., length x height x 75 percent). This practice of taking 75 percent of the area shall be known as the void rule. See Figure 17.52.090-1 (Sign Area).

FIGURE 17.52.090-1
SIGN AREA



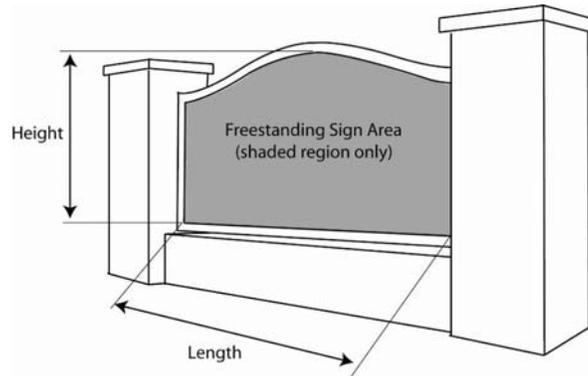
4. Awning or canopy signs. Sign copy which is applied to an awning or canopy shall be computed at 100 percent of the area within a single rectangle enveloping the sign copy. See Figure 17.52.090-2 (Awning or Canopy Sign Area).

FIGURE 17.52.090-2
AWNING OR CANOPY SIGN AREA



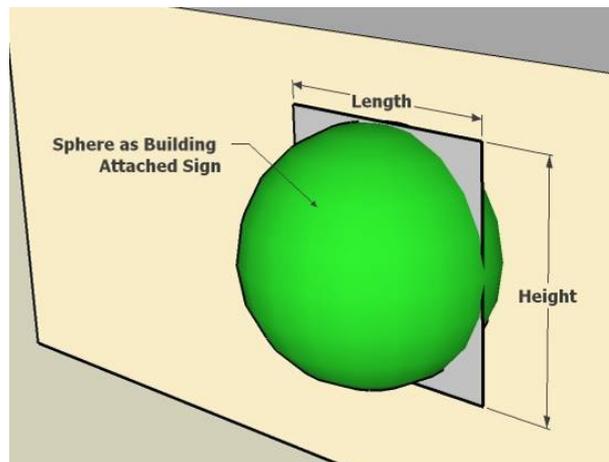
5. Freestanding signs. Freestanding signs are to be computed as total height by the total length of the sign for one side for double-faced signs, excluding framework of separate single wood post or masonry column and single wood or masonry beam. The base of a monument sign is not part of the sign when made of wood, stucco, or masonry. See Figure 17.52.090-3 (Freestanding Sign Area).
- a. Freestanding signs that are spread with two faces (e.g., marquee sign) shall be computed as the greater of the area of one side or the projected area of two sides.
 - b. Freestanding signs that are spread with three faces shall be computed as the greater of the area of one side or the projected area of two sides or three sides.
 - c. Freestanding signs that are four-sided shall be computed as the greater of the area of two sides or the projected area of two sides.

**FIGURE 17.52.090-3
FREESTANDING SIGN AREA**



6. Three-dimensional objects. Where a sign consists of one or more three-dimensional objects (e.g., balls, cubes, clusters of objects, sculptures, or statue-like trademarks), the sign area shall be measured at its maximum projection upon a vertical plane, as viewed from a position in the public right-of-way which produces the largest visual projection. See Figure 17.52.090-4 (Area of Three-Dimensional Objects).

**FIGURE 17.52.090-4
AREA OF THREE-DIMENSIONAL OBJECTS**



A.

- F. **Measurement of Sign Height.** Sign height shall be measured from the uppermost part of the sign used in determining the area of the sign to the lowest elevation at the base of the sign.
- G. **Setback and Spacing of Freestanding Signs**
 1. The minimum setback distance for freestanding signs shall be measured from the back of the public right-of-way or side of a driveway, unless an encroachment permit is granted. All freestanding signs shall be located outside of the public right-of-way and any required clear vision triangle.

2. The minimum spacing distance between permanent freestanding signs, excluding on-site directory signs, shall be 50 feet. The designated Approving Authority will review a proposed sign location on a case-by-case basis to ensure the sign is located outside the required clear vision triangle and does not otherwise inhibit motorist safety.
- H. **Sign Removal or Replacement.** When a sign is removed or replaced, all brackets, poles, and other structural elements that support the sign shall also be removed. Affected building surfaces shall be restored to match the adjacent portion of the structure. This requirement does not apply to routine maintenance.

17.52.100 General Sign Design Requirements

The following criteria shall be utilized for permanent advertising displays and signs. Signs shall comply with general design standards as provided here in addition to design standards applicable only to unique sign types are provided in Section 17.52.110 (Special Sign Requirements).

- A. **Sign type.** Signs shall be compatible with the architectural style of the main building or building upon the site where such sign is located. The applicant shall consider construction materials, color, letter style, and other design details in designing an architecturally compatible sign. Multiple signs on any building, or on buildings within the same development, shall have the same primary type of building-attached sign. Signs located on commercial sites but in a predominantly residential area shall be unobtrusive and designed to be compatible with such residential area.
- B. requirement this chapter. **Sign illumination.** The artificial illumination of signs, either from an internal or external source, shall be designed so as not to cast stray light on surrounding rights-of-way and properties. The following requirements shall apply to all illuminated signs:
1. External light sources shall be directed and shielded to limit direct illumination of an object other than the sign;
 2. The light from an illuminated sign shall not be of an intensity or brightness that will create glare or other negative impacts on residential properties in direct line of sight to the sign;
 3. Unless otherwise permitted by another requirement of this chapter, signs shall not have blinking, flashing, or fluttering lights, or other illumination devices that have a changing light intensity, brightness, or color;
 4. Colored lights shall not be used at a location or in a manner so as to be confused or constructed as traffic control devices;
 5. Reflective type bulbs and incandescent lamps that exceed 15 watts shall not be used on the exterior surface of signs so that the face of the bulb or lamp is exposed to a public right-of-way or adjacent property; and
 6. Light sources shall utilize energy-efficient fixtures to the greatest extent possible and shall comply with Title 24 of the California Code of Regulations (California Building Standards Code).

- C. **Sign copy.** The maximum coverage of copy allowed on a sign shall be 80 percent of the sign face.
- D. **Sign structure.** The sign’s supporting structure shall be simple, yet adequate for supporting the sign face.

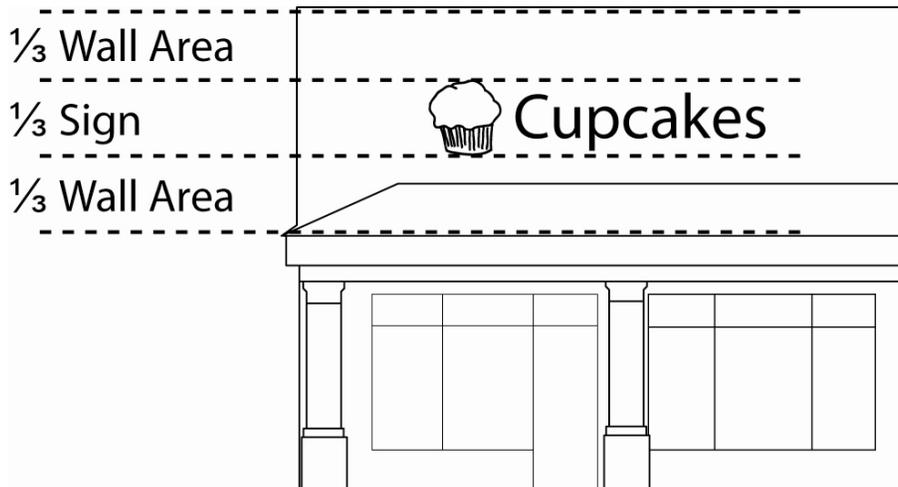
17.52.110 Special Sign Requirements

In addition to the General Design Requirements in Section 17.52.100, the following requirements shall apply to special sign types as listed.

A. Wall Signs.

- 1. Wall signs shall be compatible with the predominant visual architectural elements of the building façade.
- 2. Wall signs shall not project more than 12 inches from the building façade.
- 3. Wall signs shall utilize a consistent proportion of signage to building scale, such as 1/3 text to 2/3 wall area or 1/4 text to 3/4 wall area. See Figure 17.52.110-1 (Text Scale).

**FIGURE 17.52.110-1
TEXT SCALE**

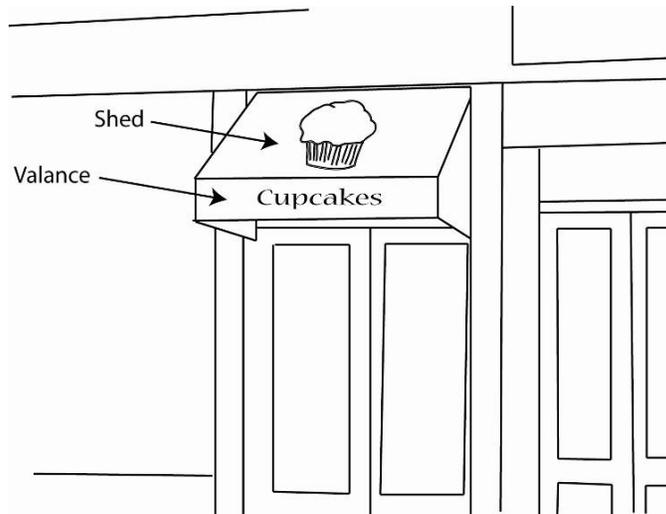


- 4. Wall sign raceways shall be concealed from public view (e.g., within the building wall or otherwise integrated with the design of the sign and building so as to not detract from the architectural character of the building).
- 5. Channel letters, reverse channel letters, and push pin letters are preferred in place of can signs. Letters may not utilize gold-colored (or a shade of gold) trim cap.
- 6. Signage containing multiple elements (e.g., logo and text) on one façade shall be designed so that the multiple elements are located and scaled with relationship to each other.

B. **Awning and Canopy Signs.** Awning and canopy signs may be permitted only as an integral part of the awning or canopy to which they are attached or applied and shall be considered wall signs for signage area calculation purposes. The following requirements shall apply:

1. Lettering shall be allowed on awning valances only and shall not exceed 18 inches in height. Logos, symbols, and graphics that do not include text may be allowed on the shed (slope) portion of an awning and shall not exceed four square feet in area for each awning. All awning signage, text and/or other graphics, whether located on the shed or valance, shall count towards the total sign area, pursuant with the measurement rules provided in Subsection 17.52.090.E (Determination and Measurement of Sign Area). See Figure 17.52.110-2 (Awning and Canopy Sign).

**FIGURE 17.52.110-2
AWNING AND CANOPY SIGN**



2. Lettering shall be located within the middle 70 percent of the valance area.
3. Only permanent signs that are an integral part of the awning or architectural projection shall be allowed. Temporary signs shall not be placed on awnings.
4. Awning signs shall only be allowed for first and second story occupancies.
5. Awnings shall not be lighted from under the awning (backlit) so that the awning appears internally illuminated. Lighting directed downwards that does not illuminate the awning is allowed.

C. **Projecting Signs.** Projecting signs, including, but not limited to, blade signs, bracket signs, and marquee signs, and shall be considered wall signs for the purposes of sign area calculations. Projecting signs shall only be permitted as follows:

1. Location. Projecting signs shall be placed only on ground-floor facades, except for businesses located above the ground level with direct exterior pedestrian access. 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.

2. Angle of Projection. Projecting signs shall either be located at right angles to the building front along the building façade, or, when located on the corner of a building, at a 45 degree angle to the corner of the building.
 3. Height. The lowest point of a blade or bracket sign shall be a minimum of seven and a half feet above grade.
 4. Projection. The sign may project a maximum of five and a half feet from the building.
 5. Suspension. The sign shall be suspended with a clear space of at least six inches between the sign and the building.
 6. Sign structure. Sign supports and brackets shall be compatible with the design and scale of the sign.
 7. Encroachment. Blade, bracket, or marquee signs may not encroach into the public right-of-way or be located above it, or into City-owned property except with an encroachment permit.
 8. Spacing. Projecting signs shall be spaced to maximize the visibility of signage.
- D. **Freestanding Signs.** Freestanding signs, including monument signs, pole signs, and pylon signs, shall only be permitted as follows:
1. Pole Signs. The bottom of the pole sign (excluding the sign structure) shall be no lower than 7.5 feet above ground level. The pole sign shall have no exposed connecting, or supporting wires.
 2. In an effort to promote full architectural integration of signs, voids between the sign face and the sign structure are prohibited. Either the sign face shall utilize the full width of the sign structure or coverings that are architecturally consistent with the rest of the sign shall be used to fill any voids.
 3. Materials and design for freestanding signs shall be complementary to the materials and design of the buildings for the related development. For example, if the façade of the building is made of brick or brick veneer, a complementary freestanding sign would also include brick.
 4. Landscaping shall be provided at the base of the sign equal to the area of the sign. Landscaping shall be complementary to and designed in concert with the landscaping for the overall site. The design of the landscaping shall be such that natural growth will not obscure the sign from the public right-of-way.
 5. The minimum letter height on a freestanding sign shall be 12 inches. The intent is to limit the clutter of text on the sign and increase readability for the public, thereby providing for public safety.
 6. The maximum letter height on a freestanding sign shall be 36 inches. The intent is to limit the visual impact of large text size. For applicants requesting signage visible to freeway motorists, the maximum letter height for a freestanding sign shall be 48 inches. For any further deviations from this requirement, the applicant may apply for a Creative Sign Program or Variance.

- E. **Marquee or Changeable Copy Sign.** These types of signs shall be considered to be the same as any other type of sign and shall be regulated based on their location; i.e., if located on a wall, they shall be deemed wall signs.
- F. **Electronic Message Signs.**
1. Off-site electronic message signs. Off-site electronic message signs shall only be allowed in conjunction with pylon signs along Interstate 80 pursuant to the requirements provided in Table 17.52.110-1 (Electronic Message Signs).
 2. Sign area and height. Maximum sign area for all electronic messages shall be 100 square feet and maximum height of sign structure containing electronic message shall be 100 feet.
 3. If an electronic message sign displays more than one type of electronic message as categorized by Table 17.52.110-1 (Electronic Message Signs) (e.g., time and temperature message and electronic display), each type of electronic message shall be subject to the relevant regulations for such message type when that message type is displayed. For instance, when a time and temperature message is displayed, it may only be displayed pursuant to the requirements for time and temperature signs; when an electronic graphic display message is displayed, it may only be displayed pursuant to the requirements for electronic graphic displays; even if multiple message types are displayed on one sign, each message type shall be governed by the relevant regulations for that message type. Electronic displays or electronic graphic displays shall not be allowed to use the text and message limits established for time and temperature messages, even if a time and temperature message is displayed on the sign in addition to other electronic message types. The regulations provided below shall apply to the specified message type whenever such message type is displayed, regardless of alterations between message types.

TABLE 17.52.110-1
ELECTRONIC MESSAGE SIGNS

Description/ Requirement	Message Type			
	Electronic Display	Electronic Graphic Display	Video Display	Time and Temperature
Description	Text Only – No Picture	Images and Text	Moving Pictures	Informational Only
Allowed	Yes	Yes	No	Yes
Text Limit (1)	10 words	No Limit	n/a	Time and Temperature Only
Minimum Message Duration	1 hour	1 hour	4 ft.	5 seconds
Brightness (NITs) (2) – Day/Night	7,000/2,500	7,000/2,500	n/a	7,000/2,500

Notes:

- (1) Scrolling messages are prohibited.
- (2) NITs is a unit of intensity (candelas/square meter).

17.52.120 Nonconforming Signs and Abandoned Signs

- A. **Nonconforming Signs.** Except as otherwise provided by this section, all existing signs which do not meet the requirements of this chapter shall be deemed nonconforming signs and shall either be removed or brought into compliance with the City’s Municipal Code when a substantial alteration to the sign is made. Change of copy shall not be deemed a substantial alteration. For purposes of this section, a “substantial alteration” shall be defined as repair or refurbishing of any sign that alters its physical dimensions or height, or replaces any integral component of the sign including, but not limited to, alterations to exterior cabinets, bases, or poles. In addition, substantial alteration shall also include any repair or refurbishing of a sign that exceeds 50 percent of the depreciated value of the sign and structure, but excepting customary maintenance. “Customary maintenance” shall be defined as any activity or work performed for the purpose of actively maintaining the sign in its existing approved physical configuration and size dimensions at the specific location approved by the City and includes the following:
 - 1. Repainting the sign text, cabinet, or other component of the sign without changing the advertising message; or
 - 2. Routine replacement of border and trim with substantially the same colors and materials.

- B. A nonconforming sign may remain in use provided no additions or enlargements are made thereto and no structural alterations are made therein, except as permitted for customary maintenance in subsection 17.52.090.B of this chapter. If said nonconforming sign is destroyed or removed, or ceases to be used for the use in existence as of the effective date of the Ordinance codified in this chapter, every future sign at the same location must be in conformance with the requirements of this chapter.

- B. **Abandoned Signs.** Abandoned signs may be abated by the City. For regulatory purposes, any factors indicating abandonment shall not begin occurring until 120 days after this chapter first goes into effect.

Chapter 17.54 Signs on City Property

Sections:

17.54.010	Purpose and Proprietary Capacity	17.54-1
17.54.020	Intent as to Public Forum	17.54-1
17.54.030	General Prohibition.....	17.54-1
17.54.040	Signs Allowed on City Property	17.54-1
17.54.050	Temporary Signs Displaying Noncommercial Messages	17.54-2
17.54.060	Street Banner Program.....	17.54-2

Draft Zoning Code Changes:

This new chapter focuses on signs located on City property in keeping with relevant laws. New topics include banner and noncommercial temporary signs, while some of the existing sign ordinance language has been clarified.

17.54.010 Purpose and Proprietary Capacity

The purpose of this chapter is to provide the process and requirements for establishing signage on City property. In adopting this chapter, the City Council acts in its proprietary capacity as to City property, as defined herein, within the city. This chapter is adopted pursuant to the City’s general powers, property rights, Government Code Sections 65850(b), 38774, and 38775, Business and Professions Code Sections 5200 et seq., and Penal Code Section 556 et seq.

17.54.020 Intent as to Public Forum

The City declares its intent that not all City property shall function as a designated public forum, unless some specific portion of City property is designated herein as a public forum of one particular type. In such case, the declaration as to public forum type shall apply strictly and only to the specified area and for the specified time period.

17.54.030 General Prohibition

Unless specifically authorized by this chapter, no signs may be affixed to City property by private parties. Any sign posted on City property in violation of this chapter may be summarily removed by the City as a trespass and a public nuisance.

17.54.040 Signs Allowed on City Property

The following signs may be erected and displayed on City property:

- A. Traffic control and traffic directional signs erected by the City or another governmental unit;
- B. Signs required by law;
- C. Signs erected and maintained by a public agency on public property;
- D. Safety and emergency signs, including identification and warning signs concerning potential hazards or hazardous conditions, utility installations, flood hazards or flood

- control facilities, emergency conditions or services and crime and accident scene control;
- E. Signs allowable under Section 17.54.050 (Temporary Signs Displaying Noncommercial Message) of this chapter;
 - F. Signs authorized under Section 17.54.060 (Street Banner Program); and
 - G. Signs authorized pursuant to a temporary use permit issued pursuant to Section 17.12.070 of the Pinole Municipal Code.

17.54.050 Temporary Signs Displaying Noncommercial Messages

In areas qualifying as traditional public forums, private persons may display noncommercial message signs thereon, provided that such signs conform to all of the requirements listed below. These requirements are intended to preserve safety and aesthetic quality within the City.

- A. The signs must be personally held by a person or personally attended by one or more persons. "Personally attended" means that a person is physically present within five feet of the sign at all times.
- B. The maximum aggregate size of all signs held or personally attended by a single person is six square feet. For purposes of this rule, apparel and other aspects of personal appearance do not count toward the maximum aggregate sign area.
- C. The maximum size of any one sign which is held or personally attended by two or more persons is 50 square feet, measured on one side only.
- D. The sign must have no more than two display faces and may not be inflatable or air-activated.
- E. In order to serve the City's interests in traffic flow and safety, persons displaying signs under this chapter may not stand in any vehicular traffic lane when a roadway is open for use by vehicles, and persons displaying signs on public sidewalks must give at least five feet width clearance for pedestrians to pass by. Persons holding signs may not obstruct the clear vision triangle, as defined in this Title.
- F. The message substitution policy of the Sign Ordinance applies only to traditional public forum areas.

17.54.060 Street Banner Program

- A. The Street Banner Program is limited to signs, banners, pennants or other displays placed by the City and/or Redevelopment Agency relating to any civic events or activities organized or sponsored by the City or Redevelopment Agency on public property.
- B. For purposes of this Section, "civic event or activity" shall mean the following: any event or activity organized or sponsored by the City or Redevelopment Agency, including but not limited to: (a) any public program or educational activity; and (b) the commemoration or celebration of any historical date, event or person, holiday or persons or events of local, state or national significance.

- C. For purposes of this Section, “sponsored by” shall mean the following: The City and/or Redevelopment Agency is: (a) participating in an official capacity in the planning, preparation or promotion of the event or activity; and (b) contributing 25% of the total estimated costs of the civic event or activity, or at least \$1,000, whichever is less. This contribution may take the form of funds, labor, staff time, materials, fee subsidies, or any combination of the foregoing.

- D.

Chapter 17.56 Yard and Setback Regulations

Sections:

17.56.010	Purpose.....	17.56-1
17.56.020	Applicability.....	17.56-1
17.56.030	General Yard and Setback Regulations.....	17.56-1
17.56.040	Residential Yard and Setback Regulations.....	17.56-4
17.56.050	Allowed Encroachments or Projections into Required Yards.....	17.56-4

Draft Zoning Code Changes:

This new chapter consolidates all regulations pertaining to yards and setbacks. Provides new regulations for calculation of yard area and setback lines.

Allowed encroachments are clarified and expanded.

17.56.010 Purpose

The purpose of this chapter is to establish requirements for yard areas, setbacks, and encroachments. These requirements, in conjunction with other applicable requirements of the Zoning Code, are intended to ensure open areas around primary structures; maintain clear visibility for traffic safety and pedestrian access, buffer between property and land uses; establish natural and visual light; establish air space privacy; and provide for landscaping, and recreation areas.

17.56.020 Applicability

The rules for measurement of setbacks, yard areas, and encroachments contained in this chapter shall apply to all properties in the city and shall be in addition to any other applicable development standards and measurement rules contained elsewhere within the Zoning Code. This chapter shall be used in the application of required setbacks and yard areas as described in, and shall only be authorized in concert with the requirements of, Article II (Zoning Districts, Allowed Uses, and Development Standards).

17.56.030 General Yard and Setback Regulations

- A. **Required Yard Area.** Except as otherwise specified in this Title, required yard areas shall be kept free of buildings and structures.
- B. **Exclusivity of Required Yard Area.** No yard or other open space provided around any building for the purpose of complying with this chapter shall be considered as providing a yard or open space for any other building or structure.
- C. **Vertical Clearance.** Except as otherwise provided in this Title, every part of a required yard shall be open from its lowest point to the sky unobstructed. Building overhangs, bay windows, and other such elements may intrude as permitted, pursuant to Section 17.56.050 (Allowed Encroachments or Projections into Required Yards).

- D. **Lots Abutting Two or More Streets.** In the case of a lot abutting two or more streets, the main buildings and accessory buildings shall be erected so as not to encroach upon the required yards of any of the streets.
- E. **Double-Frontage Lots.** Where a double-frontage lot has a depth of 125 feet or more, such lot may be treated as two lots, with the rear lie of each approximately equidistant from the front lot lines, provided all the yard requirements are met.
- F. **Lot Area, Depth, Width, and Setback Reduction.** Where a lot area or a lot width, depth, or setback has been reduced for an existing legally created lot by not more than 15 percent as a result of acquisition of dedication for a highway, road, drain, or other public purpose, as a result of dedication pursuant to a condition of approval, the lot area or yard so reduced may be included in determining compliance with lot area or yard requirements in the same manner as if the acquisition or dedication has not taken place.
- G. **Setback Measurement.** The setback of all buildings and structures shall be measured at a right angle from the property line and determined by the exterior boundaries of the streets and highways and their proposed widening and extensions as indicated on the Circulation Plan Roadway System and Sizing Map of the City's General Plan, or if it does not appear in the Circulation Plan, in the City's Improvement Standards. Except as permitted in Section 17.56.050 (Allowed Encroachments or Projections into Required Yards), structures shall not extend beyond required setback lines.
- H. **Special Yard Requirements Prevail.** Nothing contained in these general requirements shall be deemed to reduce special yard requirements as set forth in the regulations in Article II (Zoning Districts, Allowed Uses, and Development Standards).

FIGURE 17.56.030-1
SETBACK DETERMINATION OF IRREGULAR LOTS

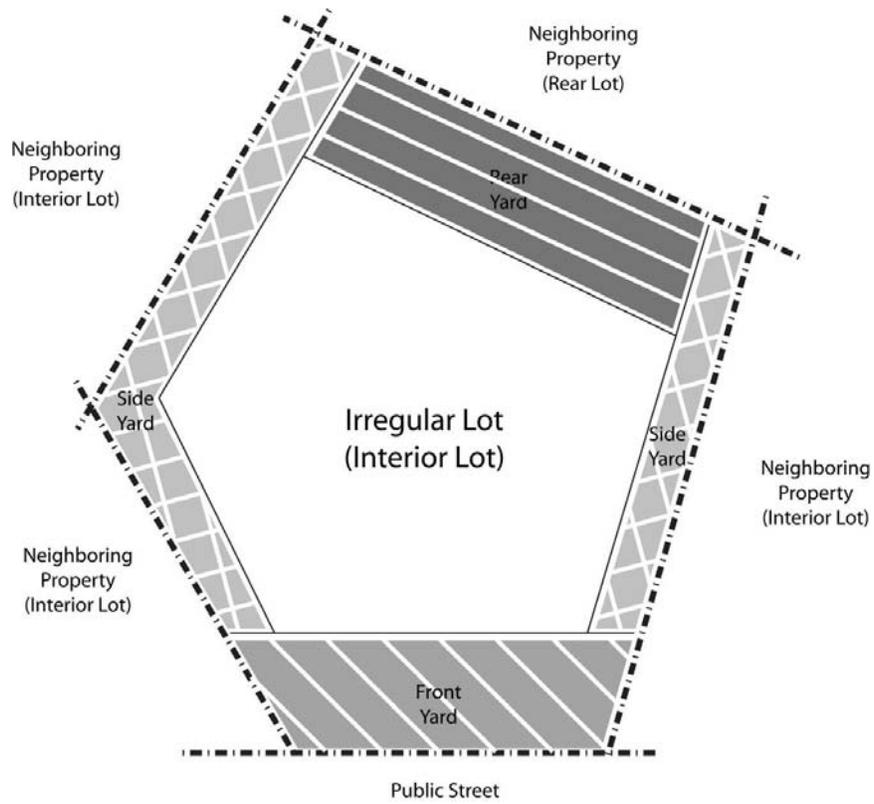
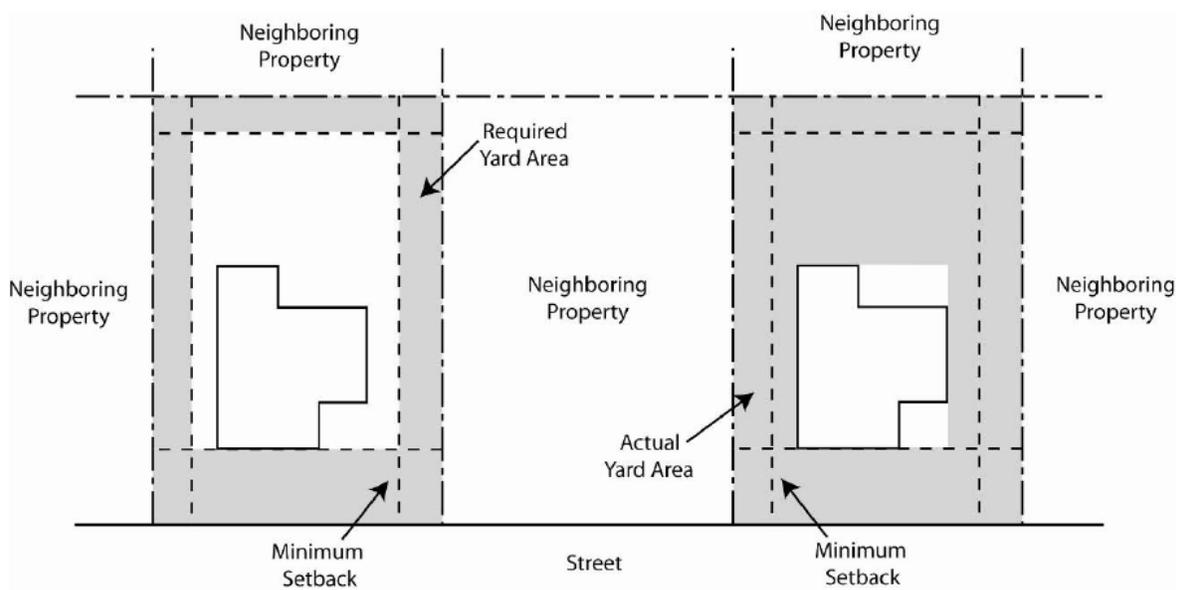


FIGURE 17.56.030-2
YARD AREA



17.56.040 Residential Yard and Setback Regulations

For yard requirements in Residential Districts, refer to Table 17.20.040-2: Residential Zoning Districts Development Standards in Article II (Zoning Districts, Allowed Uses, and Development Standards).

- A. **Front Yard Variation.** 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 the corner lot yards are not reduced.
- B. **Computation of Yards in Residential Zoning Districts**
1. In any residential district where 50 percent or more of the parcels 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 sites, to a maximum requirement of ten feet.
 2. In any residential district where adjoining lots are improved with buildings, the front yard required for a vacant site shall be the average of the yards within 60 feet of the site on each side thereof.
 3. 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 in the front of the lot.
 4. Corner Lot. A corner lot shall have a front setback along each property line adjacent to a street. Where the rear line of a corner lot lies along the side line of an adjoining interior lot in any residential district, the yard setback on the street side of the corner lot within 20 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 of the corner lot.
- C. **Side Yard Computation.** In cases where side yards are to be computed on the basis of 20 percent of the width of the lot under the terms of this chapter, no such side yard shall exceed 16 feet in width unless so required by other requirements.
- D. **Computation of Yards for Residential Buildings Permitted with a Conditional Use Permit.** Yards required for residential buildings that are permitted with a Conditional Use Permit shall be as required for that particular district or as required for the R-4 Very High Density Zoning District, whichever yard requirements are greater.

17.56.050 Allowed Encroachments or Projections into Required Yards

- A. In addition to the structures listed in Chapter 17.30 (Accessory Structures) and Chapter 17.42 (Fences, Walls and Screening), the following structures and architectural features attached to the main building may project into the required yards as depicted in Table 17.56.050-1 (Encroachment/Projections of Attached Structures into Required Yard Areas).

**TABLE 17.56.050-1
ENCROACHMENT/PROJECTIONS OF ATTACHED STRUCTURES INTO REQUIRED YARD AREAS**

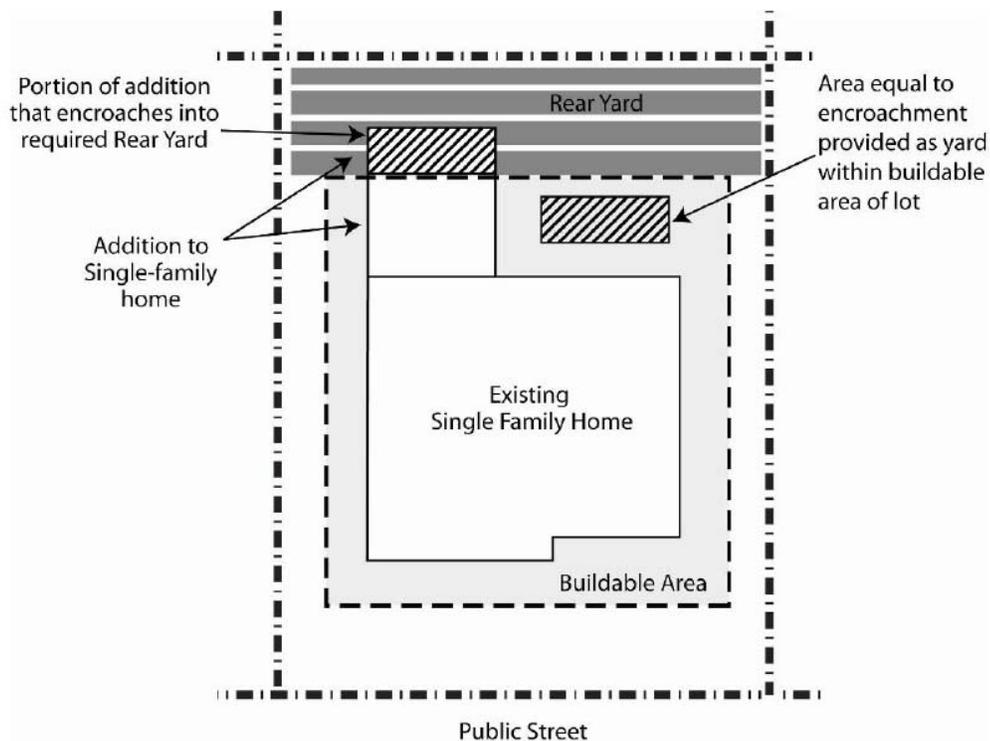
Structures	Encroachment Distance into Required Yard
Fireplaces, bay windows, porches, pergolas, awnings, trellis, and decks and patios higher than 30 inches above finish grade	2 feet (1), (2), (3)
Cornices, eaves, canopies, roof overhangs, and similar architectural features	2 feet (1), (2)
Uncovered ground-floor porches, stairs, landings, or open fire escapes higher than 30 inches above finish grade	2 feet (1), (2)
Solar Energy Systems	2 feet (2)

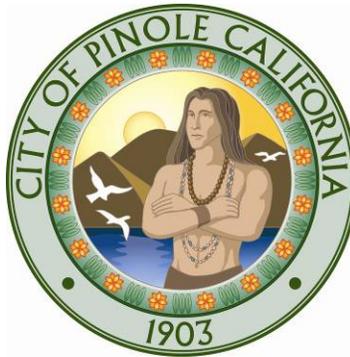
Notes:

- (1) Not including any flat wall or window surface.
- (2) All such encroachments shall maintain a minimum three-foot setback from all property lines and a minimum distance of six feet from any other structure.
- (3) The combined length of all such features shall not account for more than 25 percent of the length of the wall surface on which the features are located.

B. For single-family residential development, a portion of the main building may project into the required rear yard area, provided that an equal area of the buildable portion of the lot (this area can be anywhere on the lot) is provided as a yard or court. See Figure 17.56.050-1 (Single-Family Encroachment).

**FIGURE 17.56.050-1
SINGLE-FAMILY ENCROACHMENT**





Title 17 – Zoning

Article IV

Special Use Standards

Chapter 17.58	Adult Businesses Entertainment Businesses	17.58-1
Chapter 17.60	Condominium New Projects and Conversions	17.60-1
Chapter 17.62	Emergency Shelters and Transitional Housing Facilities	17.62-1
Chapter 17.64	Home Occupations.....	17.64-1
Chapter 17.66	Massage Therapy	17.66-1
Chapter 17.67	Medical Marijuana Dispensaries	17.67-1
Chapter 17.68	Outdoor Sales, Display, Storage, and Outdoor Seating.....	17.68-1
Chapter 17.70	Second Dwelling Units.....	17.70-1
Chapter 17.72	Solar Energy Systems	17.72-1
Chapter 17.74	Temporary Uses.....	17.74-1
Chapter 17.76	Wireless Communication Facilities.....	17.76-1

Revisions:

The following revisions have been made to Article IV of Title 17:

Date of Adoption	Ordinance Number	Subject	Section	Page Number

Chapter 17.58 Adult Entertainment Businesses

Sections:

17.58.010	Purpose.....	17.58-1
17.58.020	Location Requirements.....	17.58-1
17.58.030	Design Requirements.....	17.58-2
17.58.040	Violations.....	17.58-3
17.58.050	Design Requirements.....	17.58-3

Draft Zoning Code Changes:

This chapter has been revised with an updated purpose to ensure legal adequacy, to regulate adult oriented businesses in order to promote the health, safety, and general welfare of the residents of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult oriented businesses within the city.

17.58.010 Purpose

It is the purpose of this Chapter to regulate adult oriented businesses in order to promote the health, safety, and general welfare of the residents of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult oriented businesses within the city. The requirements of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials. Similarly, it is not the intent or effect of this ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of adult entertainment or adult oriented materials to their intended market. Nothing in these regulations is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any City ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter or the exhibition or public display thereof.

17.58.020 Location Requirements

Adult entertainment businesses are permitted subject to compliance with the location requirements listed below.

- A. Adult entertainment businesses regulated by this Chapter shall only be permitted as established by Article II. (Zoning Districts, Allowed Uses, and Development Standards), subject to the regulations outlined in this Chapter, and subject to the issuance of a Conditional Use Permit pursuant to the requirements of Section 17.12.130 (Conditional Use Permit). This requirement is in addition to other permits or certificates required by law.
- B. Such use is more than 400 feet from any area zoned for residential use.
- C. Such use is more than 1,000 feet from any other adult entertainment business.
- D. Such use is more than 500 feet from any public or private school, day care, park, playground, public building, church, recreation area, nature trail, synagogue, mosque, temple, or other building for religious worship, youth-oriented establishments, or any noncommercial establishment operated by a religious organization.

- 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 an adult entertainment business is conducted to the nearest property line or nearest point of any building on the property at issue.
- F. 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, the conversion of an existing business location to any adult entertainment use or the addition of any of the adult entertainment businesses defined in the Title to any other existing adult entertainment businesses.

17.58.030 Design Requirements

Adult entertainment businesses are permitted subject to compliance with the requirements listed below.

- A. 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.
- B. 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.
- C. The building entrance to the adult entertainment business shall be clearly and legibly posted with a notice indicating that minors are precluded from entering the premises.
- D. All building openings, entries, and windows for an adult entertainment business shall be located, covered or screened in such a manner as to prevent a view into the interior of an adult entertainment business from any area open to the general public.
- E. All off-street parking areas and buildings entries serving the adult entertainment business shall be illuminated during all hours of operation. All interior portions of the adult entertainment business, except those areas devoted to mini-motion or motion pictures, shall be illuminated during all hours of operation.
- F. All indoor areas of an adult entertainment business within which patrons are permitted, except restrooms, shall be open to view by the management at all times. Individual viewing booths for public use in adult oriented businesses may be enclosed on three sides only and the open side shall be 100 percent open. The visibility of the inside of the booths shall not be obstructed. Not more than one person shall occupy any individual booth at one time.
- G. Parking shall be provided pursuant to Chapter 17.48 (Parking).
- H. **Nudity at Adult Entertainment Businesses.** 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. Based on this ruling, the City prohibits public nudity within the city, including public nudity at any adult entertainment business. Any adult entertainment business which is found in violation of this section shall have its business license suspended pursuant to the requirements of Title V of this Municipal Code.

17.58.040 Violations

Any adult entertainment business that is operating in violation of these requirements regulating adult entertainment businesses is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation.

17.58.050 Design Requirements

If any section, subsection, paragraph, subparagraph or requirement of this chapter or the application thereof to any person, property or circumstance is held invalid, the remainder of the chapter and the application of such to other persons, properties or circumstances shall not be affected thereby.

Chapter 17.60 Condominium New Projects and Conversions

Sections:

17.60.010	Purpose.....	17.60-1
17.60.020	Permit Requirements	17.60-2
17.60.030	Condominium Development Policy, Standards, and Criteria	17.60-3
17.60.040	Declaration of Covenants, Conditions, and Restrictions and Projects Elements....	17.60-7
17.60.050	Additional Requirements	17.60-9
17.60.060	Effect of Proposed Apartment Conversion on the City’s Housing Stock	17.60-10
17.60.070	Advertising	17.60-11
17.60.080	Findings.....	17.60-11

Draft Zoning Code Changes:

The existing Chapter 17.29 has been maintained. No substantial changes have been made. Definitions have been moved to Chapter 17.98 (Glossary of Terms).

17.60.010 Purpose

Residential condominiums provide for individual ownership of separate dwelling units which are usually 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 conventional 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, and the occupant is not the owner of the unit and does not have the burden of financial commitment, 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 special regulations contained in this chapter are required to achieve this intent, and are applicable to all 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.

1. To establish requirements and procedures to be followed for the review and approval or disapproval of new condominium project developments and 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 for residents of condominium project developments.
4. To provide for planning and compliance with the City's General Plan, Housing Element and housing assistance plan.
5. To provide a desirable balance of rental and ownership housing within the City, and 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.

17.60.020 Permit Requirements

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 Community Development Department. The application shall include, but not be limited to, the following, in as many copies as the Community Development 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 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 Community Development 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 Community Development Department, or the

developer files with the Community Development 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 unless the condominium conversion is exempt from the Subdivision Map Act pursuant to the California Government Code.

17.60.030 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 requirements 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. Requirement 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.
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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:
 - i. 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.
 - ii. 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 Community Development 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).
- iii. 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.
 - iv. 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.
- i. 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.
 - ii. Draft stops shall be placed in all attics that are determined to be accessible by the building official.
 - iii. 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 Code.
2. Overall Design and Site Layout. The following criteria shall be considered in reviewing the overall design and site layout of the project:
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. Mailboxes shall be located in central locations in a manner approved by the Planning Commission and the postal service.
 - vi. 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.
 - vii. 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:
 - i. 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.
 - ii. Requirement 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.
 - i. All units to be subdivided shall be provided with separate gas and electric meters and requirement made for individual shut-off valves.
 - ii. 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.
 - iii. 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.
 - iv. Individual utility meters, phone panels and address directories shall be clustered for efficient access for residents and service.
 - v. 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.

17.60.040 Declaration of Covenants, Conditions, and Restrictions and Projects 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 Community Development 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 Community Development 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 Subsection 17.60.030.A.3 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 Subsection 17.60.030.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 Subsection 17.60.030.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 requirements 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, requirement 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, requirement 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.

17.60.050 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.** 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. 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 Community Development 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 Community Development Department; or
 3. A separate stamped, preaddressed envelope to the resident of each unit shall be furnished to 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.
 5. Please note that additional notice requirements are set forth in Section 66427.1 of the Government Code for approval of any final map for the conversion of residential real property into a condominium project, a community apartment project or a stock cooperative project.
- D. **Pest Infestation and Dry Rot Report.** The developer shall, prior to approval of the final map, submit to the Community Development 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.

17.60.060 Effect of Proposed Apartment Conversion 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 were 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:
- C. 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;
- D. 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;
- E. The need and demand for lower cost homeownership opportunities which are increased by the conversion of apartments to condominiums;
- F. Normally, conversion projects shall not be approved by the Planning 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;

- G. 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;
- H. 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.

17.60.070 Advertising

The developer shall make no advertising use of any City approval of use, subdivision or occupancy for the project.

17.60.080 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.

Chapter 17.62 Emergency Shelters and Transitional Housing Facilities

Sections:

17.62.010	Purpose.....	17.62-1
17.62.020	Permit Requirements and Exceptions.....	17.62-1
17.62.030	Development Requirements.....	17.62-1
17.62.040	Operational Requirements.....	17.62-2

Draft Zoning Code Changes:

This new chapter provides regulations targeted for the erection, operation, and occupancy of transitional housing to allow for the adequate requirement of emergency and transitional housing services for vulnerable members of the community, consistent with requirements of the State of California.

17.62.010 Purpose

The purpose of this chapter is to establish regulations governing the erection, operation, and occupancy of transitional housing to allow for the adequate requirement of emergency and transitional housing services for vulnerable members of the community while protecting and upholding the general public health, safety, and welfare.

17.62.020 Permit Requirements and Exceptions

- A. **Permit Requirements.** Emergency shelters and transitional housing facilities are conditionally allowed or allowed by right as established in Article II. (Zoning Districts, Allowed Uses, and Development Standards). In addition to satisfying the requirements listed below, emergency shelters and transitional housing facilities shall comply with all federal and California licensing requirements and all applicable Uniform Building and Fire Codes, including maximum occupancy restrictions.
- B. **Exceptions to Permit Requirements**
 - 1. Emergency Shelters may exceed the maximum 30-bed limitation through a Conditional Use Permit subject to approval by the designated Approving Authority, in accordance with Government Code Section 65589.5(d).
 - 2. A transitional housing facility for ten or fewer persons may be located in any portion of the city zoned for residential development.

17.62.030 Development Requirements

- A. **Location and Separation.** Emergency shelters and transitional housing facilities of more than ten persons shall be situated within one-half mile of a transit corridor or existing bus route. All shelter programs shall be situated more than 300 feet from any other similar program; a public park; a public or private K-12 school; an indoor or outdoor recreational facility primarily designed to serve persons under 18 years old; (300 feet measured from property line to property line). Programs may have multiple buildings.

B. Physical Characteristics.

1. The maximum number of beds for emergency shelters and transitional housing facilities shall be 30 unless a Conditional Use Permit is applied for and approved. The maximum number of beds does not apply in situations of city- or statewide designated disasters or catastrophic conditions.
2. Smoke detectors, approved by the Fire Department, must be provided in all sleeping and food preparation areas for emergency shelters and transitional housing facilities.
3. The size of an emergency shelter or transitional housing facility shall be in character with the surrounding neighborhood.
4. The emergency shelter shall have an interior, onsite waiting and client intake area that is a minimum of 200 square feet. The emergency shelter shall include a landscaped exterior waiting area that is a minimum of 100 square feet, so that clients waiting for services are not required to use the public sidewalk for queuing.
5. The emergency shelter or transitional housing facility shall have on-site parking provided at the rate of:
 - i. 1 space per 3 beds plus
 - ii. 1 space per employee

Off-street parking may only be required based on demonstrated need, provided that the same requirements applied are those for residential or commercial uses within the same zone.
6. The emergency shelter or transitional housing facility shall have exterior lighting consistent with Chapter 17.46 (Lighting).

17.62.040 Operational Requirements

1. If a transitional facility for 10 or less is proposed for location in an area either zoned or developed as a residential area, all intake and screening shall be conducted off-site.
2. If a program includes a drug or alcohol abuse counseling component, appropriate state and/or federal licensing shall be required.
3. The program shall provide accommodations appropriate for a minimum stay of 28 days and a maximum of 180 days per client/family.
4. The program shall identify a transportation system that will provide its clients with a reasonable level of mobility including, but not limited to, access to social services, housing, and employment opportunities.
5. Emergency shelters and transitional housing facilities shall provide on-site management and support staff at all times during shelter use.
6. Emergency shelters must have on-site security during the hours that the emergency shelter is in operation.

Chapter 17.64 Home Occupations

Sections:

17.64.010	Purpose.....	17.64-1
17.64.020	Applicability.....	17.64-1
17.64.030	Permit Requirements and Procedures.....	17.64-1
17.64.040	Allowed Uses.....	17.64-2
17.64.050	Performance Standards.....	17.64-2
17.64.060	Revocation	17.64-4

Draft Zoning Code Changes:

This chapter has been updated to clarify, revise, and update allowed uses, exclusions, and performance standards for home occupations.

Home occupation requirements have been updated to allow for a maximum of three visits per day in effort to expand the variety of home occupation options.

17.64.010 Purpose

The purpose of this chapter is to establish regulations to allow limited business activity to occur at residences where the business activity is clearly incidental to the primary residential use and will not change the neighborhood’s residential character or integrity.

17.64.020 Applicability

The regulations and standards contained in this chapter shall apply to all home occupations as defined by Chapter 17.98 (Glossary of Terms) in the City and shall be in addition to any other development standards and regulations contained elsewhere within the Zoning Code (e.g., lighting). Pursuant to the requirements of Article II (Zoning Districts, Allowed Uses, and Development Standards), home occupations are permitted in all residential zoning districts, subject to compliance with the standards of this chapter and other relevant requirements of this Title.

17.64.030 Permit Requirements and Procedures

Prior to the establishment of any home occupation, the following requirements must be met.

- A. **Business License.** A business license from the City is required for any home occupation consistent with the requirements of this Municipal Code.
- B. **Plan Check.** Plan Check is required as part of business license review. Plan Check will be conducted pursuant to Section 17.12.030 (Plan Check).
- C. **Conditions.** The Approving Authority may limit the length of time in order to effect periodic review of the home occupation operations or establish reasonable conditions on the operation of any home occupation to meet the intent of this chapter. No more than two Administrative Use Permits for a home occupation shall be granted per dwelling unit.
- D. **Time Limit.** Home Occupation Permits shall be valid for one year from date of permit issuance. Home Occupation Permits require annual renewal in conjunction with the

required business license for same home occupation. All current requirements and findings for home occupations shall apply at the time of permit review and issuance.

17.64.040 Allowed Uses

The following list provides examples of types of uses allowed as home occupations. Other uses that are similar to those listed and incidental to the primary use may be approved by the designated Approving Authority.

- A. Art and craft work (i.e., ceramics, flower arranging, jewelry making, painting, sculpting, photography, etc.).
- B. Office, including internet business.
- C. Private lessons such as academic instruction, music, athletics, swimming, arts and crafts.
- D. Small furniture repair and restoration.
- E. Tailoring, sewing, and/or alterations.
- F. Other similar uses that demonstrate a low-profile operation with fewer than three customers visiting the business per day.

17.64.050 Performance Standards

The following performance standards are intended to reduce the impacts of home occupations such that home occupations are not detectable from normal and usual residential activity. All home occupations shall continuously meet the performance requirements listed below, which shall be incorporated as conditions of approval, and any conditions imposed through a City business license.

- A. **Advertising and Display.** No displays or signs naming or advertising home occupations shall be permitted on or off the lot containing the home occupation and no advertising shall inform the public of the location of the home occupation (business cards and stationery letterhead are excluded). There shall be no display of products produced by occupants of the dwelling visible from the outside of the dwelling unit.
- B. **Employees.** Employment shall be restricted to a maximum of two full-time dwelling unit residents except where the Approving Authority allows one non-resident employee, upon the findings listed below.
 - 1. The employee works under the direction of the dwelling resident and is not an independent or separate business enterprise.
 - 2. The employee is necessary to the performance of the home occupation.
 - 3. The employee would not require the use of the required parking for the residence or create on-street parking problems in the neighborhood.
 - 4. The average residential neighbor would not be aware of the existence of the home occupation, under normal circumstances.

5. Additional off-site employees may be employed by the business, but they may not report for work at the lot that contains the home occupation.
- C. **Hours of Operation.** The hours of operation during which customers may visit the home occupation shall be between the hours of 7:00 AM and 7:00 PM.
- D. **Number of Home Occupations.** One home occupation is allowed at a home where customers may visit the business. Otherwise, there is a limit of one additional home occupation for the residence where no customers may visit the business.
- E. **On-Site Sales.** The home occupation shall not involve sale of merchandise other than that produced on the premises (e.g., artist's originals or products individually made to order), or directly related to and incidental to the services offered. Products which are not produced on the premises may be constructed on-site, using equipment normally found in a residence; however, these products may only be sold off-site at a permitted commercial location.
- F. **Primary Residential Use.** The use of the residential dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes.
- G. **Operation and Off-Site Effects.** No process shall be used which is hazardous to public health, safety, or welfare. The home occupation shall produce no evidence of its existence upon or beyond the premises such as external alterations creating non-residential or unsightly appearance of a structure, noise, smoke, fumes, odors, light, electrical interference, dust, glare, liquid or solid waste, or vibrations. Noise levels shall comply with the City's Noise Ordinance. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
- H. **Services and Visits.** Customer calling on the premises is limited to three visits from customers, patients, clients, students or other person served by the home occupation per day. Further, home occupation services are restricted to those conducted by mail, telephone, or activities wherein the operator picks up and delivers.
- I. **Storage and Waste Materials.** There shall be no outside storage of material, equipment, products, or supplies. Hazardous materials may only be stored in amounts below the thresholds as established by the local Fire Department which does not require any special permits or licenses. The home occupation shall dispose of all waste materials or by-products on a regular, timely basis in conformance with applicable garbage collection, fire protection, and public health regulations.
- J. **Structure.** The home occupation shall be confined completely within a legal structure and shall not occupy more than one room, or the equivalent of 25 percent of the floor area of a dwelling, whichever is greater, or two hundred square feet of a permitted accessory building. No internal or external alterations for the home occupation shall be made to the dwelling unit that are not customarily found in or to serve residents. Conversion or alteration of a portion of the interior of the residence, garage, or accessory structure that does not result in a loss of off-street parking or adversely alter the exterior appearance of the structure may be allowed through approval of appropriate entitlements and issuance of a Building Permit.
- K. **Traffic, Vehicles, and Deliveries.** Home occupations shall not generate deliveries, pedestrian, or vehicular traffic beyond that which is normal in a residential district. Up to two business related deliveries may be made per week. No more than one truck with a one-ton load capacity or other motor vehicle shall be permitted in conjunction with any

home occupation and shall be parked in an adequate off-street parking area. Taxicab, limousine, or pedicab service shall not be on-call and available for service. No vehicle shall be dispatched from the residence.

17.64.060 Revocation

Failure to comply with the home occupation regulations of this chapter, the Approving Authority may after notice revoke the home occupation approval and/or business license. Such revocation may be appealed to the Planning Commission pursuant to the appeal procedure provided in Section 17.10.070 (Appeals) of this Code.

Upon receipt of a complaint regarding the operation of the home occupation or upon observation of a violation of City Ordinances, including any conditions imposed upon the home occupation, the Community Development Director shall determine whether the subject home occupation is in compliance with the requirements of this section. If the use is found not to be in full compliance with the Zoning Code or conditions of approval, the Community Development Director shall have cause to suspend or revoke the home occupation or amend operational conditions.

Once a home occupation has been revoked, continued practice of the home occupation at that location is no longer permitted and subsequent applications shall not be filed within one year from the date of revocation.

Chapter 17.66 Massage Therapy

Sections:

17.66.010	Purpose and Intent	17.66-1
17.66.020	Applicability	17.66-1
17.66.030	Permit Requirements	17.66-1
17.66.040	Special Standards.....	17.66-1

Draft Zoning Code Changes:

This new chapter has been completely updated to reflect the requirements of the State of California. As certification of massage therapists is now completed by a third party, the Pinole ordinance has become much more streamlined.

17.66.010 Purpose and Intent

The purpose of this chapter is to establish regulations to allow massage therapy business activity to occur. Regulations in this chapter are intended to reduce impacts to the degree that its effects so as to minimize any potential adverse effect such uses have on surrounding commercial or industrial uses.

17.66.020 Applicability

The regulations and standards contained in this chapter shall apply to the establishment of any massage therapy businesses as defined in Article II. (Allowed Use Definitions) and shall be in addition to any other development standards and regulations contained elsewhere within the Zoning Code. The establishment of any massage therapy 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 massage therapy use.

17.66.030 Permit Requirements

Massage therapy businesses regulated by this chapter shall only be permitted in accordance with Article II. (Zoning Districts, Allowed Uses, and Development Standards) and subject to the special regulations outlined in Section 17.66.040 (Special Standards) of this chapter as determined through administrative Zoning Conformance. These requirements are in addition to other permits of certificates required by law.

17.66.040 Special Standards

Prior to the establishment of a massage therapy business, the following requirements shall be met.

- A. **Certification required.** All employees must be certified by the appropriate professional organization. The operator of such establishment must maintain a register of all persons so employed and their certification number, which register shall be available for inspection at all times during regular business hours.
- B. **Permit posted.** A permit approving the massage therapy business, or a copy thereof, shall be posted in plain view within the establishment for which the permit has been issued.
- C. No person who is granted a permit issued pursuant to this chapter shall operate under any name or conduct his or her business under any designation not specified in his or her permit.

Chapter 17.67 Medical Marijuana Dispensaries

Sections:

17.67.010	Medical Marijuana	17.67-1
17.67.020	Medical Marijuana Dispensary	17.67-1
17.67.030	Medical Marijuana Cooperative	17.67-1
17.67.040	Zoning Requirements.....	17.67-1

17.67.010 Medical Marijuana

Defined as set forth in California Health and Safety Code § 1362.5 et seq.

17.67.020 Medical Marijuana Dispensary

Any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or distributed to one or more of the following:

1. A qualified patient,
2. A person with an identification card, or
3. A primary caregiver.
4. All three of these terms are defined in strict accordance with California Health and Safety Code section 11362.5 et seq. Unless otherwise regulated by this Code or applicable law, a "medical marijuana dispensary" shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq.

17.67.30 Medical Marijuana Cooperative

- A. "Medical Marijuana Cooperative" is where two or more persons who associate to collectively or cooperatively cultivate, use, transport, possess, administer, deliver, or give away medical marijuana.

17.67.040 Zoning Requirements

- A. A medical marijuana dispensary and/or medical marijuana cooperative shall be allowed in any zoning district only if consistent with state and federal law.

Chapter 17.68 Outdoor Sales, Display, Storage, and Outdoor Seating

Sections:

17.68.010	Purpose.....	17.68-1
17.68.020	Permit Requirements, Exemptions and Liabilities.....	17.68-1
17.68.030	Development, Operation and Maintenance Requirements.....	17.68-2

Draft Zoning Code Changes:

This chapter consolidates outdoor storage references from throughout the existing ordinance and adds outdoor seating regulations to the City purview.

17.68.010 Purpose

The purpose of this chapter is to regulate permanent and temporary outdoor display, seating, and storage uses. The intent of these regulations is to encourage outdoor displays and activities that are compatible with associated and nearby uses and do not obstruct pedestrian or vehicle circulation or create an unsightly appearance of unrestricted clutter.

17.68.020 Permit Requirements, Exemptions and Liabilities

The following outdoor activities shall be subject to the permit requirements as listed below.

- A. **Permanent Outdoor Display and Sales.** Permanent outdoor displays and sales shall require approval of Plan Check in accordance with Section 17.12.030 (Plan Check) consistent with the standards of this chapter.
- B. **Temporary Outdoor Display and Sales.** Temporary outdoor display and sales shall require the issuance of a Temporary Use Permit in accordance with Section 17.12.070 (Temporary Use Permit). Garage sales are exempt from this requirement, provided that each garage sale complies with the requirements of the Zoning Code and other relevant Titles and Chapters of the Municipal Code.
- C. **Permanent Outdoor Storage.** Permanent outdoor storage is allowed in conjunction with the primary use if approved as part of the original planning entitlement request. New permanent outdoor storage requested in conjunction with an existing use or development shall require issuance of a Conditional Use Permit in accordance with Section 17.12.130 (Conditional Use Permit) consistent with the requirements of this chapter.
- D. **Temporary Outdoor Storage.** Temporary outdoor storage shall require the issuance of a Temporary Use Permit pursuant to and consistent with the requirements of Section 17.12.070 (Temporary Use Permit). The uses and activities listed below shall be exempt from the requirement for a Temporary Use Permit.
 - 1. Storage of construction materials and equipment as part of an active construction site, provided a valid Building Permit or improvement permit is in effect and the materials and equipment are stored on the construction site pursuant to approved permit(s).

2. Emergency facilities to accommodate emergency public health and safety needs and activities, compliant with the requirements of Chapter 17.62 (Emergency Shelters and Transitional Housing Facilities).
- E. **Outdoor Dining Areas.** If not part of the original development permit for the principal use, outdoor seating may be permitted in all Zoning Districts except for residential Zoning Districts, subject to approval of an Administrative Use Permit as established in Section 17.12.060 (Administrative Use Permit) and any other applicable entitlements (e.g., Administrative Design Review, Comprehensive Design Review). In all cases, permanent outdoor seating shall be consistent with the development standards of this chapter.
1. Required findings for approval of outdoor seating. The designated Approving Authority may issue an Administrative Use Permit in conjunction with the requirements of Section 17.12.060 (Administrative Use Permit) if he/she finds that the proposed outdoor seating would not:
 - i. Encroach into a continuous pedestrian path of travel of at least six feet in width, and would not obstruct pedestrian and wheelchair access;
 - ii. Unduly interfere with pedestrian traffic on the sidewalk;
 - iii. Unduly interfere with access of public employees and utility workers to meters, fire hydrants, or other objects (street hardware) in the right-of-way; or
 - iv. Block or obstruct the view of necessary authorized traffic devices.
 2. Permit posted. A permit for outdoor seating, or a copy thereof, shall be posted in plain view within the establishment for which the permit has been issued.
 3. Any authorized outdoor seating shall be subject to additional taxes, permits, or fees as required by law.
- F. **Permittee's Liability.** By accepting a permit under this chapter, the permittee explicitly agrees to hold the City, its officers, employees, agents and volunteers harmless from any liability, claims, suits, or actions for any and all damages alleged to have been suffered by any person or property by reason of the permittee's installation, operation, maintenance, or removal of outdoor seating.

17.68.030 Development, Operation and Maintenance Requirements

- A. **General Development Standards for All Activities.** The development standards listed below apply to all outdoor display, sales, and storage activities.
1. Location. Outdoor activities may be located within the public right-of-way, in required parking spaces or within designed vehicle drive aisles, or within required landscape planter areas only where permitted with the issuance of an Encroachment Permit in accordance with the requirements of an Administrative Use Permit, pursuant to the requirements of Section 17.12.060 (Administrative Use Permit), or a Temporary Use Permit, pursuant to the requirements of Section 17.12.070 (Temporary Use Permit). Outdoor activities shall occupy a fixed, specifically approved location that does not disrupt the normal function of the site or its circulation, and does not encroach upon required setbacks, public

rights-of-way, driveways, landscaped areas, parking spaces, pedestrian walkways or pathways, bicycle lanes, seating, enhanced pedestrian amenities, such as trash receptacles and drinking fountains, or any other requirement listed in the Building Code.

2. Hours of operation. Except as otherwise provided, hours of operation for outdoor activities shall be consistent with those for the corresponding primary use.
3. Noise. Any noise generated by the outdoor activity shall be consistent with the City's Noise Ordinance.
4. Signs. No additional business identification or advertising signs for the outdoor activity may be permitted above the maximum allowable sign area for the corresponding primary use as established in Chapter 17.52 (Signs), except when the outdoor activity is the primary use (e.g., Christmas tree lot).
5. Maintenance. Outdoor activity areas shall be kept free of garbage and other debris, and shall not encroach into required sidewalk clearance areas as follows: all outdoor activity areas shall leave a minimum horizontal clear space of six feet, or such greater amount of clear space as the Public Works Director finds necessary to protect and enhance pedestrian and vehicle traffic in the sidewalk area.

B. Standards for Outdoor Display and Sales. The following development standards shall apply to all permanent and temporary outdoor display and sales activities.

1. Associated with the primary use. All outdoor display and sales activities shall be associated with the primary use of the property. Only those goods and services associated with the primary use may be stored, sold, or displayed. All outdoor display and sales activities that are independent of the primary use shall be considered their own primary use and regulated as such (e.g., seasonal sales as a temporary use requiring a Temporary Use Permit).
2. Maximum area. Unless otherwise authorized by a use permit, the area used for permanent outdoor display and sales of materials shall not exceed ten percent of the gross floor area of the corresponding commercial building. Vehicle and equipment sales and rentals (e.g., automobile, boat, RV, construction equipment) are exempt from this requirement, provided storage and display is limited to vehicles offered for sale or rental only and all other development requirements are satisfied.
3. Time limit for temporary activities. See the requirements of Chapter 17.74 (Temporary Uses) for duration and permit requirements for temporary promotional sales.
4. Height Limit. Displayed outdoor sales, other than plant materials for sale (e.g., Christmas trees, nursery trees, etc.) shall not exceed a height of six feet above finished grade, unless a greater heights is allowed through Use Permit approval.

C. Standards for Outdoor Storage. The following development standards shall apply to all permanent and temporary outdoor storage activities.

1. Location. Outdoor storage may not be located within any required front or street side yard for the applicable Zoning District within which the activity is located.

2. Height limitation. The height of stacked materials and goods shall be no greater than that of any building, wall, fence, or gate enclosing the storage area, unless specifically stated as a development standard associated with a use.
 3. Screening. Screening of outdoor storage shall be consistent with Section 17.42.050 (Special Fence, Wall and Screening Requirements).
 4. Parking. Parking for permanent outdoor storage shall be provided as required in Chapter 17.48 (Parking).
- D. **Requirements for Outdoor Seating.** The following development standards shall apply to all permanent outdoor seating.
1. Permittee to ensure maintenance. The permittee shall be responsible for, and exercise reasonable care in, the inspection, maintenance, and cleanliness of the area affected by the outdoor seating, including any design requirements hereafter enacted, from the building frontage to the curb.
 2. Permittee to ensure compliance. The permittee shall restrict the outdoor seating to the approved location and ensure compliance with all applicable laws including laws against blocking the public right-of-way, health and safety laws, public cleanliness laws, and laws regulating sale and public consumption of alcohol.
 3. If conflict exists or is created between City and outdoor seating. When any outdoor seating authorized hereunder is found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any existing or proposed City design plans, such placement shall, upon written demand of the City Manager, be removed or relocated in such a way as to eliminate the conflict, and said removal or relocation shall be at the sole expense of the permittee. Should the permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the permittee. Any such non-compliance shall also be a violation of this Ordinance.
 4. Parking. When the Community Development Director finds that the proposed additional seating would lead to new parking demand that exceeds available supply because of the amount of outdoor seating, he/she may require off-street parking for the outdoor area devoted for the outdoor seating at the rate required for interior floor area for food service establishments in the Zoning District.

Chapter 17.70 Second Dwelling Units

Sections:

17.70.010	Purpose.....	17.70-1
17.70.020	Applicability.....	17.70-1
17.70.030	Permit Requirements	17.70-1
17.70.040	Performance Standards.....	17.70-2
17.70.050	Owner Occupancy Compliance.....	17.70-3

Draft Zoning Code Changes:

The second dwelling unit requirements have been updated for consistency with state law.

Permit requirements were clarified, revised, and updated.

Performance standards were clarified, revised, and updated.

17.70.010 Purpose

The purpose of this chapter is to establish procedures for reviewing the placement of second dwelling units in residential zoning districts, address the state’s second dwelling unit requirements, as set forth in California Government Code § 65852.2 and implement the General Plan policies which encourage more affordable rental housing, while maintaining the quality of existing residential neighborhoods.

17.70.020 Applicability

The regulations and standards contained in this chapter shall apply to all new second dwelling units in the city and shall be in addition to any other development standards and regulations contained elsewhere within the Zoning Code (e.g., lighting). Second dwelling units are permitted in single-family residential zoning districts as listed in Article II. (Zoning Districts, Allowed Uses, and Development Standards), subject to compliance with the standards of this chapter and other relevant requirements of this Title or as otherwise provided by State law. For the purposes of this Title, second dwelling units are not considered accessory structures.

17.70.030 Permit Requirements

All second dwelling units are required to secure Plan Check approval, pursuant to the requirements of Section 17.12.030 (Plan Check). All Plan Check applications for second dwelling units shall include, but are not limited to, the following:

- A. A completed building permit application that shall not be approved until plan check approval for the second dwelling unit;
- B. Proof of ownership of the property;
- C. 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;

- D. Floor plan of the second dwelling unit showing the square footage of the structure, the floor area, the lot, and the percentage of the lot area covered by the foundations of the second and primary dwelling units;
- E. 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;
- F. Colors and materials board;
- G. Such other information which the Community Development Director determines is necessary to evaluate the proposed project.
- H. Completed owner occupancy agreement, as required in Section 17.70.050, signed and ready for recordation.

17.70.040 Performance Standards

A second dwelling unit which conforms to the requirements of this chapter shall not be considered to exceed the allowable density for the lot upon which such unit is proposed to be established and shall be deemed a residential use which is consistent with the existing General Plan and zoning designations for the lot. Second dwelling units may be permitted, pursuant to the requirements of this chapter, on any lot zoned residential on which there is a single-family house, subject to the following regulations:

- A. A maximum of one second dwelling unit may be allowed on a lot containing one larger single-family dwelling.
- B. The second dwelling unit is not intended for separate sale and may be rented. Owner occupancy of one unit is required; no more than one dwelling unit on a residential property with a second residential dwelling unit parcel may be rented at one time. The second dwelling unit may not be sold separately from the residential dwelling on the lot.
- C. The second dwelling unit meets all of the applicable zoning regulations for the specific Zoning District in which it is located. The second dwelling unit shall be located on a lot which was legally created and conforms to the applicable standards and requirements of the Zoning District. Requirements for building height, setbacks, yards, and similar design standards that apply to the single-family dwelling unit shall apply to the second dwelling unit, except as provided for within this chapter.
- D. Second dwelling units are permitted on lots with a minimum area of 5,000 square feet.
- E. The second dwelling unit may either be within the living area of the existing dwelling, attached to the existing dwelling, or detached from the existing dwelling.
- F. The addition of the second dwelling unit is compatible with the existing house as to height, style, materials, and colors.
- G. Allowed Area. Attached second dwelling units shall be a minimum of 500 square feet, shall not exceed 30 percent of the existing living area of the floor space of the primary dwelling unit, as defined in Chapter 17.98 (Glossary of Terms), and shall not exceed 1,200 square feet in floor space, excluding any attached garage area. A second dwelling unit larger than 1,200 square feet in floor space may be approved in the R-Rural Zoning District through a Conditional Use Permit pursuant to Section 17.12.140.

- H. Detached second dwelling units shall:
1. Receive a 20 percent setback reduction for the otherwise required rear, side, and street side setbacks for the residential district;
 2. Not be less than eight feet from the main structure;
 3. Not exceed one story or 15 feet in height;
 4. Not exceed a total rear lot coverage of 50 percent when considered with all other accessory buildings; and
 5. Be constructed at the rear or side of an existing single-family residence, and otherwise appear secondary in nature, and not be constructed in front of the primary structure.
- I. A second dwelling unit shall consist of complete independent living facilities including permanent requirements for sleeping, living, eating, cooking, and sanitation. The second dwelling unit shall include independent heating and cooling controls, its own kitchen and sink and standard built-in or freestanding appliances, its own bathroom with bath or shower, and a separate exterior entrance.
- J. The second dwelling unit shall utilize the same vehicular access which serves the existing dwelling unit. If the parcel is a through lot, access for both the single-family home and the second dwelling unit shall be limited to one point or side of the lot for both dwelling units.
- K. The second dwelling unit shall be provided with one additional parking space per bedroom. Additional parking may be required if the additional parking is directly related to the use of the second unit and is consistent with existing neighborhood standards in accordance with the requirements of Chapter 17.48 (Parking). The parking spaces required for the second dwelling unit can be in tandem to the required parking of the main residential structure, may be uncovered, and can be located within the front setback if it can be demonstrated that no other option exists.
- L. The primary unit meets all current codes as adopted by the City.
- M. The second dwelling unit shall meet all applicable building and construction requirements as adopted by the City that apply to the construction of single-family detached dwellings, as appropriate, including but not limited to sewer and utility services.
- N. Second dwelling units shall be served by public water and sewer and shall have access to an improved public street.

17.70.050 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. The second dwelling unit approval shall be revoked if the agreement is found to have been breached.

Chapter 17.72 Solar Energy Systems

Sections:

17.72.010	Purpose.....	17.72-1
17.72.020	Applicability.....	17.72-1
17.72.030	Development Guidelines.....	17.72-1

Draft Zoning Code Changes:
This new chapter provides guidelines to assist property owners in the development of solar facilities.

17.72.010 Purpose

Consistent with state policy to promote the use of solar energy systems and to limit obstacles to their use, the purpose of this chapter is to encourage the development and use of active and passive solar energy strategies, including the use of sunlight for heating water and air in homes and for providing a renewable source of energy for all properties.

17.72.020 Applicability

The requirements contained in this chapter are guidelines that apply to all solar energy systems in addition to any other development requirements contained elsewhere within the Zoning Code (e.g., building height). Solar energy systems are permitted by right in all Zoning Districts subject to approval of a Building Permit, Plumbing Permit, and/or Electrical Permit issued by the Building Official.

17.72.030 Development Guidelines

The guidelines below assist property owners and residents in the optimum development of solar energy systems. Refer to state law for mandatory state requirements.

A. Building-Mounted Solar Energy Systems – Construction Guidelines.

1. Consider designing at least one section of roof with at least 300 square feet of uninterrupted space for the installation of solar energy systems. This space should be free of any skylights, equipment, parapets, or other structural obstruction. This area of roof should be south-facing and free of shading.
2. Consider using an architectural style with flat roofs that would be conducive to the use of solar energy systems. Styles such as Italianate and some neo-classical architectural styles commonly include flat roofs. Parapet roofs can also be easily designed to support solar facilities.

B. Building Mounted Solar Energy Systems - Building Orientation. Buildings should be located to maximize energy efficiency through the creation of optimal conditions for the use of both passive and active solar strategies. Such strategies include, but are not limited to, the following:

1. Buildings should be oriented such that one axis of each building is at least 1.5 times longer than the other and such that the longer axis is within 15 degrees of the geographical east/west axis. Projects or sites with more than one building

should be oriented such that at least 75 percent or more of all buildings satisfy these standards.

2. Projects or sites with more than one building should be designed such that for 75 percent or more of the project's blocks, one axis of each block is within 15 degrees of geographical east/west and the east/west length of each block is at least as long as, or longer than, the north/south length of the block.
 3. The south-facing walls of buildings should not be more than 25 percent shaded, as measured at noon on December 21.
- C. Shading. Buildings, landscaping, vegetation, fences, and other solar screens should be located and sited to the minimum extent possible so that they do not preclude or discourage the use of solar energy on-site and for adjacent properties and buildings. Consideration should be given to the mature height of trees and other landscaping. Where necessary, the Community Development Director may require submission of a map showing shadows cast by solar screens, including landscaping and vegetation at maturity, for 12 noon on December 21. Vegetation shading solar energy systems shall be removed in accordance with Public Resources Code Section 25980 et. seq., which governs solar shading.

Chapter 17.74 Temporary Uses

Sections:

17.74.010	Purpose.....	17.74-1
17.74.020	Permit Requirements and Exemptions.....	17.74-1
17.74.030	Temporary Use Regulations.....	17.74-2
17.74.040	Similar Uses	17.74-3

Draft Zoning Code Changes:

This chapter introduces a temporary use permit process for the City of Pinole. Whereas the existing code provides assorted standards pertaining to temporary uses throughout the Code without establishing a permit or review process, this draft consolidates and expands temporary use requirements and descriptions.

The chapter provides flexibility to accommodate other temporary uses that may not be identified in the Code but may be similar in nature to permitted uses. In such cases, the Community Development Director may use the procedures established in Chapter 17.06 (Interpretations) to determine if a proposed temporary use is similar in nature to those permitted by the Code.

17.74.010 Purpose

The purpose of this chapter is to establish regulations for uses of private property that are temporary in nature. These requirements place restrictions on location and duration, and create standards to minimize potential impacts of the temporary use on surrounding property and ensure the general health, safety, and welfare of persons residing within the community.

17.74.020 Permit Requirements and Exemptions

- A. Temporary Use Permit Required. Except as otherwise provided in the Zoning Code, the temporary uses listed in this chapter shall require the issuance of a Temporary Use Permit from the designated Approving Authority prior to establishment of the use. The process for accepting, reviewing, and approving or denying a Temporary Use Permit shall be as described in Section 17.12.070 (Temporary Use Permit). Additionally, the designated Approving Authority may impose conditions on the approval of a temporary use consistent with the standards of Section 17.12.070 (Temporary Use Permit). This permit shall be subject to internal review by any/all departments necessary, as determined by the Community Development Director.
- B. Option for Conditional Use Permit. Applicants seeking a Temporary Use Permit for a time period longer than otherwise allowed by this chapter may submit for a Conditional Use Permit for said activity, provided that it complies with all other relevant development and operational standards (other than time duration) for the use as provided in this chapter. Approval of the Conditional Use Permit shall be in accordance with the standards of Section 17.12.130 (Conditional Use Permits).
- C. Exempt Temporary Uses. The following temporary uses are exempt from the entitlement requirements of this chapter, provided that they comply with the development standards listed herein.

1. Garage sales are permitted on any parcel where the garage sale operator resides. Garage sales may not exceed three sales per calendar year and two consecutive days for each garage sale.

17.74.030 Temporary Use Regulations

The following temporary uses may only be established after first obtaining a valid Temporary Use Permit as described in Section 17.76.030 (Permit Requirements).

- A. Construction yards and storage sheds, which are to be used for a period of more than three months, for the storage of materials and equipment used as part of a construction project provided a valid Building Permit has been issued and the materials and equipment are stored on the same site as the construction activity. Such activity shall be visually screened from the public right-of-way through fencing or other visual screening. The applicant shall provide and implement a security plan to the satisfaction of the City Police Chief. The site shall be kept reasonably free of clutter and shall not constitute a public nuisance.
- B. Special One Day Events such as grand openings, holiday flower sales, fruit and vegetable sales, and other special retail sales, as well as ground breaking ceremonies. The applicant shall provide and implement a site plan to the satisfaction of the City. The site shall be kept reasonably free of clutter and shall not constitute a public nuisance.
- C. Expositions, concerts, , clinics, amusement rides, and flea markets may be conducted for a period not to exceed ten days within a calendar year (either consecutive or intermittent). The use must be located in a district other than residential or shall be under the direction/supervision of a public agency or an organization, church, or school use in any district. Also, temporary uses of a similar nature when located within an entirely enclosed building are exempt from the permit requirement.
- D. Carnivals, circuses, and fairs are governed by the regulations in Chapter 5.36 of the Municipal Code.
- E. Outdoor sales and display of goods, including promotional sales, may be conducted as part of an otherwise lawfully permitted or allowed permanent commercial use, provided that all activities are conducted within the buildable portion of the lot. For new business with a valid business license, such outdoor sales and displays of goods shall be limited to a maximum 30-day period within the first 180 days after that business is established. Existing businesses shall be limited to a maximum of three periods totaling a maximum of 30 days within a given year. Sales and displays may not occupy more than ten percent of the parking area for that business and shall not substantially alter the existing circulation pattern of the site. Temporary sales and displays shall not obstruct any existing disabled accessible parking space.
- F. Seasonal sales (e.g., Christmas tree sales, pumpkin sales) may be permitted in any non-residential Zoning District upon issuance of a Temporary Use Permit. The term of the Temporary Use Permit shall not exceed 60 days per seasonal sales location per calendar year. The seasonal merchandise shall not utilize required parking spaces dedicated to other uses.
- G. Temporary sales and construction offices used for the sale of lots and/or homes as part of a new residential subdivision may be permitted. In addition, conditions of approval

regulating the hours of operation, landscaping, or other aspects of operation may be imposed as part of the Temporary Use Permit as deemed necessary.

17.74.040 Similar Uses

When a temporary use is not specifically listed in this chapter, the Community Development Director shall determine whether the proposed temporary use is similar in nature to permitted uses(s) in Article II (Zoning Districts, Allowed Uses, and Development Standards), and, if approved, shall establish the term and make necessary findings and conditions for the particular proposed temporary use, consistent with the requirements for Interpretation in Chapter 17.06 (Interpretation).

Chapter 17.76 Wireless Communication Facilities

Sections:

17.76.010	Purpose.....	17.76-1
17.76.020	Applicability.....	17.76-1
17.76.030	Permit Requirements	17.76-2
17.76.040	Exemptions.....	17.76-3
17.76.050	Application Requirements.....	17.76-5
17.76.060	Development Standards	17.76-8
17.76.070	Operation and Maintenance Standards.....	17.76-13
17.76.080	Removal Requirements and Discontinuance of Use	17.76-13

Draft Zoning Code Changes:

This chapter reorganizes and consolidates existing wireless communication facility requirements and entitlement requirements for improved usability and reflects current state and federal laws.

New operation and maintenance standards are established.

17.76.010 Purpose

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 any adverse environmental effects of wireless telecommunication facilities; to ensure against the creation of visual blight on the city's major or minor ridgelines, protected areas, and view corridors as identified on the Visual Resources Map (GP-12) of the General Plan; to protect the environmental resources of the city; and to protect the citizens of Pinole from any possible adverse health effects associated with exposure to high levels of NIER (non-ionizing electromagnetic radiation) to the extent permitted by the Federal Communication Commission (FCC). The City acknowledges the community benefit associated with the requirement 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.

17.76.020 Applicability

The regulations and standards contained in this Chapter shall apply to all wireless telecommunication facilities on private and public property in the City, including public streets and alleys and property owned by any local, state, or federal government agency or political subdivision of such government entity, and shall be in addition to any other development standards and regulations contained elsewhere within the Zoning Code (e.g., lighting). Wireless telecommunication facilities are permitted as listed in Article II. (Zoning Districts, Allowed Uses, and Development Standards), subject to compliance with the standards of this chapter and other relevant requirements of this Title. Permitted wireless telecommunication facilities are also identified for each Zoning District in Table 17.20.030-1 (Allowed Uses and Permit Requirements for City of Pinole Base Zoning Districts).

17.76.030 Permit Requirements

- A. **Conditional Use Permit Requirements and Exceptions.** Except as otherwise outlined below, a Conditional Use Permit as established by Section 17.12.130 (Conditional Use Permit) is required for all wireless communication facilities. Also see Section 17.76.040 (Exemptions) for specific exemptions.
1. In order to ensure compliance with the requirements of 47 U.S.C. section 332(c)(7)(B), an applicant that believes that the City's prohibition of wireless telecommunications facilities in particular zoning districts or any of the standards in this chapter either (a) unreasonably discriminate among providers or functionally equivalent services, or (b) prohibit or have the effect of prohibiting the requirement of personal wireless services, may apply for a conditional use permit. In order for such permit to be granted, the decision maker must find, in addition to all other required findings for the granting of a conditional use permit, that substantial evidence in the written record establishes that either of the above stated criteria is met.
 2. Collocation. Administrative review and approval may be available, so long as a collocation facility satisfies all requirements set forth in Section 65850.6 of the California Government Code.
- B. **Public Hearing and Public Notice.** A public hearing shall be held and public noticing conducted as established in Section 17.10.050 (Public Hearing and Public Notice), except that public notice shall be given to all property owners within 500 feet of the property of the proposed wireless telecommunication facility, instead of only providing notice to property owners within 300 feet, as normally required by Section 17.10.050 (Public Hearing and Public Notice).
- C. **Financial Guarantee.** Prior to constructing a new wireless telecommunication facility, or prior to renewing a Conditional Use Permit for an existing wireless telecommunication facility, the applicant or permittee shall provide a financial guarantee that shall be indexed annually for inflation in an amount, satisfactory to the designated Approving Authority, for the removal of the facility, based on the estimated cost to remove the facility in the event the use is abandoned or the Conditional 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 wireless telecommunication facility 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 the wireless telecommunication facility or transfer of the lease accompanied by a financial guarantee from the new lessee or owner.
- D. **Conditions of Approval.** The designated Approving Authority may impose conditions of approval as described in Section 17.12.130 (Conditional Use Permit), including but not limited to, requiring modifications to the site.
- E. **Requirements and Allowances Upon Approval**
1. 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 landowner of the land allowing the applicant the use of required water facilities for landscaping installed improvements in the area.

2. Minor modifications to the approved equipment design, location, elevations, and other elements of the approved wireless telecommunication facilities may be allowed by the Community Development Director if such modifications are in keeping with the architectural statement and layout design of the original approval.
- F. **Ongoing Public Hearings Required.** All permit approvals for commercial wireless telecommunication facilities are subject to a public hearing every five years to demonstrate continuing compliance with the conditions of approval. When reviewing existing facilities for renewal, the designated Approving Authority of the original entitlement shall determine whether substantial progress has been made in decreasing the visibility of these facilities. At the time of each five-year review, modifications and new and/or revised conditions of approval may be made to the original Conditional Use Permit if technology has advanced to the point where the wireless telecommunication facilities can be made safer or less visually obtrusive or to conform to other similar wireless telecommunication facilities that are currently being installed or are located in California at the time of entitlement review. These reviews shall include photo documentation of existing conditions and equipment for comparison with past conditions, to facilitate policy goals related to minimizing site disturbance and visibility, and justify the need for the range of equipment. Additional equipment shall only be allowed where the cumulative visual impacts are decreased through replacement with smaller equipment or additional mitigation to decrease visibility.

17.76.040 Exemptions

The following wireless communication facilities are exempt from the requirements of this chapter as specified below, except that wireless communication facilities are subject to compliance with other requirements of this Title.

- A. A wireless communication facility shall be exempt from the requirements of this chapter if and to the extent that a permit issued by the California Public Utilities Commission (CPUC) or the rules and regulations of the Federal Communication Commission (FCC) specifically provide that the antenna is exempt from local regulation. Such facilities include, but are not limited to, television antennas on residential buildings.
- B. Satellite earth station (SES) antennas, which are two meters (6.5616 feet) or less in diameter or in diagonal measurement, located in any non-residential Zoning District. To avoid the creation of a nuisance and to reduce accidental tripping hazards and maximize stability of the SES antenna, such antennas shall be placed whenever possible on top of buildings and as far away as possible from the edges of rooftops.
- C. Parabolic antennas, direct broadcast satellite (DBS) antennas, which are one meter (3.2808 feet) or less in diameter or diagonal measurement and television broadcast service (TBS) antennas, so long as said antennas are located entirely on private property and are not located within the required front yard setback area.
- D. Amateur radio antenna structures provide a valuable and essential telecommunication service during periods of natural disasters and other emergency conditions and are

therefore exempt from permit requirements of this chapter in compliance with the following standards:

1. Height limits. Amateur radio antennas in any district may extend to a maximum height of 75 feet, provided that the tower is equipped with a lowering device (motorized and/or mechanical) capable of lowering the antenna to the maximum permitted building height of the applicable zoning district when not in operation.
 2. Location parameters. All antenna structures shall be located outside of required front and street side yard areas. Antenna structures shall also be set back a minimum distance of five feet from interior property lines.
 3. Tower safety. All antennas shall be located within in an enclosed fenced area or have a minimum five-foot-high tower shield at the tower base to prevent climbing. All active elements of antennas shall have a minimum vertical clearance of eight feet.
- E. Satellite antennas used or designed for receiving or transmitting electronic signals to or from orbiting earth satellites that comply with the following standards. Exceptions to these requirements may be granted by the designated Approving Authority upon the issuance of a Conditional Use Permit as provided by Section 17.12.130 (Conditional Use Permit).
1. Dimensions of the satellite antenna shall be no greater than 18 inches in dimensions.
 2. Satellite antennas greater than 18 inches dimension in compliance with the following.
 - i. A setback equal to the height of the antenna or the setback that applies to the principal structure, whichever is greater, shall be maintained between any property lines and any part of the antenna. In addition, installation shall be prohibited between any street and principal building on the site, except as provided below.
 - ii. In any case where a lot backs up to a public right-of-way or private street, a setback of 15 feet shall be maintained between the rear property line and any portion of the antenna.
 - iii. Maximum height of the antenna shall be 15 feet measured from the finish grade immediately under the antenna to the highest point of the antenna or any appurtenance attached thereto.
 - iv. All wires and/or cable 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.
 - v. Antennas installed with the use of guy wires are prohibited.
 - vi. Highly reflective surface or colors shall not be used on any such antenna.
 - vii. Additional attention and evaluation may be needed to assure that antennas proposed for property locations in hillside areas are installed in locations which are least visible from areas off-site.

- viii. No more than one antenna shall be installed on any parcel.
 - ix. Installation shall be prohibited on the roof of any structure on the parcel except in non-residential zoning districts where the antenna is screened from view from adjacent parcels and rights-of-way.
 - x. No antenna which exceeds six feet in height from the finish grade 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.
3. Emergency communication backup facilities.
 4. Co-location on an existing wireless telecommunication facility. This co-location is allowed if the structure obtained a Conditional Use Permit after January 1, 2007, and was subject to environmental review and a public hearing.
 5. 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 the federal government which are operated for public and not commercial purpose.

17.76.050 Application Requirements

An application for the approval of a wireless telecommunication facility shall include the following information, in addition to all other information required by the City for a Conditional Use Permit application as established in Section 17.12.130 (Conditional Use Permit):

- A. Site plan containing all information required by the City.
- B. All exterior elevations, scaled as appropriate for presentation.
- C. Samples of materials used for the wireless telecommunication facilities as required by the City, including but not limited to, roofing, siding, trim, windows, doors, and fences, as follows:
 1. At least one elevation should be in color.
 2. Color samples and materials mounted on a board or rigid surface should be submitted.
- D. Plans showing the screening of all mechanical equipment, including but not limited to, gas meters, electric meters, and electric transformers.
- E. Landscaping plans as required by Chapter 17.44 (Landscaping), including proposals to establish and maintain maximum visual screening of unsightly public views of the wireless telecommunication facilities.
- F. A master plan for all related facilities, either existing or proposed, within the city limits of Pinole and within one-quarter mile of the proposed wireless telecommunication facility.

- G. Visual simulations showing what the proposed facility would look like from the surrounding area as viewed from residential properties and public rights-of-way at varying distances to assist the Approving Authority and the public in assessing the visual impacts of the proposed facility and its compliance with the requirements of this chapter.
- H. For areas 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 comparisons 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. Alternative site analysis prepared by or on behalf of the applicant, subject to the approval of the approval of the Planning Commission which identifies all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed wireless telecommunication 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 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 wireless telecommunication facilities, accessory structures, new roads, and the surrounding area extending at least 150 feet beyond any proposed towers and at least 50 feet beyond other proposed wireless telecommunication 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 3,000-foot radius of the proposed wireless telecommunication facility.
- M. A map showing how the proposed wireless telecommunication facilities fit within the network of the applicant's existing and proposed antenna sites within 3,000 feet of the project vicinity.
- N. A statement including the following:
1. The intent to design the facility to allow for co-location;
 2. The power rating for all wireless telecommunication facilities and all backup equipment proposed with the first application;
 3. A description of the system, including the number of antennas, and associated related equipment that conform to the radio-frequency exposure standards adopted by the FCC and VAll that will operate within the frequency assigned by the FCC;

4. Assurance that the 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 standards;
 5. A statement that demonstrates why a wireless telecommunication facility type with a lesser adverse visual impact is not feasible.
- O. 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 Conditional Use Permit.
- P. A technical review by a licensed electrical engineer with experience in telecommunications, or qualified expert as approved by the Community Development Director, 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 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 the 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.
- Q. When two or more wireless telecommunication facilities operate in the same location, the carriers operating those facilities shall provide documentation of testing done by an electromagnetic field (EMF) expert to verify that the cumulative ELF levels conform to standards adopted by the FCC.
- R. A list of the names, addresses, and types of users who will occupy the site.
- S. In conjunction with application submittal once an application is schedule for a public hearing, applicants shall be required to construct a full-scale mock-up of a proposed facility less than 25 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.

- T. All applications and subsequent reviews shall include a list and photo documentation of transmission, reception, and other equipment initially proposed, justifying the need for the range of equipment.

17.76.060 Development Standards

- A. **General Development Standards.** Unless otherwise exempt pursuant to Section 17.76.040 (Exemptions), the following general development standards shall apply to all wireless telecommunication facilities.
1. All wireless telecommunication facilities shall comply with all applicable requirements of the current Uniform Codes as adopted by the City and shall be consistent with the General Plan and this Code, as well as other standards and guidelines adopted by the City, and all applicable state and federal law.
 2. All wireless telecommunication facilities shall comply at all times with the FCC rules, regulations, and standards, and any other applicable federal, state, or local laws or regulations.
 3. Sufficient anti-climbing deterrents, including warning signs (ANSI Standards C95.2-1982 Warning Symbol), shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.
 4. To minimize overall visual impact, all new 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 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.
 5. All wireless telecommunication facilities shall be located so as to minimize their visibility and utilize the latest technology available to minimize visual impacts.
 6. Wireless telecommunication facilities shall be located, designed, and screened to blend with existing natural or built surroundings so as to reduce visual impacts of the technological requirements of the proposed wireless telecommunication facility and, in so far as possible, appear compatible with neighboring residences and the character of the community.
 7. All related equipment shall have a non-reflective finish and shall be painted or otherwise treated to minimize visual impacts and placed in underground vaults whenever possible. All utilities (i.e., gas, electric, cable, phone, and water) shall be placed underground.
 8. Building-mounted wireless telecommunication facilities are preferred to ground-mounted wireless telecommunication facilities. Development of wireless telecommunication facilities on vacant sites shall be temporary. When the site is

- developed, such facilities shall be removed and replaced with building-mounted wireless telecommunication facilities.
9. All wireless telecommunication facilities that are not mounted on existing structures shall comply with at least one of the following:
 - i. Facilities shall be 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;
 - ii. Facilities shall be sited within areas with substantial screening by existing vegetation;
 - iii. Facilities shall be designed to appear as natural features found in the immediate area, such as trees or rocks, so as to be effectively unnoticeable;
 - iv. Facilities shall be screened with additional trees and other native or adapted vegetation that 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 telecommunication facilities. Such landscaping, including irrigation, shall be installed and maintained by the applicant, as long as the entitlement is in effect; or
 - v. 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 wireless telecommunication facility, in addition to screening of the facility.
 10. All proposed equipment cabinets/structures, accessory structures, and other related equipment shall be continuously maintained in good condition. This shall include keeping equipment cabinets and structures graffiti-free and maintaining all security fences and warning signs in good condition.
 11. The display of signs or advertising on wireless telecommunication facilities is prohibited.
 12. 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 the 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.
 13. Freestanding wireless telecommunication facilities shall not be located within the required setback of any property and shall be located a minimum of 150 feet from any residential use.
 14. All freestanding wireless telecommunication facilities 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.

15. In appropriate cases, the proposed wireless telecommunication facilities may be located on a City-owned or controlled property or within City rights-of-way, provided the appropriate applications are submitted, easements procured, and any other relevant procedures complied with.
- B. **Building-Mounted Antennas.** In addition to all other applicable development standards listed above, wireless telecommunication facilities proposed to be mounted or attached to an existing building shall be reviewed by the designated Approving Authority for compliance with the following.
1. Building-mounted antennas and any related equipment shall be in scale and architecturally integrated with building design in such a manner as to minimize the visual impact of the wireless telecommunication facilities. Screening designs may include locating the facility within attics, steeples, or 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 façade of a building.
 3. Wireless telecommunication facilities and all related equipment shall be located to minimize visibility from public places. Any visible portion of equipment shall be painted or treated to be architecturally compatible with the surrounding buildings and/or shall be screened, using appropriate techniques to camouflage, disguise, and/or blend into the surrounding environment, as determined by the designated Approving Authority.
 4. Antennas shall be flush-mounted and located below the roof line of the building. Antennas and related equipment shall not project beyond a maximum of 18 inches from the face of the building.
- C. **Roof-Mounted Antennas.** In addition to all other applicable development standards listed above, wireless telecommunication facilities proposed to be mounted or attached to the roof of an existing building shall be reviewed by the designated Approving Authority for compliance with the following.
1. All roof-mounted antennas and related equipment, other than antennas proposed to be located directly on the façade of a structure, shall be aesthetically compatible with and located as far away from the edge of the building as technically feasible as determined by the designated Approving Authority. Antennas attached to the building shall be painted or otherwise treated to match the exterior of the building or the antenna's 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 wireless telecommunication facilities incorporate appropriate techniques to camouflage, disguise, and/or blend them into the surrounding environment, as approved by the designated Approving Authority.
 3. The height of roof-mounted antennas, including the support structure, shall not exceed 15 feet above the roof plate of the building to which they are attached.

4. Wireless telecommunication facilities and related 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. **Ground-Mounted Antennas and Wireless Telecommunication Facilities on Major or Minor Ridgelines or Open Space Areas.** In addition to all other applicable development standards listed above, wireless telecommunication facilities proposed to be ground-mounted antennas, proposed for location on a major or minor ridgeline, or proposed for location in an Open Space Area, shall be reviewed by the designated Approving Authority for compliance with the following.

1. Wireless telecommunication facilities visible on or above a ridgeline or knoll, as shown on the General Plan Visual Resources Map (Figure 10.4), shall be prohibited unless, prior to approving the application, the designated Approving Authority determines that the applicant has demonstrated that there is no feasible alternative.
2. Wireless telecommunication facilities operated by different carriers shall not be allowed within 1,000 feet of another facility, unless the designated Approving Authority determines that the cumulative visual or other physical environmental impacts can be reduced by allowing such facilities to locate within 1,000 feet of one another.
3. All proposed wireless telecommunication 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 ground-mounted antenna.
4. All proposed wireless telecommunication facilities shall incorporate techniques and be designed as a stealth facility. Such techniques include camouflaging facilities to disguise and/or blend into the surrounding environment, or to disguise facilities as pieces of art or sculptures, flag poles, telephone poles, light standards, or other visual forms to avoid an adverse visual impact.
5. All related equipment shall be designed and located so as to minimize visual impacts and/or to be screened from public view. Screening techniques may include landscaping and/or architectural treatment to make them compatible with existing buildings and/or a partial or complete burial of the equipment.

E. **Freestanding Antennas and Wireless Telecommunication Facilities on Major or Minor Ridgelines or Open Space Areas.** In addition to all other applicable development standards listed above, wireless telecommunication facilities proposed to be freestanding antennas, proposed for location on a major or minor ridgeline, or proposed for location in an Open Space Area shall be reviewed by the designated Approving Authority for compliance with the following.

1. All proposed wireless telecommunication facilities shall be located and designed to minimize visual impacts. When appropriate, monopoles or other wireless telecommunication facilities proposed 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. Wireless telecommunication facilities operated by different carriers shall not be allowed within 1,000 feet of one another unless the designated Approving Authority determines that the cumulative visual or other physical environmental impacts can be reduced by allowing such facilities to locate within 1,000 of one another.
3. 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. All proposed wireless telecommunication facilities shall utilize the smallest and least visible antennas that meet the coverage objective.
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. Wireless Telecommunication Facilities on Major or Minor Ridgelines or Open Space Areas.

In addition to all other applicable development standards listed above, wireless telecommunication facilities proposed for location on a major or minor ridgeline, or proposed for location in an Open Space Area, shall be reviewed by the designated Approving Authority for compliance with the following.

1. No wireless telecommunication facility shall be located within 400 horizontal feet of a major ridgeline (as shown on Map GP-12 of the General Plan) and 100 horizontal feet of a minor ridgeline (as shown on Figure 10.4 of the General Plan) and within 100 vertical feet for both. The distance shall be measured from the peak of the ridge. An exception may be granted by the designated Approving Authority only if any of the following findings can be made:
 - i. Due to the specific location and design of the proposed facility, it will not be visible from surrounding properties or public view;
 - ii. 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
 - iii. The applicant can demonstrate that there is no feasible alternative.
2. 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 designated Approving Authority when facilities are proposed within areas identified as major and minor ridgeline areas.
3. Development of a wireless telecommunication facility shall conform generally with the natural contours to avoid excessive grading.

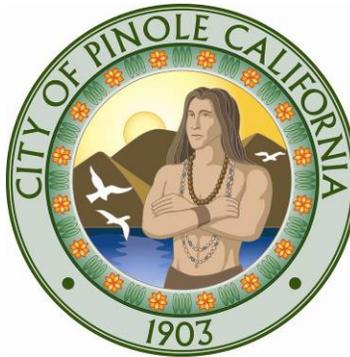
17.76.070 Operation and Maintenance Standards

All wireless telecommunication facilities shall comply at all times with the following operation and maintenance standards. Failure to comply with the standards constitutes a violation of the Zoning Ordinance and may result in permit revocation.

- A. **Noise.** All wireless telecommunication facilities shall comply with the City's Noise Ordinance.
- B. **Non-ionizing Electromagnetic Radiation (NIER) Exposure.** No wireless telecommunication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such wireless telecommunication facilities, a potential threat to public health. To this end, no wireless telecommunication facility or combination thereof shall produce, at any time, power densities in any inhabited area that exceed the Federal Communication Commission's Maximum Permissible Exposure (MPE) limits for electric and magnetic field strength and power density for transmitters or any more restrictive standard adopted or promulgated by the City or by the county, state, or federal government.
- C. Wireless telecommunication facilities shall be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. Any damages from any cause shall be repaired as soon as reasonably possible so as to minimize the occurrence of dangerous conditions or visual blight.
- D. Each owner or operator of a wireless telecommunications facility shall routinely inspect each site to ensure compliance with the standards set forth in this chapter.

17.76.080 Removal Requirements and Discontinuance of Use

In the event that one or more wireless telecommunication facility or any component thereof, including, but not limited to, antennas, towers, or related equipment, are not operated for the requirement of wireless telecommunication services for a continuous period of 180 days or more, such wireless telecommunication facility or component thereof shall be deemed abandoned and the entitlement shall expire. The owner, operator, or other person or entity responsible for the wireless telecommunication facility or component thereof shall remove such items within 30 days following the mailing of written notice from the City that removal is required. Such entity shall restore the site to its original predevelopment condition on or before this time as much as possible to the condition required by the Community Development Department. If two or more providers of wireless telecommunication services use the wireless telecommunication facility or any component thereof, the period of nonuse under this section shall be measured from the cessation of operation at the location by all such providers. Failure to remove shall constitute a public nuisance and shall be enforced as such. For facilities located on City-owned or leased property, this removal requirement shall be included within the applicable lease. In addition, the permittee shall provide the Community Development Department with a notice of intent to vacate the site a minimum of 30 days prior to vacation. The Community Development Department shall provide the permittee with a notice that removal is required, and removal of all wireless communication facilities shall be removed as established by this section.



Title 17 – Zoning

Article V

Resource Conservation

Chapter 17.94	Wind Energy Conversion Systems	17.94-1
Chapter 17.96	Tree Removal	17.96-1

Revisions:

The following revisions have been made to Article V of Title 17:

Date of Adoption	Ordinance Number	Subject	Section	Page Number

Chapter 17.94 Wind Energy Conversion Systems

Sections:

17.94.010	Purpose.....	17.94-1
17.94.020	Regulations	17.94-1
17.94.030	Revocation	17.94-3

Draft Zoning Code Changes:

This chapter maintains adopted zoning regulations for wind energy conversion systems as previously listed in Chapter 17.30. No substantial changes have been made. Definitions have been moved to Chapter 17.98 (Glossary).

17.94.010 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.

17.94.020 Regulations

Wind energy conversion systems are permitted in all zoning districts subject to the following requirements:

- A. **Use Permit Required.** A use permit is required for all WECS subject to the requirements of Chapter 17.12.130 (Conditional Use Permit).
- 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:
 - i. A property line and physical dimensions of the proposed site,
 - ii. Location, approximate dimensions and types of major existing structures and uses of the site,
 - iii. Location and elevation of the proposed WECS,
 - iv. Location of all aboveground utility lines and other WECS on-site or within one radius of the total height of the proposed WECS,
 - v. 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,

- vi. Location of all transmission facilities proposed for installation, and
- vii. 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 requirements 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.

17.94.030 Revocation

The City Council may revoke any use permit subject to the procedures established in Chapter 17.16.070 (Permit Revocation or Modification) in any case where the conditions of the granting of such use permit or the requirements of this chapter have not been complied with.

Chapter 17.96 Tree Removal

Sections:

17.96.010	Purpose and Intent	17.96-1
17.96.020	Applicability	17.96-1
17.96.030	Pruning of a Protected Tree	17.96-1
17.96.040	Protected Tree Removal Permit Application.....	17.96-2
17.96.050	Removal of Protected Tree(s) Due to the Health of the Tree	17.96-2
17.96.060	Protected Tree(s) Removal Permit – As Part of a Development	17.96-3
17.96.070	Preservation of Existing Protected Trees During Development.....	17.96-5
17.96.080	Guarantees for Protected Trees Remaining Within Development Area	17.96-5
17.96.090	Penalties	17.96-6

Draft Zoning Code Changes:

This chapter maintains adopted zoning regulations for tree removal as previously listed in Chapter 17.64. No substantial changes have been made. Definitions have been moved to Chapter 17.98 (Glossary of Terms).

17.96.010 Purpose and Intent

The City values its natural features as an integral part of the city life. The purpose of this chapter is to ensure that certain species of trees and/or trees of a significant size are treated as important natural features in the city. In general, healthy protected trees shall not be cut down, removed or destroyed. In a situation where a protected tree(s) are located on sites where development is proposed, protected trees are to be given a high priority throughout the development process with a public hearing and special findings required to remove a protected tree(s).

This chapter does not apply to trees in City parks and open space, the unauthorized removal or damage to which is strictly prohibited pursuant to Chapter 12.16 of this Municipal Code.

17.96.020 Applicability

Requirements in this chapter apply to protected trees as defined in the Chapter 17.98 (Glossary of Terms). As outlined herein, a Tree Removal Permit is required prior to removal of protected trees within the City of Pinole.

17.96.030 Pruning of a Protected Tree

The pruning of any protected tree shall be performed only when it enhances its structural strength, health, general appearance or for safety reasons. Any pruning must be either completed by a certified/consulting arborist, or by the owner of protected tree who is following a plan created by a certified/consulting arborist.

17.96.040 Protected Tree Removal Permit Application**A. Time of application.**

1. Any person desiring to cut down, destroy or remove one or more protected trees on any undeveloped, vacant property or land under development that requires a building permit in the City, shall file an application for a tree removal permit application with the Community Development Director. If the protected tree removal does not involve development, the application shall be filed not less than ten days prior to the time desired for the physical removal of the protected tree.
2. If the protected tree removal does involve development, the applicant shall file the application concurrently with the first application for approval of the development. The applicant is strongly encouraged to review the proposed development with the Community Development Director to determine which protected trees could be preserved before design drawings are begun.

B. Content of Application.

1. The application shall contain the precise number, species, size and location of the protected tree(s) to be cut down, destroyed or removed and a statement of the reason for removal, the signature of the property owner authorizing such removal, the signature of the person actually performing the work if different than the property owner and if known at the time of the application, as well as any other pertinent information the Community Development Director may require. The applicant shall submit five copies of drawing and a fee prescribed by City Council resolution to cover the cost of investigation and processing.
2. If the tree removal involves development, the applicant shall provide a tree survey plan specifying the precise location and dripline of all existing trees (protected trees and non-protected trees) on the property.
3. Unless the reason for the proposed removal of the protected tree(s) is evident, (i.e. the protected tree is clearly dying) the applicant shall also submit a certified or consulting arborist's report, which shall include an evaluation of the protected tree(s) to be removed as well as any appropriate recommendations concerning the preservation of any surviving protected tree(s) on the property. The appraisal shall be done at the applicant's sole expense, and the appraiser shall be subject to the City's approval, which approval it shall not unreasonably withhold.

17.96.050 Removal of Protected Tree(s) Due to the Health of the Tree**A. Review by City Planner.** The Community Development Director shall grant the permit if he or she makes either of the following findings:

1. The condition of the protected tree(s) with respect to disease, species, form, general health, damage, public nuisance, danger of falling, proximity to existing structures, interference with utility services, or damage to existing sidewalks and driveways warrants its (their) removal and such condition cannot reasonably be remedied through less drastic means.

2. The protected tree(s) acts as a host for a parasitic plant or insect which may endanger other protected tree(s) in the area and cannot reasonably be controlled through less drastic means.
- B. **Conditions of Approval.** Whenever any protected tree removal permit is granted, the City Planner shall impose such conditions as may be necessary to safeguard the public safety and the intent of this chapter. A protected tree removal permit shall become null and void if the privileges granted thereunder have not been utilized within one (1) year from the effective date thereof. The conditions will be in addition to those set forth in Section 17.96.060C.
 - C. **Notice of the Decision.** The decision of the Community Development Director shall be mailed to the applicant within ten working days.
 - D. **Notification to Planning Commission.** After approving an application for protected tree removal permit, the Community Development Director shall advise the Planning Commission of his or her decision at their next regular meeting.
 - E. **Appeals.** Any person may appeal the actions of the Community Development Director 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 17.10.070.

17.96.060 Protected Tree(s) Removal Permit – As Part of a Development

The protected tree(s) removal permit applications for protected trees sought to be removed for development shall be considered by the body given the authority to render the initial decision of said discretionary development approval. In the event a protected tree is to be removed as a consequence of a building permit issuance, the hearing body shall be the planning commission.

- A. **Notice and hearing.** A public hearing shall be required on that portion of a protected tree(s) removal application requesting removal of any protected tree(s) notice of the hearing shall be given in the manner specified in Section 17.10.050 of this code. This notice may be consolidated with any notice of public hearing required in conjunction with other aspects of the development approval.
- B. **Findings.** In approving any protected tree(s) removal permit, the reviewing body, through its site and landscaping plan review, shall endeavor to preserve all protected tree(s) to the extent possible. The reviewing body may approve a protected tree removal permit for the removal of a protected tree(s) only if it finds that the burden to the applicant in preserving the protected tree(s) greatly outweighs the benefit to the public and that preserving the protected tree(s) would severely reduce the scale or feasibility of the development. In making the foregoing determinations, the reviewing body shall consider such factors as the following:
 1. The species, size, age, condition and value of the protected tree.
 2. Whether the protected tree has particular historical or heritage value.
 3. The visibility and value of the protected tree to the neighborhood and the public.
 4. The contribution of the protected tree to the character of the site and the neighborhood.

5. Whether the development provides a public benefit.
6. The extent of hardship to the applicant in constructing the development using a different design, size or on-site location.
7. Whether measures short of removing the protected tree can be employed consistent with the development.

C. Conditions.

1. In approving the protected tree(s) removal permit, the reviewing body may impose conditions for the purpose of protecting any protected tree(s) which are to remain or to otherwise ensure compliance with the intent and purpose of this chapter. The conditions will be in addition to those set forth in Sections 17.96.080.B and 17.96.070.A.
 2. If the reviewing body approves the removal of any protected tree(s), the reviewing body may require as a condition of approval that the applicant either:
 - i. Plant trees as part of the development over and above the landscaping that would otherwise be required at a value equal to the value of the protected tree(s) that will be removed; or
 - ii. Pay an in-lieu fee to the City in an amount equal to the value of the protected tree(s) that will be removed.
 - iii. The Planning Commission may impose any other condition they determine appropriate for the tree removal request.
 3. As used in division a., the Community Development Director shall determine the amount of "landscaping that would otherwise be required" based on the standards stipulated in the Zoning Code. The value of the protected tree(s) that will be removed shall be determined by the value of each protected tree(s) to be removed as shown on the appraisal provided with the application pursuant to this Section 17.96.050.B. Any in-lieu fees collected by the City pursuant to this section shall be used only for the installation or replacement of trees in City parks or open space or other areas of benefit to the City.
 4. A copy of the decision and findings shall be mailed by the secretary of the decision-making body acting on the application to the applicant and to such other persons as shall so request in writing. A copy shall also be kept on file in the Community Development Department.
- D.** Removal authorized. Approval of the protected tree(s) removal plan indicating which, if any, protected tree(s) can be removed shall be used by the community development director to issue a protected tree(s) removal permit for the purpose of this chapter. The tree removal permit, if granted, shall entitle the applicant to remove only the protected tree(s) stated in the plan.
- E.** Appeal. Any person may appeal the actions of the Planning Commission to the City Council by filing an appeal with the City Clerk pursuant to the procedures set forth for a public hearing as provided in Section 17.40.030.C.

17.96.070 Preservation of Existing Protected Trees During Development

- A. General Requirements. In addition to the conditions stipulated in the tree removal permit, the following must regulations must be met as standard conditions of approval:
1. Prior to and during any demolition, grading or construction, all protected trees within a development area shall be protected by a six foot high chain link (or other material approved by the community development director) fence installed around the outside of the dripline of each tree.
 2. No oils, gas, chemicals, liquid waste, solid waste, heavy construction machinery or other construction materials shall be stored or allowed to stand within the dripline of any tree.
 3. No equipment washout will be allowed to occur within the dripline of any tree.
 4. No signs or wires, except those needed for support of the tree, shall be attached to any tree.
- B. Damage to a protected tree. If any damage occurs to a protected tree during construction, the owner, developer, contractor, or any agent thereof shall immediately notify the Community Development Director so that professional methods of treatment accepted by the community development director may be administered. The repair of the damage shall be at the expense of the responsible party and shall be by professional standards, approved by the Community development director. Failure to comply will result in a stop work order.
- C. The Community Development Director may require a certified/consulting arborist be retained by the developer to be on-site at such times during development as the community development director determines appropriate.

17.96.080 Guarantees for Protected Trees Remaining Within Development Area

- A. Application. The requirements of this section apply to any development whereby a protected tree will remain within the development area, whether or not a tree removal permit has been issued to remove other protected trees.
- B. Guarantee Period.
1. Upon issuance of the first City permit, which authorizes work on the site, the applicant shall guarantee the health of all protected tree(s) to be preserved on the site. The health of all protected trees required to remain on or in the vicinity of the site shall be guaranteed from the date the guarantee is first filed with the Community Development Director until three years after the final inspection of the development or issuance of the certificate of occupancy, if any, whichever is later.
 2. The guarantee shall include the applicant's agreement to replace any protected tree, which is to be saved, but that dies during the guarantee period with a tree of the same species as close in size as is reasonably possible within such time and in such manner as is determined by the Community Development Director.

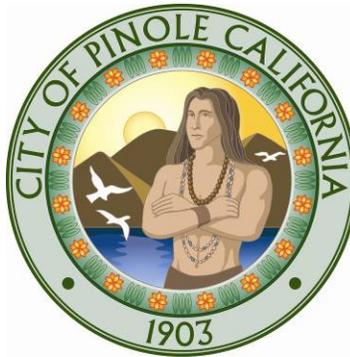
- C. Determination of loss/damage of protected tree. Upon determination by the Community Development Director that a protected tree has died through the fault of the applicant as determined under Section 17.96.080.B, pay to the City a civil penalty levied by the Community Development Director for such protected tree in accordance with the requirements of Section 17.96.090. If any person performs any work within the dripline of a protected tree which is not permitted by this chapter or otherwise damages a protected tree in a manner which is not permitted by this chapter or a protected tree permit, that person shall guarantee the health of that protected tree for a period of five years.

17.96.090 Penalties

- A. **Criminal Penalties.** Any person, including but not limited to the property owner, the person performing the work and/or any other responsible person, who violates any requirement of this chapter or any condition imposed upon any permit issued hereunder shall be guilty of a misdemeanor. Criminal penalties may be issued pursuant to Chapter 1.12 of this Pinole Municipal Code.
- B. **Civil Penalties.**
1. For each protected tree that dies through the fault of the applicant, the community development director shall levy a civil penalty not to exceed fifty dollars for each inch of circumference of the protected tree's stem, measured four and a half feet above the natural grade. A protected tree shall be presumed to have died through the fault of the applicant unless the applicant can prove that the protected tree died for reasons beyond the applicant's control.
 2. In addition to such penalty, whenever the cost of replacing a protected tree for which a civil penalty is levied is less than the appraised value of the tree included with the permit application, the applicant shall also pay to the City the difference between that appraised value and the cost of the replacement tree. The applicant's verified receipt for the cost of the replacement tree shall be conclusive proof of that cost. If the applicant chooses not to submit such a receipt within ten days following replacement of tree, then the community development director shall determine the value of the replacement tree.
 3. The Community Development Director shall be responsible for making any necessary factual determination under this section and shall put such determination in writing and mail it to the applicant.
 4. Whenever the applicant disagrees with the determination of the community development director under this section, he or she may file a written request with the community development director for appeal of his or her decision. Such request must be filed within ten days after the City has mailed to the applicant a written notice of the community development director's initial determination.
- C. **Appeal of Civil Penalty.**
1. Any person may appeal the actions of the community development director 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 17.40.030.A and (b). And thereafter appeal to the City Council as provided in Section 17.40.030.C.

2. The penalties collected pursuant to this section shall be used, in the following order of preference and at the direction of the community development director: to provide additional trees on the applicant's property; to upgrade street trees on peripheral streets; to beautify public places in the area of the applicant's property; or to provide landscaping on City property.
- D. **Filing.** All penalties shall be filed in the Community Development Director's office with copies of receipts sent to City Finance Department final inspections shall be made by the City Planner.
- E. **Cumulative Remedies.** The foregoing remedies shall be deemed non-exclusive, cumulative and in addition to any other remedy the City may have at law or in equity, including but not limited to injunctive relief to prevent violations of this chapter. The City reserves to itself in its discretion the ability to permit an applicant to replace any protected tree illegally removed with a new tree of equal or greater size or value in lieu of or in addition to any penalties.



Title 17 – Zoning

Article VI

Glossary

Chapter 17.98 Glossary of Terms 17.98-1

Revisions:

The following revisions have been made to Article VI of Title 17:

Date of Adoption	Ordinance Number	Subject	Section	Page Number

Chapter 17.98 Glossary of Terms

Sections:

17.98.010 Purpose..... 17.98-1
 17.98.020 General Definitions 17.98-1

Draft Zoning Code Changes:
This chapter updates many existing definitions and incorporates many new definitions, including several new figures.

17.98.010 Purpose

The purpose of this Chapter is to provide general definitions of the terms and phrases used in the Code that are technical or specialized in an effort to ensure consistency in the interpretation of the Zoning Code. Definitions are organized alphabetically.

17.98.020 General Definitions

Abandoned Sign. Any sign which is located on a premises that has been vacated for a period of more than 90 days as regulated in Section 17.52.120 (Nonconforming and Abandoned Signs).

Abut. Adjoin or border on.

Accent Trees. Trees used to supplement the required street trees.

Accessory Building. A detached building containing habitable space, which is smaller in size than the main building on the same lot, and the use of which is incidental to the primary use of the lot.

Accessory Structure. A detached, subordinate structure or building, the use of which is incidental to and subordinate to that of the main building, structure, or use on the same lot, or to the use of the land. The types of accessory structures listed below shall have the meanings respectively ascribed to them:

- Accessory structure. A detached accessory structure that is either entirely enclosed by walls and a solid roof or is partially enclosed with a solid roof. These include, but are not limited to, garages, greenhouses, pool houses, sunrooms, workshops, storage sheds, barns and other agricultural outbuildings, as well as carports, patio covers, gazebos, stables, and other agricultural outbuildings with solid roof construction. An accessory structure also includes windmills, water towers, and other similar agricultural structures.
- Landscape feature. A detached decorative structure typically used in conjunction with plant materials for aesthetic enhancement, including, but not limited to, patio trellis covers, pergolas and gazebos with non-solid roof construction, arched trellises, vertical lattice structures, statues, fountains, and similar features.
- Pool/Spa. Any structure intended for swimming or recreational bathing that contains water over three feet deep. Includes in-ground and aboveground structures and includes, but is not limited to, hot tubs, spas, portable spas, and non-portable wading pools.

Accessory Use. A use incidental to, subordinate to, and devoted exclusively to the principal use of the same premises.

Addition. The creation of any new portion of a building which results in a vertical or horizontal extension of the building or results in any new gross floor area that was not present in the building prior to construction of the addition. The creation of a mezzanine or loft, or a conversion of a previously unused attic or underfloor space to usable floor area, shall also be considered an addition for the purposes of this Title.

Adult Bookstore or Adult Video Store. A commercial establishment which has 25 percent or more of its stock-in-trade or 25 percent or more of its floor space devoted to the sale or rental, for any form of consideration, of any one or more of the following:

- Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, videocassette tapes, DVD, 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.
- 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.

Adult Cabaret. A business establishment (whether or not serving alcoholic beverages) that features “adult live entertainment.”

Adult Entertainment Business. Those businesses including adult bookstore or adult video store, adult cabaret, adult motel, adult theater, adult newsrack, adult viewing area, and bathhouse, as defined by this Title.

Establishment of an Adult Entertainment Business. Includes any of the following:

- The opening or commencement of any such adult entertainment business as a new business;
- The conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined in this Title;
- The addition of any of the adult entertainment businesses defined in this Title to any other existing adult entertainment businesses; or
- The relocation of any such adult entertainment business.

Adult Live Entertainment. Any physical human body activity, whether performed or engaged in, alone or with other persons including, but not limited to, singing, walking, speaking, dancing, acting, posing, simulating, wrestling or pantomiming, in which: (1) the performer (including, but not limited to, topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar performers) exposes to public view, without opaque covering, “specified anatomical areas,” and/or (2) the performance or physical human body activity depicts, describes, or relates to “specified sexual activities” whether or not the specified anatomical areas are covered.

Adult Motel. A motel, hotel, or similar commercial establishment which: is used for presenting on a regular and substantial basis images through closed circuit television, cable television, still or motion picture machines, projectors, videos, holograms, virtual reality devices or other image-

producing devices that are distinguished or characterized by the emphasis on matter depicting or describing or relating to “specified sexual activities; or “specified anatomical areas;” or offers a sleeping room for rent for a period of time less than ten hours.

Adult Newsrack. Any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

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.

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.

Affordable Housing Costs. Housing expenses, including a reasonable allowance for principal and interest on a mortgage loan, including any loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, homeowner association fees, and a reasonable allowance for utilities (30 percent of gross monthly income), for owner-occupied target units reserved for the following income households, not exceeding the following calculations:

- A. Extremely low income households: 30 percent of the area median income for Contra Costa County, adjusted for household size, multiplied by 30 percent.
- B. Very low income households: 50 percent of the area median income for Contra Costa County, adjusted for household size, multiplied by 30 percent.
- C. Lower income households: 70 percent of the area median income for Contra Costa County, adjusted for household size, multiplied by 30 percent.
- D. Moderate income households: 110 percent of the area median income for Contra Costa County, adjusted for household size, multiplied by 30 percent.

Affordable Housing Plan. A plan for a residential development submitted by an applicant as provided by Chapter 17.32 (Affordable Housing Requirements).

Affordable Housing Unit. An ownership unit that must be offered to eligible purchasers (in accordance with eligibility requirements set by the City) at a City-approved affordable sale price according to the requirements of Chapter 17.32 (Affordable Housing Requirements).

Affordable Rent. Monthly housing expenses, including a reasonable allowance for utilities (30 percent of gross monthly income), for rental target units reserved for the following income households, not exceeding the following calculations:

- A. Extremely low income households: 30 percent of the area median income for Contra Costa County, adjusted for household size, multiplied by 30 percent.
- B. Very low income households: 50 percent of the area median income for Contra Costa County, adjusted for household size, multiplied by 30 percent.

- C. Low income households: 80 percent of the area median income for Contra Costa County, adjusted for household size, multiplied by 30 percent.
- D. Moderate income households: 110 percent of the area median income for Contra Costa County, adjusted for household size, multiplied by 30 percent.

Affordable Sales Price. A sales price at which lower or very low income households can qualify for the purchase of target units, calculated on the basis of underwriting standards of mortgage financing available for the development.

A-Frame Sign. A portable and movable sign capable of standing on its own support(s), made of wood, cardboard, plastic, or other lightweight and rigid material. See Figure 17.98.020-1 (A-Frame Sign).

Alcoholic Beverage Sales. The retail sale of beverages containing alcohol for off-site consumption subject to regulation by the State Department of Alcoholic Beverage Control (ABC) as an off-sale establishment.

Alcoholic Beverage Service. The retail sale of beverages containing alcohol for on-site consumption subject to regulation by the ABC as an on-sale establishment.

Alley. Alleys are narrow private drives serving commercial and residential development, no greater than 40 feet in width.

Alley Access Parking. Residential or commercial parking that is accessible from an alley.

Amusement Device. Any machine or device which may be operated for use as a game, contest, or amusement upon the insertion of a coin, slug, or token in any slot or receptacle attached to such machine or connected therewith, which does not contain a payoff device for the return of slugs, money, coins, checks, tokens, or merchandise.

Animated Sign. Any sign which uses mechanical or electrical movement or change of lighting, either natural or artificial, to depict action or to create visual motion or the appearance thereof.

Antenna, Amateur Radio. Any antenna which is used for the purpose of transmitting and receiving radio signals in conjunction with an amateur radio station licensed by the Federal Communications Commission.

Antenna, Directional (also known as a Panel Antenna). An antenna that transmits and/or receives radio frequency signals in a directional pattern of less than 360 degrees.

Antenna. Any system of wires, poles, rods, panels, whips, cylinders, reflecting discs, or similar devices used for transmitting or receiving electromagnetic waves when such system is either external to or attached to the exterior of a structure, or is portable or movable. Includes devices having active elements extending in any direction and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon

FIGURE 17.98.020-1
A-FRAME SIGN



and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

Antenna, Façade-Mounted (also known as Building-Mounted). Any antenna directly attached or affixed to the elevation of a building, tank, tower, or other structure.

Antenna, Ground Mounted. Any antenna with its base, whether consisting of single or multiple posts, placed directly on the ground or a single mast less than 15 feet tall and 6 inches in diameter.

Antenna, Parabolic (also known as Satellite Dish Antenna). Any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, bowl, or cornucopia shaped and is used to transmit or receive electromagnetic or radio frequency communication/signals in a specific directional pattern.

Antenna, Receive-Only. An antenna for the reception of radio and television signals, without transmitting capabilities; may include pole or dish types of antennas.

Antenna Structure. Any structure, including a pole, mast, or tower, whether free-standing or mounted on another building or structure, that supports an antenna or an array of antennas.

Applicant. Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals.

Appraiser, Certified. A person certified by the State of California Office of Real Estate Appraisers to estimate the value of a particular real property.

Approving Authority. The designated planning agency responsible for the review and action on planning entitlements.

Area Median Income. The median household income as provided in Section 50093(c) of the California Government Code, as it is currently enacted or hereafter amended.

Arborist. An arborist for the sake of this Chapter shall mean either a “certified arborist” which is a professional arborist that is a member in good standing of the International Society of Arboriculture. Or, a “consulting arborist” which is a professional arborist that is a member in good standing of the American Society of Consulting Arborists. Proof of either membership shall be required by the City along with a copy of the arborist's valid California contractor's license.

Arcade. A continuously covered public space open on the sides, except for structural columns or piers, adjacent to and extending along the façade of a building. The space may be located between the façade and a sidewalk or another public space, or it may replace a sidewalk along a private street where no building setback is present.

Articulation. The manner in which portions of a building form are expressed (materials, color, texture, pattern, modulation, etc.).

Arterials. Arterials provide primary connections between major areas within the City of Pinole and also distribute traffic between adjacent communities. In addition, arterials provide considerable statewide and interstate circulation. Speed limits often range from 30 to 50 mph.

Attic. The area located between the ceiling of the top story of a building and the building's roof and not usable as habitable or commercial space.

Arcade Frontage. An arcade frontage is nearly identical in character to the gallery frontage except that the upper stories of the building may project over the public sidewalk and encroach into the public right-of-way. The sidewalk must be fully absorbed within the colonnade so that a pedestrian may access it. This frontage is typically for retail use. An encroachment permit is needed to construct this frontage type but can be approved as part of Design Review as established in Section 17.12.080 (Administrative Design Review).

Awnings. Any structure made of a flexible fabric or similar material covering a metal frame attached to a building, whether or not the same is so erected as to permit its being raised to a position flat against the building when not in use.

Balloon Sign. A flexible bag made of a material such as rubber, latex, polychloroprene, or a nylon fabric that is filled with a gas such as helium, hydrogen, nitrous oxide, or air. A balloon qualifies as a “sign” when it is larger than eight cubic feet in volume or is stationed at or more than 10 feet above the ground.

Banner. Any sign of lightweight fabric or similar material that is mounted to a pole or a building at one or more edges. Flags shall not be considered banners (see “Flag”).

Balcony. A horizontal platform extending from the exterior wall of a building, accessible from the building’s interior and not directly accessible from the ground. A balcony is typically not covered by a roof or building overhang or enclosed on more than two sides by walls. However, railings shall not be considered enclosures.

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.

Bay Window. A portion of a building cantilevered so as to project out from a wall and containing windows which cover at least 50% of the projection’s surface. A bay window which projects into a required yard shall not exceed 25% of the length of the wall.

Beacon or Spotlight. Any structure or equipment emitting laserlight or light with one or more beams (whether stationary or moving) that are directed into the atmosphere or at one or more points not on the same lot as the light source.

Bedroom. Any conditioned space, as defined by the Building Code, in a dwelling unit or accessory structure which is 70 square feet and greater in size and which is located along an exterior wall, but not including the following: hall, bathroom, kitchen, living room (maximum of one per dwelling unit), dining room (in proximity to kitchen, maximum of one per dwelling unit), family room (maximum of one per dwelling unit), laundry room, closet/dressing room opening off of a bedroom. The Community Development Director may grant exceptions if a room, by its design, cannot function as a bedroom. Sewing rooms, dens, studios, lofts, game rooms, and any other conditioned room along an exterior wall which is 70 square feet or greater in size will be considered to be bedrooms unless the room is specifically exempted. Rooms may be exempted from being considered a bedroom if there is no closet and either a minimum four-foot opening, without doors, into another room or a half wall (four-foot maximum height) between the room and another room are present.

Billboard. A sign which meets any one or more of the following criteria (also see “Off-Site or Off-Premise Sign”):

- A permanent structure sign which is used for the display of off-site commercial messages.

- A permanent structure sign which constitutes a principal, separate, or secondary use, as opposed to an accessory use, of the parcel on which it is located.
- An outdoor sign used as advertising for hire, e.g., on which display space is made available to parties other than the owner or operator of the sign or occupant of the parcel (not including those who rent space from the sign owner, when such space is on the same parcel or is the same development as the sign), in exchange for a rent, fee, or other consideration.
- An off-site outdoor advertising sign on which space is leased or rented.

Blade/Bracket Sign. A small, pedestrian-oriented sign that projects perpendicular from a structure (bracket sign) or is hung beneath a canopy (blade sign may also be referred to as an under canopy sign).

Block: An area designated on an official map of the City, which is bounded on all sides by the public right-of-way, a railroad right-of-way, private streets or a boundary line of unsubdivided acreage or any combination thereof.

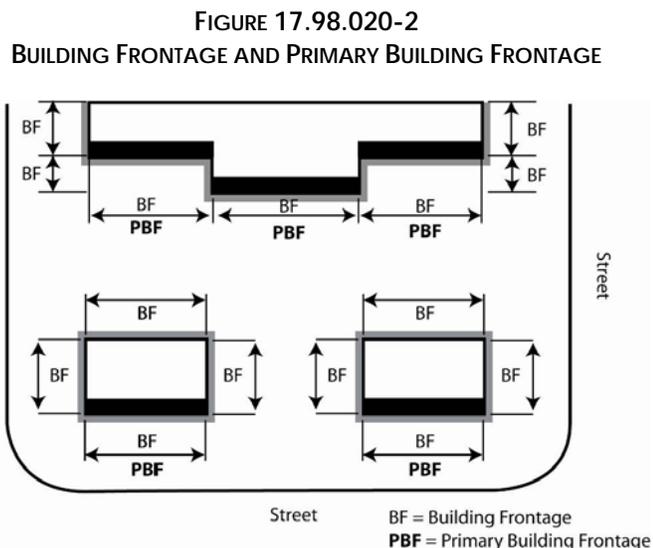
Buildable Portion of a Lot or Buildable Yard Area. That portion of a lot that is not in the required yard area.

Building: Any enclosed structure having a roof and supported by columns or walls.

Building-Attached Sign. A sign placed on a wall, awning, canopy, parapet, or a blade bracket. Also see “Wall Sign,” “Canopy Sign,” or “Blade/Bracket Sign.”

Building Entry Space. A public space adjacent to a pedestrian building entrance.

Building Frontage, Primary. The building frontage that faces the street. In cases where a building has more than one street frontage, the longest of the street frontages shall be considered the primary building frontage. In cases where a business has no building frontage facing a street, the building frontage with the primary business entrance shall be considered the primary building frontage. See Figure 17.98.020-2 (Building Frontage and Primary Building Frontage). For multi-tenant buildings, ground floor tenants may have their primary frontage determined independently of the rest of the building based upon the aforementioned rules.



Building Sign. A sign placed on a wall, awning, canopy, or parapet, or a projecting sign.

Building Site. The land area occupied by or capable of being covered by all structures permissible under this Title.

Canopy Sign. Any sign that is part of or attached to an awning, canopy, or other material, or structural protective cover over a door, entrance, window, or outdoor service area.

Carpport. A roofed structure for one or more automobiles which is enclosed by not more than two walls. A carport shall meet the minimum horizontal and vertical dimensions specified by the City's Traffic Engineer in order to be used for one or more legal parking spaces required under this Chapter.

Changeable Copy Sign. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged manually without altering the face or surface of the sign. A sign on which the message or characters change more than 12 times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Chapter.

Change of Use. Any change in the nature or character of the use of a building or structure. A residential change of use includes, but is not limited to, the elimination of any dwelling unit, the reduction in the floor area or habitability of a dwelling unit, or the reduction in the floor area or habitability of bedroom or sleeping quarters in a group living accommodation or residential hotel, when a new use is to replace a previous use. A residential change of use does not include the establishment of a home occupation in compliance with this Title. A commercial change of use includes a change to a different category of commercial or manufacturing use but does not include changes between uses that are classified in the same category of commercial or manufacturing use.

Channel Letter Sign. A sign made up of individual letters that are independently mounted to a wall or other surface. The "air space" between the letters is not part of the sign structure but rather of the building façade. A logo may also be considered a channel letter provided it is clearly distinguishable from other sign elements.

Charitable Use. A use that is conducted by a charitable institution, organization, or association organized for charitable purposes and conducted for charitable purposes only, as defined under state or federal tax laws.

City Facility. Any building or property owned by the City of Pinole and open to the public. This definition includes, but is not limited to, City Hall and the Senior Center.

City Manager. The City Manager of the City of Pinole or his or her or her designee.

City. The City of Pinole.

City Property. Land or other property in which the City of Pinole holds a present right of possession and control, plus all public rights-of-way, plus public parks, regardless of ownership. Schools, even if publicly owned or operated, are not within this definition.

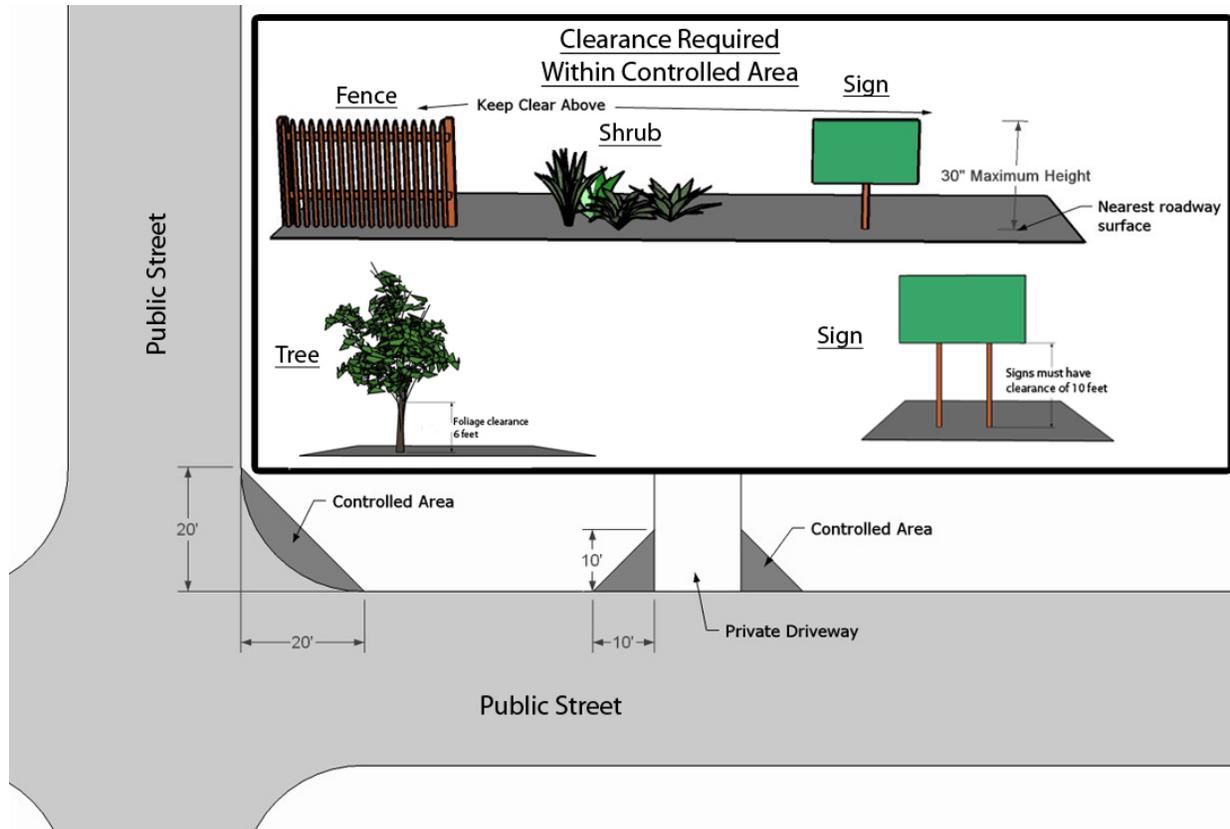
Clear Vision Triangle. The required clear cross-visibility area unobstructed by any structure or landscape between 30 inches and seven feet above the surface of the public sidewalk as follows. See Figure 17.98.020-3 (Clear Visibility Triangle).

1. At any corner formed by the intersection of a driveway/alley and street, the cross-visibility area shall be a triangle having two sides ten feet long and running along the

driveway/alley edge and curb line of street, said length beginning at their intersection and the third side formed by a line connecting the two ends.

- At any corner formed by the intersecting streets, the cross-visibility area shall be a triangle having two sides 20 feet long and running along each curb line, said length beginning at their intersection and the third side formed by a line connecting the two ends.

**FIGURE 17.98.020-3
CLEAR VISIBILITY TRIANGLE**



Collocation (also Co-Location). Structure, or property as another communication facility owned or operated by a different communication service provider. The placement or installation of wireless facilities, including antennas, and related equipment, on, or immediately adjacent to, a wireless telecommunications collocation facility that includes collocation facilities, pursuant to Section 65850.6 of the California Government Code.

Commercial Message. Any sign, wording, logo, or other representation that names or advertises a business, product, service, or other commercial activity.

Commercial Use. The categories of commercial uses of a property include retail products store, personal/household service, food service establishment, entertainment establishment, office, tourist hotel, automobile uses, live/work units, mixed-use development, wholesale use, parking lot and any use listed as a sub-category of the above uses, or any other use determined to be a business activity (except home occupations), as these terms are defined in this Title.

Community Development Director. The City of Pinole Community Development Director and his or her designee. In the absence of a Community Development Director, the City of Pinole Planning Manager shall assume the responsibilities of the Community Development Director as outlined in this Zoning Code.

Community Garden. A site used for growing plants for food, fiber, herbs, or flowers, which is shared and maintained by City residents.

Concertina Wire. A type of barbed wire or razor wire that is formed into large coils that usually sits atop another type of fencing.

Condition. A requirement attached to a permit or entitlement, the satisfaction of which is necessary for the validity and effectiveness of the permit or entitlement.

Condominium. An estate in real property consisting of an undivided interest-in-common in a portion of a lot of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property such as an apartment, office, or store. A condominium may include, in addition, a separate interest in other portions of such real property.

Condominium Conversion. The conversion of the ownership of the units in a residential housing project that are or were previously occupied as rental units from a single ownership to an ownership in which the residential units may be sold individually. Such condominium conversions include, but are not limited to, the conversion of existing multiple unit residential housing projects to any of the following: a community apartment project, a condominium project, and a stock cooperative, all as defined in Section 1351 of the California Civil Code.

Construction. The placing of construction materials and their fastening in a permanent manner to the ground or to a structure or building for the purpose of creating or altering a structure or building, or excavation of a basement.

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.

Conversion, Commercial. The physical change of a building's walls separating lease spaces so as to change (1) the number of separate, individual commercial lease spaces for commercial businesses, or (2) the number of square feet of leasable floor area of any lease space.

Conversion, Residential. The physical change of the floor area and/or walls of a building that is used for dwelling unit, group living accommodation, or residential hotel room purposes, so as to change the number of dwelling units, sleeping rooms, or residential hotel rooms, or reduce the floor area and/or habitable space of any residential living quarters.

Copy. The words, letters, numbers, figures, designs, or other symbolic representations incorporated into a sign.

Corner Arcade. A small covered space adjoining the intersection of two streets at the same elevation as the adjoining sidewalk or sidewalk widening and directly accessible to the public at all times.

County. The County of Contra Costa.

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.

Coverage Area. All the area of a lot, as projected on a horizontal plane, which is enclosed by the exterior walls of buildings or enclosed accessory structures, or covered by decks, porches, stairs, and/or landings which cover an enclosed space or paved ground area. Eaves and uncovered decks located over a pervious surface, as well as paths, driveways, and improvements existing at grade only, do not constitute coverage of a lot.

Cut Down, Destroy, or Remove. To mechanically or manually rip, cut, push or pull a live tree from its stem and/or root ball in such a way that it cannot recover and thrive.

Deck. An unenclosed structure, usually made of wood, built to provide a solid continuous surface for outdoor use and/or access to a door, which is accessible from the ground level directly or from a connecting stairway and separated from the ground by an air space.

Demolition. A building or enclosed structure shall be considered demolished for the purposes of this Chapter when, within any continuous 12-month period, such building or enclosed structure is destroyed in whole or in part or is relocated from one lot to another. For purposes of this Title, destroyed in part means when 50% or more of the enclosing exterior walls and 50% or more of the roof are removed.

Density Bonus. A density increase over the otherwise maximum allowable residential density under the applicable Zoning Code and Land Use Element of the General Plan as of the date of application by the applicant to the City. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in Chapter 17.38 (Density Bonus).

Density Bonus Housing Agreement. A legally binding agreement between a developer and the City to ensure that the requirements of Chapter 17.38 (Density Bonus) are satisfied.

Density Bonus Units. Those residential units granted pursuant to the requirements of Chapter 17.38 (Density Bonuses) which exceed the otherwise maximum residential density for the development site.

Development. Development shall mean any improvement of real property which requires the approval of a subdivision, design review approval, a use permit, a variance, a grading permit, a site development permit, a demolition permit or a building permit.

Development Area. Development area shall mean that portion of property on which any construction activity including demolition, grading, building construction, landscaping or installation of utility services is to occur.

Directional Sign, On-Site. A sign located on the same property as an establishment, primarily providing direction to guide vehicles and pedestrians to businesses, including, but not limited to, those signs identifying parking area and circulation patterns.

Directory Sign. A pedestrian-oriented sign that identifies or lists the names and locations of tenants at a multi-tenant site.

Discretionary Development Approval. Discretionary development approval shall mean the approval of a subdivision, design review approval, a conditional use permit, a minor use permit, a planned development permit, a hillside planned development permit, a variance or any other approval by the City Council, Planning Commission, Design Review Board or Zoning Administrator.

Dormer. A projection built out from a sloping roof, usually housing a vertical window or ventilating louver. All features of a dormer shall be set back a minimum of three feet from the exterior of the wall below, with the exception of the dormer's eaves, which may project horizontally not more than two feet from the exterior face of the dormer. A dormer must be below the ridge of the portion of the building's roof where the dormer is located. The total horizontal dimension of the dormer(s) facing a given side of a building, as measured parallel to that side, shall not exceed 25% of the length of the exterior wall(s). Dormers meeting this definition shall not be calculated in the average height of building.

Dripline. The largest outside perimeter of the canopy of a tree.

Drive-in Use. A use where a customer is permitted or encouraged, either by the design of physical facilities or by the service and/or packaging procedures offered, to be served while remaining seated within an automobile including, but not limited to, drive-through food, financial services, and automatic car washes.

Driveway. A paved, vehicular accessway connecting an off-street parking space or parking lot with a public or private street.

Dwelling, Attached. A building containing a single dwelling unit and having one or more walls in common with another such unit with each unit located on a separate lot.

Dwelling Unit, Second. An attached or detached dwelling unit which provides complete independent living facilities for one or more persons, with permanent requirements for living, sleeping, eating, cooking, and sanitation sited on the same parcel as the primary dwelling unit. This definition includes granny flats, efficiency units and manufactured homes, pursuant to Government Code section 65852(i)(4).

Dwelling Unit. A room or group of internally connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis.

Dwelling Unit, Primary. The main dwelling unit on a parcel of land consisting of a room or suite of rooms with a single kitchen, other than a hotel unit with a kitchen, designed or used for residential use and occupancy.

Efficiency Unit. As defined by Health and Safety Code section 17958.1, an efficiency unit is a dwelling unit with a minimum of 500 square feet, consisting of one principal room together with bathroom, kitchen, hallway, closets, and/or dining room alcove directly off the principal room.

Electromagnetic Wave. An electrical wave propagated by an electrostatic and magnetic field of varying intensity.

Electronic Message Sign. An electronic sign, typically comprising a liquid crystal diode (LCD), light emitting diode (LED), plasma, or other digital illuminated sign that displays one or more messages. An electronic message sign is different from an illuminated sign in that the illumination

of the display creates the message, rather than illumination lighting the message. An electronic message sign could be used as a message delivery method for a wall sign, a monument sign or other freestanding sign, or a billboard.

Emergency Shelter. Consistent with Health and Safety Code Section 50801, emergency shelter is defined as housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

Emergency Use Permit. A permit issued by the City Council during a declared emergency for the establishment of a use or the construction of a structure that is required to ameliorate the effects of the emergency.

Entitlement. Any permit or approval under this Zoning Code and other Titles of the Municipal Code that must be obtained before initiating a use or development activity.

Equivalent Financial Incentive. A monetary contribution, based upon a land cost per dwelling unit value, equal to one of the following:

- A density bonus and an incentive or concession; or
- A density bonus, where an incentive or concession is not requested or is determined to be unnecessary.

Exempt Sign. A sign which is not subject to a Sign Permit.

Façade. Those portions of a building, including exterior walls, porches, chimneys, balconies, parapets and roof portions, which are visible from a public right-of-way or an adjacent building.

Face Change. A change in color, material, copy, graphics, or visual image that requires the installation of a new or modified sign face, but which does not involve any change to an existing sign structure or mounting device.

Family. See "Household."

Fence. A structure made of wood, metal, masonry, or other material forming a physical barrier which supports no load other than its own weight, or a hedge that is designed to delineate, screen, or enclose a lot, yard, open space area, or other land area.

Flag. Any fabric, banner, or bunting containing distinctive colors, patterns, or design that displays the symbol(s) of a nation, state, local government, company, organization, belief system, idea, or other meaning.

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

Floor Area, Gross. The total gross horizontal areas of all floors of a building or enclosed structure, including, but not limited to, usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings (or the centerlines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls, except that in the case of a multi-story building which has covered or enclosed stairways, stairwells, and elevator shafts, the horizontal area of such features shall be counted only once at the floor level of their greatest

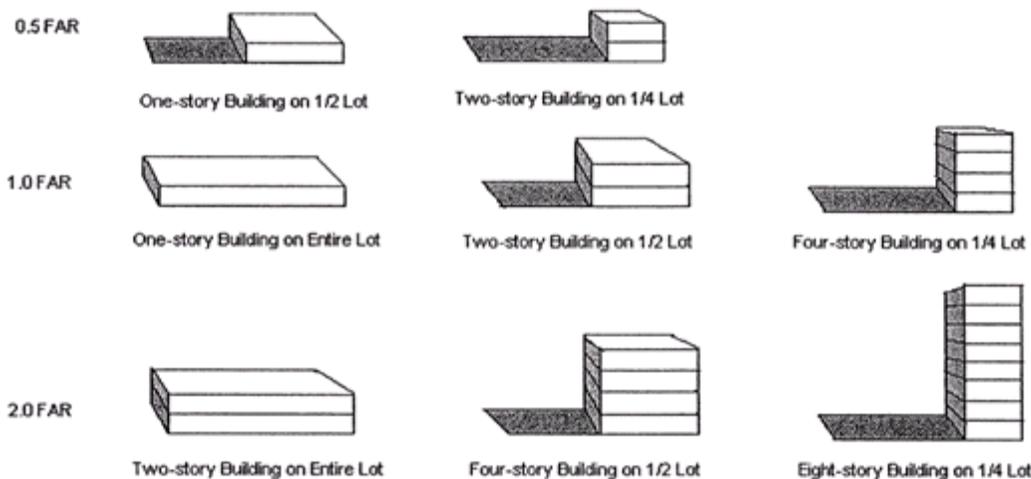
area of horizontal extent. Areas that shall be excluded from gross floor area shall include covered or uncovered areas used for off-street parking spaces or loading spaces and driveways; ramps between floors of a multi-level parking garage and maneuvering aisles relating thereto; mechanical, electrical, and telephone equipment rooms below finish grade; and areas which qualify as usable open space.

For nonresidential uses, gross floor area includes pedestrian access interior walkways or corridors, or interior courtyards, walkways, paseos, or corridors covered by a roof or skylight, but excludes arcades, porticoes, and similar open areas which are located at or near street level that are accessible to the general public and which are not designed or used as sales, display, storage, service, or production areas.

Floor Area, Leasable. The total interior floor area of a commercial lease space available for use by a single business including all sales, customer, display, shelving, assembly, seating, counter, kitchen, storage, and office areas but not including stairs, restrooms, and unenclosed walkways and those areas serving more than one lease space, including, but not limited to, common hallways, corridors, lobbies, maintenance areas, vestibules, and other common areas.

Floor Area Ratio. The gross floor area of all buildings on a lot divided by the building site area. See Figure 17.98.020-4 (Floor Area Ratio).

**FIGURE 17.98.020-4
FLOOR AREA RATIO**



Foot-Candle. A unit of illumination produced on a surface, all points of which are one foot from a uniform point of one candle.

Freestanding Sign. A permanent sign that is self-supporting in a fixed location and not attached to a building. It includes a sign connected or attached to a sign structure, fence, or wall that is not an integral part of a building. Freestanding signs are of three types: monument, pole, and pylon.

Frontage, Public. That side of a building facing onto a public street, mall (pedestrian courtyard), or parking area.

Frontage, Street. That side of a lot abutting a public street.

Full Shielding. A technique or method of construction which causes all light emitted from an outdoor light fixture to be projected below an imaginary horizontal plane passing through the lowest point on the fixtures from which light is emitted.

Future Tenant Signs. Signs erected for the purpose of announcing the future occupancy of a new tenant, other than the current resident tenant.

Garage or Carport. Parking space and shelter for automobiles or other vehicles, where the size of the parking space complies with the requirements of Chapter 17.48 (Parking). A garage is a completely enclosed attached or detached accessory structure with an operational door. A carport is an attached or detached accessory structure enclosed on no more than two sides. A garage or carport complies with the requirements of the Zoning Code for "covered" parking spaces.

Gas Pricing Signs. Signs identifying the brand, types, octane rating, etc., of gasoline for sale as required by state law.

Grade. The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet distant from said wall, or the lowest point of elevation on the finished surface of the ground between the exterior wall of a building and the property line if it is less than five feet distant from said wall. In cases where walls and fences are parallel to and within five feet of a public sidewalk, alley, or other public way, the grade shall be the elevation of the sidewalk, alley, or public way. In the case of signs, grade is the lowest point of elevation of the finished surface of the ground at the base of the sign, or in the case of a double support, the lowest point of elevation of the finished surface of the ground at the supports.

Grade, Existing. The elevation of the ground at any point on a lot as shown on the required survey submitted in conjunction with an application for a Building Permit or grading permit.

Grade, Finish. The lowest point of elevation of the finished surface of the ground between the exterior walls of a building and a point five feet distant from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five feet distant from said wall. In the case of walls which are parallel to and within five feet of a public sidewalk, alley, or other public way, the grade shall be the elevation of the sidewalk, alley, or public way.

Ground Floor Street Frontage. The occupied floor space in a structure nearest to the public right-of-way and closest to sidewalk grade.

Guest House. A detached structure accessory to a single-family dwelling, accommodating living/sleeping quarters, but without kitchen or cooking facilities. See "Accessory Building."

Habitable Space. A space in a building which is used or designed to be used for living, sleeping, eating, or cooking, but not including garages, bathrooms, utility, storage and laundry rooms, halls, or closets.

Hearing Body. The person, board, commission or council charged with making a determination for a permit or entitlement.

Hedge. Any line or row of plants, trees, or shrubs planted in a continuous line to form a dense thicket or barrier.

Height of Building, Average. The vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building (or, in the case of residential additions, that portion of the lot covered by the addition) to: in the cases of sloped, hipped or gabled roofs, the average height of the roof between the ridge and where the eave meets the plate; in the case of a roof with parapet walls, to the top of the parapet wall; in the case of a gambrel roof, the average height of the roof between the ridge and the point where the uppermost change in the roof's slope occurs; in the case of a mansard roof, to the height of the deck; and in the case of a shed roof, to the height of the roof ridge. Dormers, as defined in this subsection, shall not be included in the average height calculation.

Height of Building, Maximum. The vertical distance of a building at any point, within a given plane, from finished grade to the top of the roof or parapet walls.

Home Occupation. The conduct of a business within a dwelling unit or residential site, employing occupants of the dwelling, with the business activity being subordinate to the residential use of the property. Examples include, but are not limited to, accountants and financial advisors, architects, artists, attorneys, offices for construction businesses (no equipment or material storage), and real estate sales.

Home Occupation Sign. A sign located at a residence advertising a business or profession legally conducted in the residence.

Household. One or more persons, whether or not related by blood, marriage, or adoption, sharing a dwelling unit in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs, and utilities, as well as maintaining a single lease or rental agreement for all members of the household and other similar characteristics indicative of a single household.

Illuminated Sign. A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign. Includes signs made from neon or other gas tube(s) that are bent to form letters, symbols, or other shapes. Excludes an electronic message sign, which is separately defined.

Incentive and Concession. Means such regulatory concessions as specified in subdivision (l) of Government Code Section 65915 which include, but are not limited to, the following:

1. The reduction of site development standards or a modification of Zoning Code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable financially sufficient and actual cost reductions.
2. Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
3. Direct financial assistance.

4. Other regulatory incentives or concessions which result in identifiable cost reductions or avoidance.

Incidental Sign. A sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, including, but not limited to, restrooms, phones, credit cards, or hours of business.

Landscape Feature. A detached decorative structure typically used in conjunction with plant materials for aesthetic enhancement, including, but not limited to, patio trellis covers, pergolas and gazebos with non-solid roof construction, arched trellises, vertical lattice structures, statues, and similar features.

Landscaped Area. An area of ground within the boundaries of a lot which consists of living plant material including, but not limited to, trees, shrubs, ground covers, grass, flowers, gardens, and vines. A landscaped area shall not include off-street parking spaces, driveways, paved walkways and paths, patios, and other surfaces covered by concrete or asphalt.

Lattice Tower. A support structure erected on the ground that consists of metal crossed strips or bars to support antennas and related equipment.

Loading Space, Off-street. A covered or uncovered space for trucks or other delivery vehicles for the loading or unloading of freight, cargo, packages, containers or bundles of goods, and/or bulky goods.

Loft. See “Mezzanine.”

Lot. A separate legal subdivision of land, as recorded with the Contra Costa County Recorder. Lots are categorized as follows:

Abutting Lot. A lot having a common property line or separated by a public path or alley, private street, or easement to the subject lot.

Confronting Lot. A lot whose front property line is intersected by a line perpendicular to and intersecting the front property line of the subject lot.

Corner Lot. 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.

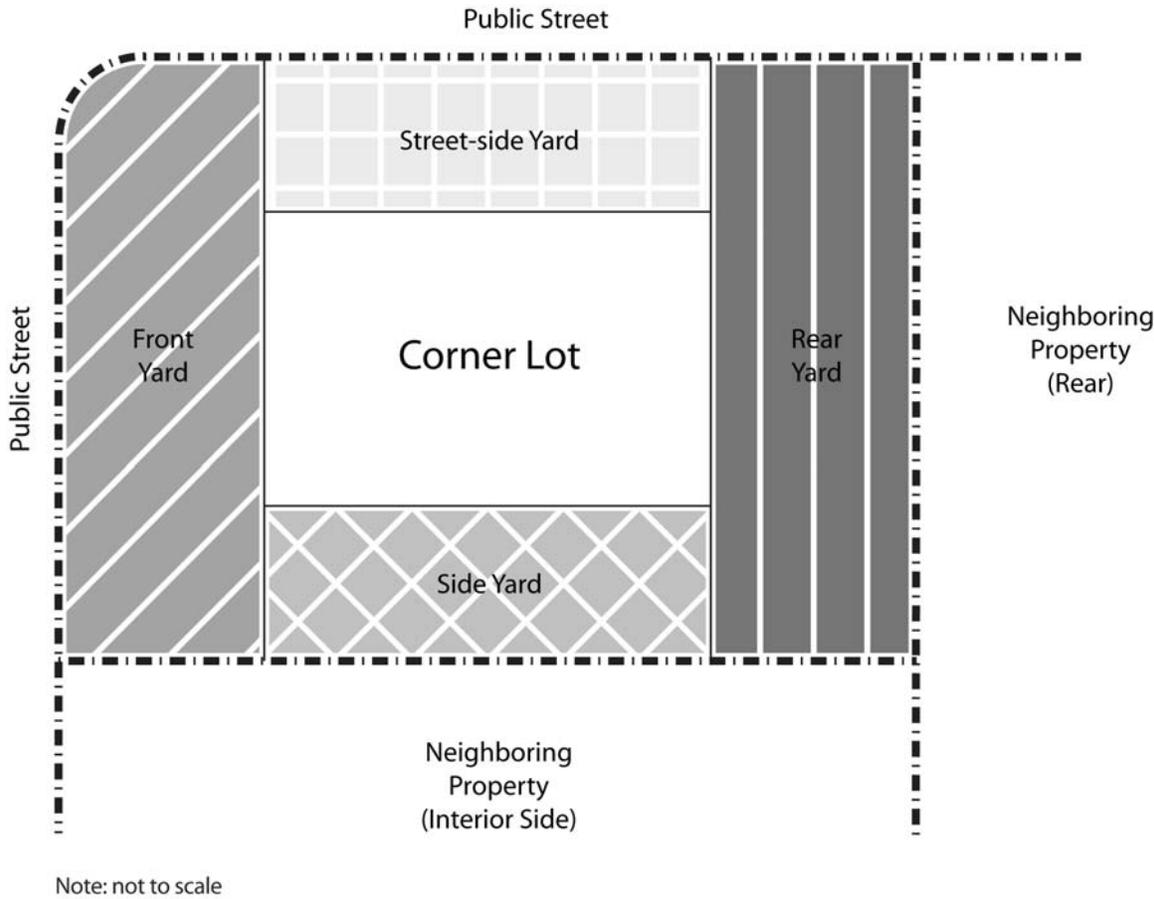
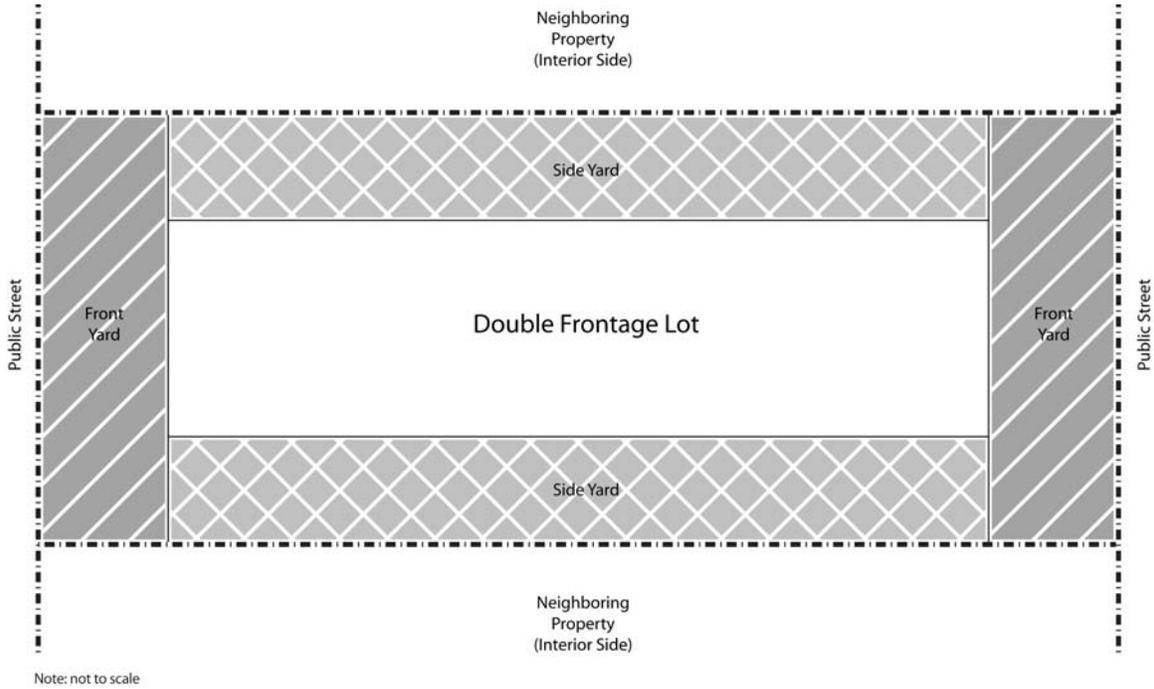
Double Frontage Lot. A lot having a frontage on two parallel or approximately parallel streets.

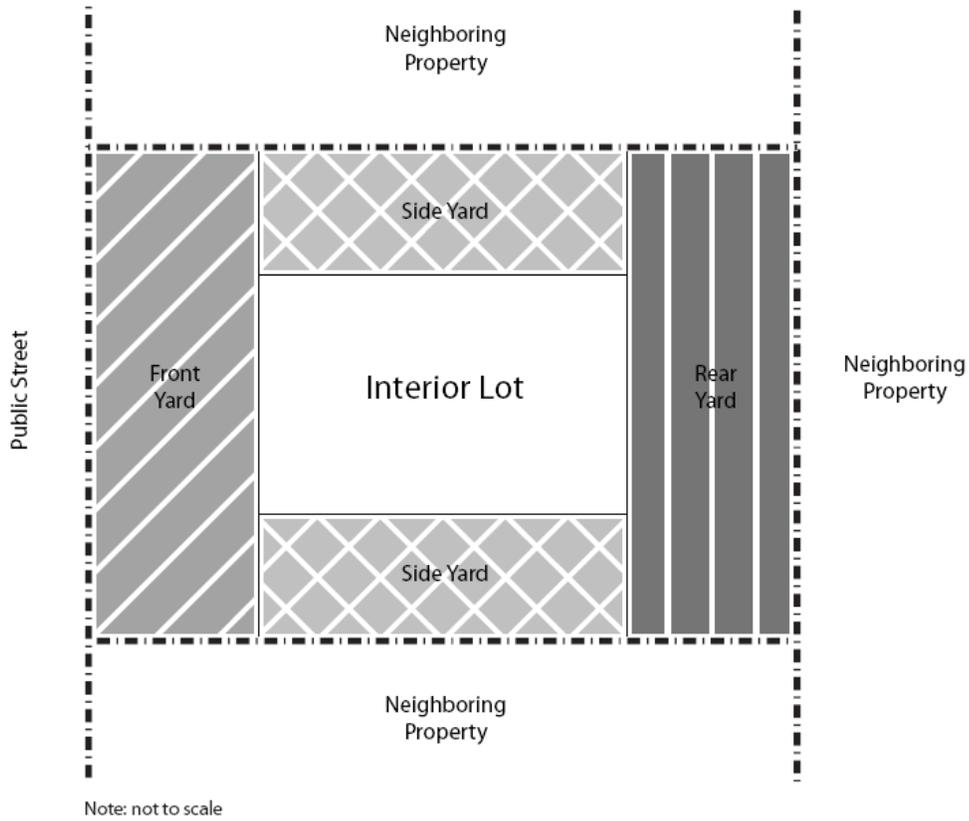
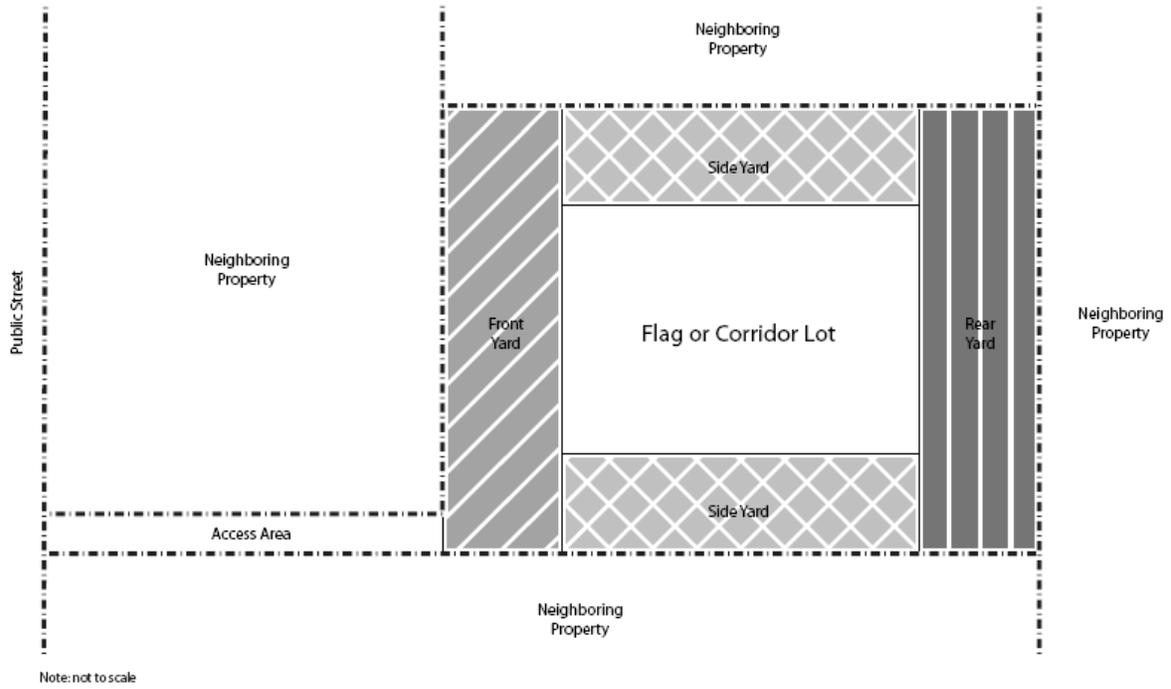
Flag Lot. A lot so shaped that the main portion of the lot area does not have direct street frontage, other than by a connection of a strip of land which is used for access purposes.

Interior Lot. A lot other than a corner lot.

Key Lot. Any interior lot which abuts the rear lot line of a corner lot.

FIGURE 17.98.020-5
LOT AND YARD TYPES





Lot Area. The total horizontal area within a lot's boundary lines.

Lot Depth. The average distance from the front lot line to the rear lot line measured in the general direction of the side lines.

Lot Frontage. The portion of a property that abuts one side of a public street which allows primary access to the property. The public street frontage for lots fronting on a curved street, or on the curved portion of a cul-de-sac street, shall be measured along an arc located within the front 50 feet of the lot and based on a center point coincidental with the center point of the street curve. If such arc is farther than 20 feet from the right-of-way line of the street, that arc will be considered the front yard setback line of the lot.

Lot Infill. 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.

Lot Line. The boundaries between a lot and other property or the public right-of-way.

Lot Line, Front. In the case of an interior lot, a line separating the lot from the street or place, and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street. In the case of a square or nearly square-shaped corner lot, the owner may choose which street shall be designated as the front of the lot. Once the choice of frontage has been made, it cannot be changed unless all requirements for yard space are complied with.

Lot Line, Rear. A lot line which is opposite and most distant from the front lot line and, in case of an irregular, triangular, or gore-shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line. See Figure 17.98.020-6 (Setback Determination for Irregular Lots).

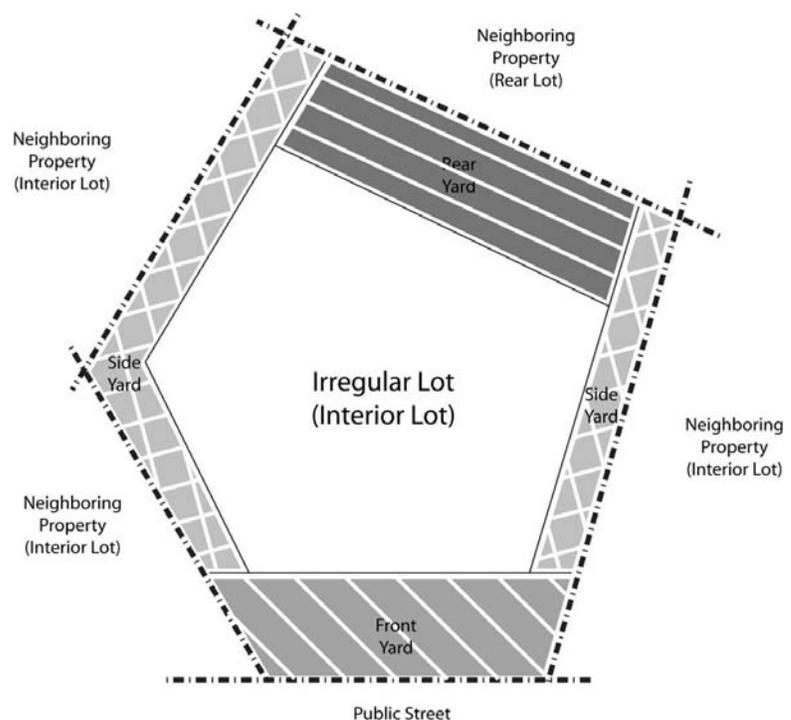
Lot Line, Side. Any lot boundary line not in a front lot line or a rear lot line.

Lot Width. The average distance between the side lot lines measured at right angles to the lot depth.

Low Income Households. Households earning a 51% to 80% of the median household income, as defined by guidelines adopted each year by the California Department of Housing and Community Development (HCD).

Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts. The pole, post, or bracket is not considered a part of the luminaire.

**FIGURE 17.98.020-6
SETBACK DETERMINATION OF IRREGULAR LOTS**



Maintenance of Building. Those activities which preserve an existing building including, but not limited to, cleaning, painting, and refurbishing (but not altering) exterior and interior walls, equipment, facilities, and fixtures.

Maximum Allowable Residential Density. The maximum number of residential units permitted by the City's Zoning Code at the time of application.

Menu/Order Board Sign. A sign installed in a drive-through facility and oriented so as to be visible primarily by drive-through customers.

Mezzanine. An intermediate level of a building interior containing floor area without complete enclosing interior walls or partitions, placed in any story or room and not separated from the floor or level below by a wall. The floor area of any mezzanine shall be counted as part of the total floor area for any floor area or floor area ratio limitation. In addition, when the total floor area of any such mezzanine exceeds 33.3% of the total floor area in that room, it shall constitute an additional story. No more than one continuous mezzanine may be permitted in any one room.

Mixed-use. The use of a lot or building with two or more different land uses including, but not limited to, residential, commercial retail, office, or manufacturing, in a single structure or a group of physically integrated structures.

Moderate Income Households. Households earning a 80% to 120% of the median household income, as defined by guidelines adopted each year by the California Department of Housing and Community Development (HCD).

Monopole. A single pole support structure greater than 15 feet in height erected on the ground or on a structure to support antennas and related communications equipment.

Monument Sign. A sign constructed upon a solid-appearing base or pedestal (typically stone, brick, or concrete), the total width of which is at least 50 percent of the overall height of the sign. Also see "Pylon Sign" and "Pole Sign."

Multi-Tenant Center. A property or combination of properties containing three or more separate tenants and which share common parking, driveway, and access areas.

Mural. A non-commercial message expression of public art executed directly on a wall (fresco) or done separately and affixed to it.

NIER. A non-ionizing electromagnetic radiation (e.g., electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum).

Noncommercial Sign. A sign that displays noncommercial speech, e.g., commentary or advocacy on topics of public debate and concern.

Nonconforming Sign. A sign lawfully erected and legally existing at the time of the effective date of an ordinance but which does not conform to the requirements of the Zoning Code.

Nonconforming Use or Building. A use or building which is not consistent with a requirement or requirements of Title XX, but which was lawfully established or constructed prior to the effective date of the requirement(s) with which it is inconsistent. A use shall not be considered nonconforming if it is only inconsistent with the Zoning Code with respect to the number of auto or bicycle spaces, their location on site, or screening.

Non-Restricted Unit. All units within a housing development, excluding the target units.

Off-Site Sign (Also Off-Premise Sign). A sign which directs attention to a business, profession, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the same lot or parcel on which said sign is located. This definition shall include billboards, posters, panels, painted bulletins, and similar advertising displays. The off-site/on-site distinction applies only to commercial messages. Off-site signs meet any one of the following criteria:

- A permanent structure sign which is used for the display of off-site commercial messages.
- A permanent structure sign which constitutes a principal, separate, or secondary use, as opposed to an accessory use, of the parcel on which it is located.
- An outdoor sign used as advertising for hire, e.g., on which display space is made available to parties other than the owner or operator of the sign or occupant of the parcel (not including those who rent space from the sign owner, when such space is on the same parcel or is the same development as the sign), in exchange for a rent, fee, or other consideration.
- An off-site outdoor advertising sign on which space is leased or rented.

On-Site Sign (Also On-Premise Sign). A sign which directs attention to a business, profession, commodity, service, or entertainment conducted, sold, or offered upon the lot or parcel on which the sign is placed. The off-site/on-site distinction applies only to commercial messages. In the case of multiple-tenant commercial or industrial developments, a sign is considered on-site whenever it is located anywhere within the development. In the case of a duly approved Uniform Sign Program, a sign anywhere within the area controlled by the program may be considered on-site when placed at any location within the area controlled by the program.

Open View Fencing. Fencing that does not create a solid visual barrier such as wrought iron or tubular steel.

Outdoor Storage. The storage of any material for a period greater than 24 hours, including items for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

Overspeed Control. A mechanism used to limit the speed of blade rotation to below the design limits of the Wind Energy Conversion System.

Parapet. A low wall or railing not exceeding 42 inches above the roof and along its perimeter, usually for fire containment and/or architectural purposes.

Parcel. A term used by the Contra Costa County Tax Collector to describe a lot, portion of a lot, or group of lots for property tax purposes.

Park and Ride Facility. A designated area where a vehicle may be left in order for the driver to carpool with other commuters or to ride public transit.

Parks and Public Plazas. Public parks include playgrounds and athletic fields/courts and public plazas and outdoor gathering places for community use. If privately owned and restricted to the public (e.g., require payment of fee), the same facilities are included under the definition of "Outdoor Commercial Recreation."

Parking Area, Accessory. An area of a lot reserved for use as off-street parking intended to serve a building or use which is the primary or main use of the lot.

Parking Facility. A parking lot or parking structure used for parking motor vehicles where the facility is the primary use of the site. Parking structures and lots that are developed in conjunction with another primary use of the site to satisfy the on-site parking requirements for the development are not included in this definition.

Parking Lot or Structure. The exclusive or primary use of a lot for off-street parking spaces, in either an open paved area or within a structure built specifically for parking purposes.

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.

Parking Space, Off-street. An area, covered or uncovered, designed for the storage of an automobile which is paved, accessible by an automobile, and usable for such automobile storage use without permanent obstruction.

Paseo. A public space that is located within a block's interior and that connects two streets that are parallel or within 45 degrees of being parallel to each other.

Path. A right-of-way used or designed for pedestrian access.

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

Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, attached to a rope, wire, or string, usually in a series, designed to move in the wind and attract attention.

Penthouse, Mechanical. A room or enclosed structure attached to the roof level for the uppermost story, for purposes of sheltering mechanical equipment, water tanks, and/or vertical openings for stairwell and elevator shafts. Such a structure shall be considered a story if it contains usable floor area or habitable space.

Permanent Sign. A sign that is entirely constructed out of durable materials and is intended to exist for the duration of time that the use or occupant is located in the premises.

Permit. A document issued by the proper Authority authorizing the applicant to undertake certain activities. For the purposes of this Title, permit is included in the definition of entitlement.

Personal Wireless Services. Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.

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.

Play Equipment. Structures and surfaces used for recreational purposes including play structures, jungle gyms, and sports courts such as tennis and basketball courts.

Plaza. An urban public space typically bounded by buildings, public rights-of-way, and other secondary public spaces.

Pole Sign. An on-site free-standing sign supported by a sign structure from the ground which identifies businesses or institutions located on the same parcel or in the same development on which the sign is located. Generally, pole signs are supported by one or more metal or wood posts, pipes, or other vertical supports. The support structure is not integrated into the overall design of the sign. Also see “Monument Sign” and “Pylon Sign.”

Political Sign. A sign erected prior to (or may exist after) an election to advertise or identify a candidate, campaign issue, election proposition, or other related matters.

Pool/spa. Any structure intended for swimming or recreational bathing greater than 120 square feet with at least 2,000 gallons of water and a minimum depth of three feet.

Portable Sign. Any on-site or off-site advertising device defined as a sign that is not permanently attached to a building or to the ground. Portable signs include, but are not limited to, signs designed to be transported by means of wheels, signs configured as A-frame or T-frame, menu and sandwich board signs, and umbrellas used for advertising.

Projecting Sign. A sign attached to and extending outward from a building’s face. Includes but is not limited to a blade sign, bracket sign, or marquee sign.

Protected Tree. Protected tree or tree shall mean the following:

- A. Select trees with a single perennial stem of 12 inches or larger in circumference measured four and a half feet above the natural grade. The list of select trees includes:
 1. Coast Live Oak.
 2. Madrone.
 3. Buckeye.
 4. Black Walnut.
 5. Redwood.
 6. Big Leafed Maple.
 7. Redbud.
 8. California Bay.
 9. Toyon.
- B. Any other tree with a single perennial stem greater than 56 inches in larger in circumference measured four and a half feet above the natural grade.
 1. Trees species specifically excluded from protection under this Chapter include any other species of nut or fruit trees, palm trees or eucalyptus trees.

- 2. Also any tree species not listed above, that is smaller than 56 inches in larger in circumference measured four and a half feet above the natural grade.
- C. For convenience in the field, circumferences are considered equivalent to diameter as follows:

Diameter	Circumference
4 inches	12 inches
9 inches	28 inches
12 inches	37 inches
18 inches	56 inches

Public Property. All real property owned, operated, or controlled by the City, other than PROW and any privately owned area within the City's jurisdiction which is not yet but is designated as a proposed public place on a tentative subdivision map approved by the City.

Public Recreation Facility, Outdoor. An outdoor facility public owned or leased which has been set aside for assembly, recreation, play, and/or ornamental purposes.

Public Right-of-Way (PROW): Any public street, public way, public place or rights-of-way, now laid out or dedicated, and the space on, above, or below it, and all extensions thereof and additions thereto, owned, operated, and/or controlled by the City or subject to an easement owned by the City and any privately owned area within the City's jurisdiction which is not yet but is designated as a proposed public place on a tentative subdivision map approved by the City.

Public Safety and Emergency Services. Facilities that provide police and fire protection.

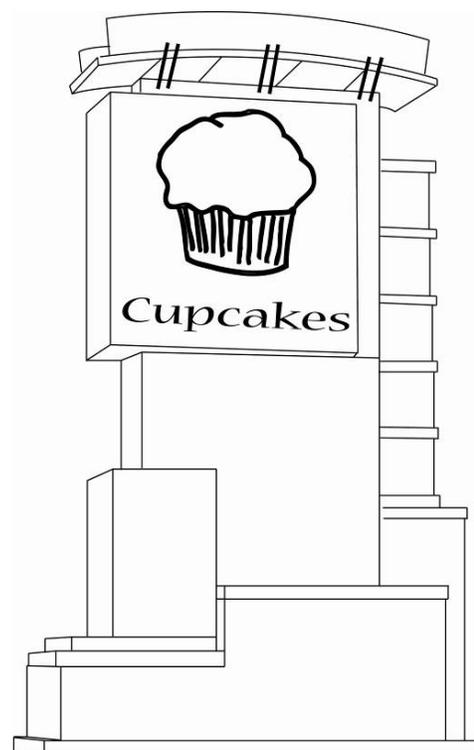
Public Space. An open area for public use on a lot developed in accordance with requirements of an arcade, a building entry, an employee break area, or a plaza.

Pruning. To cut branches away from a plant.

Pylon Sign. An on-site free-standing sign supported by a sign structure from the ground which identifies businesses located on the same parcel or in the same development on which the sign is located. Pylon signs are designed such that the support structure and the sign face are designed as one architecturally unified and proportional element. See Figure 17.98.020-7 (Pylon Sign). Also see "Monument Sign" and "Pole Sign."

Qualifying Senior Resident. Senior citizens or other persons eligible to reside in a senior citizen housing development, as described in Section 51.3 of the California Civil Code.

Figure 17.98.020-7
Pylon Sign



Readerboard Sign. A sign on which copy is changed manually in the field or electronically, including, but not limited to, theatre marquee signs, business directories, church and museum signs, and gas price signs.

Readily Visible. A wireless telecommunications facility is readily visible if it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a person with normal vision and distinguished as an antenna or other component of a wireless telecommunication facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, main living area means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms, or similar areas.

Real Estate Sign. Any sign, temporary in nature, the copy of which concerns a proposed economic transaction involving real property. Does not include occupancy signs at establishments offering transient occupancy, such as hotels and motels.

Related Equipment. All equipment ancillary to the transmission and reception of voice and data by means of radio frequencies for or related to the requirement of personal wireless services. Such equipment may include cable, conduit, connectors, equipment pads, equipment shelters, cabinets, buildings, and access ladders.

Retaining Wall. A structure that holds back soil and rock from a building, structure, or area that helps to prevent erosion and the downward slide of such materials.

Right-of-Way Line. The future right-of-way line or plan lines of any highway or street as shown on the current Circulation Plan Roadway System and Sizing Map of the City's General Plan.

Roof Sign. A sign installed on a roof or projecting above the eave of a building or mounted on an arcade or parapet.

Roofline. The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

Rooming House. A building used for residential purposes, other than a hotel, where lodging for five or more persons who are not living as a single household is provided for compensation, whether direct or indirect. In determining the number of persons lodging in a rooming house, all residents shall be counted, including those acting as manager, landlord, landlady, or building superintendent.

Rotor Area. The largest area of the Wind Energy Conversion System which extracts energy from the windstream. In a conventional propeller-type Wind Energy Conversion System there is a direct relationship between rotor area and the rotor diameter.

Satellite Dish. A device which is designed to receive signals or communications from orbiting satellites.

Satellite Earth Station (SES). A facility consisting of more than a single satellite dish or parabolic antenna that transmits to and/or receives signals from an orbiting satellite.

Setback. The minimum distance between a structure and a property line of the lot measured at a right angle from the designated property line.

Setback Line. A line parallel to a specified lot line which defines a required yard area.

Shed, Garden and/or Tool. An accessory structure designed to store tools, lawn and garden care, or maintenance equipment or materials and which is not designed to contain any habitable space.

Shielding. A technique or method of construction which causes light emitted from an outdoor light fixture to be projected below an imaginary horizontal plane passing through the fixtures.

Sidewalk Café Seating. Tables and/or chairs (including benches) and umbrellas associated with lawfully operating food service establishments and similar uses, in or on the public right-of-way or resting on, or projecting into, the sidewalk area, which are not physically or structurally attached to a building, retaining wall, or fence.

Sign. Any structure, part thereof, device, fixture, or placard or inscription which is located upon, attached to, or painted or represented on any land, or on the outside of any building or structure, or on an awning, canopy, marquee, or similar appendage, or permanently affixed to the glass on the outside or inside of a window so as to be seen from the outside of the building, and which displays or includes any numeral, letter, word, model, banner, emblem, insignia, symbol, device, light, trademark, or other representation used as, or in the nature of, an announcement, advertisement, attention arrester, direction, warning, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry when such image is visible from any public right-of-way. Notwithstanding the generality of the foregoing, the following are not within this definition:

- Architectural features. Decorative or architectural features of buildings (not including lettering, trademarks, or moving parts).
- Manufacturers' marks. Marks on tangible products, which identify the maker, seller, provider, or product and which customarily remain attached to the product even after sale.
- Newsracks and newsstands.
- Personal appearance. Items or devices of personal apparel, decoration, or appearance, including tattoos, makeup, wigs, costumes, masks, etc. (but not including commercial mascots).
- Symbols embedded in architecture. Symbols of non-commercial organizations or concepts including, but not limited to, religious or political symbols, when such are permanently integrated into the structure of a permanent building which is otherwise legal. The definition also includes foundation stones and cornerstones.

Significant Adverse Impact. A significant, quantifiable, direct and unavoidable impact of a solar energy system, based on objective, identified and written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete.

Slope. See "Grade."

Solid Fencing and Walls. Fencing and walls that create a solid visual barrier, such as fences and walls constructed of wood or brick.

Solar Energy System. Either (a) solar collector or other solar energy device or any structural design feature of a building of which the primary purpose is to provide for the collection,

storage, or distribution of solar energy for space heating or cooling, water heating, or the generation of electricity; or (b) any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating, pursuant to Civil Code Section 801.5.

Special Category Tenants. Refers to persons or tenants who fall within one or more of the following categories:

- Elderly means individuals 62 years of age or older.
- Handicapped or permanently disabled as defined in Section 50072 of the California Health and Safety Code or 42 USC 423 and 24 C.F. R. 8.3.
- Low income or very low income as defined in the Zoning Code.

Special Needs Population. Persons identified as having special needs related to any of the following:

- Mental health.
- Physical disabilities.
- Developmental disabilities, including, but not limited to, mental retardation, cerebral palsy, epilepsy, and autism.
- The risk of homelessness.
- Persons eligible for mental health services funded in whole or in part by the Mental Health Services Fund, created by Section 5890 of the Welfare and Institutions Code.

Specified Anatomical Areas. Include any of the following:

1. Less than completely and opaquely covered, and/or simulated to be reasonably anatomically correct, even if completely and opaquely covered human:
 - a. Genitals, pubic region;
 - b. Buttocks, anus; or
 - c. Female breasts below a point immediately above the top of the areola; or
2. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

Specified Sexual Activities. Include any of the following, irrespective of whether performed directly or indirectly through clothing or other covering:

1. Human genitals in a state of sexual stimulation or arousal; and/or
2. Acts of human masturbation, sexual stimulation or arousal; and/or
3. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; and/or

4. Masochism, erotic or sexually oriented torture, beating, or the infliction of pain, or bondage and/or restraints; and/or
5. Human excretion, urination, menstruation, vaginal or anal irrigation; and/or
6. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

Stealth Facility. Any wireless telecommunications facility that is not readily visible because it has been designed to blend into the surrounding environment and is visually unobtrusive. Examples may include architecturally screened roof-mounted antennas, building-mounted antennas that are painted and treated as an architectural element to blend with the existing building, and monopoles that are disguised as flag poles or public art, or camouflaged using existing vegetation. A pole or tower with antennas that are flush with or do not protrude above or out from the pole or antenna is not considered to be a stealth facility unless the pole or tower is an existing pole or tower, existing utility pole or tower, or existing light standard or street light, or replacement thereof.

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 shall be that portion of a building between the floor of the topmost floor and the ceiling or roof above. If the finished floor level directly above the ceiling of a basement, garage structure, cellar, or unused underfloor space is more than six feet above existing grade at any point, such basement, cellar, or unused underfloor space shall be considered a story. Penthouses used for purposes other than shelter of mechanical equipment or shelter of vertical shaft openings in the roof shall be considered a story.

Street. A public or private thoroughfare which provides principal means of access to abutting lots including, but not limited to, avenue, place, way, manor, drive, circle, lane, court, boulevard, highway, road, and any other thoroughfare except an alley or a path as defined in this Chapter.

Street Line. The boundary between a lot and an adjacent street.

Structural Alteration. Any physical change to or removal of the supporting members of a building, foundation or bearing walls, columns, beams or girders, or creation or enlargement of a window or door, or change of a roofline or roof shape, including creating, enlarging, or extending a dormer.

Structure. Anything constructed or erected upon the ground or attached to a structure having location on the ground. Structures include, but are not limited to, buildings, landscape features, and pools and spas.

Structure Ridgeline. The line along the top of an existing roof or top of a structure, including existing parapets, penthouses, or mechanical equipment screens.

Studio. See "Art/Craft Studio." Also see "Dance, Exercise, Martial Arts or Music Studio."

Subdivision Directional Sign. A temporary or otherwise limited-term sign for the purpose of providing direction for vehicular and/or pedestrian traffic to the initial home sales of multiple lots with a single builder within a master planned community, including both single-family and multi-family for-sale products. All other home sales signs are included within the definition of Real Estate Sign.

Subdivision Permanent Identification Sign. A sign located at the entrance to the subdivision for the purpose of a permanent identification of the subdivision. Such signs are of a permanent nature, usually constructed of long-lasting, weather-resistant materials such as stone or metal.

Subdivision Sign. A sign identifying the initial home sale and location of land and/or multiple lots with a single builder within an approved residential subdivision/master planned community, including both single-family and multi-family for-sale products. Such sign is located off-site from the master planned community.

Subterranean Structure. A roofed structure constructed underground, with no building stories aboveground, of which the roof does not exceed three feet above the pre-existing grade. Such structures are either separated from a building or connected to a building only by means of a passageway or hallway with no openings to finished grade except for a doorway.

Target Unit. A dwelling unit within a qualifying housing development which will be reserved for sale or rent to, and affordable to, a specific income household or qualifying senior residents.

Telecommunications. The transmission, between or among points specified by the user, of information of the user's choosing, without change in the content of the information as sent and received as defined in the Telecommunications Act of 1996.

Telecommunications Equipment. Equipment, other than customer premises equipment, used by a telecommunications carrier to provide telecommunications services. Includes software integral to such equipment (including upgrades) that is not located, in whole or in part, in, above, or below streets, public rights-of-way, or other public property.

Telecommunications Service. The offering of telecommunications for a fee directly or indirectly to any person as defined in the Telecommunications Act of 1996.

Telecommunications Tower. Any mast, pole, monopole, lattice tower, or other structure designed and primarily used to support antennas. A ground- or building-mounted mast greater than 15 feet tall and 6 inches in diameter supporting one or more antennas, dishes, arrays, etc. shall be considered a telecommunications tower.

Temporary Sign. A structure or device used for the public display of visual messages or images, which is easily installed with common hand tools, or without tools, and which is not intended for or suitable for long-term or permanent display (e.g., less than 30 days), due to the lightweight or flimsy construction materials. Examples include, but are not limited to, A-frame signs, banners, pennants, streamers, or similar non-permanent sign made of paper, cloth, canvas, lightweight fabric, or other non-rigid material, with or without frames.

Temporary Structure. A tent, tent-house, trailer, mobile office, mobile home, or other movable structure or other temporary structure whose construction does not require a building permit.

Temporary Use Permit. A permit issued for a temporary use or a temporary structure.

Three-Dimensional Object Sign. A sign that comprises a three-dimensional object that graphically or iconically brands an establishment or development. Such signs may be used as both building-attached or free-standing signs.

Time/Temperature Sign. An electronic or mechanical device that shows time and/or temperature but contains no business identification or advertising.

Tower. A mast, pole, monopole, lattice tower, or other structure designed and primarily used to support antennas. Includes ground-mounted structures 12 feet or greater in height and building-mounted structures that extend above the roofline, parapet wall, or other roof screen with a mast greater than six inches in diameter supporting one or more antenna, dishes, arrays, or other associated equipment.

Transitional Housing. Consistent with Health and Safety Code Section 50675.2, transitional housing is defined as buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Tree Removal Permit. A permit issued by the City for removal of one or more protected trees.

Tree Survey Plan. A tree survey plan shall mean the site plan of the project site illustrating the items listed below. The tree survey plan shall show which trees are proposed to remain on site and which trees are to be removed.

- A. All existing buildings.
- B. All proposed buildings.
- C. All existing roads and pathways.
- D. All proposed roads and driveways.
- E. All trees on site, including species and stem circumference measured four and a half feet above the natural grade.
- F. The dripline for each tree identified on the site plan.
- G. The existing grade of the site.
- H. The proposed grade of the site.
- I. Any protected trees on the site.

Usable Open Space. Outdoor space, including natural and landscaped ground areas, pools, patios, decks, and balconies, designed for active or passive recreational use and which is accessible to the occupants of a building on the same lot.

Usable Space. Any portion of a building or structure which is designed to be or can be used as habitable space, which has finished walls (sheetrock or plaster) and/or is heated with any fixed furnace or central heating system, including bathrooms, halls, garages, and laundry rooms. Storage areas with over six feet of vertical space shall also be considered usable space.

Use. The purpose for which land or premises or a building thereon is designed, arranged, or intended or for which it is or may be occupied or maintained.

Use, Incidental. A secondary use of a lot and/or building. An incidental use shall not exceed 25% of the floor area of the primary use, and if it consists of the commercial sales of a different line of products or services than the primary use, such incidental use may not generate gross receipts in excess of 33% of the gross receipts generated by the primary use.

Use, Transitional. A use of a building, property or land area that is limited in duration of time, does not permanently alter the character or physical facilities of the premises or property, and is in keeping with the purposes listed in the district where it is located.

Utility. An entity which provides water, sewage collection, electricity, natural gas, telephone, cable television, or other public service or good to the public.

Vehicle Sign. A sign that is attached to and is an integral part of a motorized vehicle or bicycle used directly for the purpose of a particular business and not used primarily as a sign base or for general advertising.

Very Low Income Household. Households whose income does not exceed the qualifying income limits for very low income households applicable to Contra Costa County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

Wall Sign. A sign attached directly to an exterior wall of a building or dependent upon a building for support with the exposed face of the sign located in such a way as to be substantially parallel to such exterior building wall to which it is attached or by which it is supported.

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.

Windmill. A device that converts the kinetic energy of the wind to a usable form of electrical or mechanical energy, usually by means of rotating blades.

Window Sign. Any sign, picture, letter, character, or combination thereof designed to communicate information about an activity, business, commodity, event, sale, or service that is placed upon and/or inside and/or within three feet of a window for the purpose of being visible from exterior of the window.

Wireless Telecommunications Facilities. A facility that transmits and/or receives electromagnetic signals, including, but not limited to antennas, microwave dishes, parabolic antennas, directional antennas, cable conduit and connectors, and other types of equipment for the transmission or reception of such signals, towers or similar structures supporting the equipment, equipment pads, equipment buildings, shelters, cabinets, parking area and other accessory development.

Yard. A required open area on a lot that is between a property line and a setback line. A yard is unoccupied and unobstructed from the ground upward by any portion of a building or structure, except as otherwise permitted in this Title. Specified yard areas are as provided in individual Article II of this Chapter and defined as follows:

Front Yard. A yard extending across the full width of the front of a lot from the front lot line to the front setback line.

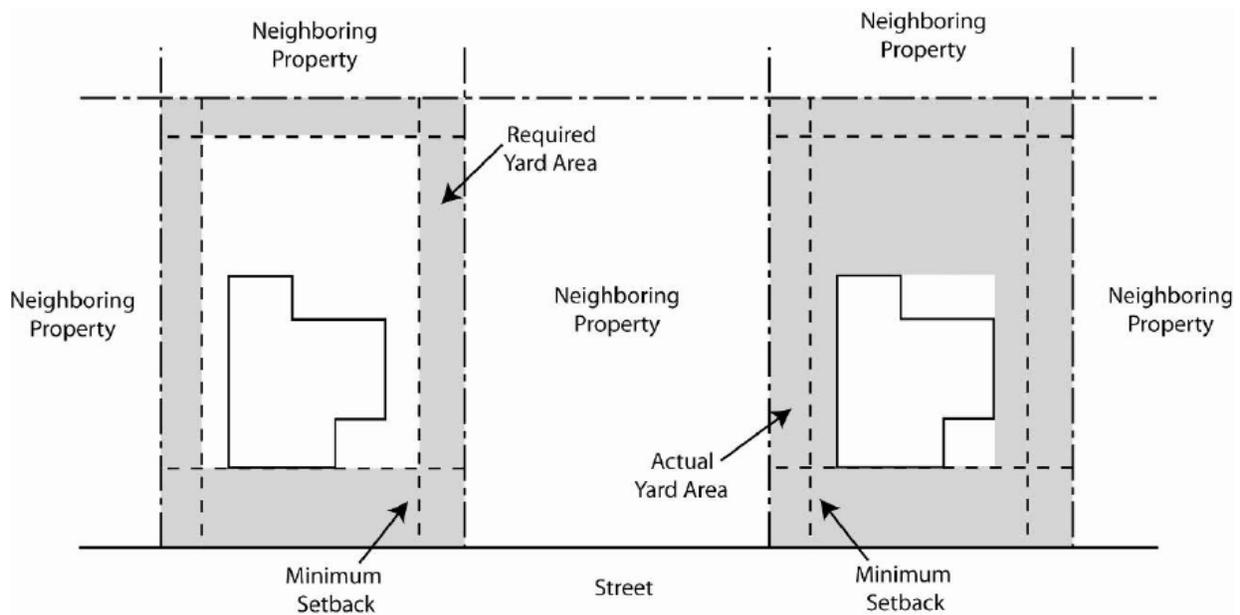
Rear Yard. A yard extending across the full width of the lot between the rear lot line and the rear setback line.

Side Yard. A yard between the side lot line and the side setback line, and extending from the front lot line to the rear lot line.

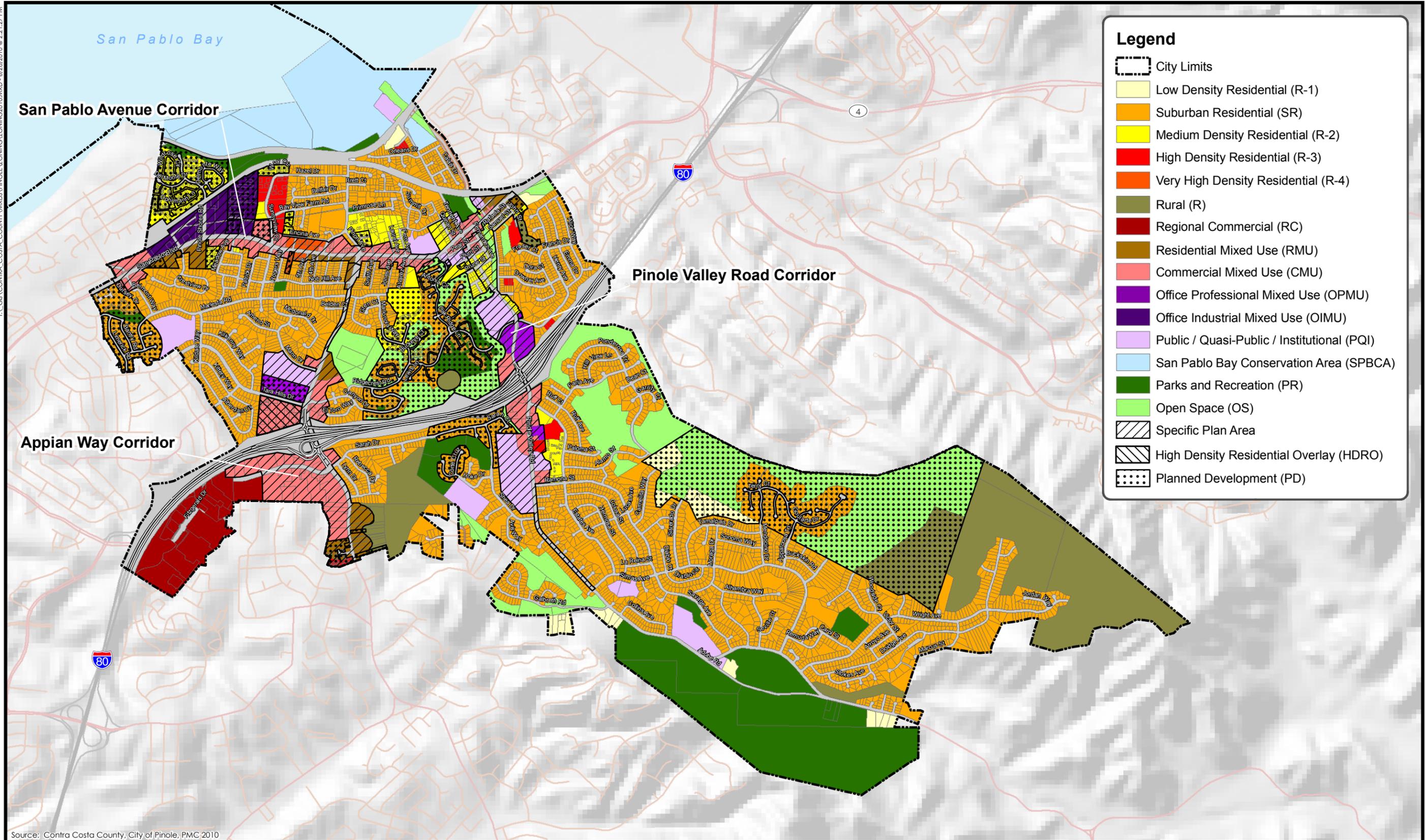
Yard Area, Actual. The actual yard area of a lot is the horizontal area between the property line and a parallel line along the nearest structure located outside of the required setback area. See Figure 17.98.020-7 (Yard Area).

Yard Area, Required. The required yard area (front, interior side, street side, and/or rear) of a lot is the horizontal area between the property line and the minimum setback distance for the respective yard pursuant to Article II. (Zoning Districts, Allowable Uses, and General Development Standards). See Figure 17.98.020-8 (Yard Area).

**FIGURE 17.98.020-8
YARD AREA**



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Legend

- City Limits
- Low Density Residential (R-1)
- Suburban Residential (SR)
- Medium Density Residential (R-2)
- High Density Residential (R-3)
- Very High Density Residential (R-4)
- Rural (R)
- Regional Commercial (RC)
- Residential Mixed Use (RMU)
- Commercial Mixed Use (CMU)
- Office Professional Mixed Use (OPMU)
- Office Industrial Mixed Use (OIMU)
- Public / Quasi-Public / Institutional (PQI)
- San Pablo Bay Conservation Area (SPBCA)
- Parks and Recreation (PR)
- Open Space (OS)
- Specific Plan Area
- High Density Residential Overlay (HDRO)
- Planned Development (PD)

Source: Contra Costa County, City of Pinole, PMC 2010



City of Pinole Zoning Map
Public Hearing Draft July 2010



